

New Zealand and EU approaches to good regulatory practice and regulatory cooperation

We're negotiating a chapter on how our governments make regulations, because greater cooperation in this area can encourage trade and make domestic regulation more effective.

New Zealand and the EU recognise the importance of good regulatory practice (GRP) and regulatory cooperation, while fully recognising the right of governments to regulate to achieve public policy objectives. Both New Zealand and the EU have negotiated free trade agreements (FTAs) that include specific chapters dealing with GRP or regulatory cooperation, or both.

Including chapters of this nature in an FTA is a relatively recent development and their form is continuing to evolve. The principles and mechanisms of GRP, including international regulatory cooperation, are increasingly featuring in trade negotiations and discussions around the world. However, there is often a gap between the frameworks for regulatory cooperation between States and the practical world of business. Many areas of concern for business or for regulators do not fall neatly within the chapter structure of an FTA.

A cross-cutting chapter that acknowledges the value of GRP and encourages greater consideration of regulatory cooperation is a positive addition to a modern FTA. New Zealand is therefore seeking a high quality chapter which facilitates cooperation between regulators and regulatory policy agencies and incorporates the following elements:

- Recognition of the right of governments to regulate to achieve public policy objectives.
- An acknowledgement of the importance of good regulatory practice generally and certain GRP principles that are particularly relevant to trade.
- An acknowledgement that regulatory cooperation has an important role in supporting trade, helping reduce or remove regulatory barriers and improving the effectiveness of domestic regulation, while furthering the achievement of public policy objectives (like protecting human health or the environment).
- An acknowledgement of the increasing importance of multilateral cooperation to ensure the effectiveness of domestic regulation.
- A focus on regulatory cooperation that is not necessarily limited to trade but could enable cooperation on any existing or proposed regulatory measure.
- A focus on cooperating in the most efficient way, where a clear case for cooperation is made.
- Consideration of the full range of regulatory cooperation options, including unilateral recognition and less formal arrangements such as information sharing, along with more formal options like equivalence, mutual recognition and harmonisation.
- The establishment of a simple governance structure to provide oversight of the process of considering and, with the agreement of both Parties, establishing particularly cooperative arrangements.