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Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
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Llywodraeth Cymru
Welsh Government

Paul Davies MS
Chair
Economy, Trade and Rural Affairs Committee

Paul.davies@senedd.wales

29 April 2022

Dear Paul,

Thank you for your letter of 30 March raising a number of queries in regard to the provisional Organic Production Common Framework. My responses are set out below.

General points

The framework includes a number of errors and inconsistent terminology and diagrams. Can you explain why these were not addressed through internal sign off processes prior to publication?

In publishing the framework in draft, it is recognised some minor drafting errors and inconsistencies may yet remain. Any such issues will be fully corrected during the process of agreeing the final version of the framework.

The framework says that there is on-going disagreement between the governments about what is reserved and what is devolved. Can you clarify what this disagreement is, and explain why it does not affect the operation of the framework?

The disagreement is over who has the power to recognise third-country organic certification systems as equivalent to the standards set in the UK. The UK Government argues that this power is reserved, while the Welsh Government views it as devolved. It does not affect the operation of the framework, as most organic policy discussions are not directly linked to this topic, and should this issue be central to discussions, the dispute resolution mechanisms in the framework may be used.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Scope

To clarify the scope of the framework and whether it relates solely to the management of regulation previously governed by the EU, or organics policy in its entirety?

The framework relates to organics policy in its entirety.

If the framework does relate to all organics policy, to explain how this differs from how organics policy was governed prior to the UK's exit from the EU?

The Organic Production Common Framework formalises existing governance arrangements. Officials from each UK nation had already been holding meetings and discussing organic policy developments before the creation of the framework, but without any written governance mechanism.

To confirm if the Welsh Government has the same flexibility to develop organics law and policy that it had before the end of the transition period?

The Welsh Government technically now has more flexibility to develop organics law and policy than it had before the end of the transition period. This is because organic standards were previously set at the EU level. Organics stakeholders have however stressed the need for consistency in standards both among the four nations and between Great Britain and the EU and to which Welsh Government will have regard in considering organics law and policy.

The framework sets out that it interacts with a number of other frameworks. How will these interactions be managed?

Frameworks have been developed in a way to maintain consistency on areas such as dispute resolution. Occasionally organic policy will impact upon other policy areas, such as agricultural support. For example, questions on organic products may be raised in the UK Agricultural Market Monitoring Group. In these instances, officials will discuss any issues with colleagues working in those policy areas.

Decision-making: Four Nations Working Group

Is the group a new governance structure of collective decision-making on all organics policy, or is it only a mechanism for managing divergence?

There is much agreement over many aspects of organics policy between the Four Nations, so the Four Nations Working Group often facilitates discussions over joint or joined-up policy making. For example, the Welsh, Scottish and UK Governments may agree on joint minor updates on technical aspects of legislation to maintain consistency for organic producers, or legislation which is mirrored in each nation to reach the same ends. In other matters where the programmes for government diverge in each nation and such divergence relates to organics, the group is a place where such policy decisions are announced and explained. This allows for such divergence to be managed effectively.

Will any assessment of a proposed policy change in the UK developed by one of the Parties be shared with stakeholders?

If there is a proposal from another UK administration which would have a significant impact on Wales, the Welsh Government may carry out an assessment of it. Sharing such an assessment with stakeholders would have to be determined on a case-by-case basis.

Will the decision-making process requiring notification and collaborative assessment delay the policy-making process?

The decision-making process including notification and collaborative assessment should not delay the policy-making process. If policy proposals were not adequately discussed between the Four Nations, there is a high chance of unintended negative consequences and greater delay and disruption as a result. Welsh agriculture relies heavily on cross-border supply chains, so if the Welsh Government were not to adequately discuss policy proposals with the other UK nations, it could harm Welsh businesses or consumers and then may require policy revision, lengthening the process.

If proposals are changed as a result of the decision-making process in the framework, will you inform the Senedd and stakeholders?

If proposals are changed as a result of the decision-making process in the framework, the reasons for this will be explained to the Senedd and stakeholders.

Decision-making: UK Expert Group on Organics

Can you explain why the Expert Group has not yet been set up and what the timeframe for its establishment is?

Other urgent work on organics has meant the establishment of the Expert Group has progressed to a slower timetable than originally anticipated. The terms of reference and application packs for the group have now been drafted, and it is expected the recruitment campaign will be launched within the next few months.

Can you clarify on what evidence base decisions are being made in the absence of this Group?

The Organic Control Bodies have a technical working group which provides information, when requested, on issues such as the availability of organic products and the practical implementation of organic regulations. Welsh Government officials regularly attend the meetings of the UK Organic Certifiers Group and the Welsh Organic Forum, where other issues affecting the organics sector may be raised and acted upon. Information on the organics sector may also be gathered through officials' attendance at the UK Agricultural Market Monitoring Group, the Livestock Chain Advisory Group and the EU Transition Agri-food Supply Chain Stakeholder Group, the latter of which is a Wales-only group.

Decision-making: Competent Authority

In its Competent Authority role will Defra be acting as the government for the whole of the UK or as the government for England?

In its Competent Authority role, Defra, rather than acting as a government itself, acts to implement the decisions of ministers of the Devolved Governments with regards to matters of devolved competence. As such, in this instance Defra carries out its work for the whole of the UK rather than England alone, as set out in the Framework.

The framework states the Competent Authority will play a role in government business. Can you clarify what this means and on whose behalf would they be acting in this role?

The Welsh Government will continue to handle government business on organics, such as communication from elected representatives and members of the public, in the normal way. The Competent Authority, DEFRA, will be consulted by the Welsh Government when such communication is related to actions undertaken by the Competent Authority on behalf of Welsh Ministers. Replies to such communication will continue to be sent from the Welsh Government.

The framework implies the Competent Authority will be responsible for labelling and logo decisions but also that the Parties will be involved. Can you clarify how decisions on logos and labelling will be made?

The Competent Authority co-ordinates the discussions within the Four Nations Working Group on organics policy in relation to logos and labelling issues, and it would be expected that consensus would be reached within these discussions.

Divergence

Different terms are used to describe divergence in the framework. Can you clarify on what basis the Parties will decide if divergence is harmful or acceptable?

When a decision taken by one party has the potential to undermine the policy objectives of another, the divergence would be regarded as harmful. An example would be where less stringent production standards in one of the nations would lead to producers in another not having access to the market on the same terms.

UK Internal Market Act

How does the framework interact with the UK Internal Market Act?

Future policy discussed in this Framework and how this will interact with the UK Internal Market Act will be considered on a case-by-case basis to determine the effects. The Framework provides the flexibility to consider divergence.

Does the Welsh Government intend to seek an exclusion for this framework from the UK Internal Market Act?

There is no intention to request an exclusion from the Act in the common framework area.

Northern Ireland Protocol

To explain what if any risks there are for divergence with Northern Ireland on organics regulation and how this will be managed through the framework?

There is already divergence between Great Britain and Northern Ireland in organics regulation, as Northern Ireland has had to implement EU Regulation 848/2018, which establishes the principles of, and lays down rules for, organic production. Great Britain has retained EU Regulation 834/2007, the predecessor of 848/2018. There are already risks such as producers in Northern Ireland not having a level playing field to compete with producers in the rest of the UK. This is being managed through the framework in discussions at the Four Nations Working Group on how organics policy in Great Britain can be made in a way which lessens any detrimental impact on Northern Ireland.

Transparency and accountability

The framework states that stakeholder consultation will continue for 'major' regulatory changes. Can you clarify what would constitute a major change and explain what kind of changes stakeholders would not be consulted on?

A major regulatory change would be any where producers have to substantially change their ways of managing and operating their business, or where organic products are changed in a way which would likely affect consumer understanding or confidence. Any change would have some level of stakeholder engagement. Where such changes are minor, such as granting a derogation for the use of a non-organic product as a small component in a composite organic product when there are no organic alternatives available, engagement would likely be limited to discussions with the Control Bodies and the Expert Group on Organic Production. This is in contrast to a full stakeholder consultation, which would be undertaken for major regulatory changes.

The framework states that the governments will keep the parliaments in their respective countries informed 'where appropriate'. Can you clarify what this term means in practice?

Parliaments in each nation will be informed of any Ministerial decisions on any statutory instruments containing devolved provisions which are laid in the UK Parliament. Written or Oral Statements will be made should the Welsh Government make major policy decisions affecting the sector.

Regards,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive, flowing style.

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