

Chair
Cabinet Economic Development Committee

PROPOSED NATIONAL STANDARD FOR ORGANICS: RELEASE OF DISCUSSION DOCUMENT

Proposal

1. This paper seeks agreement to release the attached discussion document: “Would New Zealand benefit from new organic regulation?” for public consultation.

Executive Summary

2. I am seeking agreement to consult on whether New Zealand should adopt a new national standard and associated regulatory regime for organic production of food, beverages, live animals, unprocessed plant products and wool. The discussion document attached outlines the objectives, options, and expected costs and benefits associated with this proposal.
3. I anticipate a national organic standard and associated regulatory regime would provide businesses and consumers with increased certainty in making or relying on organic claims. It would also put New Zealand in a better position to trade its organic products.
4. Information available on the organic sector is limited. Although certified producers, exporters and certification agencies are easy to identify, there is no official data collected on uncertified producers, domestic sales or organic products imported into New Zealand.
5. The New Zealand organic industry bodies I met with support having a national standard in principle. Public consultation will help the Ministry for Primary Industries (MPI) understand the possible impacts of the proposal on all stakeholders, including businesses producing or trading organic products, and consumers.
6. Any new standard would need to be empowered by new primary legislation.

Background

7. Demand for organic goods has grown exponentially in recent years and the global market is now worth over \$116 billion annually. Organic food is a high value product and can achieve a premium of up to 30 percent over conventionally produced food.

8. Based on 2016 data, New Zealand's exports and domestic sales of organic products have an estimated worth of \$280 million and \$217 million respectively. Organic exports accounted for 0.75% of total New Zealand exports in 2016. Despite its small size, the sector is growing rapidly (+30% in value since 2012).
9. Internationally, there is a trend towards more stringent regulation of the term 'organic'. Of the world's top 25 organic markets (by value), all but New Zealand and Australia have developed mandatory domestic organic standards. Countries with a national standard increasingly expect their trading partners to have a regulatory system that produces similar outcomes to their own.
10. Products labelled as organic must meet the requirements of the Fair Trading Act 1986 (for example, not be misleading or deceptive). New Zealand has a range of voluntary standards for organic production. The current voluntary arrangements have achieved access to foreign markets to date, but may not meet the demands of our trading partners in the future.
11. I met with representatives of the organic sector who stressed the need to strengthen the regulation of organic products in order to protect the reputation of New Zealand organics, both on the domestic market and overseas.
12. I am seeking agreement to release the attached discussion paper to seek feedback on the proposed introduction of a national organic standard and associated regulatory regime. Public consultation will provide a better understanding of the impacts of this proposal on a range of stakeholders, including small and uncertified operators, consumers and retailers.

Comment

Rationale for change

13. Under the current framework, organics are not specifically regulated and certification is voluntary. Food products can currently be sold as organic as long as they meet the general requirements applying to food sold in New Zealand. For example, they must be safe and suitable (Food Act 2014). Also, organic claims must be able to be substantiated and not be misleading (Fair Trading Act 1986).
14. Certification for imports, exports or domestic sales is voluntary. MPI runs an export programme that enables exporters to access key organic markets, by providing an official assurance that the products meet the requirements of the importing country.
15. However, under the current domestic regime, two products labelled as 'organic' (whether produced in New Zealand or imported) may have been produced to different standards. Products that have been certified against a standard also compete against those which have not been certified.

16. A new regime could provide businesses and consumers of organic products with increased certainty in making or relying on organic claims. Agreeing on a definition of what 'organic' means, or developing additional measures to ensure organic claims are transparent, could help consumers to know the production methods used when a product is marketed as 'organic'.
17. Organic claims relate to production methods, rather than to any particular characteristic that could be tested for or identified on the final product. Officials could be provided with additional tools to check organic claims are genuine, as it can be difficult for consumers to know what production methods are used when a product is marketed as 'organic'.
18. Finally, there is an opportunity to put New Zealand in a better position to negotiate new and more secure market access into the future. We are aware that the environment in which our current organic regime operates is changing. Many overseas markets, including some of our key trading partners, have or are considering specific enforceable regulatory regimes to manage organic production. Those countries are increasingly requesting comparable regimes from trading partners to demonstrate similar outcomes are achieved.
19. Depending on the way a national standard and associated regulatory regime was designed, it could:
 - provide consumers and businesses with increased certainty in making or relying on organic claims;
 - reduce the gap between the Government's ability to provide oversight of the sector, and consumers' expectations that all organic claims are truthful; and
 - put New Zealand in a better position to negotiate new and more secure market access.

Content of the discussion document

20. The discussion document seeks the public's views on a range of ways a national standard for organic production and associated regulatory regime could be designed. It asks whether a standard should be voluntary or mandatory, and discusses verification, compliance and enforcement mechanisms.
21. The document proposes a preferred option of a mandatory standard for all relevant organic businesses, with the requirement to be independently verified on an ongoing basis applying to most businesses, with limited exceptions.

22. If a mandatory standard was chosen:
- businesses could not claim that relevant products are organic unless those businesses comply with the standard;
 - compliance with the standard is likely to be comparatively easier for large or currently certified organic businesses than for smaller, non-certified organic businesses. Public consultation will help understand how to best mitigate any disproportionate impacts on these smaller businesses.
23. As proposed, the standard would cover organic food and beverages, live animals, unprocessed plant products, and wool. Public consultation will test if the proposed standard should also cover organic aquaculture products. Organic products that are sold domestically, imported or exported are all likely to be covered.
24. Subject to stakeholder feedback, I anticipate a mandatory national standard and associated regime could deliver overall positive outcomes both for New Zealand organic businesses and New Zealand consumers of organic products.
25. Under this proposal imports would be required to either meet the requirements of the New Zealand standard, or the terms of a trade agreement. Relevant organic products produced in New Zealand and then exported would need to comply with any domestic rules, plus any requirements of the importing country if these are different.
26. New Zealand and Australia are parties to the *Trans-Tasman Mutual Recognition Arrangement*. The terms of this arrangement mean that products meeting Australian regulatory requirements for sale can be sold in New Zealand, and vice versa. Under this arrangement, organic products can be imported from Australia and sold in New Zealand as long as they meet domestic Australian laws, including the *Competition and Consumer Act 2010* that regulates misleading, false or deceptive claims.
27. This arrangement would continue if New Zealand adopts a new organic regime. The proposed standard and associated compliance requirements would apply to all organic products that are processed, packed or labelled in New Zealand – whether they are intended for domestic sales or export. The impact of New Zealand’s international obligations will be considered again during the development of any standard and associated regulatory regime.

Reasons to consult publicly

28. I intend to consult on this proposal to:
- better understand the implications and impacts of a standard and associated regime for a wide range of stakeholders;
 - ensure we test the different ways in which a standard and associated regime could be developed; and
 - evaluate whether a standard and associated regime would provide better outcomes for New Zealand compared with the status quo.

29. Public consultation will give groups and individuals the opportunity to to express their views on the proposals. This includes Māori groups, uncertified producers, small businesses and consumers, who may not otherwise be represented by the industry groups I hear from.

Consultation

30. The Ministry of Foreign Affairs and Trade, the Ministry of Business, Innovation and Employment, the Ministry for the Environment, Te Puni Kōkiri, the Department of Prime Minister and Cabinet, and the New Zealand Treasury have been consulted on this paper and the attached discussion document.

Financial Implications

31. There are no financial implications arising from the proposal to release a discussion document. The Ministry for Primary Industries expects to hold approximately 8 consultation meetings around New Zealand to discuss the proposal, and the costs associated with these will be met from baseline.
32. The discussion document will seek stakeholder feedback on costs and benefits of a range of ways to implement a national standard and associated regulatory regime for organic production. This information will help inform further regulatory impact analysis which will be provided with any request for Cabinet policy decisions.
33. The discussion document sets out options including mandatory compliance or verification requirements for some or all organic businesses. These options would impose new costs, especially for organic businesses that are not currently certified to any organic standard. There would also be some enforcement costs to government.

Human Rights

34. I consider the proposal to release the discussion document is consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Legislative Implications

35. If, following consultation, I consider that there is a demonstrated need for legislative change to introduce a national standard for organic production, I will submit policy proposals for Cabinet's consideration.
36. Subject to stakeholder feedback, I would intend to submit this proposal to Cabinet and seek agreement in the second half of 2018. A bid for a National Organic Standard for Organic Food and Primary Product Bill has been made for the 2018 Legislation Programme with a priority of 6 (instructions to be provided to the Parliamentary Counsel Office).

Regulatory Impact Analysis

37. A regulatory impact analysis will be prepared to accompany any policy proposal to Cabinet seeking agreement to legislative change to enable a national organic standard.
38. Treasury has agreed that a separate regulatory impact analysis is not required with this Cabinet paper, because the discussion document is intended to cover the range of feasible options and test understanding of the anticipated benefits, costs and risks associated with these options. Accordingly, any regulatory impact analysis provided with this Cabinet paper would substantively duplicate the discussion document.

Publicity

39. Stakeholders will be notified of the opportunity to submit on the issues raised in the discussion document through the MPI website, social media and press releases.
40. Uncertified producers and small businesses are likely to be the most impacted by the proposal. MPI officials intend to conduct public meetings in key regions to ensure these stakeholders are aware of the proposal and have the opportunity to express their views. Additional meetings with key groups will also be organised to facilitate constructive feedback.

Recommendations

41. The Minister for Agriculture recommends that the Committee:

1. **note** there are currently no mandatory requirements specific to organic production in New Zealand.
2. **note** the attached discussion document “Would New Zealand benefit from new organic regulation?” outlines options relating to a national standard and associated regulatory regime for organic production.
3. **note** the document proposes a preferred option of a mandatory standard for all relevant organic businesses, with the requirement to be independently verified on an ongoing basis applying to most businesses, with limited exceptions.
4. **note** that introducing a mandatory standard and associated regulatory regime for organic production could provide consumers and businesses with increased certainty in making or relying on organic claims; it would reduce the gap between the Government’s ability to provide oversight of the sector and consumers’ expectations that all organic claims are truthful; and it would put New Zealand in a better position to negotiate new and more secure market access.
5. **note** the proposals need to be tested with industry and consumers to better understand the implications and impacts for stakeholders.
6. **agree** that the Minister for Agriculture has delegated authority to approve minor amendments and refinements to the discussion document before it is released.
7. **agree** the document “Would New Zealand benefit from new organic regulation?” be released for public consultation.
8. **invite** the Minister for Agriculture to report back to Cabinet on the outcome of the consultation and, if required, present developed policy options and a legislative timeline for consideration.

Authorised for Lodgement

Hon Damien O’Connor
Minister for Agriculture