

Mutual recognition

Trans-Tasman Mutual Recognition Agreement

- 6.1 The Trans-Tasman Mutual Recognition Arrangement (TTMRA), drives regulatory coordination and contributes to both the Australian and New Zealand Governments' strategic objective of creating a single trans-Tasman market for the sale of goods and the registration of occupations.¹
- 6.2 By allowing producers and registered occupations to meet only one set of standards, rather than two or more, mutual recognition reduces the barriers to, and costs of, movements across jurisdictions. This means that most goods able to be legally sold in one country can be legally sold in the other. This principle applies regardless of any difference of sales-related regulatory requirements applying in each country. Similarly, under the TTMRA people registered to practise an occupation in one country are entitled to practise the equivalent occupation in the other country without the need to undergo further testing or examination.²
- 6.3 The operation of the TTMRA is supported by a range of institutional arrangements, most importantly the COAG Ministerial Councils and the Senior Officials' process that support these. New Zealand

1 NZ Government, *submission 9, Vol 1*, p. 120.

2 NZ Government, *submission 9, Vol 1*, p. 120.

participates in the Ministerial Councils with full membership and voting rights when TTMRA issues arise.³

Mutual recognition of Aviation – Related Certification

- 6.4 In the area of aviation safety, Australia is building on the Single Aviation Market Arrangements of 1996 and the August 2002 air services agreement through the development of Mutual Recognition legislation with New Zealand. This legislation, being the *Civil Aviation Legislation (Mutual Recognition with New Zealand) Bill 2005* (the Bill), will amend the *Civil Aviation Act 1988* to implement Australia's part of the joint commitment between Australia and New Zealand for the mutual recognition of aviation-related certification.⁴
- 6.5 The Bill provides for the mutual recognition of Air Operator Certificates (AOCs), as issued by the Civil Aviation Safety Authority (CASA) in Australia and the Civil Aviation Authority of New Zealand (CAANZ). Under the proposed mutual recognition legislation, operators will need to hold only one AOC which will be known as an AOC with ANZA (Australian and New Zealand Aviation) privileges.⁵

Products

- 6.6 Currently, five product sectors are subject to special exemptions under the Arrangement, while standards and regulatory regimes are brought closer together. These sectors are:
- Therapeutics;
 - hazardous substances;
 - industrial chemicals and dangerous goods;
 - motor vehicles; and,
 - gas appliances and radio communication standards.⁶

3 NZ Government, *submission 9, Vol 1*, p. 120.

4 Department of Transport and Regional Services, *submission 5, Vol 1*, p. 51.

5 Department of Transport and Regional Services, *submission 5, Vol 1*, p. 51.

6 NZ Government, *submission 9, Vol 1*, p. 120.

Australia New Zealand Therapeutic Products Authority

- 6.7 On 10 December 2003 the Governments of Australia and New Zealand signed a treaty establishing a joint scheme for the regulation of the quality, safety and efficacy of therapeutic products to resolve the special exemption for therapeutic goods.⁷
- 6.8 The joint scheme will be administered by the new Australia New Zealand Therapeutic Products Authority (ANZTPA), which will replace the Australian Therapeutic Goods Administration (TGA) and the New Zealand Medicines and Medical Devices Safety Authority (Medsafe). ANZTPA will be accountable to both the Australian and New Zealand Governments and will be recognised in law in both Australia and New Zealand. ANZTPA will be headquartered in Australia.⁸
- 6.9 The joint scheme will provide for the regulation of prescription, over-the-counter and complementary medicines, medical devices and other products such as some sunscreens, blood and blood components.⁹
- 6.10 The Australian position in the development of ANZTPA has been that:
- the harmonised system will be largely based on Australia's regulatory framework;
 - there will be no lessening of Australia's standards;
 - there will be clear opt-out provisions to preserve Australia-only action; and,
 - there will be no lessening of accountability to the Australian Minister and the Australian Parliament.¹⁰
- 6.11 Gene technology regulation in Australia and New Zealand will not be combined however Australia's regulator, the Office of the Gene Technology Regulator (OGTR) keeps in regular contact with their New Zealand counterpart the Environmental Risk Management Authority (ERMA).¹¹
- 6.12 Whilst in New Zealand Committee members discussed the setting up of the ANZTPA and whilst negotiating joint regulation of Therapeutic

7 Department of Health and Ageing, *submission 10, Vol 1*, p. 131.

8 Department of Health and Ageing, *submission 10, Vol 1*, p. 131.

9 Department of Health and Ageing, *submission 10, Vol 1*, p. 131.

10 Department of Health and Ageing, *submission 10, Vol 1*, p. 131.

11 Department of Health and Ageing, *submission 10, Vol 1*, p. 132.

Goods had been long and arduous the agreement reached was a model for other areas.

Food Standards Australia New Zealand

- 6.13 Food Standards Australia New Zealand (FSANZ) is a Commonwealth statutory authority established under the *Food Standards Australia New Zealand Act 1991* to develop joint food standards for Australia and New Zealand. Since December 2002, food businesses have used a common Australia New Zealand Food Standards Code developed and administered by FSANZ, and underpinned by the treaty.¹²
- 6.14 The Code includes food standards pertaining to the microbiological safety of food; the composition of food, including contaminants, residues, additives and other substances; information about food, including labelling and advertising; and the interpretation and application of standards.¹³
- 6.15 These food standards apply to all foods produced or imported for sale in Australia and New Zealand. The Code does not include joint standards for maximum residue limits for agricultural and veterinary chemicals in food, food hygiene, primary production or export requirements relating to third country trade.¹⁴
- 6.16 In specified circumstances separate food standards may be applied by Australia or New Zealand.¹⁵
- 6.17 The Code does not replace separate quarantine systems in Australia and New Zealand. The single Code is intended to reduce compliance costs for business operating across the Tasman.¹⁶
- 6.18 The committee is aware of a situation where a natural health product that cannot be imported with ease from the United States can be easily imported from New Zealand. The issue that arises is whether a natural health product is classed as a food or a therapeutic good¹⁷ and the distortion that occurs in the treatment for import for each class of good.

12 Department of Health and Ageing, *submission 10, Vol 1*, p. 127.

13 Department of Health and Ageing, *submission 10, Vol 1*, p. 127.

14 Department of Health and Ageing, *submission 10, Vol 1*, p. 127.

15 Department of Health and Ageing, *submission 10, Vol 1*, p. 127.

16 Department of Health and Ageing, *submission 10, Vol 1*, p. 127.

17 See comments by Dr David Graham, National Manager, Therapeutic Goods Administration, Department of Health and Ageing, *Evidence*, 16/06/06, p. 40.

Occupations

- 6.19 There is no list of specific occupations covered under the Arrangement. The Arrangement covers all occupations for which some form of legislation-based registration, certification, licensing, approval, admission or any other form of authorisation is required by individuals in order to legally practice an occupation. The only exception applies to medical practitioners, though in the case of doctors trained in Australia and New Zealand, mutual recognition-type arrangements apply.¹⁸
- 6.20 Under the Arrangement, registration can be subject to conditions to achieve equivalency of occupations. If a registration authority considers that the qualifications, skills and competencies of a person registered in a jurisdiction are deficient in an area, the Arrangement makes provision for a registration authority to impose conditions on registration, or to postpone or decline registration.
- 6.21 Provisions enabling a registration authority to refuse registration require reasonable grounds to form the view that the risk posed to public health and safety could not be addressed by conditional registration. In that case, the occupation would not be considered "equivalent". Additionally, a registration authority may refuse the grant of registration if false or misleading information is submitted through the application process.

Doctors

- 6.22 In developing the TTMRA, it was agreed that medical practitioners be exempted from the arrangement as mutual recognition-type arrangements were already in place in Australia at that time.¹⁹
- 6.23 Under Australian Government and complementary State and Territory laws, a doctor who is registered without conditions in one State or Territory can practise in another participating state (but must register with the relevant Medical Board and pay a registration fee).²⁰
- 6.24 The Australian Medical Council (AMC) is a national body which advises State and Territory Medical Boards on uniform approaches to

18 DFAT, *submission 16, Vol 1*, p. 174.

19 Department of Health and Ageing, *submission 10, Vol 1*, p. 134.

20 Department of Health and Ageing, *submission 10, Vol 1*, p. 134.

the registration of medical practitioners, and accredits medical courses in Australia and New Zealand. ²¹

- 6.25 The AMC also conduct examinations of overseas-trained doctors to assess their medical knowledge and clinical skills against Australian and New Zealand standards, defined as the level of attainment required of newly qualified graduates of Australian medical schools who are about to commence intern training. ²²
- 6.26 The Department of Health and Ageing has told the committee that it is their view that:
- . . . simply extending the Australian mutual recognition arrangements to include New Zealand would not provide adequate quality assurance in respect of doctors in this latter category, since unlike New Zealand-trained doctors, there is no assurance that their training meets AMC standards. ²³
- 6.27 The Department of Health and Ageing therefore supports the continued exemption of medical practitioners from the TTMRA. ²⁴

Nurses

- 6.28 Nationally agreed principles underpin State and Territory nursing legislation which includes the requirement for assessment against the Australian Nursing and Midwifery Council (ANMC) competencies for the initial registration of registered and enrolled nurses. ²⁵
- 6.29 The ANMC Collaborative Advisory Panel provides advice to the ANMC and Australian and New Zealand nurse regulatory authorities, and informs processes for their recognition of overseas qualified nurses. This process of collaboration, and the provision of advice, improves the standards for the purpose of mutual recognition, supporting the TTMRA. ²⁶

21 Department of Health and Ageing, *submission 10, Vol 1*, p. 134.

22 Department of Health and Ageing, *submission 10, Vol 1*, p. 134.

23 Department of Health and Ageing, *submission 10, Vol 1*, p. 134.

24 Department of Health and Ageing, *submission 10, Vol 1*, p. 134.

25 Department of Health and Ageing, *submission 10, Vol 1*, p. 135.

26 Department of Health and Ageing, *submission 10, Vol 1*, p. 135.

The skills shortage

- 6.30 Like Australia, New Zealand is suffering from a skills shortage, particularly in the medical professions.²⁷
- 6.31 The New Zealand Australia Connections (NZAC) Research Centre points to the need to increase 'skilled people' mobility, and suggests that:
- . . . flexible movement between Australia and New Zealand, means reforms to superannuation portability and taxation regimes between the governments. Thought needs also to be given to drawing in regional labour from the Pacific under training arrangements or special 'guest worker' provisions, both to satisfy the growing demand for labour to service the economy, and to address the pressures that the Pacific Islands will continue to place on the regional security environment. Such a change would be a radical departure and fraught with social and political questions not easily answered, but now would be a good time to begin a public discussion of such an idea.²⁸
- 6.32 The committee sought further information on the role of pacific labour in Australia. Significantly, the Senate Employment, Workplace Relations and Education References Committee tabled its *Perspectives on the future of the harvest labour force* report.
- 6.33 The committee took as an exhibit²⁹ the Department of Employment and Workplace Relations submission to Senate Employment, Workplace Relations and Education References Committee submission to the abovementioned inquiry. This submission had a comparison of Australia and New Zealand's skill lists. This comparison shows that the lists are "broadly similar"³⁰ showing that

27 NZ Government, *submission 23, Vol 2*, p. . and Her Excellency Mrs K Lackey, High Commissioner, New Zealand High Commission, *Evidence*, 16/06/06, p. 54.

28 New Zealand Australia Connections (NZAC) Research Centre, *submission 15, Vol 1*, p. 169.

29 *Exhibit 7*. Department of Employment and Workplace Relations submission to Senate Employment, Workplace Relations and Education References Committee *Inquiry into Pacific Region Seasonal Contract Labour*.

30 *Exhibit 7 - Attachment B "Comparison of Australia's and New Zealand's Skill Lists"*, Department of Employment and Workplace Relations submission to Senate Employment, Workplace Relations and Education References Committee *Inquiry into Pacific Region Seasonal Contract Labour*.

Australia and New Zealand are, in effect, in competition for the same skill sets.

The committee view

- 6.34 The committee is of the view that the mutual recognition regime in place for food standards and therapeutic products are well developed and serve the interests and safety of Australians and New Zealanders alike. The committee is confident that anomalies, such as that mentioned above concerning a natural health product, are relatively uncommon and, where they do occur, are being adequately addressed if required.
- 6.35 The evidence presented to the committee regarding the recognition of occupations and the existence of a skills shortage in New Zealand shows that, whilst much is being done to increase the ability of workers moving between Australia and New Zealand, the skills shortage in both countries may be addressed by using Pacific Island labour but this will be a decision specific to each country and the Committee believes this will not affect relations under the CER.
- 6.36 The committee believes that, whilst everything has been done within CER to facilitate trans-Tasman skill sharing, nothing can be added to the CER to affect the current skill shortages faced by Australia and New Zealand.