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Managing Regulatory Competition: The Implications of Mutual Recognition

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Abstract

Increasing intra-national and international use of mutual recognition as a means of reducing barriers to inter-jurisdictional trade also has the impact of promoting *regulatory competition* between the parties to the mutual recognition agreement. The aim of this paper is thus to examine the impact of mutual recognition-inspired, regulatory competition on public sector policy development and implementation. It does so in a largely abstract fashion within the context of two scenarios that embody differing assumptions as to the outcomes of putting in place a mutual recognition agreement (mra). The focus of the paper is then on the implications of the two models for the national and trans-national management of the resulting regulatory competition.

Keywords : regulatory competition, mutual recognition, Australia

Introduction

The increasing, intra-national and international use of mutual recognition as a means of reducing barriers to inter-jurisdictional trade also has the impact of promoting *regulatory competition* between the parties to the mutual recognition agreement (see, for example, Carroll 1995, 1999, Nicolaidis and Trachtman 2000). The aim of this paper is to examine the impact of mutual recognition-inspired, regulatory competition on public sector policy development and implementation. It does so in a largely abstract fashion, within the context of two models, or scenarios, that embody differing assumptions as to the outcomes of putting in place a mutual recognition agreement (mra). The focus is on the implications of the two models for the national and trans-national management of the resulting, regulatory competition. The models developed and examined are the competition model and the Managed competition, regulatory barriers and harmonisation model (hereinafter MCBH). Each poses a variety of challenges for policy and public sector managers and their relevant ministers, challenges that include:

- the increasing need to create and maintain cross-national networks with a range of 'domestic', regulators, international actors and national and cross-national interest groups,
- the need to develop and maintain cross national performance monitoring systems,
- the need to develop and maintain cross-national evaluation systems
- the need to integrate cross-national policy making regarding the regulatory reforms that result from regulatory competition, with traditional, domestic policy making processes.

In summary, it is argued that:

- The use or mutual recognition will stimulate regulatory competition and, in turn, national and cross-national management issues for parties to mutual recognition agreements.
- Mutual recognition and its resulting regulatory competition will have similar impacts in both models, with the issues related to harmonisation in the MCBH model being the major difference.

- The MCBH model of regulatory competition is the most likely, long term outcome.
- That the MCBH model indicates a reduction in the extent of potential, regulatory competition, and, in turn, the anticipated benefits from the use of mutual recognition as a policy instrument.
- That the ‘pure’, Competition model, is an unlikely outcome, largely because of the market-distorting impacts of unanticipated, technological change on existing regulation and domestic pressures for regulation that provides national preferences.

The rest of the paper is divided into six parts. The first provides an outline of what is meant by regulatory competition and mutual recognition and how the latter leads to or enhances the former. The second outlines two potential scenarios, whilst the third examines some of the possible and actual impacts in relation to the policy development process. The fourth examines impacts in relation to policy implementation, monitoring and evaluation, the fifth examines power distribution issues, whilst the sixth section draws conclusions.

Regulatory Competition, Mutual Recognition and Public Sector Management

Regulatory competition is a subset of the more general notion of competition between governments, with competition being defined as ‘rivalrous behaviour in which each government attempts to win some scarce benefit or resource or to avoid a particular cost’, (Kenyon and Kincaid 1991:1). It is narrower than this more general definition as its focus is upon the specific government policies, legislation and rules, that is, regulation, that directs and, to varying extents, constrains rivalrous state behaviour.

In recent years there has been a rapid growth in discussion focused on the merits of regulatory competition, initially based on the work of Tiebout 1956, as developed by authors such as Brennan and Buchanan (1980), Breton (1996), Kenyon and Kincaid (1991), Trachtman (1992), Esty and Gerardin (2001), with the works by Kenyon and Kincaid and Esty and Gerardin providing valuable applications and critiques of the concept. This expanding literature was, in part, stimulated by a reaction against what had been the prime concern of policy makers for most of the period following the second world war, the attempt to reduce the costs of regulatory barriers to inter-jurisdictional trade by eliminating, reducing or harmonising regulation (Esty and Gerardin 2001: chapter 1, provide a good summary of the situation and, in particular, the debates between the proponents of harmonisation and those who urge the need for regulatory competition).

Mutual recognition is defined as a decision rule and associated processes, especially the decision rule of qualified majority voting, that has as its intent the reduction in perceived regulatory barriers to inter-jurisdictional trade and the movement of labour. The basic concept is that goods, services and qualifications that meet the regulatory standards of any one of the parties to the mutual recognition agreement (mra), will be deemed acceptable for import and use in all of the member states. In other words, from the perspective of the firm engaged in international business, so long as its products meet the requirements of the regulations in one of the parties to the mra, it can distribute those products to all of the countries a party to the mra without having to modify those products to meet differing regulatory requirements. In essence, mutual recognition is a policy instrument that can be used to break down regulatory

barriers to trade between the sub-national units governments of federal states and between sovereign states, including the members of regional organisations such as the European Union and APEC (see Nicolaidis 1992 and Clarke 1996, for useful discussions of mutual recognition).

The link between regulatory competition and mutual recognition is that the latter creates a situation in which regulatory competition can function without imposing upon firms the costs of having to satisfy more than one set of regulations, particularly where those regulations change as states engage in regulatory competition (see Nicolaidis 1992 and Nicolaidis and Trachtman 2000). Existing firms already based in any one of the parties to the mra can export their products to any other countries a party to the mra without having to comply with additional, changing or differing regulations in those countries, as specified in the mra, or, in more extreme cases, can relocate to the country with the least cost regulation. Firms considering entering the markets involved can select the country location whose regulations impose least cost (assuming that other costs do not outweigh any cost advantage so gained). Hence, where governments see production being moved to countries whose regulations impose lower costs, or new firms similarly attracted to least cost regulatory regimes, or, even where firms only threaten to move to different country locations, they have a considerable incentive to modify domestic regulation to similar cost levels. Where states do react by modifying regulation to make it less costly, the states initially possessing the least cost regimes will, in turn, be motivated to modify those regimes to maintain their cost advantages – regulatory competition has been stimulated.

Two Models or ‘outcome scenarios’ and their impacts

While the literature on the merits of regulatory competition and harmonisation has expanded very rapidly in the last two decades, however, its implications for public policy and sector management have not been explored in any depth. There are a number of possible outcomes to the introduction and operation of mras. Each is likely to have a rather different impact on public policy and management. Two of these, ‘Competition’, and ‘Managed regulatory competition with regulatory barriers and harmonisation’ (MCBH), will be examined in this paper. It should be noted that there is considerable dispute about the costs and benefits of regulatory competition, but that dispute is not the focus of this paper (interested readers should look to Kenyon and Kincaid 1991 and Esty and Geradin 2001 for valuable examinations of the merits of regulatory competition).

The Competition scenario

The basic assumption of this scenario is that mras are effective, increasing the scope and intensity of regulatory competition, though regulatory barriers will remain in regard to non-mra member states and, if the mra excludes certain categories of regulations, will remain in regard to the excluded regulations for the mra members. There will be increased incentives for firms to engage in inter-jurisdictional trade following the reduction in regulatory barriers, and, as a result, firms locating or, importantly, threatening to relocate to mra members with least cost regulation.

The Managed Competition with Barriers and Harmonisation (MCBH), scenario

The basic assumption here is that the costs involved in the existence of regulatory barriers to trade stimulate an mra, as with the Competition model, increasing the scope and intensity of regulatory competition. Over time, however, the actual or perceived costs of the increased scope and intensity of regulatory competition stimulate the mra states to agree to develop a common, or harmonised set of regulations that apply to all parties to the mra. The harmonised regulations may consist of all those regulations specified in the mra, or, more likely, only to those that give rise to the most concern. Hence, in the MCBH scenario, various regulatory barriers to trade will continue to exist, regulatory competition will be expanded in scope and intensity, but certain subsets of regulation will be harmonised in the states a party to the mra.

In order to facilitate comparison between the two scenarios and more systematic assessment of their impact, the following sections compare the possible impacts on policy development and policy implementation, monitoring and evaluation for both the Competition and MCBH scenarios.

The Two Scenarios and Policy Development

The policy development task is complex in all contemporary societies, with its outcomes the result of a sensitive balancing of competing, domestic and international interests and pressures. The general impact of mras in the *Competition* scenario is to accelerate the intensity and complexity of the impact of international interests on the domestic arenas of the members of the mra, and, thus, pressures on policy developers, in at least four ways.

One, by increasing the demand from business for modified, or new regulations that impose either no greater cost, or less cost, or greater advantage in some other fashion, than the relevant, existing, regulations in one or more of the other states a party to the mra. While the specifics of the demands will vary, in essence domestic firms and their industry associations will put the argument that they are becoming, or will be, disadvantaged by competition from products or services now entering the country from one or more mra partners, where the cost of regulation is less.

Two, by increasing the need for a greater supply of innovations in policy design, so as to achieve regulation that imposes less cost, or greater advantage, on firms. Assuming the demands of business are accepted, then one option will be to modify the offending regulations, placing increased demand for innovative modification on the policy developers involved (including, of course, business representatives). This will not always be a complex or difficult task, for example, where a simple decrease in registration fees are involved, to meet similarly low levels of fees in another mra member. However, at times substantial policy innovation will be necessary, imposing greater workloads on the developers involved and a greater, cross-national understanding of differing sets of regulations.

Three, where local innovation is not possible, then there is likely to be an increase in policy transfer of less costly regulation from the states with more successful regulatory regimes, to the states with more costly regimes. Policy innovation by means of policy transfer, or copying from other states is commonplace, but the impact of mutual recognition may be to increase its frequency in regard to the

regulation covered in the mras. Moreover, given the need for rapid policy responses in a competitive, regulatory environment, there may be a temptation to copy and implement regulation without a full consideration as to its cost and appropriateness, a concern that already has exercised the minds of the Cabinet Office in the UK. The 'Modernising Government', White Paper, for example, noted that 'learning lessons from other countries..', was a key principle underlying the drive for policy improvement (Cabinet Office 1999:16), and the Cabinet Office's Centre for Management and Policy Studies responded by establishing its 'International comparisons in Policy Making project'. A major output of that project was the 'Beyond the Horizon - A Framework for Policy Comparisons', workbook, a training guide for civil servants engaged in 'lesson learning', from other countries that both highlighted the value of policy transfer as well as its dangers (Cabinet Office 2002).

Four, as states a party to an mra will also continue to trade with states not a party to the mra, new or modified regulation will have to be designed to be effective in both these contexts. Indeed, where the country is a member of the WTO, its regulations are required, as noted above (with certain exceptions), not to discriminate in their requirements between WTO members. Again, the consequence for policy developers is to make their task more complex and challenging.

The general impact of the mra for the *MCBH scenario* and public sector management is even more complex than for the Competition scenario, in that, as well as the four outcomes described above for the Competition scenario, managers will be faced with the challenge of developing and then operating a set of harmonised, common regulations (these may, or may not be, in common with the regulations of non-mra members, though it could be assumed that there would be an incentive to maximise the commonality in order to minimise the management task). Indeed, it might be that negative experiences with increased regulatory competition, following the introduction of an mra, might stimulate harmonisation agreements between mra members. Also, over time, the agreed set of harmonised regulations will have to be monitored regularly to ensure they remain appropriate and, in regard to non-mra members, competitive with those regulations. This means that public sector managers in all parties to the mra agreement will have to develop skills in multi-lateral negotiation in order to effectively engage in cross-national, policy development activities, skills that are by no means easy to develop.

Similarly, structures and processes appropriate for cross-national policy development will be necessary if the development task is to be both efficient and effective. While individual, national experiences in the design of cross-national, policy development structures and processes might suggest this is possible, decades of frustrating experience in the EU and other, international organisations, suggests it is difficult (see Dashwood 1983, Pelkmans 1987, Burrows 1990, Teasdale 1993, Carroll, 1995, 1999). Those responsible for the design of the EU, Australian and Trans-Tasman mras, for example, seem to have anticipated at least some of the difficulties involved, incorporating policy development structures and processes into their mra agreements (see the European Commission's 1985 White Paper, `Completing the Internal Market', Australian Governments 1992, Carroll 1995, 1999, COAG 1995, 2005).

A particular concern of the public servants responsible for the design of the Australian mra (as with the EU's and Trans-Tasman), was the possibility that, under the traditional, intergovernmental, Ministerial Council rules that required unanimity of agreement in intergovernmental decision making, any one party to the mra might thwart the introduction of harmonisation proposals agreed by all other states, by vetoing a proposal (Sturgess 1994: 19). This was dealt with by the introduction of a

limited system of majority voting when dealing with what were described as temporary exemptions from the application of the new mutual recognition legislation in the case of any specified good or law (Parliament of Australia 1992: section 15, Australian Governments 1992: Part V). In essence, in such cases the matter was to be referred to the Ministerial Council with authority for the good, occupation or law in question, and that Council was to determine, or not, that a new, national standard should be developed within twelve months of the matter being referred to the Council i.e. a common, harmonised standard. A majority of six members of the Council could make the necessary determination, relaxing slightly the traditional requirement for unanimity. If the Council did not make a determination, then the temporary exemption lapsed and the goods in question could be imported and sold. In addition, any participating party could bring the matter of a standard in another state a party to the mra, to the Council for determination in a similar fashion. Also note that, in both examples, if harmonised regulation or standards is not agreed, then regulatory competition is to persist, so that regulatory barriers to trade are minimised.

The insertion of the requirement that in such cases a Ministerial Council should consider whether or not to recommend the development of a new, national standard is especially interesting, for this was an automatic trigger for a process of potential harmonisation of standards to commence, to conclude with a recommendation to the heads of government of the participating parties. Moreover, within a three month period, unless three or more of the heads of government disapproved of the recommendation, the governments were to take appropriate action to develop and implement the recommended, standard. Again, this was a substantial modification to the previous, unanimity rule. However, there was no right of appeal from the Ministerial Council to the heads of government if the Council chose not to make a determination. The only situation in which unanimity was required was in the case of proposals for permanent exemption from the operation of the mra (Australian Governments 1992: Part VI).

The Trans-Tasman Mutual Recognition Agreement specified similar, but not identical processes for policy development. Interestingly, the organisational structure was, again, to be the existing system of Australian Ministerial Councils and supporting committees, not a new, specific-purpose, Trans-Tasman body, as might be imagined. The reason for this was that New Zealand already had been granted rights of attendance and, in some cases, membership, of certain Australian Ministerial Councils and, presumably, had found them to work to its satisfaction, so that any new, national standards determined by a Ministerial Council and agreed to by heads of government, would apply in New Zealand, as well as Australia (COAG 1995, 2005). The Arrangement also modified the decision rule applying to the determination of temporary exemptions by Ministerial Councils. Firstly, any decision was to be governed by the ‘Principles and Guidelines for Standard Setting and Regulatory Action by Ministerial Councils and Standard Setting Bodies’, endorsed by COAG in 1995. Secondly, it could be made by a two-thirds majority of the parties, compared to the need for the agreement of six of the parties in the Australian Agreement (COAG 1995: 14).

The mra with New Zealand does specify a wider range of permanent and special exemptions from the legislation, compared to the original, intra-Australian mra, mindful of a greater degree of regulatory difference between Australia and New Zealand in the areas specified. However, it also prescribes a set of ‘Coordination Programmes’, that have as their aim either future harmonisation, mutual recognition or permanent exemption (COAG 1995: 15-18). Mindful of the need to ensure progress in achieving coordination, the relevant regulatory authorities are required to

present annual cooperation reports outlining progress and timelines for further work (COAG 1995: 17-18).

There may be a temptation for harmonisation efforts to extend rather too far in the *MCBH scenario*, in part to reduce the demands on public sector creativity and innovation posed by more intensive regulatory competition, in part to attain an acceptable level of regulatory stability for firms operating in the relevant markets, for frequent changes to regulation impose adaptation costs on firms as well as government organisations, costs that, in the short term, might exceed the benefits from regulatory reform. Indeed, there will have to be a focus on achieving an overall balance between the requirements of effective regulatory competition and those of harmonisation, an ambitious task which existing economic and management techniques are not well equipped to provide.

In summary, national and cross-national responses to the need to manage the use of mutual recognition and regulatory competition, to date, have been to adapt structures and processes designed for the national context and, with some modifications, use them for the management of cross-national relationships. This was possible in the Australian and New Zealand contexts as the Ministerial Council mechanism and procedures had been designed to cope with the challenges of gaining inter-jurisdictional agreement in a federal system of government, a situation not so very different from those that prevail in the international arena. It was further assisted by the fact that New Zealand had already had a satisfactory experience with that system, as well as very close trading ties with Australia. The situation has not been such a relatively straightforward one in the EU, where a much greater range of national management experiences exists, as well as a substantial, international bureaucracy, in the shape of the European Commission, so that the search for an adequate and acceptable solution has been more difficult and time-consuming. However, following the Single Europe Act 1985, greater progress has been made.

The Two Scenarios, Policy Implementation, Monitoring and Evaluation

As well as an increased demand for policy innovation and a tendency for greater use of policy transfer effective regulatory competition in both scenarios will require an increased domestic capacity for more sophisticated implementation, monitoring and evaluation of regulation and regulatory developments in order to maximise the benefits of the innovation before it is copied or improved upon by competitors. Those responsible for monitoring and evaluation, in particular, will have to focus on developments internationally as well as domestically.

The need for a greater capacity will not be a new trend, but will accelerate existing moves to improve cross-national implementation, monitoring and evaluation capacities already evident in many states. In the Australian federal government, for example, the Department of Agriculture, Fisheries and Forestry has developed an International Food and Agricultural Service (IFAS) that provides the department's international interface with its stakeholders and encompasses most of the Department's international activities. In summary, IFAS's role is to:

- maintain and improve market opportunities for agricultural, fisheries, food and forestry industries
- reduce distortions to global trade
- improve trade cooperation
- reduce external risks to Australia's plant and animal health status, and

- help develop international trade standards.

In addition, at a whole of government level, the Department works closely with the other Australian Government departments and agencies, particularly the Department of Foreign Affairs and Trade and Austrade to maximise the benefits of the international agriculture work program to industries. In the UK the 'EU and International Coordination', and 'EU and International Agriculture' sections, of the Department for Environment, Food and Rural Affairs have a similar role.

Again, the most significant difference between the Competition and MCBH scenarios will lie in the latter's requirement for implementing, monitoring and evaluating the harmonised, regulation entrusted to departments and agencies in the mra member states. While it is not necessarily the case, it is possible and certainly desirable that the mra partners cooperate in designing and operating as efficient an implementation system as possible. This, in turn, will require regular comparison and communication between the senior staff involved, as noted in the Trans-Tasman Agreement, where the relevant organisations have to present annual cooperation reports outlining progress and timelines for further work (COAG 1995: 17-18).

Public servants will have to gain and maintain an accurate understanding of the costs actually imposed by the regulations in question, as well as the costs of administering the regulations, for at least two reasons. One, because of the general requirements for efficiency imposed by most governments. Two, because, where they are faced with complaints from domestic firms as to the costs imposed by their regulation, they will need to assess whether or not those claims are accurate. At the least, this will require the application of cost accounting and cost benefit analysis techniques, techniques often in short supply that will have to be provided by external contractors or, by recruiting and training public sector managers with those skills, notably accountants and economists.

Ideally, a regulatory impact statement (ris), will have been conducted before a regulation is adopted and before any later modifications to the regulation in question. My experience is that most ris do not provide a very sophisticated costing of the likely impact of regulation, nor, importantly, do most regulators then compare actual costs with planned costs once the regulation is implemented, unless, and until, the affected firms complain. Hence, hopefully, a somewhat unexpected outcome of the introduction of mras will be increased pressure from within government for more sophisticated ris when new or modified regulations are proposed.

Interestingly, it is possible that the ris evaluations will become more valuable for regulators in all countries engaged in regulatory competition, because of their ability to provide information about the likely impacts of differing regulations. Indeed, if it were possible to keep their contents secret, they might become marketable products, for sale to regulators, creating a market for ris.

The costs of monitoring and evaluation of partners' regulation can be reduced where each partner agrees to share information about regulatory developments, ideally, in advance of their development, at the policy design stage, assuming sufficient trust exists between the partners. The latter is likely, for broader range mras would not be entered into where little trust existed between potential partners. Hence, there is a strong probability that, at the least, information-sharing arrangements will be entered into, probably specified within the mra itself.

The extent of the sharing arrangements will vary from the mere sharing of the relevant information, for example, providing a copy of the new regulation to the mra partners, to, possibly, the development of a cross-national policy design capacity, with shared regulatory outputs. The argument for the latter scenario is as follows. Assuming that each partner in the mra, the 'leader', provides early advice to all partners, the 'followers', about proposed, new regulation, then, assuming that their ris indicate the new regulation will reduce either the cost of implementing the regulation or/and a reduction in the regulatory cost to firms, then, if the necessary, domestic political support is gained, it is likely that the followers will rapidly introduce the same or even less costly, modified regulation to meet the challenge. Surely, it would not take long for the parties to realise the costs of this regulatory competition and the benefits of cooperating in the policy design task, if only informally? The danger of this outcome is a reduced focus on improving the quality of policy and regulation, as the intensity of regulatory competition falls, while regulatory cooperation rises. This is, perhaps, most likely in smaller states, with a more restricted policy design capacity.

There is a danger that rapid changes to regulation in the Competition scenario, where the intensity of regulatory competition is intense, will disrupt established implementation routines, both within and across departments and agencies, leading to a drop in performance and, in turn, rising criticism from those affected by regulation. Thus, coordination between those responsible for policy development and those for implementation, will have to be rapid and effective, with careful modelling of the impact of proposed regulatory changes on implementation systems. It could be argued that, in federal states, where competition between the sub-national governments is commonplace, this is less likely to be a problem. It is also less likely to be a severe problem in the MCBH scenario, where appropriate harmonisation could reduce the intensity of competition and the need for frequent changes to the implementation of regulation.

Changes to the Distribution of Power

Any change to organisational structures and policy processes such as noted above has the potential to modify the existing distribution of power among the actors involved. In the Competition model, for example, it is possible that large firms and peak business associations will become more politically active as the impact of differing regulations leads them to put pressure upon the relevant public servants/regulators to, in turn, persuade their ministers to respond to the regulation desires in question. This is particularly likely to be the case where pre-mra regulation protected domestic firms from foreign competition by restricting market access or, and, increasing costs for foreign firms wishing to enter the market. The introduction of the mra will remove this protection and, as a result, make the originally protected firms more sensitive to regulatory costs and, to varying extents, more active in communicating their regulatory desires to relevant regulators. In itself this greater political activity does not necessarily mean that large firms and peak business associations will become more powerful, for increased activity may be a sign of powerlessness. However, where domestic firms and industries fail to compete effectively with new entrants, or existing, foreign firms with reduced costs, then the combination of business and trade union pressure as the latter find their jobs at risk, even if only in the short term, is likely to be a combination that regulators and their political masters will find difficult to resist. The longer term economic benefits will have to be very clear and constantly, promoted if political and possible electoral pressure is to be resisted.

What of the relative power of the public servant as regulator in the above scenario? Clearly, from the point of view of business suffering from increased competition their importance will be increasingly significant, given their role in advising their seniors and elected ministers. However, the extent of power exercised in this more important role will vary according to a whole range of factors, including the extent to which they are captured by business interests, the nature of the specific issues in question, the degree of autonomy they have from the elected ministers, the extent to which countervailing power can be exercised by regulators in other mra member states monitoring developments, and the credibility of the regulators' analyses of the claims and wishes of business interests, to name only a few. At times, assuming that the regulators are not sympathetic to the case being mounted by business, then business can go direct to the minister, but this is expensive and time consuming, as well as a move likely to somewhat alienate the regulators in question.
The relative power of regulators viz a viz other divisions and sections with a department is also likely to change. In the first instance, in the mra context, as noted above, regulators will have to be more active in monitoring and evaluating potential and actual, regulatory developments, both within country and within the mra area. This increased activity may lead, at least in the short term, to an increase in staff numbers, particularly of staff with the required economic and accounting skills, who will be in short supply for some time. Hence, divisions and sections with regulatory responsibilities under the mra will tend to become more powerful, especially where powerful business voices can be called upon to support recommended actions.

Such changes to the distribution of power will be most evident – though the language of power is not likely to be used – where departments consider how best to organise activities in order to cope with their increased and more active, regulatory responsibilities. Should they, for example, retain existing structures, with operating divisions and sections simply expanding their staff numbers and types to meet the new demands, or, should they create one or more new divisions and sections? In the latter case a very clear redistribution of power will occur, though its impact will take some time to emerge as routines bed down. In the case of the Australian Department of Agriculture, Fisheries and Forestry, the initial trend was to build on existing divisions, with somewhat of a build up of staff numbers in central policy divisions. However, over time, as regulatory responsibilities grew a new, international division was created, with a dedicated, 'International Food and Agricultural Service', noted above.

The major difference between the Competition and MCBH scenarios as regards the distribution of power will centre on the extent of harmonisation that results in the latter model. The greater degree of harmonisation of regulation, the greater the need for inter-jurisdictional cooperation between regulators in the mra members to achieve that harmonisation and, perhaps, a greater, combined capacity to exercise power viz a viz business interests.

Conclusion

In summary, it is likely that the increasing use or mutual recognition will stimulate regulatory competition between the parties to mra agreements and, in turn, increased policy development, implementation, monitoring and evaluation challenges to public sector managers. In large part the impacts will be similar in both the Competition and MCBH scenarios, with the issues related to harmonisation in the MCBH model being the major difference.

I suspect that the MCBH scenario will be the most likely, long term outcome, thus reducing the extent of competition and, possibly, in turn, the anticipated benefits from the use of mutual recognition and regulatory competition as policy and management instruments. The ‘pure’, Competition model, is an unlikely outcome, other than in the short term, largely because of the market uncertainty caused by frequent changes to national and cross-national systems of regulation, especially where the industries concerned are subject to rapid technological change not anticipated by existing regulation, with the ICT sector being a case in point.

What is particularly evident is the increased need, in both scenarios, for middle and senior ranking public servants with a substantially increased knowledge of:

- regulatory systems in a number of countries, as well as their own,
- a similar, already growing need for knowledge of international systems of regulation.,
- a greater understanding of, and ability to utilise, a range of accounting and economic techniques for estimating the impact of existing and proposed regulation.

In addition, universities programs aimed at educating future public servants will need to ensure that the required expertise and knowledge is incorporated in their degree programs. There is not a great deal of evidence that this is occurring, to date.

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