



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HIKINA WHAKATUTUKI

International regulatory cooperation – more relevant than ever?

ASEAN-OECD Good Regulatory Practice Network Meeting 2020

Session 3, 1 December 2020



Overview

- International regulatory cooperation (IRC) – a recap
- IRC in regulatory design and delivery
- Regional and international resources



IRC – a recap

- What is IRC?
 - Ways that countries work together, formally or informally, to discuss, design, implement or enforce regulation
- Why cooperate?
 - Lower barriers to trade and investment
 - Reduce costs of regulatory compliance in multiple markets
 - Facilitate increased participation in global value chains/production networks
 - Increase policy and regulatory effectiveness
 - Intensity of cross-border activity and limits on regulatory reach affect enforcement and effective redress
 - Emerging technologies are inherently cross-cutting
 - Some problems are “international” eg COVID-19, climate change
 - Enhance regulatory capacity and capability, and build confidence and trust



Using IRC in regulatory design and delivery

- Considering IRC issues is essential, not just a nice to have
- Focus on interoperability or alignment
 - including development/ adoption of common regulatory norms and standards, unilateral action etc
- Enforcement cooperation/effective redress
- Consider the range of IRC options
 - not limited to mutual recognition or harmonisation
 - consider costs and benefits of different options



INTERNATIONAL REGULATORY COOPERATION TOOLKIT (2016 Draft)

Reasons for cooperating

- to lower barriers to trade and investment
- to enhance regulatory capacity and capability, and build confidence and trust
- to increase policy and regulatory effectiveness

Enabling institutions & mechanisms

- | | |
|-----------------|--|
| Benefits | <ul style="list-style-type: none"> • Provide momentum to develop mutually reinforcing regulatory cooperation initiatives across government • Build capacity across jurisdictions |
| Issues | <ul style="list-style-type: none"> • High-level and enduring mandate required to gain traction with domestic players • Can be resource-intensive and time-consuming |

The cooperation spectrum

	Unilateral action	Informal cooperation	Formal cooperation		
	e.g. unilateral adoption or recognition	e.g. policy coordination, information sharing, cross-agency appointments	Enforcement cooperation	Mutual recognition	Harmonisation
BENEFITS	<ul style="list-style-type: none"> • Maximum flexibility in determining regulatory settings • Reduces costs for firms • Makes use of the policy and regulatory development of other jurisdictions • Supplements domestic capacity and capability 	<ul style="list-style-type: none"> • High level of flexibility in determining regulatory settings • Efficiency gains from sharing resources • Opportunities for mutual learning • Strengthens trust and confidence, which makes future formal arrangements more likely 	<ul style="list-style-type: none"> • Enables effective enforcement of laws • Reduces non-compliance 	<ul style="list-style-type: none"> • Allows jurisdictions to maintain their own sets of rules/standards but removes cost of complying with two sets of rules • High level of certainty for firms • Can be used as a building block towards harmonisation 	<ul style="list-style-type: none"> • High level of certainty for firms • Efficiency gains from sharing resources • Improves quality of standards through increased pool of experts available for developing standards
ISSUES	<ul style="list-style-type: none"> • No mutuality • Limited ability to influence other jurisdictions • Impact of reduced domestic capability • May miss out on critical information about emerging problems 	<ul style="list-style-type: none"> • Some but not full mutuality • Not as durable as formal arrangements and places an emphasis on goodwill and the importance of maintaining relationships 	<ul style="list-style-type: none"> • May require legislative authority • May need more resources to ensure effective enforcement 	<ul style="list-style-type: none"> • May be viable only if there is already a high level of convergence • Requires high level of trust and confidence in each other's institutions • Needs to be supported by ongoing policy coordination but this may reduce flexibility to determine settings • Requires buy-in from regulators 	<ul style="list-style-type: none"> • Limits the ability of a jurisdiction to determine its own settings • Could be highly resource intensive • May favour the larger partner • May result in the 'highest common denominator', leading to over-regulation • Some risks can be managed through opt-out provisions and creating dual regimes

Lessons learnt from practical experience

- Need to be clear about problem or objective
- Mutual trust and confidence are essential
- High-level goals and enduring political leadership help drive results
- Use APEC forums to trial new initiatives
- Benefits for jurisdictions with no regulatory regimes or those wanting to improve
- Consider the roles of private sector and donors
- Be mindful of barriers (e.g. IT)
- Need to promote initiatives
- Think outside the box
- Key role of regulators



Regional and international resources

- ERIA
 - Interconnected Government: International Regulatory Cooperation in ASEAN
 - Under the Radar: International Regulatory Cooperation in ASEAN and New Zealand
- OECD
 - Draft Best Practice Principles on International Regulatory Co-operation
 - Draft Principles on effective and innovation-friendly rulemaking in the Fourth Industrial Revolution
 - International Organisations: Partnership for Effective international rule-making
 - No policy maker is an island: the international regulatory co-operation response to the COVID-19 crisis



Regional and international resources (cont.)

- APEC-OECD IRC resource
 - Project led by NZ to provide practical guidance and build an evidence base, including APEC case studies
 - Aims to improve collaboration between trade and regulatory officials
 - Improve awareness, share thinking and experience from APEC economies and the OECD
 - Support implementation of APEC-OECD Integrated Checklist on Regulatory Reform





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