

Trans-Tasman single economic market: a step in the right direction for oil and gas

By Bryan Gundersen and Laurice Avery*

Since the establishment of the Australia New Zealand Closer Economic Relations Trade Agreement (CER), close economic relations have been a key focus for both governments. Since 2004 the development of a trans-Tasman economic relationship beyond the CER agreement and ultimately the creation of a single economic market (SEM) based on common regulatory frameworks, has characterised negotiations and talks between the two countries. Now in 2009, the release of the 'Joint Statement of Intent: Single Economic Market Outcomes Framework' signals a significant step towards this ultimate goal.

This has implications for companies on both sides of the Tasman operating all sectors. However, in the oil and gas sector, characterised by high transaction costs, there is potential for new efficiencies in capital raising, regulatory approvals and standards for plant and equipment and the procurement for goods and services generally, for those seeking to invest on a trans-Tasman basis.

Focus

Since March 2004, the focus has been fixed on identifying, developing and implementing reforms that seek to progress the development of the relationship between the two countries in order to create a seamless trans-Tasman business environment.

Over the last few years the SEM work programme has progressed slowly. However, recent advances indicate greater progress is being made. In August this year Australian Prime Minister Kevin Rudd and New Zealand Prime Minister John Key held their fourth bilateral meeting where they agreed on the need to progress and strengthen trans-Tasman economic integration.

Consequently, the joint statement was released outlining an agreed framework of principles and regulatory outcomes for developing cross border economic initiatives.

Aspirations

The joint statement further supports an aspirational SEM agenda by providing a framework intended to drive short-term pragmatic initiatives and set clear timelines for the work programme. A trans-Tasman SEM would greatly enhance the ability of both New Zealand and Australia 'to weather

the current global recession, increase national productivity, maintain and drive job creation, foster international competitiveness and improve the environment for doing business on both sides of the Tasman'.

The joint statement articulates a list of mutual goals that both governments seek to achieve while keeping open the possible range of options for achieving the outcomes identified. As such, the joint statement has great potential to positively impact and encourage investment in businesses and professional services that operate in both jurisdictions.

Compliance

The principle that people in both New Zealand and Australia should not have to engage in the same processes or provide the same information twice could greatly reduce the compliance costs for trans-Tasman companies. Steps have already been taken towards this goal. The New Zealand Companies Office and Australian Securities and Investment Commissions (ASIC) can already exchange data relating to companies that operate in both jurisdictions. However, to achieve this outcome in full, New Zealand and Australia will need to align all the information that they require businesses to file.

To fully attain this goal, the joint statement proposes that profit making entities should be able to use a single set of accounting standards and prepare only one set of financial statements thereby allowing a reduction in compliance costs for entities operating across the Tasman and further supporting trans-Tasman investment through consistency. Similarly, the goal that trans-Tasman businesses should only be required to file company information once in order to meet the requirements of both the New Zealand and Australian governments would significantly reduce compliance and reporting costs. A single trans-Tasman business identifier would also reduce costs and allow greater alignment of businesses operating in both jurisdictions. Finally, the desired outcome that there should be one trans-Tasman trade mark and patent registration regime will have the flow on effect of significantly cutting costs of innovative businesses seeking to protect their intellectual property.

Reduction

The potential for reduction in business costs by implementing a trans-Tasman SEM was seen in the introduction of the Australia-New Zealand mutual recognition regime for securities offerings. The regime allows issuers who are lawfully offering a product in the home jurisdiction to offer it into the host jurisdiction without complying with most of the requirements of the securities and fund-raising laws of the host jurisdiction. A report from the ASIC concluded that the mutual recognition regime, as implemented, was a welcome policy development because it reduced firm's costs by 55-95%, and accelerated the regulatory approval process. The mutual recognition regime may be viewed as a step towards a trans-Tasman SEM and indicates huge potential to save businesses, operating in both jurisdictions, a great deal of money.

The principle that regulated occupations, for example, lawyers, accountants and doctors, should be able to operate seamlessly between each country and that products and services supplied in one jurisdiction should be able to be supplied in another, will further enhance competition. The operation of this key principle can be seen, for example, in the proposed outcomes that auditors registered in one country should be able to operate in the other country and that recognised financial advisers in Australia and New Zealand should be able to operate across the Tasman without the need for further approvals.

Alignment

In the face of the global financial crisis and economic downturn, the release of a joint statement of intent signals a strong and renewed vision for the development of a Single Economic Market. New Zealand's Commerce Minister, Simon Power, has said the SEM agenda is a very high priority and the joint statement solidifies the government's expressed commitment to accelerate regulatory harmonisation and alignment. As such, the joint statement represents a valuable step forward in the process to enhancing trans-Tasman business and investment incentives.

** Gundersen and Avery are with Kensington Swan, a law firm in New Zealand specialising in energy and resources.*