Chapter 5

International Regulatory Cooperation in New Zealand – A Small Country Embedded in a Complex Web of Arrangements

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1. Introduction

Despite its physical distance from the centres of power, New Zealand has a long history of actively engaging in international cooperation of various types. For example, New Zealand was actively involved in the foundation of the United Nations after World War Two and more recently has developed a close bilateral relationship with Australia under the Single Economic Market.

The degree of regulatory integration with Australia, with mutual recognition of regulatory regimes, is unrivalled outside of the European Union (EU). This recognition is not limited to conformity assessment procedures (the most common form of mutual recognition internationally) but also includes standards. In the 1990s, the two governments agreed to deepen their free trade agreement by mutually recognising the other's laws for the sale of goods and for a range of services, including the registration of occupations and financial securities. Goods that can be legally sold in one country can also be sold in the other. Similarly, people registered to practise most occupations in one country can also practise in the other, once they have met local registration requirements. This chapter will focus on the extent to which New Zealand's IRC includes Australia as well as other regional and multilateral groupings.

1.1. Research Approach

IRC comes in a variety of shapes and sizes, and there is no central official inventory of IRC in New Zealand. To circumvent these problems, our approach is based on a small sample of 'elite' interviews with government officials and several private commentators who have a good overview of the issues. We identified government officials extensively involved in IRC from amongst the members of the New Zealand Government Regulatory Practice Initiative Steering Group. We augmented this group with two nongovernment interlocutors with a significant understanding of IRC in New Zealand.[1]

The public officials were drawn from a wide range of agencies, including those involved in the primary sector and in trade policy (who tended to focus on technical barriers to trade [TBTs]); sectoral regulators (focused more on domestic environmental, workplace, and consumer safety); and competition policy agencies and central agencies (with views across the regulatory system). There was an even split between those whose experience was limited to one sector and those with wide-ranging views across New Zealand's regulatory system.

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[1] In this chapter, text in single quotes has been used to identify unattributable quotes provided in answer to the open-ended survey questions or as part of the interviews.

Government respondents were evenly balanced between male and female and drawn from a wide range of sectors, and 70% of respondents had more than 5 years of involvement in IRC.

Having shed some light on the background and overall context of the survey, we next turn to the questions of how widespread IRC is (pervasiveness) and what are the enablers and facilitating factors of effective IRC (willingness and persuasiveness). We will explore the findings from the survey and insights from the interviews in the next five sections on pervasiveness, willingness, persuasiveness, barriers and enablers, and the dynamics of the evolution of IRC. The last section focuses on the governance system for IRC in New Zealand, followed by some concluding comments.

2. Pervasiveness of International Regulatory Cooperation

The survey asked respondents about the relative frequency of different types of IRC. One question explored whether IRC was 'mainly bilateral, regional, plurilateral or multilateral' and respondents could select one or more options. The results (N=15), in Figure 5.1 show a classic 'U' curve, with the main types selected being bilateral and multilateral.

Figure 5.1 Main Forms of International Regulatory Cooperation in New Zealand
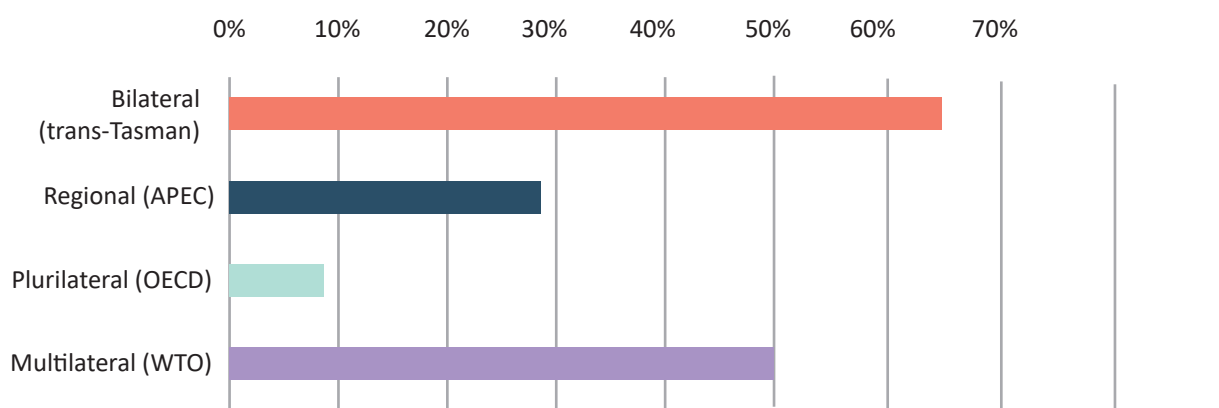
APEC = Asia-Pacific Economic Cooperation, OECD = Organisation for Economic Co-operation and Development, WTO = World Trade Organization.
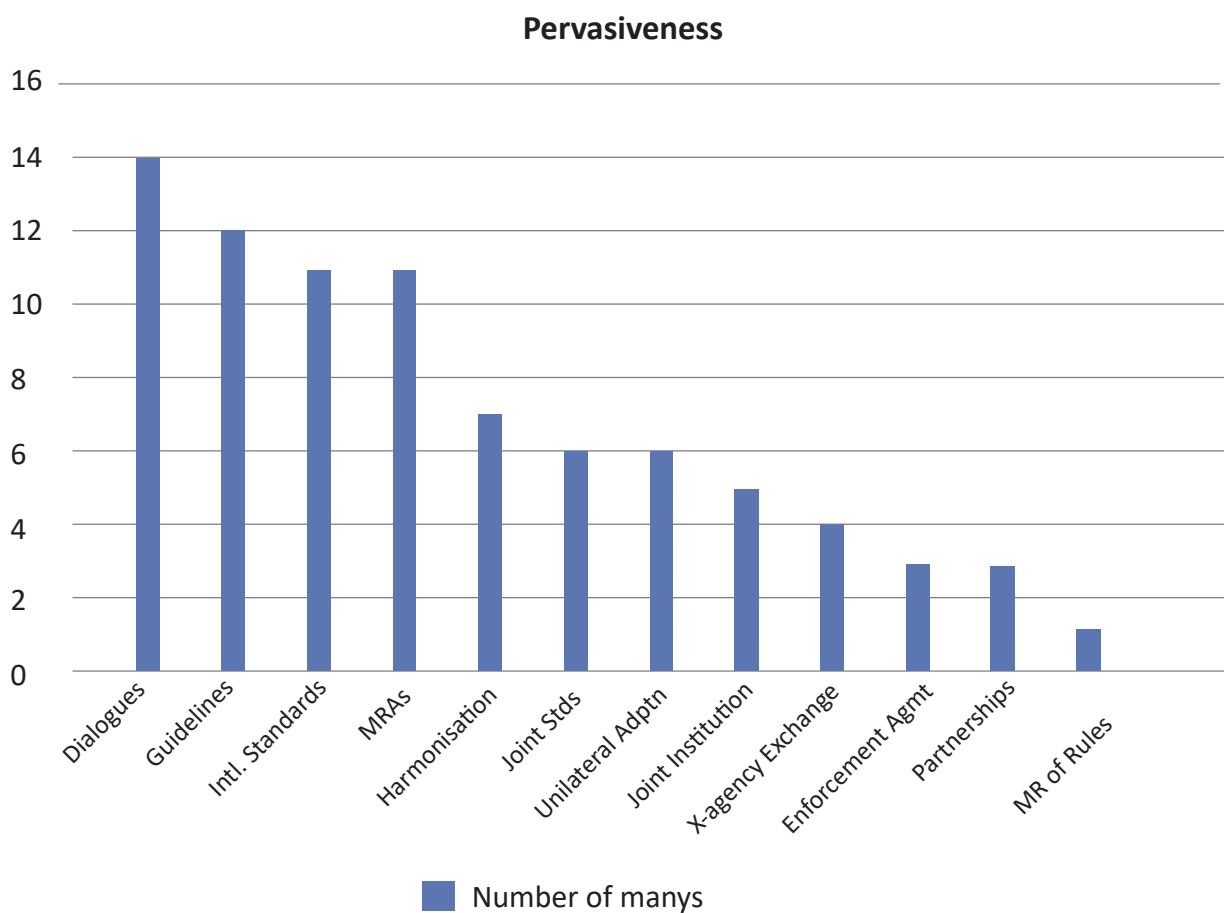Source: Economic Research Institute for ASEAN and East Asia International Regulatory Cooperation Survey, Question 41.

In Part 3 of the survey, respondents were asked about their perceptions regarding the pervasiveness of different types of IRC. IRC can take many forms ranging from unilateral recognition or adoption of another country's regulatory settings or standards at one end of the spectrum, through to harmonisation of policies and practices at the other.

For each type of IRC, interviewees were asked whether there were 'none' (that I know of), 'one or two', 'few' (between 3 and 5), and 'many' (more than 5)'. Figure 5.2 ranks the types of IRC from high to low based on the number of respondents who selected 'many'. The most common responses were:

(i) regulatory dialogues and exchange of information with another country or region (e.g. the Asia-Pacific Economic Cooperation [APEC]);
(ii) voluntary, non-justiciable commitment to best practice guidelines and principles (e.g. APEC);

Figure 5.2: Ranking of Types of International Regulatory Cooperation

Pervasiveness

Number of manys

MR = mutual recognition, MRA = mutual recognition arrangement.
Source: Economic Research Institute for ASEAN and East Asia International Regulatory Cooperation Survey, Questions 26–39.
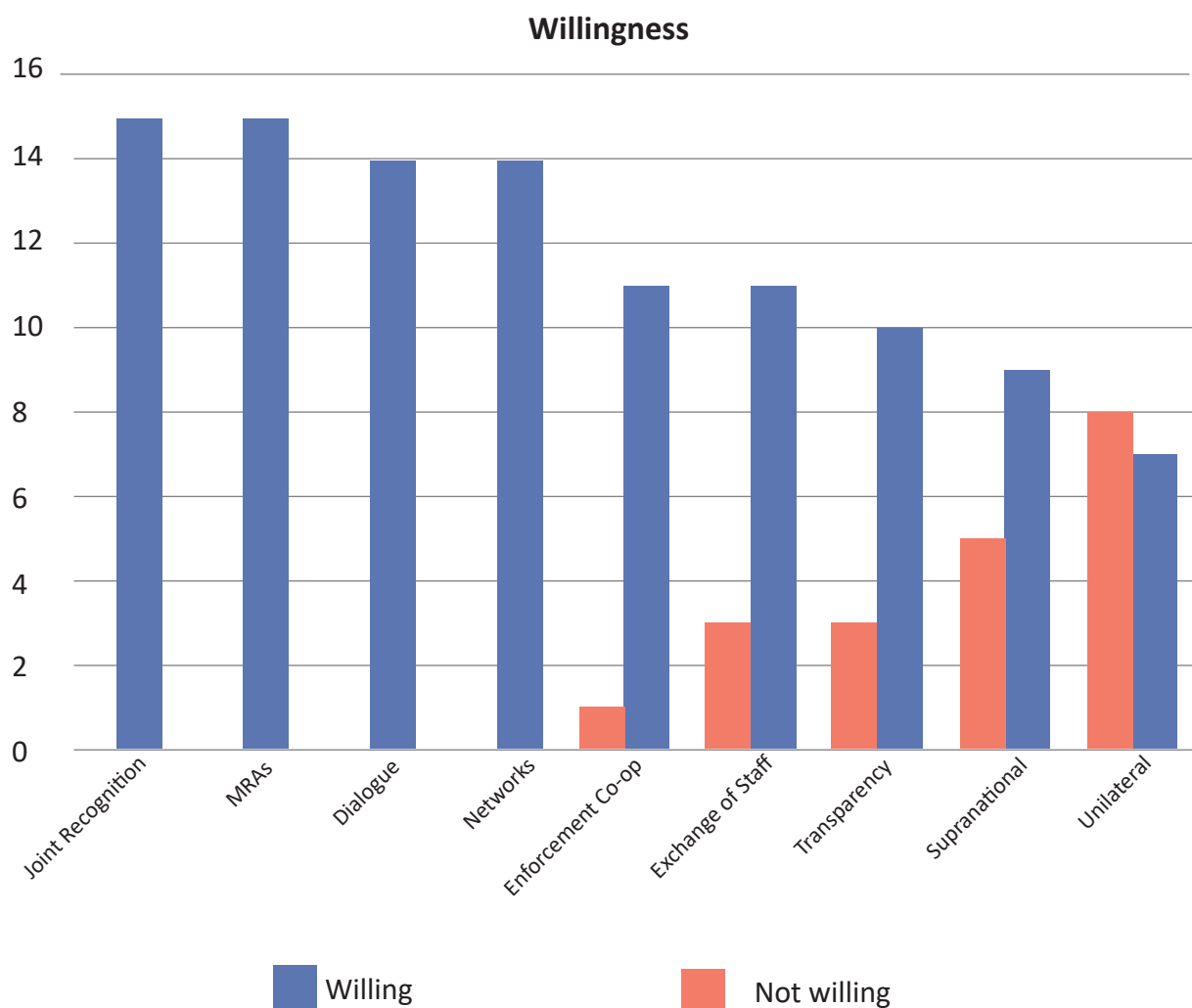
(iii) the adoption of international standards developed by international public and private standards setting bodies (e.g. the International Maritime Organisation, or the International Organization for Standardization); and

(iv) policy coordination with partner countries on a specific area or sector regulation.

This suggests that relatively informal arrangements (e.g. dialogues and communities of practice) were more common than formal structures involving the exchange of staff (46% suggested few) or joint institutions (66% suggested one or two).

3. Willingness to Undertake International Regulatory Cooperation

Section 4 of the survey asked respondents about their perceptions of the willingness to develop and strengthen IRC of different types. Respondents had four options: 'strongly not willing', 'not willing', 'willing', and 'strongly willing'. In Figure 5.3, 'strongly willing' and 'willing' were added together, as were 'strongly not willing' and 'willing'. Figure 5.3 shows the total willingness to undertake particular types of IRC and contrasts this with 'not willing'.

Figure 5.3: Openness to Types of International Regulatory Cooperation in New Zealand (Willing/Not Willing)

MRA = mutual recognition agreement.
Source: Economic Research Institute for ASEAN and East Asia International Regulatory Cooperation Survey, Questions 76–84.

The types of IRC where willingness were highest included (i) the adoption of international standards; (ii) mutual recognition agreements; (iii) regional transgovernmental networks amongst regulators; and (iv) dialogue and informal exchange of information on policy, enforcement, and other regulatory practices. There was the least support for (i) the unilateral adoption of policy or regulatory practices of others; and (ii) bilateral or regional legally binding regulatory agreements and/or harmonisation, with oversight enforcement by a supranational regional body. Interviewees indicated that there was a willingness to consider the latter two options, but that the burden of proof would be higher for it to proceed.

New Zealand respondents had relatively low willingness to engage in staff exchanges compared to AMS in the survey. This may reflect some general features of the New Zealand public management regime rather than being specific to IRC. Unlike a number of other jurisdictions, there is free lateral entry into public sector positions and no specific restrictions on the employment of non-New Zealand nationals in the public service. This openness to foreign staff is particularly important with respect to Australia with whom there is an open labour market, but it also applies to skilled staff from all countries. Given the ready access to and ability to recruit international staff, interest in the bilateral exchange of staff is likely to be reduced.

4. Persuasiveness of International Regulatory Cooperation

Section 2 of the interview asked about respondents' views on a series of propositions about IRC. There were five options: 'strongly disagree', 'disagree', 'agree', 'strongly agree', and 'don't know'. While the propositions about IRC were generally expressed in the positive, three were expressed as negatives in the questionnaire: IRC reduces policy space to a country's disadvantage, benefits richer countries more than poorer, and makes life more difficult. In Figure 5.4 below, we have reversed the display of agree/disagree for these three questions to make it easier to compare them with the other questions. The graph ranks support for propositions from high to low by adding together 'strongly agree' and 'agree', and 'disagree' and 'strongly disagree'.

Figure 5.4: Attitudes Towards International Regulatory Cooperation in New Zealand (Agree/Disagree)
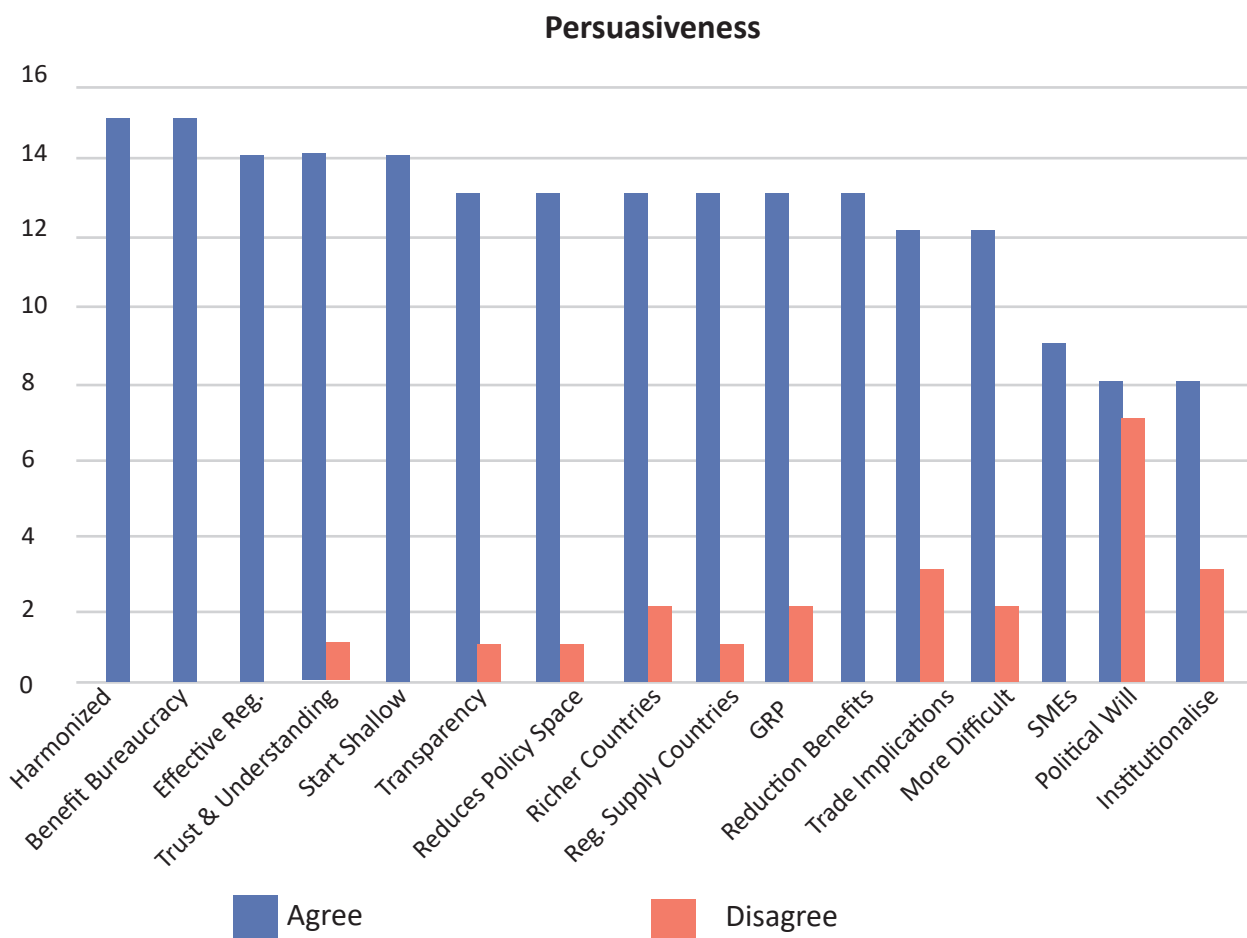
GRP = good regulatory practice, SMEs = small and medium-sized enterprises.
Source: Economic Research Institute for ASEAN and East Asia International Regulatory Cooperation Survey, Questions 11–26.

There was reasonably strong agreement with all of the propositions except for the following:

(i) IRC facilitates exports of small and medium-sized enterprises that are usually handicapped in meeting compliance challenges in foreign markets (none disagree, 30% don't know).
(ii) Without strong political will and support, IRC cannot be sustained (46% disagree).
(iii) A more integrated Association of Southeast Asian Nations needs to institutionalise IRC (22% disagree).
(iv) IRC adds an additional layer of coordination and makes life for administrators and regulators even more difficult and bureaucratic (82% disagree).

5. Barriers and Enablers of International Regulatory Cooperation

Section 4 of the interview asked respondents about their views on a series of propositions about the factors that most restrict or inhibit the growth of IRC in their countries. There were five options: 'strongly agree', 'agree', 'disagree', 'strongly disagree', and 'don't know'. Two propositions were expressed as negatives: IRC reduces transparency and reduces the management of risks at the border. For ease of comparison, in Figure 5.5 below we have reversed the display of agree/disagree for these two questions. The graph shows the types of IRC from high to low by adding together 'strongly agree' and 'agree', and 'disagree' and 'strongly disagree'.

Figure 5.5: Barriers to International Regulatory Cooperation in New Zealand (Agree/Disagree)
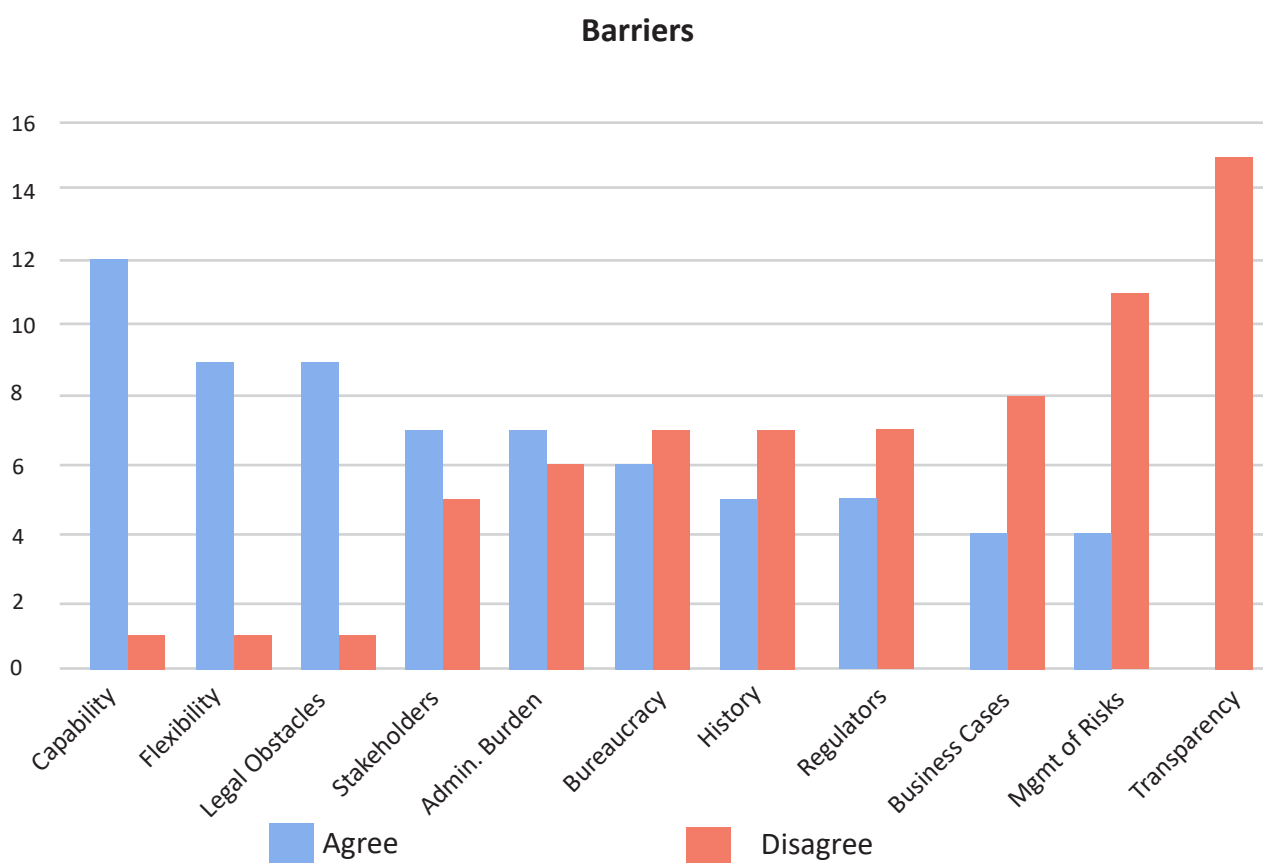
Barriers

Source: Economic Research Institute for ASEAN and East Asia International Regulatory Cooperation Survey, Questions 65–75.

There were several potential barriers on which agreement and disagreement was divided. For example, the view that the bureaucracy has had little knowledge of and trust in other countries' regulatory regimes attracted five (40%) 'agrees' and five 'disagrees', with one person strongly disagreeing. The main barriers where there was most agreement were the following:

(i) Differences in capability and country size means trust in other countries' systems is uneven (seven 'agree', one 'strongly agree', one 'disagree').
(ii) There is concern on the lack of regulatory flexibility and sovereignty arising from IRC (seven 'agree', one 'strongly agree', one 'disagree').
(iii) There are legal obstacles to IRC (e.g. restrictions on information sharing/confidentiality rules) (six 'agree', two 'strongly agree', one 'disagree').

In addition, two potential barriers were seen as not important:

(i) IRC led to reduced transparency between countries (100% disagreement).

(ii) IRC contributed to reduced management of risks across borders (four 'agree', six 'disagree', three 'strongly disagree').

During the interviews some practitioners elaborated on the potential barriers presented by capability differences, the applicable law, and concerns about regulatory sovereignty. On capability, there was general agreement that IRC between economies at different levels of development is particularly difficult when mutual recognition of the equivalence of other regimes is required. This is because of the extent of regulatory trust required in other countries' regimes and systems. As one interviewee commented, 'Trust is a critical issue for the enforcement of IRC. It is all about the people.'

Legal barriers were particularly important for regulatory practices such as enforcement. If the regulatory regime explicitly enables IRC, then it is easier to make progress. If the regulators' legal framework does not clearly provide both the flexibility and mandate to cooperate, then IRC can be constrained. Conversely, if there exists an explicit legal mandate to cooperate, and mutual trust exists then this provides a positive signal to regulators and is more likely to result in cooperation.

There was clear agreement about the perception that IRC leads to 'concerns about a lack of regulatory flexibility and sovereignty'. There was equally strong support for the proposition that IRC strengthens the capacity of states to deliver effective regulation (Question 12: 54% 'strongly agree', 40% 'agree', 6% 'don't know'). This is consistent with the view that while IRC may increase de facto regulatory sovereignty, it may erode the perception of regulatory sovereignty de jure.

6. Dynamics of International Regulatory Cooperation

As part of the survey, respondents were asked to reflect upon an example of IRC with which they were most familiar and compare that with another case involving IRC. Most respondents chose bilateral IRC arrangements with Australia as examples.

Figure 5.6 shows that 70% of respondents suggested that the benefits of the specific IRC case had increased substantially over time, while the majority suggested that the costs had decreased or barely increased. The main costs were the financial and opportunity costs of participation in IRC, including preparation, travel, and meeting time. For transgovernmental networks, resourcing was a common issue of concern as cooperation involves additional work and takes resources that could be applied elsewhere.

Figure 5.6: Costs and Benefits of International Regulatory Cooperation
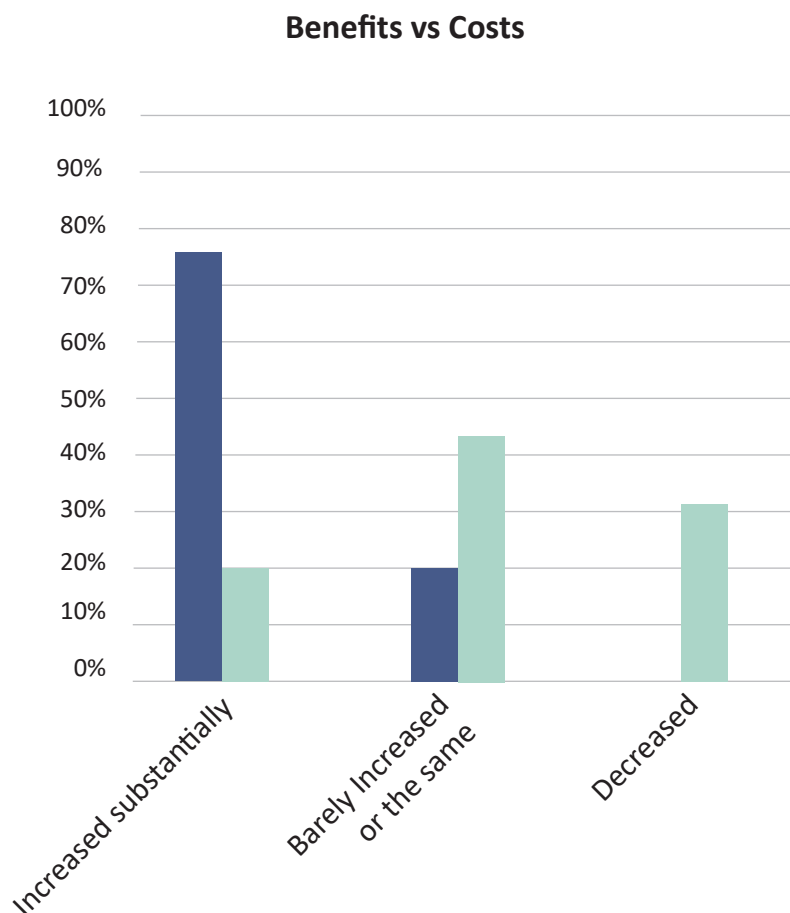
Benefits vs Costs

IRC = international regulatory cooperation.
Source: Economic Research Institute for ASEAN and East Asia International Regulatory Cooperation Survey, Questions 57–58.

There were a wide range of benefits sought from the IRC cases, including (i) reductions in TBTs such as non-tariff barriers, (ii) increased interoperability and reduced transaction and compliance costs, and (iii) improved regulatory effectiveness through accessing economies of scale and technical expertise in regulation.

A small majority (55%) reported that IRC had changed over time, most often by deepening with the focus shifting exclusively from policy to include regulatory practices such as enforcement and the effective delivery of regulatory services. All of the respondents who suggested that the nature of the IRC had changed over time also reported that the benefits of IRC had increased. Of the respondents who reported no change in the scope of IRC, 50% also suggested that the benefits have increased over time.

The patterns of support for IRC varied markedly across the cases and as the IRC progressed. Figure 5.7 compares the support at different stages from political leaders, bureaucrats, and the private sector. Support from the bureaucracy was described as critical. One explanation for this is that much IRC involves transgovernmental networks (i.e. direct, informal, domestic, agency-to-agency arrangements) operating without the direct involvement of foreign ministries and 'beneath the radar' of politicians. In more formal intergovernmental arrangements, political salience increases. 'Don't underestimate [the] need for political consensus and management. Imbalances of power, real or perceived, are important and need to be managed.' Support from the private sector, while weak or very weak in 40%of cases at the initiation stage, becomes much stronger as the IRC evolves (strong or very strong in 83% of cases).

There were mixed views on the importance of the private sector and political leaders, depending upon the details of the case. For example, support from political leaders was described as 'weak' or 'very weak' in just under half of the cases: 45%in the initiation phase and 42%in the later stages. By contrast, support from the bureaucracy was described as strong or very strong in around 90% of the IRC cases.

The lack of emphasis on political leadership is consistent with findings from the research drawing on lessons learned from the IRC case studies discussed in Chapter 3. This chapter concluded that political mandate helps but is insufficient on its own for IRC to gain momentum. However, this finding was particularly strong for New Zealand, while in the surveys of ASEAN countries, political will and support were emphasised more.

Figure 5.7: Dynamics of International Regulatory Cooperation – Support by Phase
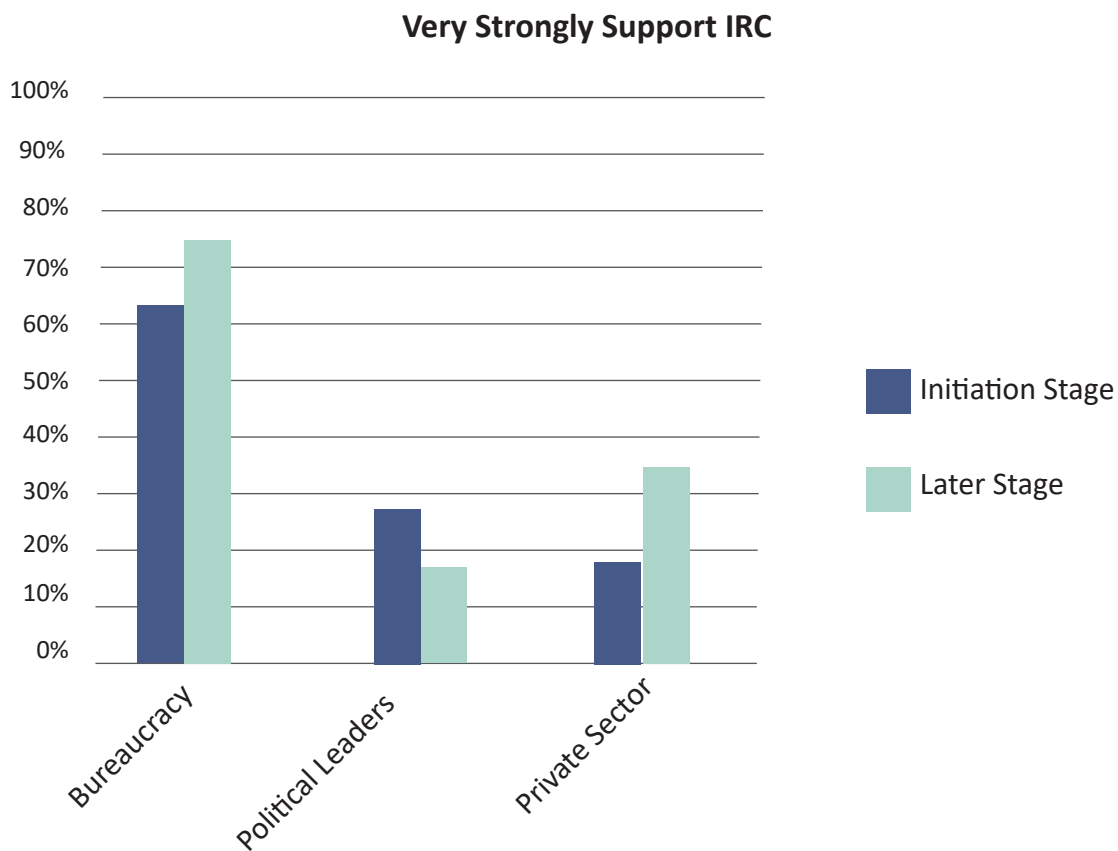
Very Strongly Support IRC

IRC = international regulatory cooperation.
Source: Economic Research Institute for ASEAN and East Asia International Regulatory Cooperation Survey, Questions 50–56.

Respondents were asked to identify the key lessons learned from comparing two examples of IRC with which they were familiar. The themes that emerged included the time and sustained commitment required for IRC to succeed, the role of trust and relationships, continuity of participation for sustaining trust, and the importance of leadership. Some examples are:

'The value of building trust, confidence and productive relationships between regulators across the Asia/Pacific region, which led to a framework able to be used in a varying range of situations to address regional and bilateral regulatory issues.'

'Even when parties agree, IRC involving formal cooperation can take a long time to put in place. It helps to have political support and champions, but this only got underway because of a conversation, so [the IRC] was opportunistic but also innovative.'

7. The Governance of International Regulatory Cooperation in New Zealand

In New Zealand, responsibility for the oversight of GRP and IRC is shared amongst three departments. The Treasury, the government agency with lead responsibility for regulatory policies and GRP, is not very actively involved in IRC, other than negotiating regulatory cooperation chapters in free trade agreements. Instead the Treasury looks to the Ministry of Business, Innovation and Employment, the lead agency on regulatory practice, which is also responsible for promoting international regulatory coherence including promoting IRC in its many forms. The Ministry of Foreign Affairs and Trade, the lead advisor and negotiator on trade policy, gets involved if the IRC is a formal intergovernmental agreement involving a formal international treaty or legal agreement. However, much IRC activity is transgovernmental involving a technical regulatory agency-to-regulatory agency level across jurisdictions, and does not involve the Ministry of Foreign Affairs and Trade. While there is no formal government cross-sectoral policy on IRC, IRC is embedded in official documentation as an integral part of GRP. While not explicitly mentioning IRC by name, the Government's Expectations for Good Regulatory Practice (published in April 2017) refers to IRC in two places (see Box 5.1).

Box 5.1: Regulatory Stewardship Expectations—The International Regulatory Cooperation Dimension

Part A: Expectations for the Design of Regulatory Systems

'The government believes that durable outcomes of real value to New Zealanders are more likely when a regulatory system: ……
- is consistent with relevant international standards and practices to maximise the benefits from trade and from cross border flows of people, capital and ideas (except when this would compromise important domestic objectives and values)'.

From Part B: Expectations for Regulatory Stewardship by Government Agencies (Part B being an update and extension of the initial regulatory stewardship expectations set by the government in 2013).

'The government expects regulatory agencies to work collaboratively to: …..
- periodically look at other similar regulatory systems, in New Zealand and other jurisdictions, for possible trends, threats, linkages, opportunities for alignment, economies of scale and scope, and examples of innovation and good practice'; and

'Where appropriate to their role, the government expects regulatory agencies to:...
- develop working relationships with other regulatory agencies within the same or related regulatory systems to share intelligence and co-ordinate activities to help manage regulatory gaps or overlaps, minimise the regulatory burden on regulated parties, and maximise the effective use of scarce regulator resources'.

Source: Government of New Zealand, The Treasury (2017), Government's Expectations for Good Regulatory Practice. April. Wellington. https://treasury.govt.nz/publications/guide/government-expectations-good-regulatory-practice (accessed 8 June 2020).

A number of interviewees, whose role tended to be more sector-based than system-wide, highlighted the scope for 'regulatory stewardship work, if it can be effectively embedded, [which] would be likely to bring more systematic attention to IRC issues'. This role could include the development of an IRC toolkit for New Zealand regulatory practitioners.

Although there is no formal government cross-sectoral policy on IRC beyond that in Box 5.1, certain cross-cutting policies apply. One important part of the overall approach is the Single Economic Market with Australia (discussed in Box 5.2).

Box 5.2: New Zealand – Australia Single Economic Market

Australia and New Zealand have a shared history, language, and values; a similar culture and political, legal, and economic institutions; and a high political commitment to greater integration. This has provided a solid platform of mutual understanding and trust on which to build a closer economic relationship. The free trade area established by the Closer Economic Relations (CER) agreement in 1983 led to further integration over time with the goal of achieving a single economic market. Key milestones include the following:

1983: CER comes into force (as a comprehensive bilateral free trade agreement, it substantially covers all trans-Tasman trade in goods and services).

1988: Memorandum of Understanding on the Harmonisation of Business Law between Australia and New Zealand.

1997: Trans-Tasman Mutual Recognition Agreement, which includes the recognition of the decisions of respective regulatory regimes as well as conformity assessment procedures.

2009: Single Economic Market Outcomes Framework, which includes multiple policy streams.

New Zealand and Australia show what can be achieved through a combination of political commitment and sustained bureaucratic effort when built on a foundation of trust. It should be acknowledged that it will be exceedingly difficult for other countries to imitate this. Moreover, there is always scope for improvement, as highlighted by the critical review of the operation of the Trans-Tasman Mutual Recognition Act by the Australian Productivity Commission in 2015.

Source: Author.

While the Single Economic Market provides a political mandate and lends legitimacy to trans-Tasman IRC initiatives, this is a useful but not critical supporting condition. Underpinning the relationship is a shared history and culture and a 'strong degree of trust and confidence in the institutions and regulatory processes of the other country'.

IRC, when formal, is given effect through a range of legal instruments. New Zealand is a party to a range of international treaties and protocols. Trans-Tasman mutual recognition is given legal effect through mirror legislation in both countries rather than legal treaties. In addition, a number of individual statutes either implicitly or explicitly empower regulators to engage

in IRC. For example, the Commerce Act explicitly provides the New Zealand Commerce Commission with the power to share information with the Australian Competition and Consumer Commission on trans-Tasman mergers and acquisitions.

One seasoned observer commented on how the development of regulations in New Zealand has changed over the last 30 years. Regulatory policy design no longer aims to develop 'best of breed', stand-alone regulatory policy regimes. Instead, increasing attention is paid to international regulatory interoperability as New Zealand goods and services need to compete in accessing international value chains. New Zealand is simply too small to be able to develop bespoke regimes that cannot interoperate with international systems and standards. Seamless interoperability is particularly important for the tradeable sector.

8. Concluding Comments

This chapter has summarised the key findings from a small elite survey of 13 government officials and two private commentators. Given the small sample size, care is required in interpreting the results. However, the consistency of the general pattern of the New Zealand responses with the survey results for the AMS supports the reliability of the findings.

One qualification needs to be highlighted, however. As an elite survey, it does not purport to capture what the average 'Kiwi' thinks about IRC. While the experts may be unanimous in dismissing the view that IRC reduces transparency, Kiwis may take a different view. These caveats aside, a number of interesting themes came through.

8.1. Pervasiveness

The government is deeply embedded in a complex web of IRC arrangements. While these arrangements were predominantly multilateral (e.g. through the United Nations system) or bilateral (mainly with Australia), there were also a host of regional (e.g. APEC) and plurilateral (e.g. the OECD) arrangements. Unsurprisingly, AMS respondents reported more frequent use of regional arrangements than did New Zealanders.

The imperatives for IRC were quite varied. While a handful of agencies with trade policy responsibilities had a particular focus on removing TBTs, for the majority of agencies the imperatives for IRC included other objectives such as regulatory effectiveness and interoperability.

The development of IRC is highly path-dependent, with quite different arrangements in apparently similar sectors. One interlocutor distinguished between hard and soft regulation. With hard regulations, the government is actively involved in setting the standards, and inspecting and certifying goods before they can be traded. In other sectors with soft regulations, the government is more reactive and there is greater reliance on complaints to act as 'fire alarms'. While the examples in the interviews suggested that the main focus of IRC tends to be regulatory policy or mixtures of policy and regulatory practices such as enforcement, there are examples where the sole focus is on enforcement practices and policy is not included.

The locus or type of IRC ranges across a spectrum, from informal communities of practice to mutual recognition (mainly with Australia) to full harmonisation, mainly with the norms and instruments of international organisations. Informal cooperation is more frequent than more formal arrangements, such as the exchange of staff or joint institutions.

There was a clear preference for more informal transgovernmental networks with direct agency-to-agency engagement without directly involving the respective ministries of trade and of foreign affairs. This is because of the mindset difference between more informal transgovernmental networks and more formal intergovernmental and supranational arrangements. With networks involving technical peers, there was generally a more collaborative win-win approach. By contrast, intergovernmental arrangements and international organisations involved a more conflict-based, mercantilist approach derived from diplomatic and trade negotiations. Over time, network arrangements could become more formal as trust and engagement increase within the network.

8.2. Willingness

New Zealand has a long history of actively engaging in international cooperation of various types. Like other countries in the survey, there was high willingness to consider all potential types of IRC – in particular, dialogue, transgovernmental networks, the adoption of international standards, and MRAs. Support was still positive but lower for the unilateral adoption of policy or harmonisation through a supranational body.

As a small, reasonably open, and developed economy, New Zealand is largely a rule-taker, and thus has much to gain from IRC. The interviews accompanying the survey identified a number of factors that promote engagement in IRC including:

(i) capability constraints – IRC enables access to the expertise of other regulators;

(ii) limited bargaining power – as a small country, New Zealand prefers plurilateral or multilateral to regional or bilateral cooperation[2];

(iii) globalisation – increasing emphasis is paid to international regulatory interoperability as New Zealand's size means that it not effective to implement 'best of breed' stand-alone regulatory regime designs that do not interface with other countries' systems; and

(iv) agility – as a small flexible government, agencies attempted to shape 'what do' rather than 'be done to' and build coalitions of the willing.

8.3. Persuasiveness

Like their overseas counterparts, New Zealand government officials and private commentators alike have a generally positive view of IRC. For public officials, undertaking IRC is merely a special case of a more general range of cross-governmental cooperation that they regard as business as usual. As one respondent observed, their agency was involved in a range of 'cooperation activities:

- domestically (i.e. with local government, and with other regulators);
- regionally in the Pacific (…with capability building but also working together in one or two well established international co-operation regimes;
- in the Asia Pacific across agencies (a much 'softer' network which is, after 20 years, still very much information sharing and relationship maintenance); and
- internationally as part of an international organisation which drives policy and operational activity around the globe'.

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[2] Frankel et al. (2013) use the example of patent law under the Trans-Pacific Partnership negotiations to illustrate why 'multilateral (or many party) agreement is the preferred one because New Zealand has a better chance of coordinating interests with like-minded countries'.

8.4. Barriers to International Regulatory Cooperation

Agreement and disagreement were divided on a number of potential barriers. The main areas of concern were differences in regulatory capability, legal barriers, and the perceived impact of IRC on policy sovereignty. As discussed above, ordinary Kiwis may take a different view of propositions supported by the experts.

The contrast between 'expert' respondents' views and those of ordinary citizens is most obvious in the vexed issue of regulatory sovereignty. Experts were nearly unanimous in supporting the proposition that IRC strengthens the capacity of states to deliver effective regulation. According to this view, the decision to engage in IRC would increase the effective exercise of regulatory sovereignty. The same experts identified public concerns about eroding the perception of regulatory sovereignty as a major obstacle to IRC.

One puzzling finding was the low level of support for the unilateral adoption of other countries' standards or regimes. In New Zealand's case, this was particularly surprising as unilateral adoption is the easiest form of IRC (no reciprocity or cooperation is required), and as a matter of practice, New Zealand frequently adopts Australian and other standards unilaterally. There are two plausible explanations for this: technical and political optics. The technical issue is that, as an open economy, New Zealand interacts with many trading partners, and harmonising with one economy risks diverging with others. The political optics argument is that adopting the standards of another country surrenders regulatory policy sovereignty. This low level of support was not limited to New Zealand but was consistent across all of the other countries surveyed.

8.5. Future Trends

Respondents also had the option of commenting about how IRC would develop in the future, and about half took this opportunity. The general theme of the comments was a continued drive for enhanced and deepened IRC. The comments highlighted a range of factors, both economic (e.g. growth in global supply chains, digitisation, globalisation, growth in multinational corporations, and pressure on business to reduce TBTs) as well as geopolitical (e.g. lack of progress on multilateral liberalisation and the disengagement of the United States [US]). Several sources saw US disengagement as an opportunity to expand IRC by providing 'freer paths of evolution, not constrained by US legalism, less dominance by a single powerful player', and observed that it was 'politically less hard to be seen to be responding to a US agenda'.

A major constraint was the risk of a lack of public legitimacy to pursue a more active IRC agenda. As one interviewee observed, 'IRC is often not well understood. More needs to be done with stakeholders to explain the benefits'. The survey was limited to a small number of experts and did not explore the attitudes of different stakeholders. My overall judgement would be that, while the bureaucracy in New Zealand is generally positive about IRC as 'business as usual', political leaders, although supportive, are more sceptical, and businesses, although generally supportive, have not been proactive. The wider civil society has doubts about the benefits and concerns about the loss of regulatory sovereignty.[3]

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[3] For a Parliamentary submission arguing that New Zealand should not accede to the Comprehensive and Progressive Agreement for Tran-Pacific Partnership as it would 'restrict the regulatory sovereignty of current and future Parliaments' see, It's Our Future: Kiwis Against TPPA (2018), Reject the TPPA and Review the Treaty-Making Process. 27 April. https://itsourfuture.org.nz/wp-content/uploads/2018/05/Reject-the-TPPA-and-review-the-treaty-making-process-Dont-Do-It-petition-submission.pdf

Figure 5.5 shows how, in addition to technical barriers (e.g. capability and legal obstacles), the main political concern was the perception of a 'lack of regulatory flexibility and sovereignty arising from IRC'. There is a potential disconnect between the overwhelmingly positive view of IRC expressed by survey respondents and the New Zealand public's awareness and appetite for IRC. A typical comment was, 'The gains are real, but building consensus is harder than it looks. Need real champions as well as a strong business case'. Building a shared understanding of the role and limits of IRC is an important part of the future agenda. It is hoped that the chapters in this volume can contribute to improving that understanding.

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