

# New Zealand trade strategy and evolving Asian-Pacific regional economic architecture

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40 year relationship with ASEAN in 2015

## REPORT ONE

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Research

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# Executive summary

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# Executive summary

This research project set out to answer three questions with regard to the evolution of New Zealand's preferential trading arrangements (PTAs) in the Asia Pacific:

1. Have New Zealand's negotiations of PTAs in the region been guided by a coherent strategy or have they been opportunistic?;
2. If these negotiations have followed a strategy, have New Zealand's policymakers found other 'like-minded' country-partners willing to participate in implementing the strategy?; and
3. If a strategy underlies these negotiations, have New Zealand policymakers adhered to it over time? . This report provides evidence for a positive answer to each of these questions. These findings are summarised below.

## A coherent strategy?

During the late 1980s and early 1990s New Zealand policymakers articulated an ambition to liberalise their external economic environment, including through the negotiation of PTAs. By the late 1990s this strategy had taken form in negotiations, first for a bilateral free trade agreement (FTA) with Singapore and subsequently in an array of bilateral, interregional and 'mega-regional' negotiations. The strategy responded to the secular deterioration in New Zealand's terms of trade brought on by — among other developments — the United Kingdom's accession to the European Economic Community. It consists of internal and external components. Internally, successive New Zealand governments have transformed the economic and political structures of New Zealand society in order to force producers and consumers to adapt to international market signals. Externally, the strategy seeks to liberalise further the international economic order. The external part of the strategy consists of four interrelated components. First, it promotes liberal multilateralism generally and not only in a specific institutional form (e.g. the General Agreement on Tariffs

and Trade [GATT]/World Trade Organization [WTO]) or at a specific level of activity (e.g. the global or universal level). Second, it embraces *pragmatically* the construction of PTAs at the bilateral, sub-regional and regional levels, as long as these PTAs conform to the letter and spirit of countries' GATT/WTO obligations and promote 'open' or 'outward-looking' regionalism. Third, the strategy is *incremental* in that it envisions 'outward-looking' PTAs as 'stepping stones' towards a more liberal and multilateral Asian Pacific and global economic order. Finally, this is a strategy for the very long term and therefore requires *persistence* across time and governments. The clearest and most authoritative statement of the strategy is found in the New Zealand Ministry of Foreign Affairs and Trade (1993) document, *New Zealand Trade Policy, Implications and Directions: A Multi-Track Approach*.

## 'Like-minded' partners?

New Zealand is a small country with limited resources and must rely on assistance from 'like-minded' partners to implement a strategy that aspires to reform the Asia Pacific and global economic orders. Successive Australian governments have provided New Zealand policymakers with their most consistent allies in implementing the strategy. Australian governments have recognised the similarity of their own economic situations and New Zealand's and, since at least the mid-1980s, have prescribed a very similar strategic response to them. These two partners undertook together the first step towards liberalising their external environments: trans-Tasman economic integration. Over two decades, Australasian policymakers cultivated relations with Association of Southeast Asian Nations (ASEAN) leaders. An interregional Closer Economic Relations-ASEAN dialogue begun in the mid-1990s culminated in the ASEAN-Australia-New Zealand FTA (2010). Similarly, New Zealand and Singaporean leaders found 'like-minded' policymakers in Chile as they set out plans for the Trans-Pacific Strategic Economic Partnership (or 'P4') and Trans-Pacific Partnership agreements.

## **Adherence to 'open regionalism'?**

Although the evidence is less clear-cut, it seems that New Zealand policymakers have adhered faithfully to the doctrine of 'open regionalism' and the larger strategy of which it is part in their PTA negotiations. The process of trans-Tasman economic integration is deeply entwined with the idea of 'open regionalism'. Policymakers in New Zealand and Australia undertook trans-Tasman economic integration in response to the diversionary effects of European integration. As a consequence, they defined their efforts, and the Trans-Tasman Single Economic Market they produced, in contradistinction to European practices. This is reflected in the content of New Zealand's PTAs. They adhere to the letter and spirit of New Zealand's WTO/GATT Article XXIV commitments as well as to the idea of 'open regionalism' — as New Zealand policymakers interpret these. Evidence indicates that New Zealand's PTAs have avoided a diversion of trade and other economic processes from other countries. Certainly, New Zealand policymakers have consciously sought to avoid such a diversion.



# Acronyms

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<b>AANZFTA</b>	ASEAN-Australia-New Zealand Free Trade Agreement
<b>AFTA</b>	ASEAN Free Trade Area
<b>ANZCERTA</b>	Australia-New Zealand Closer Economic Relations Trade Agreement (1983)
<b>APEC</b>	Asia-Pacific Economic Cooperation
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>CAP</b>	European Economic Community's Common Agricultural Policy
<b>CER</b>	Closer Economic Relations (between Australia and New Zealand, see ANZCERTA)
<b>CET</b>	Common External Tariff
<b>COAG</b>	Council of Australian Governments
<b>EEC</b>	European Economic Community (1958-1986)
<b>EU</b>	European Union (1993-present)
<b>FSANZ</b>	Food Standards Australia-New Zealand
<b>GATT</b>	General Agreement on Tariffs and Trade (1947-1994)
<b>IPF</b>	CER-ASEAN Integration Partnership Forum
<b>JAS-ANZ</b>	Joint Accreditation System of Australia and New Zealand
<b>MFAT</b>	New Zealand Ministry of Foreign Affairs and Trade
<b>MOU</b>	Memorandum of Understanding
<b>MRA</b>	Mutual Recognition Agreement (Australia)
<b>NSW</b>	New South Wales
<b>OECD</b>	Organisation for Economic Cooperation and Development
<b>P4</b>	Trans-Pacific Strategic Economic Partnership (Brunei, Chile, New Zealand, Singapore)
<b>RCEP</b>	ASEAN Regional Comprehensive Economic Partnership
<b>SEM</b>	Single European Market
<b>TPP</b>	Trans-Pacific Partnership
<b>TPSEP</b>	Trans-Pacific Strategic Economic Partnership (see 'P4')
<b>TTMRA</b>	Trans-Tasman Mutual Recognition Arrangement
<b>WTO</b>	World Trade Organization (1995-present)



# Introduction

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# Introduction

As well as tangible benefits for our exporters and consumers, TPP [the Trans-Pacific Partnership] would safeguard New Zealand's longer term trading interests. TPP is potentially a platform for wider, regional economic integration. The negotiation gives New Zealand an opportunity to shape future trade liberalisation in the Asia-Pacific region in line with the high quality benchmarks set by the original Trans-Pacific Strategic Economic Partnership (website: <http://bit.ly/1yucbb>) (P4) Agreement.

One of the objectives of the P4 Agreement between Brunei, Chile, Singapore, and New Zealand was to create a model that could potentially attract new Asia Pacific members.

The text above, taken from the New Zealand Ministry of Foreign Affairs and Trade (MFAT) website, places the ongoing negotiations for the Trans-Pacific Partnership (TPP) into the longer history of New Zealand's preferential trading arrangements (PTAs) in the Asia Pacific. The most striking element of this passage is the claim that Asian-Pacific economic integration can be, and has been, influenced significantly by one of the smallest actors in the region, New Zealand. As striking as this claim is, New Zealand's policymakers nonetheless believe that there is an emerging regional economic architecture in the Asia Pacific and that this development is in no small part a consequence of an external trade and diplomatic strategy that they began to put in place three decades ago. The origin and evolution of this 'tail-wagging-the-dog' strategy are the central focus of this research project.

In its initial proposal, this research project raised three questions about New Zealand's external commercial strategy. First, it asked whether there was evidence that the strategy was a clear and authoritative guide to policymakers' behaviour. Second, it sought to determine whether New Zealand policymakers engaged 'like-minded' policymakers in other countries to participate in the strategy. Finally, it asked whether New Zealand policymakers had adhered consistently over time to the priorities set out in the strategy. This final report demonstrates that there is strong or partial evidence for a positive answer to each of these questions.

The report has six sections. The first section considers how a New Zealand strategy to liberalise the Asia-Pacific regional and global economic orders sits within contemporary understandings of international relations. It asks whether and how a small country might shape its environment. The second section explains the origins of New Zealand's external commercial strategy in the processes of globalisation that reached the country during the 1970s. It suggests that New Zealand policymakers' well documented efforts to make the domestic economy more flexible in the face of external changes could not guarantee economic growth on its own. Domestic flexibility and competitiveness were only likely to yield economic growth if market competition — rather than political power — determined outcomes in a liberal, rules-based international economy. The third section outlines the international strategy developed by New Zealand policymakers and published in an MFAT document, *New Zealand Trade Policy, Implications and Directions: A Multi-Track Approach*. This document lays out a strategy to liberalise the international economic system incrementally and pragmatically over decades. The fourth section demonstrates how this strategy evolved in the process of trans-Tasman economic integration between New Zealand and Australia during the 1980s and 1990s. It shows not only that the integration processes demonstrated to New Zealand and Australian policymakers that they were 'like-minded', but also that the trans-Tasman experience represented a novel model of deepening economic integration that had relevance for the broader Asia-Pacific region. The fifth section documents New Zealand policymakers' search for 'like-minded' partners in their efforts to liberalise Asian-Pacific economic relations. These efforts evolved from direct 'region-to-region' engagement between Closer Economic Relations (CER) and the Association of Southeast Asian Nations (ASEAN) to the negotiation of an expanding network of bilateral, sub-regional and 'mega-regional' PTA negotiations. The final section evaluates the content of New Zealand's expanding suite of PTAs to determine what they reveal about New Zealanders' preferences and whether they have conformed to their own guidelines for the incremental construction of a more liberal international trading system.



# Small states and the international system

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# Small states and the international system

New Zealand policymakers' approach to Asia-Pacific economic integration is interesting because it contradicts conventional wisdom about the role of small states in the international arena. Specifically, a strategy in which New Zealanders seek to drive Asia-Pacific regionalism through an incremental expansion of a rules-based trading regime rests on a belief that small states can shape the international environment. This section considers New Zealand policymakers' strategy against conventional views of the constraints on small states in the international arena generally, and in the international economy in particular. It then considers the circumstances that motivated New Zealand's policymakers to pursue such a strategy.

New Zealand policymakers' strategy contradicts the two most influential 'rationalist' approaches to international relations: 'neo-realism' and 'neo-liberal institutionalism'. A New Zealand strategy of incremental regime-building confronts these approaches by holding that:

1. powerful states will permit the rules of international institutions to bind them, and
2. larger states will comply with rules and institutions constructed by smaller states.

The following considers these challenges to neo-realist and neo-liberal institutionalist assumptions. Then it evaluates recent arguments that suggest how New Zealand policymakers might, in fact, shape Asian-Pacific economic integration.

The existence of any *effective* rules-based trading regime — constructed sequentially or otherwise — runs counter to neo-realist thought. Neo-realists regard international relations as *anarchic* — state actors can rely only on themselves to protect their interests.<sup>1</sup>

International obligations — rules and institutions — are only as strong as the capacity of state actors to enforce them. They have no effects independent of state interests on behaviour. Driven by the imperative of survival in a competitive environment, states will not permit rules to bind them if doing so threatens their immediate security interests — and neo-realists place few issues outside states' 'security interests'. From this perspective, institutions can play no role in shaping behaviour in the international arena. Institutions survive only as long as they serve the interests of strong state actors. While elegant in its simplicity, a litany of empirical observations confounds neo-realist expectations. A list of international institutions — the North Atlantic Treaty Organisation (NATO), the General Agreement on Tariffs and Trade (GATT)/World Trade Organization (WTO) and the European Union (EU), among others — has survived the end of United States hegemony and the Cold War. Thus, empirical evidence suggests that institutions, including liberal trading regimes, may exert independent influence on international behaviour.

Neo-liberal institutionalism emerged to address the persistence of liberal international institutions, despite a declining US capacity and willingness to support them.<sup>2</sup> Scholars working within this perspective relaxed neo-realist assumptions that states bind all issues, particularly economic welfare, tightly to security calculations. Instead they suggested that states — particularly liberal democracies — comply with international rules and accept inequitable distributions of wealth if doing so increases economic growth. Where neo-liberal institutionalist approaches resemble neo-realism is in their approach to power. While they do not believe that the construction and maintenance of liberal institutions for international trade are dependent on support from a single, dominant state

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1 Kenneth N. Waltz, *Theory of International Politics*. Reading, MA: Addison-Wesley Publishing Company, 1979.

2 Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton University Press, 1984.

actor, i.e. a 'hegemon', they do believe that such institutions must rest on the active support of small coalitions of the most powerful actors in a system.<sup>3</sup> Small numbers are important in terms of limiting the impacts of collective action problems. Concentrations of power among parties to international agreements are important to manage coordination problems. From the perspective of neo-liberal institutionalists, international institutions, particularly international economic institutions, could influence states' behaviour, but the supply of such institutions depends on a particular condition: the existence of a relatively small number of powerful state actors willing to construct and maintain them. This perspective provides little encouragement for a strategy of institution-building in the Asia Pacific led by the region's smallest actors.

Both of these rationalist perspectives regard small states as 'policy takers' in the international arena. Small actors lack the resources to shape the international environment. This does not mean that small actors are helpless to respond to changes in the external environment, but it does mean that their responses are limited to internal adjustments. An influential body of scholarship demonstrates how small states' capacities to adjust differ from one another as well as according to the nature of the external challenges.<sup>4</sup> This literature, however, does not challenge the perspective that small states are 'takers' rather than 'shapers' of the international environment.

More recent work that also employs the 'rationalist' assumptions of neo-realists and neo-liberal institutionalists suggests how a particular sequence of events might overcome the problem of large numbers and diverse interests in the process of international institutional construction. This approach remains silent, however, about power and coordination problems. An influential article on the evolution of multilateral institutions by Downs, Rocke and Barsoom demonstrates logically,

**... how the strategy of admitting potential members sequentially over time based on their preferences for cooperation is able to generate... a multilateral**

**organization that will often be deeper at every stage of its development than would be obtained by an inclusive strategy... large multilaterals that start out small will tend to become "deeper" in a cooperative sense than those that start out with many members.<sup>5</sup>**

Their perspective provides logical support for a strategy that expands PTAs incrementally outward from a core of liberal trading states (e.g. New Zealand, Singapore and Chile). Incremental expansion may permit the gradual shift of preferences among increasingly more conservative states towards joining a deep, rules-based, liberal trading regime; they must adjust or lose potential welfare gains.

This logic is compelling, but it cuts both ways and the argument leaves considerable room for size and power to play a role in developments. Conservative states may have to give up welfare gains if they choose not to cooperate on the terms of liberal states. Liberal states, however, may also have something to lose by refusing the terms of conservative states. What is more, the relative size of markets may affect this relationship profoundly. The gains accompanying shallow access to a large market may outweigh (vastly) the gains that accompany deep access to small markets. The empirical evidence offered in support of the sequential construction of multilateral institutions has been taken from European experience. The most influential interpretation sees European integration expanding sequentially from an initial agreement between France and Germany — the two largest economies in Europe.<sup>6</sup> It is unclear whether or how lessons from this experience are directly relevant to institution-building in the Asia Pacific.

'Rationalist' approaches to international relations are pessimistic about small states' ability to influence their environments. An alternative, however, ameliorates the constraints of size by redefining the problem. This approach sees policymakers, rather than states, as the principal actors in international relations. It alleviates size constraints because networks, or alliances, of policymakers reach across national borders and because policymakers can change their minds.

3 For the related, but opposing, perspective that makes 'hegemons' necessary to construct and maintain international institutions, see Robert Gilpin, *War and Change in World Politics*. Cambridge: Cambridge University Press, 1981; Robert Gilpin and Jean M. Gilpin, *The Political Economy of International Relations*. Princeton: Princeton University Press, 1987; and Charles P. Kindleberger, *The World in Depression, 1929-39*. Berkeley: University of California, 1973.

4 Peter Gourevitch, *Politics in Hard Times*. Cornell University Press, 1986; Peter J. Katzenstein, *Small States in World Markets*. Cornell University Press, 1985.

5 George W. Downs, David M. Rocke, and Peter N. Barsoom, 'Managing the Evolution of Multilateralism', *International Organization* 52, 2 (Spring 1998), p.398.

6 Richard Baldwin, 'Sequencing Asian Regionalism: Theory and Lessons from Europe', *Journal of Economic Integration* 27, No.1 (2012), pp.1-32.

From this perspective New Zealand's small size is less constraining because its policymakers may have alternative levers to sway debates and developments inside other countries that are not dependent on material resources: influential ideas. This perspective suggests that policymakers' evaluations of interests and policy are subject to values, differing interpretations of cause and effect and a need for their peers' esteem. Rationality and calculations of interest are difficult to separate from such psychological forces. Where policymakers in small states lack material resources to shape others' calculation of interests, they may still be able to influence others' *definitions* of interests. An ideal situation for policymakers would be to command resources that make others feel they are both doing right and doing well at the same time.

This research does not seek to test whether rationalist or ideational perspectives provide better explanations of Asia-Pacific developments. Nor does it try to determine whether the incremental construction of multilateralism in the Asia Pacific is feasible. Rather it explains the motivations and actions underlying New Zealand's PTAs in the Asia Pacific. While policymakers clearly state that New Zealand's future lies in engaging the Asia Pacific and they are equally clear that they desire this engagement to take place in a liberal, multilateral context, it is not immediately apparent what means a small country like New Zealand has to realise these ends.



# New Zealand policymakers' response to globalisation

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# New Zealand policymakers' response to globalisation

This section explains the circumstances that motivated New Zealand policymakers to try to shape their environment. They responded to the peculiar impacts that globalisation had had on Australasia. Like policymakers in other small countries, they responded to external change by forcing domestic actors to conform to international price signals. However, because of New Zealand's peculiar circumstances, neo-liberal internal adjustments made little sense without some expectation that international markets would also become more liberal over time.

In New Zealand the era of post-war national economic management ended abruptly in 1973. New Zealand had been — and remains — an exporter of high-quality agricultural products that was almost completely dependent on imported petroleum. The rapid increase in petroleum prices that accompanied the Arab-Israeli War in October 1973 hit New Zealand with the same force that it hit other Organisation for Economic Cooperation and Development (OECD) economies. However, in addition to these supply shocks, 1973 hit New Zealand with a demand shock. On 1 January, the United Kingdom acceded to the European Economic Community (EEC). Accession made the UK part of the EEC's Common Agricultural Policy (CAP) and placed its markets inside Europe's Customs Union and Common External Tariff

(CET). Before this, agricultural producers in New Zealand, Australia, Canada and other Commonwealth countries had received preferential access to UK markets.<sup>7</sup> The UK accession radically reduced, or cut off altogether, these countries' access to their principal markets with little likelihood that it would be restored.<sup>8</sup> In addition, CAP production and export subsidies meant that Commonwealth produce diverted from UK markets would compete with European agricultural surpluses in world markets. Together, the supply and demand shocks caused a lasting deterioration in New Zealand's terms of trade.<sup>9</sup> The failure of the GATT Tokyo Round (1973-1979) to liberalise world agricultural trade confirmed to New Zealand — and Australian — agricultural producers and policymakers that their positions in the global division of labour had deteriorated for the foreseeable future.<sup>10</sup>

The deterioration of New Zealand's position in the world economy made it impossible to sustain the country's post-war economic, social and political structure. An end to guaranteed market access for agricultural surpluses necessitated an ability to compete in (distorted) world agricultural markets. This, in turn, meant an end to protection and import substitution for uncompetitive domestic manufacturing.<sup>11</sup> A re-orientation from import substitution to export-led growth precluded maintaining

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7 Matthew Gibbons, 'Introduction' in M. Gibbons (ed), *New Zealand and the European Union*. Rosedale, New Zealand: Pearson Education, 2008, pp.6-7.

8 Gary Hawke, *The Making of New Zealand: An Economic History*. Cambridge, UK: Cambridge University Press, 1985, p.209.

9 Matthew Gibbons, 'Changes in New Zealand's Trade with the EU-25 since 1957' in M. Gibbons (ed), *New Zealand and the European Union*. Rosedale, New Zealand: Pearson Education, 2008, pp.40-42; Brian Roper, 'New Zealand's Postwar Economic History' in C. Rudd and B. Roper (eds), *The Political Economy of New Zealand*, Auckland: Oxford University Press, 1997, pp.5-6.

10 See comments of Australian Trade Minister Doug Anthony in Pamela Andre, Stephen Payton, and John Mills (eds), *Documents on Australian Foreign Policy: The Negotiation of the Australia-New Zealand Closer Economic Relations Trade Agreement 1983*. Australian Department of Foreign Affairs and Trade and MFAT. Canberra: Commonwealth of Australia, 2003, p.34.

11 Priyatosh Maitra, 'The Globalisation of Capitalism and Economic Transition in New Zealand' in C. Rudd and B. Roper (eds), *The Political Economy of New Zealand*, Auckland: Oxford University Press, 1997, pp.26-29; Paul Wooding, 'New Zealand in the International Economy' in B. Roper and C. Rudd (eds), *State and Economy in New Zealand*. Auckland: Oxford University Press, 1993.

high employment and rising incomes in protected manufacturing, service and public sectors.<sup>12</sup> Adjusting production to New Zealand's changed international economic position affected groups that supported New Zealand's dominant centre-right National and centre-left Labour Parties. As one observer described it, New Zealand's adjustment to globalisation precipitated a 'quiet revolution' that transformed the country economically, socially and politically.<sup>13</sup>

New Zealand's 'quiet revolution' was imposed from above. Policymakers' domestic responses to globalisation are well documented. In the 1980s and 1990s the international media, the OECD, credit-rating agencies and countless scholars focused considerable attention on the depth, breadth and speed of economic change under New Zealand's fourth Labour Government (1984-1990) and subsequent National Party-led governments (1990-1999). Among other outcomes, policymakers removed price controls, reorganised industrial relations and reformed the state sector. The forms and effects of these changes are too numerous to rehearse here and have received extensive treatment elsewhere. A reorientation away from import substitution to export-led growth required dismantling policies that insulated New Zealand's domestic markets from external competitors. Until the mid-1980s New Zealand's markets had been among the OECD's most protected. These protections included an extensive system of import licences, tariffs and exchange controls. In the 1980s and 1990s policymakers removed barriers to entry as well as trade-distorting subsidy programmes. They eliminated many of these policies unilaterally and others were dismantled in bilateral negotiations, particularly with Australia. By the mid-1990s New Zealand's economy had become one of the most open in the world.

Internal adjustment was only a partial response to New Zealand's global challenges, however. Policymakers chose to liberalise domestic policies and force domestic actors to conform to international market constraints. While domestic liberalisation might have increased New Zealanders' capacity to adapt to external changes, it did not alter the fact that international trade rules were stacked against exporters of agricultural goods. Domestic liberalisation could enhance New Zealanders' welfare only so much. International liberalisation — particularly of agricultural trade — was necessary to maintain New Zealand's high level of living. How could a small, geographically isolated agricultural producer liberalise the international trading system?

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12 Herman Schwartz, 'Small States in Big Trouble: State Reorganization in Australia, Denmark, New Zealand, and Sweden in the 1980s', *World Politics* 46, No. 4 (1994), pp.527-555; and *idem.*, 'Internationalization and Two Liberal Welfare States: Australia and New Zealand' in F. Scharpf and V. Schmidt (eds), *Welfare and Work in the Open Economy*, Vol. 2. Oxford: Oxford University Press, 2000, pp.69-130.

13 Colin James, *The Quiet Revolution: Turbulence and Transition in Contemporary New Zealand*. Wellington: Allen & Unwin, 1986.



# Strategy: multilateralism, 'stepping stones' and 'juggernauts'

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# Strategy: multilateralism, 'stepping stones' and 'juggernauts'

New Zealand's policymakers complemented increased internal flexibility with a strategy to liberalise the external environment. They sought to liberalise the multilateral trading system — and agricultural trade in particular — with limited resources. The original sources of this strategy are obscure and it has evolved over time, but four interrelated elements have remained consistent within it: *multilateralism, pragmatism, incrementalism and persistence*. Although these ideas are found in official documents and statements by policymakers before<sup>14</sup> and after, the clearest and most authoritative expression of these interconnected elements is found in the MFAT (1993) document, *New Zealand Trade Policy, Implications and Directions: A Multi-Track Approach*.<sup>15</sup> This section explains these elements and their relationships with one another and with the goal of restoring New Zealand's economic growth.

## Multilateralism

The bedrock of New Zealand policymakers' trade strategy is multilateralism. It is important to recognise that this is a commitment to the norm of multilateralism, rather than to the expression of this norm in a particular institution, such

as the GATT or the WTO. As a norm, multilateralism does not prescribe a particular (global) scale for international organisation or cooperation.<sup>16</sup> Rather, multilateral institutions prescribe among their member states 'principles which specify appropriate conduct for a class of actions, without regard to the particularistic interests of the parties or the strategic exigencies that may exist in any specific occurrence'.<sup>17</sup> Accordingly, multilateral systems appeal more to smaller states than to larger ones.<sup>18</sup> This is because, while rules-based systems reduce uncertainties for all, it is larger countries that sacrifice their freedom to manoeuvre in constructing them.

A commitment to the norm of multilateralism does not — by any means — imply a rejection of the GATT or WTO by New Zealand policymakers. Rather, it recognises that multilateralism is a norm embedded in concrete institutions. And while New Zealand policymakers strongly shared the goals and values of the GATT and WTO, they also recognised that these institutions had proven to be imperfect instruments for protecting and promoting their country's agricultural commercial interests. Accordingly, policymakers' intentions extended beyond preserving the

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14 Cf. Jim Bolger, 'Regional Trade Policy: The Seven Pillars of Wisdom', speech delivered by the Prime Minister, 17 November 1992.

15 With the exception of *persistence*, the text of *New Zealand Trade Policy* does not use the terms *multilateralism, pragmatism, incrementalism and persistence*. In summarising New Zealand's trade strategy, it presents these elements under five headings: 'persistence', 'risk management', 'coherence', 'strategic alliances' and 'realism'. See MFAT (1993), *New Zealand Trade Policy, Implementation and Directions: A Multi-Track Approach*. Wellington, 1993, p.v. The labels in this report communicate more clearly the priorities and connections between the means and ends of this strategy than do the original labels. The ideas presented under 'risk management' and 'realism' are nearly identical and have been condensed into the single category, 'pragmatism'.

16 John G. Ruggie 'Introduction' in J. Ruggie (ed), *Multilateralism Matters: The Theory and Praxis of an Institutional Form*. New York: Columbia University Press, 1993.

17 *Ibid.*, p.11.

18 Joseph M. Grieco. 'Anarchy and the Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism', *International Organization* 42, No.3 (1988), pp.485-507.

particular institutions of the post-war Bretton Woods system. Instead, they sought to construct, extend and reinforce liberal, multilateral institutions more generally. This meant that they were willing to embed multilateralism not only at the level of global institutions like the GATT and WTO, but also in institutions at the regional, the sub-regional and even the bilateral levels, if doing so would 'even the playing field' between New Zealand and other producers.

## Pragmatism

A willingness to pursue opportunities for multilateralism and economic growth at the global, regional, sub-regional and bilateral levels reflects the approach's pragmatism. The complexity of the GATT negotiations made them too cumbersome and too uncertain a prospect on which to base all of New Zealand's interests. This was a lesson amplified by GATT failures, before and after the Uruguay Round, to liberalise agricultural trade. Thus New Zealand policymakers chose to pursue liberalisation simultaneously within the framework of the GATT, APEC (Asia-Pacific Economic Cooperation), CER with Australia and other bilateral opportunities that presented themselves. The important qualification, however, was that PTAs had to contribute to multilateral free trade.<sup>19</sup> Policymakers made it clear that they preferred multilateralism to short-term material gains. Accordingly, they insisted that regional, sub-regional and bilateral PTAs conform to the letter and *spirit* of the signatories' GATT obligations. This included parties' obligations under the GATT's Article XXIV that condoned only PTAs that eliminated 'substantially all' interior barriers to trade and did not raise barriers to trade with third countries. Thus, PTAs were required to be trade-creating without being trade-diverting.

As New Zealand policymakers undertook integration first with Australia and then subsequently with other countries in the Asia Pacific, they demanded that these arrangements be both outward looking and promote open regionalism. In this sense New Zealand policymakers thought, and sought to ensure, that PTAs in the Asia Pacific served as stepping stones towards a reinforced global multilateral trading system, rather than as stumbling blocks that undermined it.<sup>20</sup>

This pragmatic stepping stone approach stands in contradiction to the orthodox rejection of all PTAs below the global level. This orthodoxy recognises that such agreements are, by definition, discriminatory and a violation of, at least, the spirit of the GATT norms. Discrimination creates diversion and welfare losses. Adherents of this position are sceptical that PTAs will resist the temptations of economic diversion. Even if policymakers resist these temptations, proponents of orthodoxy argue that negotiating PTAs wastes resources that could be used to strengthen global multilateralism. Thus they dismiss as 'stumbling blocks' all trade agreements other than those based on unilateral extensions of the Most Favoured Nation principle at a global level.<sup>21</sup>

## Incrementalism

From a pragmatic perspective, 'open' regional, sub-regional and bilateral PTAs provide opportunities for immediate growth without undermining global multilateralism. *Incrementalism* turns pragmatism into a virtue that compensates for New Zealand's small size and lack of diplomatic resources. Underlying incrementalism is the idea that New Zealand can join like-minded actors in the international system to promote liberal multilateralism from the bottom up. On one level, this intention was unremarkable. New Zealand would work with other countries to promote their parallel interests in international forums like the GATT. So, for example, New Zealand policymakers joined the Australian initiative to bring together in the Cairns Group those countries with an interest in liberalising agricultural trade. The Cairns Group was effective in mobilising and articulating interests for change in the rules governing international trade in agricultural products during the GATT Uruguay Round. Such efforts fit clearly into conventional models of international relations.

New Zealand policymakers, however, brought a higher level of ambition to incrementalism. In short, they sought to reform the liberal, rules-create international economic system from the ground up and an international system that was deeper and more comprehensive than the GATT/ WTO system. It would be built by the incremental and pragmatic extension of outward-looking PTAs in the South

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19 Op. cit., *New Zealand Trade Policy*, p.v.

20 Jagdish Bhagwati and Arvind Panagariya. 'The Theory of Preferential Trade Agreements: Historical Evolution and Current Trends'. *The American Economic Review*, 86, No.2 (1998), pp.82-87.

21 Ibid.

Pacific, Southeast Asia and the larger Asia Pacific. An Asia-Pacific economic region could then link up with North and South American and Europe to drive liberalisation deeper within the WTO framework. This incremental progression began with like-minded countries in New Zealand's immediate neighbourhood, particularly Australia. Indeed, many of the ideas and mechanisms associated with this strategy of incremental economic integration grew out of policymakers' experiences with deep and deepening economic integration between the Australian and New Zealand economies. Policymakers came to view trans-Tasman integration as a model for wider integration in the Asia Pacific as well as one kernel from which a liberal, rules-based regional economic architecture might grow.

## Persistence

As the authors of *New Zealand Trade Policy* recognised, their strategy required a 'high level of domestic consensus' as well as a willingness to 'sustain the same broad approach over many years'.<sup>22</sup> The domestic and international components of the strategy supported one another. Backtracking on economic, social and political reorganisation would undercut the strategy's credibility among both domestic and international audiences. A failure to produce opportunities to export New Zealand products would undermine domestic support for 'openness' and the ongoing costs of adjusting to turbulent international market conditions. Consequently, in the past 30 years New Zealand's major parties, the Labour Party on the centre-left and the National Party on the centre-right, have largely refrained from drawing New Zealand's trade relations into electoral politics. Efforts to liberalise New Zealand's international environment have moved forward incrementally under both National and Labour governments.

This strategy also required persistence in maintaining the principles of outward-looking regionalism. If New Zealand policymakers succumbed to the temptation of diverting economic activities towards themselves, the fears of critics of pragmatic, open regionalism would be confirmed. The attractiveness of liberalisation efforts emanating from New Zealand rested on the credibility of 'open regionalism'.

Reorganising the state, society and economy to enhance New Zealand's export competitiveness made sense only to the extent that economic competitiveness, rather than political power, determined outcomes in international markets. Given that 'globalisation' had come to New Zealand in the form of political intervention in markets, it was logical that domestic liberalisation be accompanied by a strategy to liberalise world markets. However, liberalising agricultural trade within the GATT framework — let alone constructing a multilateral economic order that was global in both geographic and functional scope — exceeded New Zealand's immediate resources. Out of these circumstances grew a diplomatic strategy in which the principle of multilateralism guided pragmatism and incrementalism. New Zealand would seek opportunities for growth pragmatically in regional, sub-regional and bilateral PTAs, but it would also seek to ensure that these PTAs remained both GATT friendly and outward looking. New Zealand would seek to expand these PTAs incrementally. It would try to deepen their coverage from market access to issues of 'behind-the-borders' policy coordination, such as services trade, rules for cross-border investment, technical barriers to trade and government procurement and customs procedures. It would also push to widen multilateral trading arrangements by drawing countries into bilateral, sub-regional and regional PTAs and, it was hoped, linking these together under global GATT/WTO arrangements. Persistence in these efforts for 'the very long term' would then produce an incremental levelling of the international playing field on which New Zealand's producers competed.

This strategy raises two questions, however. The first comes from the tension between multilateralism and pragmatism: if confronted with a choice, would policymakers sacrifice short-run material gains to promote the long-run goal of embedding liberal and multilateral rules in international institutions? Second, given the small size of New Zealand's markets, it was necessary for its policymakers to find like-minded partners to set the juggernaut of deepening and widening economic integration rolling. Would New Zealand find partners willing to make the sacrifices necessary for a strategy of incremental integration?

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22 Op. cit. *New Zealand Trade Policy*, p.v.



# The evolution of New Zealand's strategy

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# The evolution of New Zealand's strategy

New Zealand's policymakers did not articulate a strategy to liberalise the international trading environment all at once and in conjunction with the internal reforms. Rather, this strategy evolved across two decades and as a result of policymakers' experiences. New Zealand policymakers learned from others' efforts at international economic integration — especially in Europe — but they adapted imported lessons to local circumstances. This is particularly true with regard to New Zealand's most important PTA to date: the trans-Tasman relationship with Australia. In this relationship New Zealanders found like-minded partners with whom they could pursue international economic liberalisation. However, the trans-Tasman relationship became more than a free-trade area for goods. It evolved into a single market and, perhaps, the example of deep and deepening economic integration outside Europe. As such, this relationship and the experience gained in constructing it became a political and diplomatic asset in New Zealand and Australian policymakers' efforts to reform their external economic environments. By the mid-1990s they had constructed a single market that not only produced economic growth like the Single European Market (SEM) but did so without diverting economic activities or constructing centralised supranational institutions identical to Europe's. This section analyses Australasian policymakers' construction of an alternative model to Europe economic integration. Then it demonstrates how this alternative became a diplomatic asset in Australian and New Zealand efforts to extend liberalisation in Southeast Asia.

European integration has played an important and complex role in processes of economic integration between Australia and New Zealand and in the Asia Pacific more generally. This role has four elements. First, economic integration in the EEC — and in the CAP and CET particularly — has had a direct, diversionary effect on the economies of Australia and New Zealand, and also on other economies in the region, particularly in Southeast

Asia. Second, at each step in the integration process — between Australia and New Zealand as well as with ASEAN — the EEC and its successors have provided one model of integration. Third, because of the direct, diversionary impacts of European integration on Asia-Pacific economies, policymakers in the region have been ambivalent towards the European model. As a result of this ambivalence, policymakers in Australia and New Zealand — and elsewhere in the Asia Pacific — have consciously picked and chosen from among the lessons of European integration those that seem to best fit local circumstances and are consistent with their values. Out of the friction that has emerged between imported European lessons and local circumstances and values, Australasian policymakers have produced several innovations in terms of the ideas, institutions and coordinating mechanisms for a deepening economic integration. Taken together, these innovations represent a model of economic integration that policymakers in New Zealand and Australia, and perhaps elsewhere, regard as an alternative to European integration. Furthermore, they have propagated the trans-Tasman experience as an alternative model of integration from which other Asian-Pacific policymakers may learn.

One effect of the UK's accession to the EEC was to provide New Zealanders with a like-minded strategic partner in the government of the Australian Commonwealth. This was particularly true after the election in Australia of the Labor Government of Prime Minister Bob Hawke in 1983. The UK accession also disrupted Australian agricultural producers' access to traditional markets. Furthermore, CAP price supports and export subsidies damaged Australian exports in third-country markets. In response to these international challenges, Hawke's Government, like New Zealand's fourth Labour Government, 'sought to foster outward-oriented strategies in a climate which enables competitive forces to operate and which encourages flexibility in

meeting changing market conditions.<sup>23</sup> In short, the Hawke Government considered a neo-liberal adjustment strategy similar to New Zealand's. Hawke also recognised that Australia's internal economic reforms 'will be fully effective only to the extent that they are supported by the rules and disciplines of the international trading system' and elaborated for an audience at the Centre for European Policy Studies in Brussels the failings of the international trading system for 'Australia and for the countries of our region'.<sup>24</sup>

The Australian Government drew conclusions from its circumstances that were similar to those that New Zealand's policymakers were beginning to articulate. First and foremost, the Australian Government sought 'broadly-based multilateral trade liberalisation'.<sup>25</sup> However, given growing protectionism among the GATT's major industrial trading powers, it too began to consider second-best alternatives. A study commissioned by the Australian Department of Trade in 1986 observed that '[i]f bilateral and trade bloc arrangements proliferate, Australia would be advised to join rather than be left out in the cold'.<sup>26</sup> The study concluded that it might be easier to reform multilateral trading institutions 'by way of detouring through preferential arrangements', although this was by no means certain.<sup>27</sup> While Australian governments have not done so as enthusiastically as their New Zealand counterparts, they too have pursued a reform of multilateralism through pragmatism and incrementalism. They have often done so in conjunction with more direct efforts to reform the GATT. Thus in the mid-1980s the Hawke Government pushed to deepen trans-Tasman economic integration to coordinate 'behind-the-borders' issues at the same time that it was organising the Cairns Group to pressure for a liberalisation of agricultural trade in the GATT Uruguay Round.

These developments provided the background for Australasian policymakers' importation of European lessons about economic integration. They created ambivalence among Australasian policymakers about European economic integration. On the one hand, the UK accession forced Australasian producers and policymakers to make strategic adjustments to the changing world. Additionally, because the EEC's CAP and CET were the most visible causes of painful adjustment, they became targets for Australasian antipathy. Accordingly, Australasian policymakers defined trans-Tasman economic integration as open regionalism, in direct opposition to trade diversion in the EEC. On the other hand, however, internal European liberalisation meant that Australasian policymakers also held positive attitudes towards elements of European integration. This was particularly true when European precedent offered potential solutions to their own problems. The following demonstrates how Australian and New Zealand policymakers imported and adapted European ideas and practices about the sequence of economic integration, mechanisms for international policy coordination and the design of supranational institutions.

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23 Bob Hawke, 'Address to the Centre for European Policy Studies, Brussels 4 February 1985' in R. Snape, L. Gropp, and T. Luttrell (eds), *Australian Trade Policy 1965-1997: A Documentary History*. St Leonards, NSW: Allen and Unwin Pty Ltd, 1998, p.416.

24 Ibid.

25 Ibid., p.417.

26 Richard. Snape, 'Extract from Study Commissioned by the Department of Trade and EPAC 1986' in R. Snape, L. Gropp and T. Luttrell (eds), *Australian Trade Policy 1965-1997: A Documentary History*. St Leonards, NSW: Allen and Unwin Pty Ltd 1998, p.471.

27 Ibid.



# Sequence of integration: FTA and single market without customs union

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# Sequence of integration: FTA and single market without customs union

Australasian economic integration, like European integration, has deepened. However, deepening trans-Tasman integration differs from European precedent in at least two important ways. First, Australasian policymakers did not create a customs union before constructing a single market. Second, a single market has remained the goal of Australasian economic integration. While policymakers have discussed possibilities for further deepening the relationship — including a customs and/or currency union — they have chosen not to move beyond efforts to complete a single market. These outcomes reflect the impacts of forces mediating the transmission of ideas from Europe to Australasia. Specifically, policymakers adapted European ideas about economic integration to the peculiar constellation of material interests present in Australasia, but their position in the international system and ambivalence towards European precedent reinforced choices to introduce innovations.

Australasian policymakers regarded European integration as both a cause of their problems and a source of solutions to them. Returning from unsuccessful negotiations to extend the GATT's Tokyo Round of tariff reductions to agricultural products, Australian Deputy Prime Minister Doug Anthony met his New Zealand counterparts in Wellington in 1979. In reference to European integration, Anthony asked his hosts, 'If the Europeans can do so, why can't we?'<sup>28</sup> Anthony did not explain, however, what he thought Europeans had done nor how he thought Australians and New Zealanders might integrate their economies.

Officials in Australia and New Zealand drew on European precedent in making designs for the integration of their own economies. For example, officials provided political leaders with the levels of integration in Bela Balassa's *Theory of Economic Integration* as a menu of options: FTA, customs union, common market, monetary union and economic union.<sup>29</sup> Ministers in both countries considered constructing a common market and customs and currency union, but felt unable to do so because of local circumstances.<sup>30</sup>

Initially policymakers resisted pressing integration beyond the construction of an inclusive but conventional goods FTA, the 1983 Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA).<sup>31</sup> While Australia and New Zealand were similar to Europe in many ways, there were also important differences. In the late 1970s the Australasian countries had pluralist interest representation and competitive democratic political systems as well as developed and internationally embedded economies — which early analysts considered prerequisites for European integration.<sup>32</sup> However, the economies of the Australasian countries also differed from those of the EEC member states in the 1970s. Before the growth of mining at the end of the 1980s, Australia exported principally agricultural products. New Zealand continues to rely predominantly on agricultural exports. There were also few complementarities between the Australian and New Zealand economies, unlike the relationships between EEC members. The Australasian countries had legislated tariffs and import licensing restrictions to protect

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28 Op. cit., *The Negotiation of the Australia-New Zealand Closer Economic Relations Trade Agreement 1983*, p.34

29 Ibid., pp.41-43, 49.

30 Ibid.; Hugh Templeton, *All Honourable Men: Inside the Muldoon Cabinet 1975-1984*. Auckland: Auckland University Press, 1985.

31 It is from ANZCERTA that the trans-Tasman relationship draws the unofficial or colloquial label 'CER', for 'Closer Economic Relations'. ANZCERTA is, however, only one of dozens — if not hundreds or thousands — of separate 'agreements', 'arrangements', 'understandings' and even emails that make up the relationship's institutional structure.

32 Ernst B. Haas, *The Uniting of Europe*. London: Stevens and Sons Limited, 1958, pp.xv-xvi.

different segments of small but politically important manufacturing sectors in each economy: Australia protected intermediate producers, while New Zealand protected producers of final goods. In the face of resistance from other sectors — notably Australian dairy farmers — policymakers sought to prevent a backlash that an attempt to create a customs union might provoke among manufacturers.<sup>33</sup> ANZCERTA and a conventional FTA were all that policymakers were willing to dare at first.<sup>34</sup>

In the middle of the 1980s circumstances began to evolve rapidly. In less than a decade trans-Tasman economic integration evolved from a goods FTA into a single-market project and policymakers made this transition without constructing a customs union. The 1988 ANZCERTA Five-Year Review extended the agenda of integration to, among other issues, government procurement, the abrogation of anti-dumping and countervailing measures, services and technical barriers to trade. These developments moved in parallel with the creation of the SEM and the Canada-US Free Trade Agreement.<sup>35</sup> Deepening trans-Tasman integration by leapfrogging a customs union is a demonstration of Australia and New Zealand policymakers tailoring imported lessons to local conditions.

The GATT rules created special disadvantages for agricultural exporters like Australia and New Zealand. Prior to the WTO, the GATT rules governed the trade of manufactured but not agricultural products. As a result, Australasian agricultural producers faced numerous restrictions in international markets, including tariffs and subsidies generated by Europe's CAP and CET. The lack of complementarities between Australia's and New Zealand's economies meant that defensive integration, aimed at diverting trade and investment towards each other, would yield little economic growth. Consequently, policymakers in Australia and New Zealand constructed economic integration with different objectives in mind. They viewed integration as an initial step in opening their economies to

international competition, rather than as a way of insulating them. Additionally, even as they liberalised vis-à-vis one another, they also eliminated unilaterally barriers on imports from third countries. The countries' peculiar international economic vulnerabilities drove Australasian policymakers to adopt an approach that they called open regionalism. This concept receives greater attention below.

In the Australasian experience, it was not social actors, such as firms, unions and employers' associations, but policymakers who moved economic integration forward. The experience of economic integration in Europe and elsewhere has led observers to presume that transnational policy coordination rests atop a functional division of labour.<sup>36</sup> Because of the dangers associated with relinquishing national sovereignty, policymakers are reluctant to supply integration policies. Thus significant economic complementarities are necessary to generate sufficient societal demand to motivate policymakers to do so.<sup>37</sup>

Because their economies had few complementarities, Australia's and New Zealand's first efforts at liberalisation created little demand for more. Putting ANZCERTA into operation did not unleash a feedback loop, or juggernaut, in which integration created demand for more integration.<sup>38</sup> It was policymakers, rather than interest groups, who moved economic integration forward. Policymakers prodded interest groups to support their agendas and reined them in when they moved too quickly. Policymakers decided the sequence of integration — an FTA without a customs union — as well as its endpoint, a single market without currency or fiscal union.

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33 Op. cit., *The Negotiation of the Australia-New Zealand Closer Economic Relations Trade Agreement 1983*, pp.48-54, 159-163.

34 Philippa Mein Smith, 'Did Muldoon Really "Go Too Slowly" with CER?', *New Zealand Journal of History* 41 (2007), pp.161-179.

35 Graeme Thomson, 'A Single Market for Goods and Services in the Antipodes', *The World Economy* Vol.12, No.2 (1989), pp.207-218.

36 Maria Green Cowles, 'Setting the Agenda for a New Europe: The ERT and EC 1992', *Journal of Common Market Studies* 33 (1995), pp.501-526; Wayne Sandholtz and John Zysman, '1992: Recasting the European Bargain', *World Politics* 42 (1989), pp.95-128.

37 Andrew Moravcsik, 'Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach', *Journal of Common Market Studies* 31(1993), pp.473-524; Richard E Baldwin, 'Sequencing Asian Regionalism: Theory and Lessons from Europe', *Journal of Economic Integration* 27 (2012), pp.1-32.

38 Richard E Baldwin, *Towards an Integrated Europe*, Centre for Economic Policy Research (1994), London.



# Coordinating integration: mutual recognition

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# Coordinating integration: mutual recognition

Australasian policymakers, like Europeans, use several mechanisms to coordinate policies internationally, including mutual recognition. In the late 1980s Australasian policymakers borrowed EEC ideas about mutual recognition as a mechanism for policy coordination from the Europe 1992/SEM project. They recast these ideas to fit the less-complicated needs of trans-Tasman integration.

European, Australian and New Zealand policymakers shared similar motives in introducing mutual recognition. Prime Minister Bob Hawke's Government observed neo-liberal reforms in Europe and New Zealand and sought to stimulate Australia's economic growth by liberalising the country's internal market. Because the Commonwealth's constitution failed to delineate clearly between the regulatory competences of Federal, State and Territory governments, Australia's internal market was fragmented much like Europe's. To overcome the costs of fragmentation, Hawke's Government sought cooperation from the States and Territories in eliminating internal technical barriers to trade. In a June 1990 announcement, Hawke claimed that Australia's internal market was more balkanised than the SEM. Accordingly, he sought to introduce new cooperative federalism to carry out micro-economic reform and restart economic growth.<sup>39</sup>

Although the impetus for internal liberalisation came from the Commonwealth, it was the New South Wales (NSW) State government that introduced mutual recognition in discussions of reform. Officials attached to the Cabinet confirmed that individuals working in London for the NSW Treasury in the mid-1980s carried European ideas on

mutual recognition back to Australia. One NSW Cabinet official, Gary Sturgess, introduced mutual recognition as a mechanism to coordinate goods' and services' standards across the many Australian jurisdictions at an August 1990 meeting of senior officials that prepared the first Special Premiers' Conference.<sup>40</sup> Opponents resisted proposals for mutual recognition from two sides. The Commonwealth Government desired uniform regulations and, therefore, a harmonisation of standards. Other officials expressed concerns that mutual recognition might compel regulatory competition and a 'race to the bottom' among jurisdictions. Countering these arguments, advocates of mutual recognition put forward arguments similar to those made in Europe: mutual recognition was simpler to enact than harmonised legislation, and competition could motivate regulatory innovation as well as regulatory erosion. Mutual recognition's proponents also observed that the circumstances in Australasia were less complex than those in Europe and, therefore, the mechanism was more likely to succeed. Sturgess claims that proponents of mutual recognition won acceptance among Commonwealth and State policymakers with the observation that 'none of [us] worried about professional regulation or product standards when we visited another state — in spite of the difference, we were broadly comfortable with how other states regulated'. Australasians' shared culture, history and legal systems facilitated trust among policymakers that their regulatory systems shared similar goals and values. On this basis, the Commonwealth, States and Territories created the 1993 Mutual Recognition Arrangement (MRA) for goods' standards and labour qualifications.

39 Martin Painter, *Collaborative Federalism: Economic Reform in Australia in the 1990s*. Cambridge: Cambridge University Press, 1998.

40 Following his New Federalism speech Prime Minister Hawke met with State and Territory premiers in a series of Special Premiers' Conferences in 1990-1991. In 1992 these meetings were formalised as the Council of Australian Governments with its relationship to other ministerial councils. These events are elaborated below and in op. cit. *Collaborative Federalism*. This account of events follows communications between Gary Sturgess and the author.

The mutual recognition of trans-Tasman integration, its particular form and its geographic reach reflected peculiar circumstances in Australasia. The Australian States and Territories created the MRA for themselves, but New Zealand officials observed negotiations from the outset with intentions to extend the arrangement to their own country.<sup>41</sup> According to Gary Sturgess, officials of the Commonwealth brought the New Zealanders into contact with the NSW Cabinet Office on mutual recognition as early as 1990. During 1993 the New Zealand Government consulted public and private stakeholders on the possibility of accession. The two countries began negotiations in 1995 and concluded them in 1996. Australia and New Zealand enacted implementing legislation in 1997 and the Trans-Tasman Mutual Recognition Arrangement (TTMRA) began operating on 1 May 1998. New Zealand's accession to the MRA was not problematic for Australian officials. According to Gary Sturgess and Roger Wilkins, the Australians used the same argument for New Zealanders that they had applied to themselves: the Australians accepted that New Zealanders anchored the same values in their regulatory system. Alan Henderson, Australia's chief negotiator for the TTMRA, states that Australian authorities made no assessment of the TTMRA's impacts before concluding the agreement.

A high degree of trust between Australian and New Zealand policymakers also influenced the peculiar implementation of mutual recognition in Australasia. The European practice was to harmonise minimum standards through EEC legislation and to use mutual recognition to coordinate policies above this minimum. According to a 2008 European Parliament report, approximately 75 percent of the internal EU goods trade was in the 'harmonised' category and 25 percent occurred under mutual recognition. While understanding the European practice, Australasian policymakers opted for a different mix of harmonisation and mutual

recognition, rather than imitating European precedent. They applied the mutual recognition principle generally and then created a negative list of exemptions. According to the Australian Productivity Commission, this approach has had the consequence that mutual recognition covers 80 to 85 percent of the trans-Tasman goods' trade without exemption.<sup>42</sup> The trans-Tasman mutual recognition of occupation qualifications differs from European practice in a similar way. Australasian policymakers claim to practise a purer form of mutual recognition in which harmonisation, if necessary, takes place only after the fact. This approach, it is claimed, has prompted the construction of few 'new bureaucracies.'<sup>43</sup>

Even if it was less bureaucratic, trans-Tasman mutual recognition nonetheless required supranational authority. Provisions within the TTMRA constructed a supranational authority to legislate harmonised goods' standards and settle disputes over occupational equivalence. Both the MRA and the TTMRA contained provisions for such decisions to be made by a two-thirds majority among ministers representing their jurisdictions in a responsible Council of Australian Governments (COAG) ministerial council. An Australian official commented *before* the TTMRA extended mutual recognition across the Tasman that doing so would require Australians and New Zealanders to relinquish national sovereignty.<sup>44</sup> He added, 'Of course, we would be doing nothing more than they have already done in Europe, but it does mean taking CER one very large step further.'<sup>45</sup>

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41 New Zealand Ministry of Economic Development, 'Message Number S 52297 Wellington-Canberra 17 April 1991, Subject: CER Official Talks', documents of the Ministry of Economic Development R17314869. Wellington: Archives New Zealand, Wellington.

42 Australian Productivity Commission, *Review of Mutual Recognition Schemes – Productivity Commission Research Report 2009*, p.68 Figure 4.4. <http://www.pc.gov.au/projects/study/mutualrecognition/report>. Accessed 4 September 2014.

43 Peter Lloyd *CER Lessons*. Paper presented to the Australia/US Free Trade Agreement: Opportunities and challenges conference. Australian APEC Studies Centre, Canberra, 21 June 2001; *idem.*, 'The Future of Trans-Tasman Closer Economic Relations', *Agenda* 2 (1995), pp.267-280.

44 Gary Sturgess, 'Fuzzy Law and Low Maintenance Regulation: The Birth of Mutual Recognition in Australia', *Waltzing with Matilda*. Wellington: New Zealand Institute of Public Administration Research Papers X(2), p.43.

45 *Ibid.*



# Design of trans-Tasman supranational institutions

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# Design of trans-Tasman supranational institutions

The peculiar circumstances of the Australasian experience also affected the design of the trans-Tasman supranational institutional authority. The two generic forms that exist within the EU are also found in trans-Tasman institutional structures: pooled sovereignty and autonomous international institutions. Accordingly, EU member states pool sovereignty by making binding decisions by qualified majority votes in sectoral Councils of Ministers, while trans-Tasman jurisdictions do so in qualified majority voting in COAG ministerial councils. The EU embeds supranational legislative and dispute-settlement powers in the European Commission, Court of Justice and Parliament. These powers exist in the trans-Tasman relationship in the Joint Accreditation System of Australia and New Zealand (JAS-ANZ), Food Standards Australia New Zealand (FSANZ) and the Australia-New Zealand Therapeutic Products Agency<sup>46</sup>. The design of European and trans-Tasman supranational institutions is distinguished by the fact that the EU centralises supranational authority over a broad range of issues in the European Commission, Court of Justice and Parliament. No equivalent centralisation of issue competences exists in the trans-Tasman relationship. Instead, both pooled sovereignty arrangements in COAG bodies and legislative and dispute-settlement authority in autonomous trans-Tasman organisations like JAS-ANZ and FSANZ remain issue-specific. This decentralised institutional design reflects the circumstances in which trans-Tasman economic integration 'deepened' in the 1980s and 1990s.

Policymakers recognised during the Five-Year Review of ANZCERTA that supranational institutional support was a requisite for deepening economic integration. As representatives of the smaller country, New Zealand policymakers expressed this concern most directly. A New Zealand Cabinet briefing paper observed that the 'review could result in a broader scope and coverage of bilateral trade and economic activity and therefore an expanded scope for disputes of an interpretive nature'<sup>47</sup>. Therefore, New Zealand policymakers sought:

1. to bind the Review's diverse integration projects under a single instrument tied to ANZCERTA with treaty status; and
2. to construct a binding dispute-settlement mechanism based on the GATT model of panels of neutral experts.<sup>48</sup>

Because the Australian negotiators refused to accept either position, the parties concluded the Review as 11 different agreements without an encompassing dispute-resolution mechanism. This was not, however, the end of efforts to construct supranational institutional support for the trans-Tasman relationship.

The trans-Tasman supranational institutions' decentralised structure resulted from the interaction of Australian domestic reforms and New Zealanders' desire for an institutionalisation of policy coordination between the two countries. Two years after the ANZCERTA's Five-Year

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46 On 20 November 2014 the Australian and New Zealand Governments announced they had suspended indefinitely efforts to construct an Australia – New Zealand Therapeutic Products Agency.

47 New Zealand Government, 'ANZCERTA 1988 Review: 20-21 June (1988) Ministerial', Cabinet Development and Marketing Committee, R22200915. Wellington: Archives New Zealand, pp.7-8.

48 Ibid.; Stephen Hoadley, *New Zealand and Australia: Negotiating Closer Economic Relations*. Wellington: New Zealand Institute of International Affairs, 1995.

Review, the Hawke Government undertook the construction of a New Federalism and a programme of micro-economic reform. These efforts drove a reorganisation of an existing set of Commonwealth-State ministerial councils as a way to manage competing claims over regulatory jurisdiction in internal Australian markets.<sup>49</sup> By May 1992 policymakers had formalised these previously ad-hoc and advisory structures into policymaking bodies under the loose hierarchy of COAG. The MRA's creation was instrumental in cementing majority decision-making rules in the structure of ministerial councils.<sup>50</sup>

These sectoral ministerial councils became the focus of New Zealand efforts to institutionalise trans-Tasman policy coordination. New Zealand ministers had participated in several councils historically.<sup>51</sup> After Australia rebuffed efforts to centralise and institutionalise trans-Tasman integration in the ANZCERT A Five-Year Review, New Zealand policymakers seized on the ministerial councils as an alternative mechanism for governing deep economic integration. In an April 1990 letter preparing for a celebration of the removal of the remaining barriers to trans-Tasman goods' trade, New Zealand Prime Minister Geoffrey Palmer requested that Hawke's Government consider expanding New Zealand's participation in Commonwealth-State sectoral councils as a way 'to enhance Australia/New Zealand cooperation'.<sup>52</sup> After their meeting on 2 July 1990 the prime ministers issued a joint statement asking the councils to consider what they might do to advance trans-Tasman cooperation in the next year.<sup>53</sup> The Australians' reluctance to construct a unified institutional structure in the ANZCERTA Review left an existing set of sectoral ministerial councils as the default for trans-Tasman supranational institutional arrangements.

The European experience provided policymakers in New Zealand and Australia with a model for deep economic integration. The European influence is visible in the depth and sequence of trans-Tasman economic integration, its application of mechanisms for coordinating policies, and

the design of its supranational institutions. However, these same elements also reflect the impacts of local circumstances. New Zealand and Australian policymakers adapted ideas even as they imported them from Europe. They departed from the sequence of European integration and the notion of 'ever-closer union'. They constructed a 'purer form' of mutual recognition. Finally, trans-Tasman institutions decentralised, rather than concentrated, supranational authority. The processes and results of innovation were important because they produced a distinct trans-Tasman model of economic integration and an alternative to the European experience. In reacting to economic changes, which were to a significant extent the products of European economic integration, New Zealand and Australian policymakers themselves became practitioners of deep economic integration. Moreover, they became innovators in the field. Conscious of these innovations and the distinctiveness of the trans-Tasman model, Australasian policymakers began to incorporate the experience of trans-Tasman integration into efforts to create a liberal, integrated Asian-Pacific region.

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49 Op. cit., *Collaborative Federalism*.

50 Ibid.; op. cit., 'Fuzzy Law and Low Maintenance Regulation'.

51 Ibid.

52 Geoffrey Palmer, 'Draft Letter to Mr Hawke from Mr Palmer - Message Number S 19620, 18 April, from: Wellington, to: Canberra, subject: Australia/New Zealand 1 July 1990', documents of the Ministry of Economic Development, R17314864. Wellington: Archives New Zealand.

53 Bob Hawke and Geoffrey Palmer, 'Joint Prime Ministerial Statement, 2 July 1990, Canberra', documents of the Ministry of Economic Development, R17314864. Wellington: Archives New Zealand.



# Like-minded partners and Asian-Pacific regionalism

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# Like-minded partners and Asian-Pacific regionalism

The liberalisation of the international trading environment required assistance from like-minded partners in New Zealand's neighbourhood. From the mid-1980s Australian Commonwealth governments demonstrated their commitment to similar principles, pushing internal and trans-Tasman economic integration deeper as a means of making domestic producers more competitive in broader international markets. Both Australian and New Zealand policymakers discovered that, in the process of integrating their own economies, they had constructed a novel, Australasian model of deep economic integration. This trans-Tasman model became another asset in the diplomatic toolkit as Australasian policymakers sought to find other partners willing to give the Asia-Pacific region a liberal economic architecture. Policymakers, however, faced a difficult question about how to widen economic integration from this Australasian core.

That Australasian policymakers regarded trans-Tasman economic integration as dynamic was already clear in ANZCERTA's text. As indicated above, political leaders in both Australia and New Zealand raised the possibilities of deeper integration in the form of a customs union, a common market and even a currency union before they limited themselves — temporarily — to a goods FTA. They built aspirations to deepen the relationship into an indicative agenda for future integration in Articles 11, 12, 21 and 22. However, ANZCERTA's text also contains indications that policymakers sought to widen the relationship. The Preamble not only asserts the parties' 'commitment to an outward-looking approach to trade' but proclaims a belief that the 'closer economic relationship will... contribute to the development of the region through closer economic and trading links with... the South Pacific

and Southeast Asia'. Article 24 of ANZCERTA also contains an accession clause, stating that, 'the Member States may agree to the association of any other State with this Agreement'. It specifies that member states will negotiate the terms of association with the candidate country/countries. Policymakers created the possibility of trans-Tasman economic integration widening as well as deepening.

The 1988 ANZCERTA Review affirmed the expansionary nature of trans-Tasman economic integration. While it focused on this Review's achievements in deepening trans-Tasman integration into a burgeoning single market, the prime ministers' joint statement reiterated the relationship's 'outward-looking' nature and remarked that, 'the impressive growth in two-way trade between our two countries has not been achieved at the expense of our trading partners'.<sup>54</sup> The prime ministers also linked their deepening relationship to their combined role in the Asia-Pacific region. Accordingly, the final paragraph of their joint statement concludes:

**The new chapter we have opened in our bilateral economic and trade relationship will strengthen our ability to participate in the dynamic growth of the world economy and particularly in the Asia/Pacific region, of which we are part.**<sup>55</sup>

At the height of trans-Tasman integration activities in the early 1990s, some Australasian policymakers may have sought to expand trans-Tasman integration to their neighbours in an almost direct manner. The creation of APEC and a deeper integration in ASEAN seemed to create a promising environment for such efforts. It was

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54 Op. cit., 'Joint Prime Ministerial Statement, 2 July 1990, Canberra', p.2.

55 Ibid., p.6.

the Australian Government of Bob Hawke that called for and hosted the first APEC ministerial meeting in November 1989. However, deep internal divisions over whether regional integration reinforced or undermined the multilateral trading system left APEC ambivalent about extending to the Asia Pacific the processes of regionalism then emerging around the SEM, the North American Free Trade Agreement and ASEAN, and even CER between Australia and New Zealand.<sup>56</sup>

Linking with ASEAN seemed to offer a promising, if more modest, opportunity to build regional integration. Australasian policymakers could link CER and ASEAN to create integration at the sub-regional, Southeast Asian-Southwest Pacific level as an incremental step towards Asian-Pacific regionalism. The creation of the ASEAN Free Trade Area (AFTA) in 1992 seemed to indicate the existence of like-minded policymakers in Southeast Asia intent on deepening and widening economic integration in the region. In 1994 Australian Prime Minister Paul Keating proposed that CER and AFTA might be linked.<sup>57</sup> In January 1996 Singapore's Prime Minister Goh Chok Tong reportedly suggested that Australia and New Zealand might become ASEAN member states.<sup>58</sup> While other ASEAN members quashed that as an immediate possibility, the dialogue did produce some preliminary efforts at coordination between the two groupings. Anthony L Smith argues that ASEAN policymakers' interest in the trans-Tasman experience in coordinating technical barriers contributed to the creation of the 1996 MOU [*Memorandum of Understanding*] *Concerning Cooperation on Standards and Conformance* between the two relationships.<sup>59</sup> The MOU was negotiated as a bilateral instrument between Australia and New Zealand as 'Parties to the Australia-New Zealand Closer Economic Relations (CER) Trade Agreement' and ASEAN.<sup>60</sup> The MOU charged the parties to use standards and infrastructure bodies to 'support the development of standards and

conformance systems that facilitate trade' and 'to encourage and promote cooperation on standards and conformance' in the 'AFTA-CER region'.<sup>61</sup> The MOU could 'be extended to include additional signatories'.<sup>62</sup>

Policymakers' belief in the relevance of the trans-Tasman experience for Asian-Pacific economic integration is also explicit in the TTMRA. The recitals of the TTMRA state:

**It is also intended that this Arrangement will contribute to the development of the Asia Pacific region by providing a possible model of cooperation with other economies, including those in the South Pacific and APEC.**<sup>63</sup>

Australian and New Zealand policymakers viewed trans-Tasman economic integration as a unique model and, therefore, as a diplomatic tool in the Asia Pacific.

These efforts to extend trans-Tasman integration at the sub-regional level produced only limited results. Tensions within ASEAN and between some ASEAN member countries and the CER parties, as well as the East Asian financial crisis, disrupted temporarily the AFTA-CER dialogue. This disruption, together with other developments in the Asia Pacific and elsewhere, induced New Zealand policymakers to pursue Asia-Pacific economic integration in a slightly different form after the year 2000.

After the turn of the century New Zealand policymakers approached the incremental construction of an Asia-Pacific regional economic architecture through the seemingly conventional vehicle of PTAs. While they appear different from the interregional aspirations of the AFTA-CER dialogue, New Zealand's post-2000 PTAs nonetheless adhere to the principles laid out in *New Zealand Trade Policy*. The differences between the pre- and post-2000 efforts lie in the scale and speed of

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56 1989 APEC Ministerial Meeting, 'Joint Statement'. Available at [http://www.apec.org/Meeting-Papers/Ministerial-Statements/Annual/1989/1989\\_amm.aspx](http://www.apec.org/Meeting-Papers/Ministerial-Statements/Annual/1989/1989_amm.aspx) (accessed 21 October 2014).

57 Anthony L. Smith, 'The AFTA-CER Dialogue: A New Zealand Perspective on an Emerging Trade Area Linkage', *ASEAN Economic Bulletin* 14 (1998), p.238.

58 Ibid.

59 Ibid., p.239.

60 MFAT, *Critical Paths in Trans Tasman Economic Relations: CER 20th Anniversary*. Wellington: MFAT, 2003, pp.297-301.

61 Ibid., p.298.

62 Ibid., p.299.

63 Ibid., p.370.

the integration aspirations. AFTA-CER integration would have advanced regional integration quickly and dramatically. After the year 2000 New Zealand policymakers reverted to the most basic stepping stone towards regional integration: a bilateral FTA.

In this effort New Zealand policymakers found a like-minded partner not in Australia, but rather in Singapore. In September 1999 New Zealand and Singapore announced their intentions to negotiate a comprehensive economic agreement. Rather than seeking purely material gains, they wished to create a template for agreements that extended policy coordination beyond market access for goods and that served APEC ambitions to liberalise Asia-Pacific trade.<sup>64</sup> They sought to lead an incremental expansion of 21st century agreements that addressed trade in services, investment, government procurement and technical barriers to trade — policy areas where trans-Tasman integration already provided considerable experience. This first bilateral effort produced the 2001 New Zealand-Singapore Closer Economic Partnership.

From the beginning, however, the New Zealand-Singapore bilateral agreement was intended to expand. On the margins of the 2002 APEC Economic Leaders' Summit, the two original parties and another like-minded, trade-dependent partner, Chile, decided to give their ambitions an explicitly trans-Pacific reach, with the hope of attracting larger actors to the cause of Asia-Pacific economic integration.<sup>65</sup> Brunei Darussalam also joined what became the Trans-Pacific Strategic Economic Partnership (TPSEP), also known as the 'P4' agreement. The Obama Administration's 2009 decision to join the P4 partners in negotiations for the TPP advanced New Zealand ambitions to construct a liberal economic architecture for the Asia-Pacific region farther than they may have dreamed possible. The US involvement proved to be the critical mass that focused the attention of other regional actors on the TPP as the vehicle for Asia-Pacific regional economic integration. With the 2011 Honolulu

Declaration the TPP governments committed themselves to the type of ambitious 21st century agreement that New Zealand policymakers sought to embed in liberalised regional and global trading orders.

Even as they pursued ambitions for an Asia-Pacific regional order in the TPP, New Zealand policymakers continued to cultivate sub-regional integration with Australia and ASEAN. While the AFTA-CER dialogue did not survive the East Asian financial crisis, it nonetheless sustained contact between ASEAN and CER policymakers. This permitted negotiators in 2004 to begin a new effort to coordinate policies between the two transnational relationships. As with P4 and the TPP, the vehicle for sub-regional policy coordination between ASEAN and CER was a PTA. In 2010 the parties institutionalised AFTA-CER relations in the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA).

The AANZFTA differs qualitatively from many of the FTAs that compose the Asia Pacific's so-called 'noodle bowl'. It is the most comprehensive of the so-called 'ASEAN+1' FTAs that link Southeast Asian countries with China, Japan, Korea and India in addition to Australia and New Zealand. It removes most barriers to goods' trade, but it also covers services, technical barriers and investor protection, among other issues. More importantly, AANZFTA is a living agreement that includes implementation committees and working groups that permit updates to and modifications of the Agreement. In 2014 this institutional structure successfully updated the Agreement's customs procedures and rules of origin.<sup>66</sup> As a living agreement, AANZFTA has taken a step towards becoming an open-ended relationship like trans-Tasman and European integration.

While the preferred instrument for regional integration efforts has become the PTA, Australasian policymakers have continued their efforts to export the trans-Tasman experience as a model of economic integration for

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64 Matthew Hooten, 'Time to Walk from TPP Talks', *National Business Review*, 25 July 2014, p.2.

65 This section follows Deborah K. Elms and C.L. Lim, 'An Overview and Snapshot of the TPP Negotiations' in C.L. Lim, D.K. Elms, P. Low (eds), *The Trans-Pacific Partnership*. Cambridge: Cambridge University Press, 2012.

66 New Zealand Government, 'AANZFTA Protocol Signed', *ASEAN-Australia-New Zealand Free Trade Area, Latest News*. Available at <http://www.asean.fta.govt.nz/aanzfta-protocol-signed-2/> (Accessed 24 October 2014).

Asia-Pacific integration. One example of this was the Australian Department of Finance and Administration and New Zealand Ministry of Economic Development's 2007 pamphlet *Arrangements for Facilitating Trans-Tasman Government Institutional Cooperation*.<sup>67</sup> The pamphlet described itself 'as a roadmap for facilitating New Zealand - Australian institutional cooperation... to help guide officials along this journey as quickly and easily as possible'.<sup>68</sup> The pamphlet explained the relative advantages of different mechanisms for coordinating trans-Tasman policies for audiences in Australia and New Zealand. Its relevance for policymakers in other contexts, however, was clear to its authors. In recognition of this, New Zealand officials refashioned elements of the pamphlet focused on technical standards into a toolkit for 'Regulatory Cooperation in APEC within the framework of FTAs' and a 'Regulatory Cooperation Toolkit' for the East Asia Summit Regulatory Roundtable.<sup>69</sup>

Australasian policymakers have also presented the trans-Tasman experience as a model directly to ASEAN. Between 2011 and 2014 government officials, business leaders and academics met annually in the CER-ASEAN Integration Partnership Forum (IPF). Each IPF meeting allowed Australia's Department of Foreign Affairs and Trade and New Zealand's MFAT to organise a presentation on one element of the trans-Tasman experience with economic integration. In 2011 the first IPF seminar had a general title: 'CER/SEM - A unique integration pathway'.<sup>70</sup> The second IPF seminar in 2012 focused on 'Regional Economic Integration: the CER Approach to a Single Market for Services'.<sup>71</sup> In 2013, seminar three considered 'Competition Policy in an Integrated Market: the CER Approach'.<sup>72</sup> Seminar four (2014), 'Agro-food Trade: Tackling Non-Tariff Measures - Helping Trade to Flow Freely in Global Value Chains', presented Australia's and New Zealand's experiences with their use of trans-Tasman mutual recognition and joint standards in exporting

foodstuffs. The IPF provided Australasian policymakers with a regular forum in which to showcase their experience with deep economic integration to ASEAN officials.

New Zealand policymakers laid out a strategy to construct a liberal, rules-based economic order in the Asia-Pacific region incrementally. The success of this strategy depended on finding like-minded partners for this effort. New Zealand policymakers have had some success in this regard. The trans-Tasman relationship, both in its internal economic integration and in its relations with ASEAN, demonstrates Australians' clear understanding of New Zealand policymakers' efforts — even as disagreements about the speed and direction of developments occur. A similar understanding underlies Singapore's, Chile's and Brunei's cooperation in the P4 project. That these relationships have become the kernels of AANZFTA — and through it the ASEAN Regional Comprehensive Economic Partnership (RCEP) — and the TPP is a noteworthy achievement. However, it is in these mega-regional negotiations where size and power are again important. It is in this broad context in which New Zealand policymakers' integrity and adherence to their principles will be tested.

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67 Australian Department of Finance and Administration and New Zealand Ministry of Economic Development, *Arrangements for Facilitating Trans-Tasman Government Institutional Co-operation*. Carlton, Victoria: Australia-New Zealand School of Government, 2007. Available at: [http://www.anzsog.edu.au/userfiles/files/Publications/ANZSOG\\_Inside\\_View\\_1.pdf](http://www.anzsog.edu.au/userfiles/files/Publications/ANZSOG_Inside_View_1.pdf) (Accessed 4 September 2014).

68 Ibid., p.6.

69 Peter Mumford, 'Regulatory Cooperation Toolkit: Presentation to the East Asia Summit Regulatory Roundtable, Bangkok - 19 August 2013', New Zealand Ministry of Foreign Affairs, and Trade, East Asia Summit. <http://www.mfat.govt.nz/Trade-and-Economic-Relations/EAS/Roundtable-18-July.php> (Accessed 4 September 2013).

70 MFAT, 'CER-ASEAN Integration Partnership Forum', Trade and Economic Relations, Trade Relationships and Agreements, ASEAN. Available at <http://www.mfat.govt.nz/Trade-and-Economic-Relations/2-Trade-Relationships-and-Agreements/Asean/1-Integration-Partnership-Forum/0-IPF-index.php> (Accessed 4 September 2014).

71 Ibid.

72 Ibid.



# Adherence to principle?

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# Adherence to principle?

New Zealand's policymakers have constructed a strategy for the very long term. To achieve success policymakers must adhere to it persistently — and even then success is not guaranteed. Particularly in the period after 2000, as the use of PTAs proliferated in the Asia Pacific, New Zealand's policymakers have confronted opportunities to pursue short-run material gains as well as the long-term goal of reinforcing liberal multilateralism at regional and global levels. PTAs can divert economic activities like trade and investment from one country to another as well as — or instead of — stimulating new economic growth. The inability of policymakers to resist such temptations is one concern of observers who are sceptical of all trade agreements other than unilateral extensions of Most Favoured Nation status on a global scale. The interesting question from the perspective of this study is whether New Zealand policymakers have confronted situations in which the actions required to pursue short-term material gains run counter to those required to construct a liberal, rules-based regional and global trading order. If they have confronted such circumstances, have they resisted temptations to divert economic activities towards their country? While the evidence is preliminary, New Zealand's trade agreements with Asia-Pacific partners demonstrate little diversionary effect and an aversion to such outcomes.<sup>73</sup>

Most of the time, the two broad purposes underlying New Zealand's PTAs align. The first goal of these PTAs is to enhance the material welfare of New Zealand producers and consumers. Material gain would seem to be the principal motivation behind, for example, the New Zealand-China FTA (2008), the New Zealand-Hong Kong CEP (2011)<sup>74</sup> and the ANZTEC Economic Cooperation Agreement (2013)<sup>75</sup> with Taiwan. By reducing tariffs, the

New Zealand-China FTA — in particular — has permitted a massive increase in New Zealand's exports of dairy products, logs, sheep meat and beef. Because New Zealand's was China's first PTA with an advanced economy, its impact was largely trade-creating rather than diversionary. Similarly, New Zealand's PTAs with Hong Kong and Taiwan were firsts and possible — it has been argued — only because New Zealand already had an agreement with China. Their novelty aside, these agreements reflect New Zealand's adherence to the GATT/WTO Article XXIV dictums that 'duties and other restrictive regulations of commerce... are eliminated on substantially all the trade' between members 'within a reasonable length of time'. Thus the New Zealand-China FTA and ANZTEC eliminate 96 percent and 99 percent of duties, respectively, over 12-year phase-in periods. This outcome certainly reflects New Zealand's material interests, but it also indicates policymakers' observance of the longer-term consequences of their actions on the development of the international trading system.

The second function of New Zealand's PTAs is to build a rules-based trading order that connects sub-regional, regional and global levels and that also supports the country's interests in liberalising agricultural trade. These objectives are central to New Zealand's trade agreements with its Southeast Asian neighbours and its participation in mega-regional negotiations including the TPP and RCEP. However, it is also difficult to disentangle different motivations in these cases. For example, New Zealand's bilateral PTAs with individual ASEAN members — Singapore (2001), Thailand (2005) and Malaysia (2010) — and the 'interregional' AANZFTA (2010) have also removed most tariffs and, in doing so, rapidly increased trade between New Zealand and ASEAN.

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73 Robert Scollay, Christopher Findlay, and Uwe Kaufmann, *Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) and Regional Integration* (No.11). Institute of Southeast Asian Studies, 2010.

74 The New Zealand Hong Kong Closer Economic Partnership

75 An agreement between New Zealand and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, 2013.

Taken as an aggregate, ASEAN became the third most important destination for New Zealand's merchandise exports (after China and Australia) in 2014. Similarly, spectacular growth has taken place in services' trade and investment. Looking past the material gains, these agreements also represent significant investments in the future of the international trading order. AANZFTA's advanced disciplines on services, the inclusion of mandatory third-party arbitration for investor-state dispute settlement and the elaborate institutional infrastructure indicate considerable confidence that the relationship will continue to evolve and become more important.

A similar confidence and long-term orientation underlie the agreements that have led to the ongoing TPP negotiations. The first step on the road to the TPP, a bilateral PTA between New Zealand and Singapore, brought few immediate material gains to either party. This was also true of the negotiations that grew out of the New Zealand-Singapore agreement with Chile and, eventually, Brunei that became the P4 agreement (2005). As indicated above, these negotiations were aimed primarily at constructing a template for deep, or behind-the-borders, integration in the Asia-Pacific region. They also sought to win larger actors for the cause of liberal Asia-Pacific regional economic integration. New Zealand, Singaporean, Chilean and Bruneian policymakers succeeded in this goal when they attracted US participation in the TPP.

The outcome of the TPP negotiations, which were ongoing as this report was being written, may provide clearer insights into the preferences that underlie New Zealand's PTAs. The P4's success in attracting the US has changed fundamentally the nature of the TPP negotiations. The inclusion of first the Americans and then the Japanese raised the potential material value of any agreement — significantly — but it also introduced qualitative differences in size and power among the negotiating parties. In what may be the end game of the TPP negotiations, it seems likely that New Zealand policymakers will be forced to relinquish material goals to obtain an agreement that secures US and Japanese participation in the architecture of Asia-Pacific regionalism. Originally, the US administration predicated its participation in the TPP on the alignment of a comprehensive elimination of tariffs with a construction of rules in issue areas like intellectual property, investment, trade in services, and people movements.

This was expressed in the TPP leaders' declaration at the 2011 Honolulu APEC summit. Japan's subsequent accession to the negotiations and apparent unwillingness to eliminate tariffs in sensitive agricultural sectors (dairy, rice, beef/pork, wheat and sugar) may present New Zealand policymakers with what they would view as a suboptimal outcome. To achieve even a partially liberalised, rules-based economic order in the Asia Pacific, they may be forced to accept not only their partners' continued protection of sectors where they enjoy competitive advantage, but also rules (e.g. enhanced patent protection of pharmaceuticals) that increase the costs of their imports. While the choice remains hypothetical at this point, the choices of New Zealand policymakers under these circumstances will reveal much about their preferences as well as the limitations that small size may place on an incremental strategy of liberal economic integration.



# Conclusions

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# Conclusions

This project finds strong evidence confirming two of its three hypotheses and partial support for the other. Strong circumstantial and documentary evidence supports the hypothesis that New Zealand policymakers have constructed and implemented a strategy to liberalise incrementally the world around them. There is also significant evidence that New Zealand policymakers have found like-minded partners in successive Australian governments, which consciously participated in implementing the strategy. New Zealand policymakers have also found like-minded partners in other governments, particularly among the ASEAN countries and, above all, in Singapore, but also in Chile and the growing membership in the TPP negotiations. Finally, the content of New Zealand's PTAs suggests that its policymakers have adhered consistently and persistently to a strategy that seeks to reinforce liberal multilateralism in the international economic system.

New Zealand policymakers have constructed a coherent strategy to restore economic growth in the long run and stabilise an affluent, pluralist society and democratic political system. This strategy responds logically to the challenge of globalisation that they have confronted, notably secular deterioration in New Zealand's terms of trade. Policymakers have responded to this challenge in two related ways. First, internally, a revolution from the top down has removed policies that insulated domestic markets and society and has forced consumers and producers to respond to international price signals. Internal adjustments, however, have worked best to restore growth, if economic — rather than political — competition governs prices in international markets. As it was, political intervention in world markets — the EEC's CAP/CET and OPEC's (the Organization of the Petroleum Exporting Countries') manipulation of petroleum prices — caused a deterioration in New Zealand's terms of trade, internal adjustments were connected logically to efforts to liberalise the international economy. Thus, the second — necessary — part of the policymakers' strategy has been to liberalise the environment around them.

The external part of this strategy has also prioritised ends and allocated means to attain them. For a small country, an internal strategy of adjustment functions best in a liberal external economic environment in which multilateral institutions restrain the possibility of an arbitrary use of political power to shape outcomes, especially in the economy. Accordingly, policymakers have envisioned a future that not only maintains the GATT system but also reforms it substantially to ensure that the rules of the trading order also serve the interests of smaller exporters of agricultural products like New Zealand. The major problem for this strategy has always been the mismatch between aspirations to reform the global trading order and the very limited means of New Zealand's policymakers. The elements of *pragmatism*, *incrementalism* and *persistence* bring together these limited means and policymakers' aspirations for reformed, global, liberal *multilateralism*.

Pragmatism in the context of New Zealand policymakers' external commercial strategy implies a distinct view of multilateralism and open or outward-looking economic integration. The limited means available to New Zealand policymakers have meant that the pragmatic pursuit of multilateralism has had — by necessity — to follow an incremental path. New Zealand policymakers have had neither the large market nor the diplomatic resources with which to shape the regional — let alone the global — economic environment. As a consequence, they began their efforts to liberalise the external environment locally, in the bilateral relationship with Australia, and extended it gradually outward, building stepping stones towards a liberal international economic environment in which New Zealand's producers could compete on a level playing field with producers from other, more powerful, countries. In their efforts to transform their external environment New Zealand policymakers have depended on the collaboration of like-minded countries. This study demonstrates that New Zealand policymakers found like-minded collaborators in their project first among Australian and Singaporean policymakers. As they extended negotiations

to ASEAN and P4 the circle of like-minded collaborators expanded. It has extended again with negotiations for the TPP and RCEP. This strategy has required persistence across decades and has withstood several changes in government.

This project's third hypothesis is that New Zealand policymakers have adhered consistently to the strategy of liberalising their external environment incrementally. In this regard, one question arises about the lag and the changed approach that separate the AFTA-CER dialogue of the mid-1990s from the series of bilateral FTAs that New Zealand negotiated with several ASEAN members (Singapore, Thailand and Malaysia) in the first half of the 2000s. This delay is, in part, a consequence of the political and economic turbulence generated by the East Asian financial crisis. However, this lag and New Zealand's return to bilateralism also reflect debates within and between APEC member countries about the meaning of open regionalism. An orthodox interpretation regards open regionalism as compatible only with unilateral liberalisation on the basis of granting global 'Most Favoured Nation' concessions, coordinated at the regional (APEC) level. On the other side are policymakers willing to construct PTAs at bilateral, sub-regional and regional levels as stepping stones towards a liberalised, global trading order. Both positions are evident in APEC's Bogor Declaration (1994). It is also clear that, in practice, the adherents to the second position seem to have triumphed since 2000. Certainly New Zealand's policymakers have adhered to it.

New Zealand policymakers' embrace of bilateral and then mega-regional PTAs raises a second question about their adherence to strategic principles. Have New Zealand policymakers remained consistent to the goal of achieving a reformed global, liberal trading order? Contrary to the fears of adherents to the stumbling bloc perspective of PTAs, New Zealand policymakers have resisted the temptation to engage in economic diversion. The content of New Zealand's bilateral and interregional (e.g. AANZFTA, P4) PTAs adheres to the letter and spirit of the GATT/WTO Article XXIV commitments. Indeed, within the ongoing TPP negotiations, some parties have labelled New Zealand negotiators' stubborn defence of the position to eliminate all internal tariffs as 'fundamentalist'. These negotiations may well present New Zealand policymakers with the limitations of a strategy that has taken them surprisingly far.