



HM Government

# **Organic Production Common Framework Provisional Framework Outline Agreement and Concordat**

February 2022

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# **Organic Production Common Framework**

## **Provisional Framework Outline Agreement and Concordat**

Presented to Parliament  
by the Secretary of State for Environment, Food and Rural Affairs  
by Command of Her Majesty

February 2022



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# Organic Production Common Framework Section 1: What we are talking about

## 1. Policy area

The policy area under consideration: Agriculture – Organic Production. This includes: the principles and overarching standards for organic production and certification; Official controls, labelling and trade of organic produce; and organic aquaculture.

## 2. Scope

### **EU law and retained EU law**

The elements of EU law and retained EU law in this area that intersect with devolved competence are:

- (EC) 834/2007 – lays down the legal framework for organic products. It contains the basic objectives and general principles for organic farming and rules on production, labelling, controls and trade with non-EU countries.
- (EC) 889/2008 – lays down more specific rules governing organic production, labelling and control. These rules extend to plant, seaweed and livestock production, feed, aquaculture animal production and the collection, packaging, transport and storage of organic products. Controls include specific requirements and the responsibilities of operators including annual inspections, documentation, accounts and access to facilities.
- (EC) 1235/2008 – lays down detailed rules governing the importation of organic products by implementing article 32 and 33 of (EC) 834/2007. Specific provisions deal with the drawing up of a list of recognized control bodies and authorities, documentary evidence required and certificates of inspection.
- EU 2017/625 The Official Controls Regulation - addresses official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products.

### **Domestic Law**

The elements of domestic law in this area that intersect with devolved competence are:

- The Organic Products Regulations 2009 (and subsequent amendments) is the relevant domestic legislation that provides for the administration and enforcement of (EC) 834/2007, (EC) 889/2008 and (EC) 1235/2008.
- The Organic Products (Amendment) (EU Exit) Regulations 2019
- The Organic Production and Control (Amendment) (EU Exit) Regulations 2019
- The Organic Production (Control of Imports) (Amendment) (EU Exit) Regulations 2019
- The Agriculture (Legislative Functions) (EU Exit) (No 2) Regulations 2019.
- The Organic Products (Production and Control) (Amendment) (EU Exit) Regulations 2020
- The Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2020
- The Agriculture Act 2020
- The Organic Products Regulations (Northern Ireland) 2020 is the relevant domestic legislation that provides for the administration and enforcement of (EC) 834/2007, (EC) 889/2008 and (EC) 12/35/2008 for Northern Ireland.
- The Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019, which provide for implementation and enforcement of EU 2017/625, including as regards organic production and the labelling of organic products.
- The Official Controls (Animals, Feed and Food, Plant Health etc) (Amendment) (EU Exit) Regulations 2020
- The Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) (No. 2) Regulations 2020
- The Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) Regulations 2020
- The Organic Production (Organic Indications) (Amendment) (EU Exit) Regulations 2019
- Organics (Equivalence and Control Bodies Listing) (Amendment) Regulations 2021

The retained EU law and EU law sets out a legal framework for the production, processing, importing and exporting of organic products. All products sold as organic must originate from operators (growers, processors and importers) who are registered with an approved certification body (organic control body). Organic operators are subject to regular inspection.

EU and UK organics regulations also list third countries whose organic standards are recognised as equivalent with the EU or UK and, where full equivalence has not been agreed, individual organic control bodies worldwide whose standards are recognised as equivalent, or are permitted to certify to the EU or UK standard in specific third countries.

The previous EU regime has been transposed as retained EU law with operability amendments as detailed under the sub-header 'Domestic Law' above. The operability amendments include the conferral on authorities within the UK of powers and duties previously exercisable at EU level or by member states.

Officials in each of the UK Government, Scottish Government, Welsh Government and DAERA (Department for Agriculture, Environment and Rural Affairs (NI)) (hereafter referred to as 'the Parties') collaborate on aspects of Organic Production policy. To ensure the organics regime works in practice, officials work closely with:

- UK organic sector (industry)
- UK organic control bodies
- UK Accreditation Service (UKAS)
- UK Port Health Authorities (PHA)

UKAS assess and accredit UK-based organic control bodies, who provide certification to organic operators that they meet the standards required in law. The Irish National Accreditation Board (INAB) assesses and accredits Ireland-based organic control bodies. After accreditation, the Department for Environment, Food and Rural Affairs (Defra) approves the control bodies to operate in the UK. There are six GB-based organic control bodies approved to operate across the UK:

- Biodynamic Association Certification
- OF&G (Scotland) Ltd
- Organic Farmers and Growers CIC
- Organic Food Federation
- Quality Welsh Food Certification Ltd
- Soil Association Certification Ltd

And three Ireland based control bodies approved to operate in Northern Ireland:

- Global Trust
- Irish Organic Association
- Organic Trust

### **UK Government, Scottish Government, Welsh Government and Northern Ireland Executive Competence and the Parties to this Framework**

There is existing disagreement between Parties on whether certain matters are devolved or reserved in this area. This document does not seek to make any statements regarding matters of constitution or law in this area or set any binding precedents in those areas.

It is agreed by all Parties that the existence of this disagreement does not impact the ability of the framework to operate. The Parties have historically worked closely together on this area and expect to continue to do so.

This Framework also operates in conjunction with other Frameworks which are pertinent to organic production, including the Agricultural Support Framework, Plant Health Framework and Animal Health and Welfare Framework.

### **Policy level arrangements**

It has been agreed by the Parties that Defra will continue to lead as the competent authority for GB in the areas of organic production and related official controls. The Competent Authority is the central authority of a state competent for the organisation of official controls in the field of organic production.

As a result of the Protocol on Ireland/Northern Ireland (the NI Protocol), Northern Ireland will continue to follow EU regulations on organics. The EU requires that there is an independent competent authority for Northern Ireland. This new Northern Ireland Competent authority (NICA) has been established within Defra. Discussion is ongoing regarding the long term administration and resourcing of the NICA, in particular whether it will continue to be administered by Defra or by the Department for Agriculture, Environment and Rural Affairs (NI) (DAERA). If it is transferred this may require the framework to be updated if the Parties believe this to be necessary. This can be done under the initial review, exceptional review or periodic review discussed in Section 12, Review stage.

Under EU law and retained EU law, each of the Parties have powers to make regulations in this policy area for their own nation. Without prejudice to those powers, under this framework any proposal to create a new Regulation would involve joint discussion and decision making through the Organics Four Nation Working Group (See 8. Decision Making).

This framework will be an agreement between the Parties.

### **International obligations**

There are no specific international obligations on organic production and processing other than equivalence agreements (in cases where those are established via treaty).

The Common Frameworks Principles agreed at JMC (EN) state that frameworks will be established where necessary to ensure the UK can negotiate, enter into and implement new trade agreements and international treaties, and ensure compliance with international obligations. These principles were established in the context of an ambition for close working between the UK Government and the Devolved Administrations on reserved matters that significantly impact devolved responsibilities in common frameworks.

Common Frameworks will allow the parties, in a timely manner, to ascertain the impact of international trade on managing UK policy divergence. All parties to the framework will consider any impact in a way that meets the requirements of the JMC (EN) principles. Common Frameworks will afford an opportunity to consider any implications stemming from international trade which have a direct bearing on the operation of a Common Framework. The scope of this consideration will not extend beyond Common Frameworks.

International policy formulation will be developed in line with the current Devolution MoU and its accompanying International Relations Concordat. International

obligations will be implemented in line with these agreements. In this respect, the parties will automatically use any updated IR Concordat, and the wider outcomes of the Joint IGR Review, as the basis for such international considerations.”

## **The Protocol on Ireland/Northern Ireland**

### **NIP text:**

The Agreement on the Withdrawal of the United Kingdom from the EU sets out the current arrangements where, although remaining within the UK’s custom territory, Northern Ireland will remain aligned with the EU. The following paragraphs of Annex 2 of the Northern Ireland Protocol are relevant to this framework.

This Framework reflects the specific circumstances in NI that arise as a result of the Protocol and remains UK wide in its scope. As such decision making and information sharing will always respect the competence of all parties to the Framework and in particular the provisions in Article 18 of the Protocol on democratic consent in Northern Ireland.

Where one or more of UK Government, the Scottish Government or the Welsh Governments propose to change rules in a way that has policy or regulatory implications for the rest of the UK, or where rules in Northern Ireland change in alignment with the EU, the Framework is intended to provide governance structures and consensus-based processes for considering and managing the impact of these changes.

- As rules evolve to meet the emerging regulatory needs of the UK, Scottish and Welsh Governments, this Framework will ensure the full participation of Northern Ireland in discussions such that the views of the relevant Northern Ireland Executive Minister(s) are taken into account in reaching any policy or regulatory decisions by the UK, Scottish or Welsh Governments.
- Where rules in Northern Ireland change in alignment with the EU, the Framework will form the basis of a mechanism to ensure consideration by the four governments of any changes, and will enable them to determine any impacts and subsequent actions arising from these changes.

Where issues or concerns raised by the relevant Northern Ireland Executive Minister(s) in respect of GB-only proposals have not been satisfactorily addressed, they will have the right to trigger a review of the issue as set out in the dispute resolution process at section 13 of this document.

## **EU-UK Trade and Cooperation Agreement (TCA)**

The policy area covered by this Common Framework intersects with the EU-UK Trade and Cooperation Agreement and therefore topics relevant to the framework may be considered from time to time by relevant TCA Specialised Committees or the Partnership Council. Where a UK-EU meeting agenda includes an item concerning

implementation in an area of devolved competence, UKG should facilitate Scottish Government, Welsh Government and DAERA attendance of a similar level to that of the UKG representatives with final discretion as to the UK delegation a matter for the UK co-chair. UKG should engage Scottish Government, Welsh Government and DAERA as fully as possible in preparation for these meetings regardless of attendance, and on all relevant implementation matters.

### 3. Definitions

Definitions for the key terms in this policy area are as follows:

**Organic Production** – As defined in the retained EU Regulation 834/2007:  
*Organic production is an overall system of farm management and food production that combines best environmental practices, a high level of biodiversity, the preservation of natural resources, the application of high animal welfare standards and a production method in line with the preference of certain consumers for products produced using natural substances and processes. The organic production method thus plays a dual societal role, where it on the one hand provides for a specific market responding to a consumer demand for organic products, and on the other hand delivers public goods contributing to the protection of the environment and animal welfare, as well as to rural development.*

And in 834/2007 Article 2 it states that:

(a) *‘organic production’ means the use of the production method compliant with the rules established in this Regulation, at all stages of production, preparation and distribution;*

[...]

(c) *‘organic’ means coming from or related to organic production;*

As such “Organic” when used as an adjective is to be taken as meaning “coming from or related to organic production.” Therefore “Organic Food” refers to food created via the production methods defined in the relevant regulations, “Organic Farming” refers to agriculture using those methods, etc. Other uses of the term are not to be understood as applying.

Organics Four Nation Working Group (FNWG) – The Organics Four Nation Working Group: The main policy-level forum for the frameworks. Including representatives from Defra, Scottish Government, Welsh Government and DAERA.

Control bodies (CB) – Organisations that assess and inspect organic operators. This certification allows the products to be sold as organic. There are standard criteria for assessing control bodies either domestically or abroad. Our control bodies have applied to the EU to be recognised as equivalent for EU standards and have been accepted. Which allows for products certified by them to continue to be legally regarded as organics in the EU.

Competent Authority – Central authority of a state competent for the organisation of official controls in the field of organic production. Before 1 January 2021 Defra was

the Competent Authority for the UK as a whole. After 1 January 2021 Defra has continued to fulfil that role for England, Scotland, and Wales and a new Northern Ireland Competent Authority (NICA) was established.

UK Expert Group on Organic Production (UK EGOP). – Before 1 January 2021 changes to organic regulation were decided with reference to recommendations by the EU Committee on Organic Production, with technical advice provided by the EU Expert Group for Technical Advice on Organic Production (EGTOP). Since 1 January 2021 decisions are made by the FNWG with expert advice to be provided by the new UK Expert Group on Organic Production (UK EGOP). This group is in the process of being established and will contain experts in the relevant technical areas of organic production. The Terms of Reference (ToR), composition, remit, membership and other details of the UK EGOP have yet to be determined, these will be decided by agreement of the members of the FNWG.

## Section 2: Proposed breakdown of policy area and framework

### 4. Summary of proposed approach

#### **Legislation**

Following discussion between the Parties on the aims of this framework, and the most appropriate vehicle for giving effect to this agreement, it has been decided no new legislation beyond operability amendments already made to retained EU law as set out above under “Domestic Law” is necessary to implement the framework. The SIs that make these amendments to retained EU law set out the statutory powers and duties conferred on authorities within the UK.

#### **Non-legislative agreement**

The framework will primarily be implemented through a non-legislative agreement setting out how the Parties will make decisions and work together. It will recognise the shared aim to ensure effective collaboration and the regulation of organic standards.

The framework aims to establish shared ways of working and to develop common policy approaches on organics across the UK where this is appropriate, within the scope of the framework and has been agreed by all Parties. It recognises that businesses and consumers in all four nations (as well as international trading partners) can benefit from a consistent policy approach and set of legislation on organics.

Policy consistency should remain where it is agreed that it is necessary or desirable; however, the framework also allows for divergence, as there will be instances where it is appropriate for each nation to take a different approach to organics to respond to nation-specific needs. Therefore, all Parties retain the ability to diverge within their nation, in line with the governance arrangements set out in the framework for managing divergence, and in accordance with the JMC (EN) common framework principles.

#### **JMC(EN) Frameworks Principles**

The Parties agree the approach summarised above is necessary according to Section 1 of the JMC(EN) Frameworks Principles (see Annex A for the full list of principles):

- Enable the functioning of the UK internal market, while acknowledging policy divergence.
- Ensure compliance with international obligations.
- Ensure the UK can negotiate, enter into and implement new trade agreements and international treaties

- Enable the management of common resources

As outlined above in Section 2, UK Government/Devolved Government Competence and the Parties to this Framework there is an ongoing difference of opinion about whether certain areas in relation to organic production are devolved. There is agreement on the benefits of a unified approach to this area. As such this framework allows for the co-operation and decision making by the Parties.

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- Ensure compliance with international obligations.

- Ensure the UK can negotiate, enter into and implement new trade agreements and international treaties
- Enable the management of common resources

As outlined above in Section 2, UK Government/Devolved Government Competence and the Parties to this Framework there is an ongoing difference of opinion about whether certain areas in relation to organic production are devolved. There is agreement on the benefits of a unified approach to this area. As such this framework allows for the co-operation and decision making by the Parties.

## 5. Detailed overview of proposed framework: legislation (primary or secondary)

It has been agreed by the Parties that no new legislation beyond operability amendments already made to retained EU law as set out under “Domestic Law” is required in this area.

## 6. Detailed overview of proposed framework: non-legislative arrangements

The Parties to this framework have agreed that a non-legislative agreement or concordat will be used in order to provide for the implementation of the framework.

This concordat will be drafted and discussed after the adoption of this framework outline agreement.

### **Contents**

The UK Government, Scottish Government, Welsh Government and DAERA have agreed that a concordat will cover the following.

1. Introduction: context, purpose and relevant contacts
2. Scope
3. Agreed Principles for working together
4. Dispute Avoidance and Resolution Mechanism
5. Review and Amendment Mechanism
6. International obligations (if appropriate)

The concordat is entered into in a spirit of cooperation and mutual respect, and in recognition of a shared aim to ensure effective collaboration and the regulation of organic standards.

## 7. Detailed overview of areas where no further action is thought to be needed

There are currently no areas within scope of the framework that need no further action.

# Operational detail

# Section 3: Proposed operational elements of framework

## 8. Decision making

### Key joint decisions that will be made through this framework

The key joint decisions taken by the parties to this framework are:

- Changes to organics regulations.
- Establishment and ongoing operation of the UK Organic Production Expert Group (UK EGOP) which will advise on regulation.
- Resolution of issues (as per section 13 below)
- Reviewing and amending the framework

### Decision-making fora

The main forum for official level discussion and decision-making is the Organics Four Nation Working Group (FNWG). Terms of Reference for this group are set out in Annex B.

The purpose of the FNWG group is to establish and develop mechanisms between the Parties for coordination, cooperation and collaboration within organic policy. This includes discussion of any concerns with the current GB regime (as established in retained EU law), any issues arising out of the application of EU law on organic production in NI, and otherwise bringing to the group's attention any policy change proposed and solutions to any perceived issues. All Parties agree to cooperate and work constructively to reach joint decisions on the application of organics standards.

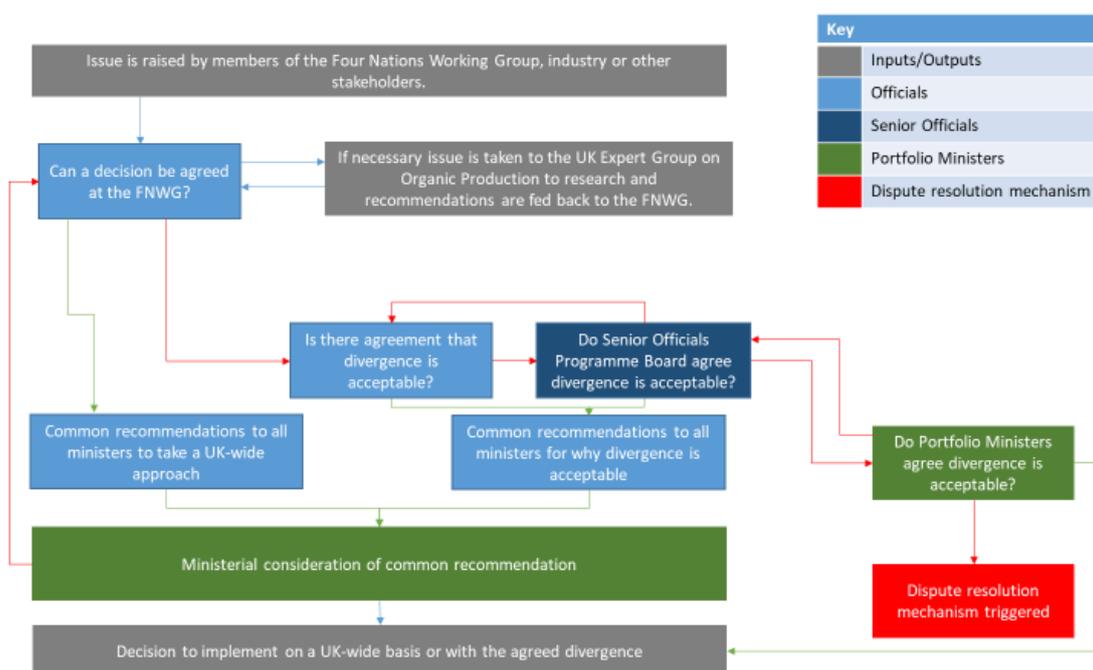
The Parties also commit to working towards establishing a UK Expert Group on Organic Production to discuss technical and complex organic issues (this will take on roles currently fulfilled by various EU committees including the Committee on Organic Production and the Expert Group for Technical Advice on Organic Production).

For the proposed governance structure to operate most effectively, it is envisaged that recommendations for the majority of proposals will be agreed by the Parties at official level. It is therefore essential that an appropriate evidence base is developed at this level. The development of this evidence base for organics policy could be carried out through:

- Commissioning further evidence from the UK Expert Group on Organic Production (UK EGOP), or other relevant experts
- Commissioning further evidence from legal teams
- Seeking advice from external bodies
- Engagement with industry and other relevant stakeholders, in particular the Control Bodies via regular meetings

Where evidence is being gathered this will always be shared between the Parties. Commissioning of evidence will be discussed and agreed in the FNWG, including funding, source, terms of reference, etc. All Parties are committed to the principle of good communication and will share information and scientific research in the spirit of openness, transparency and collective objectives wherever possible.

The mechanism for senior official level discussion and decision-making will firstly be discussion between the Deputy Directors of the divisions concerned with organic production in each of the Parties, followed by the Defra-DAs Senior Officials Programme Board.



### Diagram showing the dispute resolution process

- An administration states that it wants to introduce a change or policy. This will be discussed by the FNWG to assess if it causes divergence.
- If there is agreement that any resulting divergence is acceptable, then this is referred to Senior Officials for their agreement.
- This will lead to common recommendations being made to portfolio ministers explaining why any divergence is acceptable.
- Ministers will consider the recommendations at the Inter-ministerial Group (Efra). If ministers agree that the divergence is acceptable, the policy will be implemented.
- The dispute resolution mechanism will be triggered if agreement cannot be reached at the PCG. In the first instance, the issue will be referred to the Senior Officials Programme Board (SOPB) to try to reach agreement.
- If an agreement cannot be reached by SOPB, the issue will be referred to the IMG (Efra) for decision. If the issue remains unresolved, it will be referred to the appropriate intergovernmental structures to consider.
- Agreement will lead to the policy or change being implemented.

The Parties are committed to seeking advice from the UK Expert Group on Organic Production when issues arise around the enforcement and development of Organics regulations, and other issues that may arise. The UK Expert Group on Organic Production will provide advice but will not, however, act as a decision maker. The Terms of Reference and other details of how this group will operate are still to be decided upon by the FNWG.

## **Disagreements**

The Parties to this framework have agreed that if there is a disagreement on a decision, an effort will be made to resolve this issue at the lowest possible level. In the first instance, officials who have identified a policy of another government which they believe to have a negative impact in their own nation, or who are proposing a change they feel should apply at a cross-UK level (without prejudice to the NI Protocol), will notify this to the FNWG along with an assessment and summary of the issue. If there are any concerns these should be discussed at a meeting of the FNWG to explore solutions. Where it is agreed that divergence is not problematic no further steps need to be taken.

If, despite best efforts to consider all available evidence:

- there remains a disagreement over the policy between one or more governments,
- It is not agreed that it is acceptable for one or more governments to diverge in the manner proposed
- And a cross-UK approach cannot be agreed,

then the Parties will follow the dispute resolution process outlined in Section 13.

Dispute Resolution. Most importantly, officials will be tasked with seeking a means of compromise.

Any issues between parties will be recorded as this may help to inform the Review and Amendment process when it is next conducted.

## **9. Roles and responsibilities of each party to the framework**

The following sets out the roles and responsibilities of officials and Ministers in this framework.

### **Officials**

Officials hold day-to-day discussions on the policy covered by the framework and put advice to Ministers with the rationale for the approach taken within organics policy (e.g. a harmonised across UK Government, Scottish Government, and Welsh Government), or why divergent policies may be necessary. Officials across Parties should convene to discuss policy issues as appropriate via the FNWG to keep colleagues regularly informed of any ramifications that policy will have across

Parties. If officials do not agree when making decisions, issues discussed at a working level can be escalated to senior officials in line with the dispute avoidance and resolution mechanism outlined in Section 13.

## **Senior Officials**

Senior officials (ordinarily Deputy Directors) provide strategic direction on organics policy governed by the frameworks and take key operational decisions. They may for instance review an issue escalated from official level as per the dispute avoidance and resolution mechanism. Senior officials should convene to discuss issues as appropriate, either by regular meeting or on an ad hoc basis, as outlined in the terms of reference for the relevant cross government senior official level groups.

## **Ministers**

Ministers may receive advice from their officials either concurrently across Parties as issues arise or in the course of business as usual for individual Parties. Ministers may agree or disagree with the advice. If the issue is not resolved it can be referred to the Senior Officials Programme Board for consideration, and/or escalated to Inter-Ministerial Group (IMG) EFRA for consideration.

## **Additional Responsibilities:**

It has been agreed that Defra will continue to act as the Competent Authority for England, Scotland and Wales. Defra has established a new Northern Ireland Competent Authority (NICA). Discussion is ongoing regarding the long-term government and resourcing of the NICA, in particular whether it will continue to be administered by Defra or by DAERA. If this situation changes it may require the framework to be updated if the parties believe this to be necessary. This can be done under the initial review, exceptional review or periodic review discussed in Section 12, Review stage.

As the Competent Authority, Defra will be ultimately responsible for the organisation of official controls in the field of organic production in accordance with the provisions set out under retained EU legislation. This is a separate role from the broader Competent Authority for Official Controls.

The UK Competent Authority role, in the context of devolved competence in Organic Policy involves the coordination across UK Government, Scottish Government, and Welsh Government to:

- Liaison with EU and Third Countries
- Oversight, monitoring and approval of Control Bodies who operate in England, Scotland, and Wales

- Advising on logo development and labelling requirements in collaboration with the Parties
- Data handling and monitoring
- Advising on Policy Development in collaboration with the Parties
- Representation at other forums/external stakeholder meetings
- Operational Delivery: derogations, imports, trading standards, irregularity investigations/residues
- Government business, query handling, communications, guidance and training, international reporting requirements

(i) Liaison with EU and Third Countries

- The international aspect to organic policy in England, Scotland, and Wales will require the Competent Authority to continue to represent UK Government, Scottish Government, and Welsh Government with the EU, the EEA and third countries. The Competent Authority will communicate with the EU, the EEA and third countries but will consult with the parties to the framework through the FNWG. The Competent Authority is committed to transparency and collaboration with the Parties in this process. As such information will be shared, and decisions agreed upon in the FNWG as discussed elsewhere.

(ii) Oversight, monitoring and approval of Control Bodies which operate in England, Scotland, and Wales

- The appointed Competent Authority is responsible for making sure that organic rules are followed, delegating power to approved control bodies, working with local authorities and ultimately responsible for auditing the inspection across England, Scotland, and Wales, ensuring the Control Bodies' annual reports are submitted, detailing the results of the controls carried out on organic operators and on the measures taken in case of non-compliance.

(iii) Logo development and labelling requirements

- The Parties will discuss the relevant issues, e.g. the development of a GB organic logo, GB labelling requirements, etc. in the FNWG.

(iv) Data handling and monitoring

- Data relating to information on derogations, audits and irregularities will continue to be managed and monitored by the Competent Authority and shared with all Parties as per the 'Information Sharing' section of this Framework Outline Agreement.
- The Competent Authority will perform operational delivery and maintenance of any databases, electronic records, issuing of code numbers to operators, and other day-to-day administrative functions with due regard to this agreement. This is likely to involve creating, maintaining and updating databases and records. The Parties have the right to view relevant documents and information as needed.

(v) Policy Development

- The Parties agree to contribute to Organic policy development with the aim of advancing organics policy, in addition to managing the application of current organic policy. This may involve discussion of any areas of concern with the current regime at FNWG sessions, which will take place at minimum quarterly

and more often if requested by members, or otherwise bringing to the group's attention any policy change they would like to propose. This can include members raising concerns via correspondence or other communication channels, as they deem appropriate.

(vi) Representation at other forums/external stakeholder meetings

- The Competent Authority will take information from discussions and agreements with the Scottish Government, Welsh Government and the Northern Ireland Executive from quarterly FNWG meetings and use this to contribute at forums and external stakeholder meetings.

## Information sharing

Each Party will aim to provide each other with as full and open as possible access to scientific, technical and policy information including statistics and research and, where appropriate, representations from third parties. All Parties are committed to the principle of good communication and will share pertinent information, through the FNWG. Pertinent information would include anything of significance or important information to any other Party.

## Parliamentary and stakeholder communication and engagement

Existing UK wide mechanisms for stakeholder engagement, such as the UK Organic Control Bodies Group will continue to meet regularly. The Parties will also be responsible for engaging with their own stakeholders. For any major changes to regulation there will be specific consultation with stakeholders. The Parties will continue to inform their respective legislatures, where appropriate, of developments in organic policymaking.

## 10. Roles and responsibilities of existing or new bodies

UK Accreditation Service (UKAS) – This is the national accreditation body for the United Kingdom, formally appointed under retained EU regulation (EC) 765/2008. UKAS is independent of Government and works under a Memorandum of Understanding with the UK Government to confer national accreditation symbols on a variety of conformity assessment bodies.

UKAS accredit UK organic control bodies to be able to certify that organic operators meet the standards required of organic production. More information can be found below:

<https://www.ukas.com/about/our-role/>

UK Organic Control Bodies – Control Bodies certify that organic operators meet the standards required of organic production as set out under domestic law, EU law and retained EU law relevant to the framework. More information can be found below:

<https://www.gov.uk/government/publications/organic-certification-list-of-uk-approved-organic-control-bodies>

UK Expert Group on Organic Production (UK EGOP) - This will be a group for technical and complex organic issues. It is envisaged that the Expert Group, which will be a non-statutory body, will take on the role of the EU Expert Group for Technical Advice on Organic Production (EGTOP). They will provide expertise to future decision making on organic policy. The composition, remit, membership and other details of the UK EGOP have yet to be determined; these will be decided by the FNWG.

## 11. Monitoring

The Organics Four Nation Working Group will meet (quarterly at minimum and more frequently if requested by one or more Party), and communicate via regular correspondence, to manage current organic policy and to monitor the functioning of the framework. The purpose of monitoring is to assess:

- intergovernmental cooperation and collaboration as a result of the framework;
- whether parties are implementing and complying with the framework;
- whether divergence has taken place in contravention of the Common Framework principles; and
- whether divergence has taken place that impacts on organics policy covered by the framework.

The outcome of this monitoring will be used to inform joint decision-making, at both official and ministerial level, going forward and the review and amendment process (see section 12). As outlined in Section 8, Decision making, members of the FNWG will inform the group if they intend to diverge on policy or propose changes they feel should apply at a cross-UK level. If it is agreed that such divergence is not problematic, or that a UK wide policy will be adopted, then no further action needs to be taken. If there is disagreement on those matters that cannot be resolved, the dispute avoidance and resolution mechanism may be used.

## 12. Review and Amendment

### Process

- The Review and Amendment Mechanism (RAM) ensures the framework can adapt to changing policy and governance environments in the future.
- There are three types of review which are outlined below. The process for agreeing amendments should be identical regardless of the type of review.

- The RAM relies on consensus at each stage of the process from the Ministers responsible for the policy areas covered by the framework concordat.
- Third parties can be used by any party to the framework to provide advice at any stage in the process. These include other government departments or bodies as well as external stakeholders such as NGOs and interest groups.
- At the outset of the review stage, parties to the framework must agree timelines for the process, including the possible amendment stage.
- If agreement is not reached in either the review or amendment stage, Parties to the framework can raise it as a dispute through the framework's dispute avoidance and resolution mechanism (see Section 13).

## Review Stage

- An **initial review** will take place 12 months after the initiation of the framework.
  - During the initial review, Parties to the framework will discuss whether the governance and operational aspects of the framework are working effectively, and whether decisions made over the previous year need to be reflected in an update to the framework's concordat.
  - This initial review is also intended as an opportunity to update the framework to take into account areas currently under discussion outside the remits of the policy teams.
- A **periodic review** of the framework will take place every 3 years, or on a more frequent schedule if requested by members of the FNWG, in line with official or ministerial level meetings.
  - The period of 3 years starts from the conclusion of a periodic review, or the initial review, and any amendment stages that follow.
  - During the periodic review, Parties to the framework will discuss whether the governance and operational aspects of the framework are working effectively, and whether decisions made over the previous 3 years need to be reflected in an update to the framework's concordat.
- An **exceptional review** of the framework is triggered by a 'significant issue'.
  - A significant issue must be time sensitive and fundamentally impact the operation and/or the scope of the framework.
  - The exceptional review may include a review of governance structures if all parties agree it is required. Otherwise, these issues are to be handled in the periodic review.
- The amendment stage can only be triggered through unanimous agreement by Ministers.

## Amendment Stage

- Following agreement that all Parties wish to enter the amendment stage, Parties will enter into discussion around the exact nature of the amendment. This can either be led by one party to the framework or all.
- If an amendment is deemed necessary during either type of review, the existing framework will remain in place until a final amendment has been agreed. As part of this process Parties may agree to interim measures on the relevant issue while the final amendment is decided.

- All amendments to the framework must be agreed by all Parties and a new framework concordat signed by all Parties.

If parties cannot agree whether or how the framework should be amended this may become a disagreement and as such could be raised through the framework's dispute avoidance and resolution mechanism (see Section 13).

## 13. Dispute resolution

### Process

All Parties to this Framework agree to work together to develop policy on matters of mutual interest and will endeavour to reach agreement and work together to resolve disagreements, recognising the importance of co-operation where appropriate. This includes decision making arrangements which allow for policies to be drawn up and developed collaboratively between the Parties.

If one Party to this Framework considers that a new policy or measure agreed by the FNWG is not consistent with the aims of the Framework, it can trigger the dispute resolution process. The goal of the dispute avoidance and resolution mechanism is to avoid escalation to a higher official or ministerial level, by resolving any disagreements at the lowest possible level.

The outcomes of the intergovernmental relations review are in the process of being implemented. Once confirmation has been provided from each government, the outcomes of the review and appropriate intergovernmental structures will be reflected in this Common Framework"

The dispute resolution process will abide by the appropriate intergovernmental structures.

The aim of dispute resolution will be for issues to be discussed and resolved at the earliest stage possible. The Parties commit to maintain the distinction between:

- a. A difference of view (which has no impact on decisions taken by another Party);
- b. A disagreement (which requires some resolution, ideally at official level); and
- c. A dispute (which must be escalated to Ministers for resolution and/or refers to a decision that has been made with an unwanted impact on another Party).

The above distinctions should be used to ensure issues are escalated appropriately and the burden on dispute resolution processes are minimal.

In the first instance, if a dispute resolution process is triggered, the Organics Four Nations Working Group would seek to resolve it at the earliest opportunity.

At each stage policy teams and policy fora are expected to obtain and use expert opinion and advice, data reports and other sources to inform the handling of a

difference, disagreement and – where identified – a dispute. If necessary, this Group would escalate to the SOPB and, if this fails, they would escalate to IMG EFRA.

Once all the other options outlined above have been exhausted, and if a dispute has still not been resolved, the disagreement may be referred to the appropriate intergovernmental structures. This is expected to be a method of last resort to be applied for only the most serious issues incapable of being resolved at portfolio level, as there may be significant implications for the relationships between Parties, if all other alternatives have been exhausted.

The goal of this dispute avoidance and resolution mechanism is therefore to avoid escalation to this point, by resolving any disagreements at the lowest possible level. Referral to Ministerial level should be utilised only when genuine agreement cannot be reached and divergence would impact negatively on the ability to meet the Common Framework principles. In those areas where a common approach is not needed in order to meet these principles an "agreement to disagree" could be considered an acceptable resolution.

The below diagram states the levels of escalation of a disagreement to a dispute and the interaction between each level.

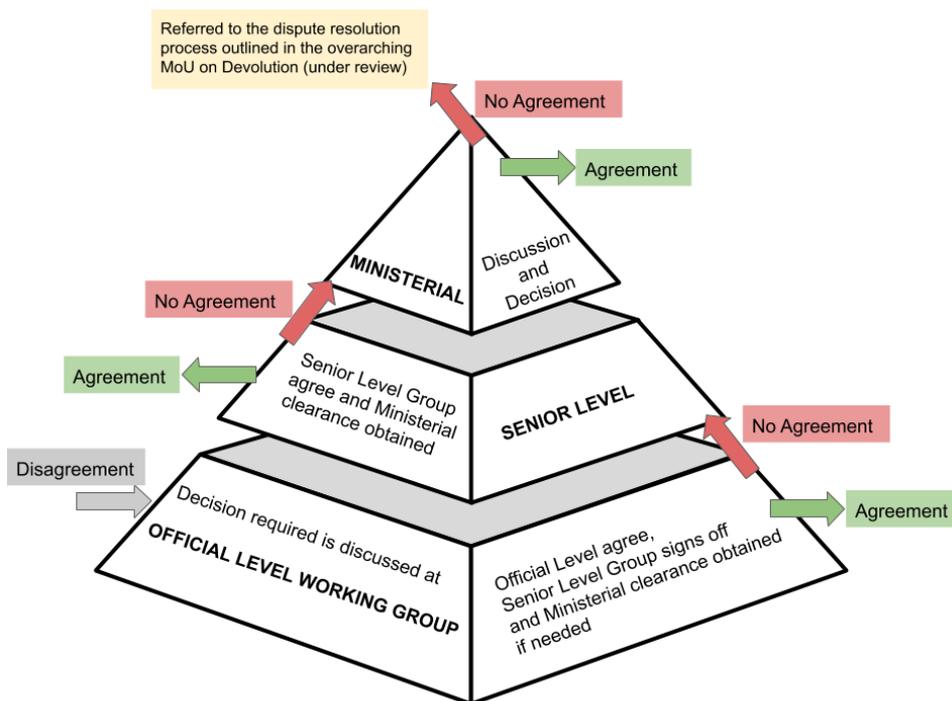


Diagram displaying the dispute resolution process

- The official level working group discuss the disagreement. If this results in the disagreement being resolved at official level, the senior level group signs off the agreement. Ministerial clearance will be obtained if needed.

- If agreement is not reached, the issue will be escalated to the senior level group. Ministerial clearance will be obtained if this group reaches agreement.
- If there is still no agreement, the issue will be referred to ministers for discussion and decision. If an agreement can still not be found, then the dispute will be referred to the dispute resolution process in the overarching MoU on Devolution, which is under review.

### **Timescales for escalation**

When a proposal is raised at official level, consideration will be given to the urgency of the proposal (i.e. how quickly a decision is required). This assessment will guide timescales for escalation of disagreement within the governance structure, with decisions requiring a more immediate resolution being escalated more quickly.

### **Evidence gathering**

At each stage further evidence may be requested from the preceding forum before the disagreement is discussed.

### **Third parties**

No third parties would be involved in dispute resolution.

## Annex A - Joint Ministerial Committee (EU Negotiations) Communique, October 2017

### **Common Frameworks: Definition and Principles**

#### **Definition**

As the UK leaves the European Union, the Government of the United Kingdom and the devolved administrations agree to work together to establish common approaches in some areas that are currently governed by EU law, but that are otherwise within areas of competence of the devolved administrations or legislatures. A framework will set out a common UK, or GB, approach and how it will be operated and governed. This may consist of common goals, minimum or maximum standards, harmonisation, limits on action, or mutual recognition, depending on the policy area and the objectives being pursued. Frameworks may be implemented by legislation, by executive action, by memorandums of understanding, or by other means depending on the context in which the framework is intended to operate.

#### **Context**

The following principles apply to common frameworks in areas where EU law currently intersects with devolved competence. There will also be close working between the UK Government and the devolved administrations on reserved and excepted matters that impact significantly on devolved responsibilities.

Discussions will be either multilateral or bilateral between the UK Government and the devolved administrations. It will be the aim of all parties to agree where there is a need for common frameworks and the content of them.

The outcomes from these discussions on common frameworks will be without prejudice to the UK's negotiations and future relationship with the EU.

#### **Principles**

1. Common frameworks will be established where they are necessary in order to:
  - enable the functioning of the UK internal market, while acknowledging policy divergence;
  - ensure compliance with international obligations;
  - ensure the UK can negotiate, enter into and implement new trade agreements and international treaties;
  - enable the management of common resources;
  - administer and provide access to justice in cases with a cross-border element; and
  - safeguard the security of the UK.
2. Frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:

- be based on established conventions and practices, including that the competence of the devolved institutions will not normally be adjusted without their consent;
- maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory as is afforded by current EU rules; and
- lead to a significant increase in decision-making powers for the devolved administrations.

3. Frameworks will ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK that shares a land frontier with the EU. They will also adhere to the Belfast Agreement.

## Annex B - Terms of Reference for the Organics Four Nation Working Group (FNWG)

### **Purpose / role of the group:**

- The purpose of this group is to establish and develop mechanisms between the Parties for coordination, cooperation and collaboration within the organic policy area.
- All Parties agree to contribute to organic policy development, in addition to managing the application of current organic policy. This may involve discussion of any areas of concern with the current regime or otherwise bringing to the group's attention any policy change they would like to propose and solutions to any perceived issues.

### **Ways of working:**

- The FNWG will consist of representatives of each Party and will convene a minimum of four times per year. This will be a non-technical group for discussing issues, sharing information and horizon scanning. The group may meet more or less frequently as circumstances dictate.
- Each Party commits to sending at least one representative from the list of members in Annex A. Up to five additional representatives may attend with the prior agreement of the remaining FNWG members. Attendance will be via telephone, conference or in person. The list of members will be updated as required.
- Joint decision-making mechanisms - focusing on building consensus based decision-making, dispute prevention and dispute resolution processes for where agreement cannot be reached, or where an administration is not adhering to the terms set out in this group.
- All Parties agree to cooperate and work constructively to reach joint decisions on the application of the organic standards.
- All Parties commit to maintain good levels of communication throughout the decision-making process. This requires input at the quarterly meetings and outside of these meetings by email or conference call if any pressing issues arise.
- Parties initiating a change to matters pertaining to organic policy in its own jurisdiction should:
  - a) Notify the proposed change to the FNWG via email or in person if at the FNWG meeting.
  - b) At the point of notification provide an assessment and summary of the change they wish to make.
  - c) Commit to work with the other administrations, gaining more detailed evidence where possible surrounding the notified change(s) and working to agree, within 3 months after initial notification, the impact of the change on the UK market as a whole. Assessment of the impact of a change on the UK market should use an agreed evidence base made up of technical data and scientific advice which all Parties have endorsed.

- d) Before launching a public consultation on, or progressing in any other material way, the proposed change, each administration commits to consulting the FNWG (within three months).
- The Parties can express their views on whether or not they endorse the change. If there are concerns about the change, these should be discussed in meetings attended by appropriate working level officials from the Four Parties. Working-level meetings will explore whether the change should be amended in any way.
  - If, despite best efforts to consider all available evidence, there is disagreement over a change between one or more Party, the dispute resolution process (as found in the overarching Statement of Intent) is triggered, and officials are tasked with seeking means of compromise.
  - Future policy development may include legislative or non-legislative measures and will not limit or constrain each administration from exercising devolved powers.

### **Governance:**

- The FNWG will seek to find solutions to organic issues within its own members but reserves the right to seek guidance from experts and/or consent from appropriate senior colleagues or Ministers including through existing portfolio channels such as Senior Officials Programme Board and IMG-EFRA, when complex issues arise.
- All Parties will work towards establishing a UK Expert Group on Organic Production. This will be a group for technical and complex organic issues. It is envisaged that the Expert Group, which will be a non-statutory body, will take on some of the roles currently taken by the EU Expert Group for Technical Advice on Organic Production (EGTOP). They will provide expertise to future decision making on organic policy.
- The UK Government should also make it clear when it is acting on behalf of England and when it is acting on behalf of the UK as a whole.

### **Meetings:**

- A policy official responsible for organic policy in each Party must be invited to attend all FNWG meetings. They must be committed to working cooperatively to represent their own Party, whilst also recognising that joint decisions should always be sought wherever appropriate.
- Non-members can be invited with prior consent from at least one member of the FNWG from each Party. The circumstances in which this may occur could be, but is not limited to; input is required from an expert group or individual, leads from other policy areas where there are cross-cutting issues, individual development opportunity.
- The frequency this group meets can be amended as necessary if pertinent matters arise that require input from the FNWG. At least two of the Parties must agree to a change in scheduled meetings.
- Each nation will organise and chair the regular quarterly meetings in turn and will be responsible for producing the agenda for the meeting and the minutes from the meeting and circulating these to the rest of the FNWG.

- The order for organising and chairing the meeting shall be England, Northern Ireland, Scotland, and Wales. England shall chair the first meeting.
- The chairing Party must provide an agenda to the group at least five working days prior to each meeting. Minutes from the meeting and action points will be circulated via email afterwards within five working days.
- The meeting organiser will ask all members via email for agenda items, at least 10 working days before a final agenda is sent out. Action points from the previous meeting or any points that were carried forward will be added to the agenda.

# Organic Production framework concordat

## 1. Introduction

This framework operates in accordance with the principles outlined in the overarching Memorandum of Understanding on Devolution and is consistent with, and complemented by, other guidance on common working arrangements, notably the common frameworks principles described in the communique from the Joint Ministerial Committee (EU Negotiations) (referred to as JMC (EN)) of 16 October 2017<sup>1</sup>. For the avoidance of doubt: this framework and concordat are not intended to be legally binding or enforceable.

This concordat will be an agreement between the UK Government, the Scottish Government, the Welsh Government and DAERA (Department for Agriculture, Environment and Rural Affairs (NI)) (hereafter referred to as the 'the Parties' to the framework).

## 2. Scope

### EU law and retained EU law

The elements of EU law and retained EU law in this area that intersect with devolved competence are:

- (EC) 834/2007 – lays down the legal framework for organic products. It contains the basic objectives and general principles for organic farming and rules on production, labelling, controls and trade with non-EU countries.
- (EC) 889/2008 – lays down more specific rules governing organic production, labelling and control. These rules extend to plant, seaweed and livestock production, feed, aquaculture animal production and the collection, packaging, transport and storage of organic products. Controls include specific requirements and the responsibilities of operators including annual inspections, documentation, accounts and access to facilities.
- (EC) 1235/2008 – lays down detailed rules governing the importation of organic products by implementing article 32 and 33 of (EC) 834/2007. Specific provisions deal with the drawing up of a list of recognised control bodies and authorities, documentary evidence required and certificates of inspection.
- EU 2017/625 The Official Controls Regulation – addresses official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products.

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<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/652285/Joint\\_Ministerial\\_Committee\\_communique.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/652285/Joint_Ministerial_Committee_communique.pdf)

## Domestic Law

The elements of domestic law in this area that intersect with devolved competence are:

- The Organic Products Regulations 2009 (and subsequent amendments) is the relevant domestic legislation that provides for the administration and enforcement of (EC) 834/2007, (EC) 889/2008 and (EC) 1235/2008.
- The Organic Products (Amendment) (EU Exit) Regulations 2019
- The Organic Production and Control (Amendment) (EU Exit) Regulations 2019
- The Organic Production (Control of Imports) (Amendment) (EU Exit) Regulations 2019
- The Agriculture (Legislative Functions) (EU Exit) (No 2) Regulations 2019.
- The Organic Products (Production and Control) (Amendment) (EU Exit) Regulations 2020
- The Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2020
- The Agriculture Act 2020
- The Organic Products Regulations (Northern Ireland) 2020 is the relevant domestic legislation that provides for the administration and enforcement of (EC) 834/2007, (EC) 889/2008 and (EC) 1235/2008 for Northern Ireland.
- The Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019, which provide for implementation and enforcement of EU 2017/625, including as regards organic production and the labelling of organic products.
- The Official Controls (Animals, Feed and Food, Plant Health etc) (Amendment) (EU Exit) Regulations 2020
- The Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) (No. 2) Regulations 2020
- The Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) Regulations 2020
- The Organic Production (Organic Indications) (Amendment) (EU Exit) Regulations 2019
- Organics (Equivalence and Control Bodies Listing) (Amendment) Regulations 2021

EU law and retained EU law set out the legal framework for the production, processing, importing and exporting of organic products. All products sold as organic must originate from operators (growers, processors and importers) who are registered with an approved certification body (organic control body). Organic operators are subject to regular inspection.

EU and UK organics regulations also list third countries whose organic standards are recognised as equivalent with the EU or UK and, where full equivalence has not been agreed, organic control bodies worldwide whose standards are recognised as equivalent, or are permitted to certify to the EU or UK standard in specific third countries.

The previous EU regime has been transposed as retained EU law with operability amendments as detailed under the sub-header 'Domestic Law' above. The operability amendments include the conferral on authorities within the UK of powers and duties previously exercisable at EU level or by member states.

Officials in each of the Governments collaborate on aspects of Organic Production policy. To ensure the organics regime works in practice, officials work closely with:

- UK organic sector (industry)
- UK organic control bodies
- UK Accreditation Service (UKAS)
- UK Port Health Authorities (PHA)

UKAS assess and accredit UK-based organic control bodies, who provide certification to organic operators that they meet the standards required in law. The Irish National Accreditation Board (INAB) assesses and accredits Ireland-based organic control bodies. After accreditation, the Department for Environment, Food and Rural Affairs (Defra) approves the control bodies to operate in the UK.

There are six GB-based organic control bodies approved to operate across the UK:

- Biodynamic Association Certification
- OF&G (Scotland) Ltd
- Organic Farmers and Growers CIC
- Organic Food Federation
- Quality Welsh Food Certification Ltd
- Soil Association Certification Ltd

And three Ireland based control bodies approved to operate in Northern Ireland:

- Global Trust
- Irish Organic Association
- Organic Trust

## **UK Government/Devolved Government Competence and the Parties to this Framework**

There is existing disagreement between the Parties on whether certain matters are devolved or reserved in the area of organic production. This document does not seek to make any statements regarding matters of constitution or law in this area or set any binding precedents in those areas.

It is agreed by all parties that the existence of this disagreement does not impact the ability of the framework to operate. The Parties have historically worked closely together on this area and expect to continue to do so.

This framework also operates in conjunction with other frameworks which are pertinent to organic production, including the Agricultural Support Framework, Plant Health Framework and Animal Health and Welfare Framework.

## Policy level arrangements

It has been agreed by the Parties that Defra will continue to lead as the competent authority for GB in the areas of organic production and related official controls. The Competent Authority is the central authority of a state competent for the organisation of official controls in the field of organic production.

As a result of the Northern Ireland Protocol, Northern Ireland will continue to follow EU regulations on organics. The EU requires that there is an independent competent authority for Northern Ireland. This new Northern Ireland Competent authority (NICA) has been established within Defra. Discussion is ongoing regarding the long term administration and resourcing of the NICA, in particular whether it will continue to be administered by Defra or by DAERA. If it is transferred this may require the framework to be updated if the parties believe this to be necessary. This can be done under the initial review, exceptional review or periodic review discussed in Section 7 Review and Amendment Mechanism.

Under EU law and retained EU law, each of the Parties have powers to make regulations in this policy area for their own territory. Without prejudice to those powers, under this framework any proposal to create a new Regulation would involve joint discussion and decision making through the Organics Four Nation Working Group (See section 5. Decision Making).

This framework will be an agreement between the Parties.

## International obligations

There are no specific international obligations on organic production and processing other than equivalence agreements (in cases where those are established via treaty).

The Common Frameworks Principles agreed at JMC (EN) state that frameworks will be established where necessary to ensure the UK can negotiate, enter into and implement new trade agreements and international treaties, and ensure compliance with international obligations. These principles were established in the context of an ambition for close working between the Parties on reserved matters that significantly impact devolved responsibilities in common frameworks.

Common Frameworks will allow the parties, in a timely manner, to ascertain the impact of international trade on managing UK policy divergence. All Parties to the framework will consider any impact in a way that meets the requirements of the JMC (EN) principles. Common Frameworks will afford an opportunity to consider any implications stemming from international trade which have a direct bearing on the operation of a Common Framework. The scope of this consideration will not extend beyond Common Frameworks.

International policy formulation will be developed in line with the current Devolution MoU and its accompanying International Relations Concordat. International obligations will be implemented in line with these agreements. In this respect, the

Parties will automatically use any updated IR Concordat, and the wider outcomes of the Joint IGR Review, as the basis for such international considerations

### **The Protocol on Ireland/Northern Ireland**

The Agreement on the Withdrawal of the United Kingdom from the EU sets out the current arrangements where, although remaining within the UK's custom territory, Northern Ireland will remain aligned with the EU. The following paragraphs of Annex 2 of the Northern Ireland Protocol are relevant to this framework.

This Framework reflects the specific circumstances in NI that arise as a result of the Protocol and remains UK wide in its scope. As such decision making and information sharing will always respect the competence of all parties to the Framework and in particular the provisions in Article 18 of the Protocol on democratic consent in Northern Ireland.

Where one or more of UK Government, the Scottish Government or the Welsh Governments propose to change rules in a way that has policy or regulatory implications for the rest of the UK, or where rules in Northern Ireland change in alignment with the EU, the Framework is intended to provide governance structures and consensus-based processes for considering and managing the impact of these changes.

- As rules evolve to meet the emerging regulatory needs of the UK, Scottish and Welsh Governments, this Framework will ensure the full participation of Northern Ireland in discussions such that the views of the relevant Northern Ireland Executive Minister(s) are taken into account in reaching any policy or regulatory decisions by the UK, Scottish or Welsh Governments.
- Where rules in Northern Ireland change in alignment with the EU, the Framework will form the basis of a mechanism to ensure consideration by the four governments of any changes, and will enable them to determine any impacts and subsequent actions arising from these changes.

Where issues or concerns raised by the relevant Northern Ireland Executive Minister(s) in respect of GB-only proposals have not been satisfactorily addressed, they will have the right to trigger a review of the issue as set out in the dispute resolution process at section 6 of this document

### **EU-UK Trade and Cooperation Agreement (TCA)**

The policy area covered by this Common Framework intersects with the EU-UK Trade and Cooperation Agreement and therefore topics relevant to the framework may be considered from time to time by relevant TCA Specialised Committees or the Partnership Council. Where a UK-EU meeting agenda includes an item concerning implementation in an area of devolved competence, UK Government (DG) should facilitate Devolved Government (DG) attendance of a similar level to that of the UKG representatives with final discretion as to the UK delegation a matter for the UK co-

chair. UKG should engage the DGs as fully as possible in preparation for these meetings regardless of attendance, and on all relevant implementation matters.

### 3. Principles for working together

The framework will operate within the principles agreed in the Joint Ministerial Committee (EU Negotiations) (JMC(EN)) Communiqué of 16 October 2017.<sup>2</sup>

The Organics Four Nations Working Group (FNWG) will operate in accordance with Annex A: Organics Four Nations Working Group - Terms of Reference.

The Parties to the framework commit to:

- Work closely with one another in a spirit of good faith to develop organic policy and manage the implementation of existing organic policy.
- Discuss relevant issues through the forum of the FNWG.
- Hold meetings of the FNWG at minimum quarterly, and more frequently at the request of one or more governments, and maintain close communication between meetings via appropriate channels.
- Inform other Parties of relevant policy developments and other issues as they arise, via the mechanism of the FNWG or other means.
- Develop an appropriate evidence base for making decisions, consulting external groups or commissioning research where necessary. In particular by establishing and maintaining the UK Expert Group on Organic Production.
- Provide each other with as full and open as possible access to scientific, technical and policy information including statistics and research and, where appropriate, representations from third parties
- Inform their respective legislatures, where appropriate, of developments in organic policymaking.
- Consult relevant stakeholders on decisions and work closely with the wider organics sector.
- Work in a collaborative manner to resolve disagreements at the lowest level possible. And, where an agreement cannot be reached, engage in the dispute resolution mechanism outlined.
- Review the Framework Outline Agreement, Concordat and other associated documents when necessary.

The framework aims to establish shared ways of working and to develop common policy approaches on organics across the UK where this is appropriate, within the scope of the framework and has been agreed by all parties. It recognises that businesses and consumers in all four nations (as well as international trading partners) can benefit from a consistent policy approach and set of legislation on organics.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/652285/Joint\\_Ministerial\\_Committee\\_communique.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/652285/Joint_Ministerial_Committee_communique.pdf)

Policy consistency should remain where it is agreed that it is necessary or desirable; however, the framework also allows for divergence, as there will be instances where it is appropriate for each nation to take a different approach to organics to respond to nation-specific needs. Therefore, all Parties retain the ability to diverge within their nation, in line with the governance arrangements set out in the framework for managing divergence, and in accordance with the JMC (EN) common framework principles.

## 4. Roles and responsibilities

The following sets out the roles and responsibilities of officials and Ministers in this framework.

### **Officials**

Officials hold day-to-day discussions on the policy covered by the framework and put advice to Ministers with the rationale for the approach taken within organics policy (e.g. a GB-wide approach), or why divergent policies may be necessary. Officials across each government should convene to discuss policy issues as appropriate via the FNWG to keep colleagues regularly informed of any ramifications that any policy will have across governments. If officials do not agree when making decisions, issues discussed at a working level can be escalated to senior officials in line with the dispute avoidance and resolution mechanism outlined in Section 6.

### **Senior Officials**

Senior officials (ordinarily Deputy Directors) provide strategic direction on organics policy governed by the frameworks and take key operational decisions. They may, for instance, review an issue escalated from official level as per the dispute avoidance and resolution mechanism. Senior officials should convene to discuss issues as appropriate, either by regular meeting or on an *ad hoc* basis, as outlined in the terms of reference for the relevant cross administration senior official level groups.

### **Ministers**

Ministers may receive advice from their officials either concurrently across Parties as issues arise or in the course of business as usual for individual Party. Ministers may accept advice or they may reject it. If the issue is not resolved it can be referred to the Senior Officials Programme Board for consideration, and/or escalated to Inter-Ministerial Group EFRA for consideration.

## Additional Responsibilities:

It has been agreed that Defra will continue to act as the Competent Authority for England, Scotland and Wales. Defra has established a new Northern Ireland Competent Authority (NICA). Discussion is ongoing regarding the long-term administration and resourcing of the NICA, in particular whether it will continue to be administered by Defra or by DAERA. If this situation changes it may require the framework to be updated if the parties believe this to be necessary. This can be done under the initial review, exceptional review or periodic review discussed in Section 7 Review and Amendment Mechanism.

As the Competent Authority, Defra will ultimately be responsible for the organisation of official controls in the field of organic production in accordance with the provisions set out under retained EU legislation. This is a separate role from the broader Competent Authority for Official Controls.

The UK Competent Authority role, in the context of devolved competence in Organic Policy involves the coordination across UK Government, Scottish Government, and Welsh Government to:

- Liaison with EU and Third Countries
- Oversight, monitoring and approval of Control Bodies who operate in England, Scotland, and Wales
- Advising on logo development and labelling requirements in collaboration with the Parties
- Data handling and monitoring
- Advising on Policy Development in collaboration with the Parties
- Representation at other forums/external stakeholder meetings
- Operational Delivery: derogations, imports, trading standards, irregularity investigations/residues
- Government business, query handling, communications, guidance and training, international reporting requirements

### (i) Liaison with EU and Third Countries

- The international aspect to organic policy in England, Scotland, and Wales will require the Competent Authority to continue to represent the UK Government, Scottish Government, and Welsh Government with the EU, the EEA and third countries. The Competent Authority will communicate with the EU, the EEA and third countries but will consult with the parties to the framework through the FNWG. The Competent Authority is committed to transparency and collaboration with the Parties in this process. As such information will be shared, and decisions agreed upon in the FNWG as discussed elsewhere.

### (ii) Oversight, monitoring and approval of Control Bodies which operate in England, Scotland, and Wales

- The appointed Competent Authority is responsible for making sure that organic rules are followed, delegating power to approved control bodies, working with local authorities and ultimately responsible for auditing the inspection system within England, Scotland, and Wales, ensuring the Control Bodies' annual reports are submitted, detailing the results of the controls

carried out on organic operators and on the measures taken in case of non-compliance.

(iii) Logo development and labelling requirements

- The Parties will discuss the relevant issues, e.g. the development of a GB organic logo, GB labelling requirements, etc. in the FNWG.

(iv) Data handling and monitoring

- Data relating to information on derogations, audits and irregularities will continue to be managed and monitored by the Competent Authority and shared with all Parties as per the 'Information Sharing' section below.
- The Competent Authority will perform operational delivery and maintenance of any databases, electronic records, issuing of code numbers to operators, and other day-to-day administrative functions with due regard to this agreement. This is likely to involve creating, maintaining and updating databases and records. The Parties have the right to view relevant documents and information as needed.

(v) Policy Development

- The Parties agree to contribute to Organic policy development with the aim of advancing organics policy, in addition to managing the application of current organic policy. This may involve discussion of any areas of concern with the current regime at FNWG sessions, which will take place at minimum quarterly and more often if requested by members, or otherwise bringing to the group's attention any policy change they would like to propose. This can include members raising concerns via correspondence or other communication channels, as they deem appropriate.

(vi) Representation at other forums/external stakeholder meetings

- The Competent Authority will take information from discussions and agreements with the Scottish Government, Welsh Government and the Northern Ireland Executive from our quarterly FNWG meetings and use this to contribute at forums and external stakeholder meetings.

## Information sharing

Each Party will aim to provide each other with as full and open as possible access to scientific, technical and policy information including statistics and research and, where appropriate, representations from third parties. All Parties are committed to the principle of good communication and will share pertinent information, through the FNWG. Pertinent information would include anything of significance or important information to any other party.

## Parliamentary and stakeholder communication and engagement

Existing UK wide mechanisms for stakeholder engagement, such as the UK Organic Control Bodies Group, will continue to meet regularly. The Parties will also be responsible for engaging with their own stakeholders. For any major changes to regulation there will be specific consultation with stakeholders. The Parties will

continue to inform their respective legislatures, where appropriate, of developments in organic policymaking.

### **Roles and responsibilities of existing or new bodies**

UK Accreditation Service (UKAS) – This is the national accreditation body for the United Kingdom, formally appointed under retained EU regulation (EC) 765/2008. UKAS is independent of Government and works under a Memorandum of Understanding with the UK Government to confer national accreditation symbols on a variety of conformity assessment bodies.

UKAS accredit UK organic control bodies to be able to certify that organic operators meet the standards required of organic production. More information can be found below:

<https://www.ukas.com/about/our-role/>

UK Organic Control Bodies – Control Bodies certify that organic operators meet the standards required of organic production as set out under domestic law, EU law and retained EU law relevant to the framework. More information can be found below:

<https://www.gov.uk/government/publications/organic-certification-list-of-uk-approved-organic-control-bodies>

UK Expert Group on Organic Production (UK EGOP) - This will be a group for technical and complex organic issues. It is envisaged that the Expert Group, which will be a non-statutory body, will take on the role of the EU Expert Group for Technical Advice on Organic Production (EGTOP). They will provide expertise to future decision making on organic policy. The composition, remit, membership and other details of the UK EGOP have yet to be determined, these will be decided by the FNWG.

## **5. Decision making**

### **Key joint decisions that will be made through this framework**

The key joint decisions taken by the Parties to this framework are:

- Changes to organics regulations.
- Establishment and ongoing operation of the UK Organic Production Expert Group (UK EGOP) which will advise on regulation.
- Resolution of issues (as per section 6)
- Reviewing and amending the framework

### **Decision-making fora**

The main forum for official-level discussion and decision making is the Organics Four Nation Working Group (FNWG). Terms of Reference for this group are set out in Annex A.

The purpose of the FNWG group is to establish and develop mechanisms between the Parties for coordination, cooperation and collaboration within organic policy. This includes discussion of any concerns with the current organic production regime (as established in retained EU law), any issues arising out of the application of EU law on organic production in NI, and otherwise bringing to the group's attention any proposed policy change and solutions to any perceived issues. The Parties agree to cooperate and work constructively to reach joint decisions on the application of organics standards.

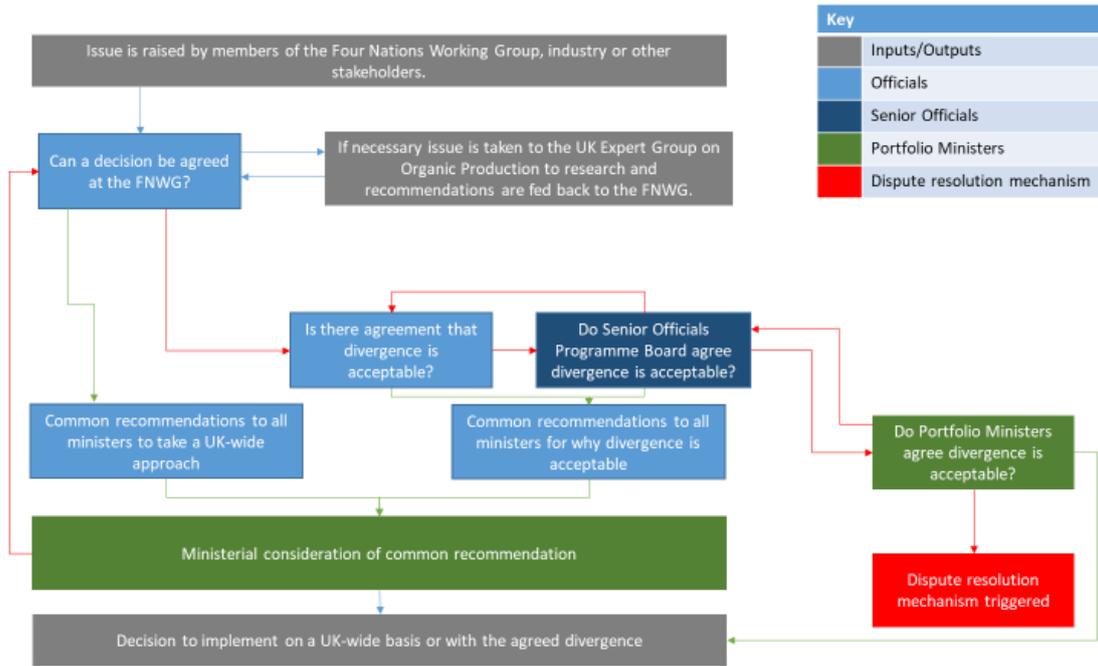
The Parties also commit to working towards establishing a UK Expert Group on Organic Production to discuss technical and complex organic issues (this will take on roles currently fulfilled by various EU committees including the Committee on Organic Production and the Expert Group for Technical Advice on Organic Production).

For the proposed governance structure to operate most effectively, it is envisaged that recommendations for the majority of proposals will be agreed by the Parties at official level. It is therefore essential that an appropriate evidence base is developed at this level. The development of this evidence base for organics policy could be carried out through:

- Commissioning further evidence from the UK Expert Group on Organic Production (UK EGOP), or other relevant experts
- Commissioning further evidence from legal teams
- Seeking advice from external bodies
- Engagement with industry and other relevant stakeholders, in particular the Control Bodies via regular meetings

Where evidence is being gathered this will always be shared between the Parties. Commissioning of evidence will be discussed and agreed in the FNWG, including funding, source, terms of reference, etc. The Parties are committed to the principle of good communication and will share information and scientific research in the spirit of openness, transparency and collective objectives wherever possible.

The mechanism for senior official-level discussion and decision making will firstly be discussion between the Deputy Directors of the divisions concerned with organic production in each of the Parties, followed by the Defra-DAs Senior Officials Programme Board.



The Parties are committed to seeking advice from the UK Expert Group on Organic Production when issues arise around the enforcement and development of Organics regulations, and other issues that may arise. The UK Expert Group on Organic Production will provide advice but will not, however, act as a decision maker. The Terms of Reference and other details of how this group will operate are still to be decided upon by the FNWG.

## 6. Dispute avoidance and resolution mechanism

### Disagreements

The Parties to this framework have agreed that if there is a disagreement on a decision, an effort will be made to resolve this issue at the lowest possible level. In the first instance, officials who have identified a policy of another Party which they believe to have a negative impact in their own nation, or who are proposing a change they feel should apply at a cross-UK level (without prejudice to the NI Protocol), will notify this to the FNWG along with an assessment and summary of the issue. If there are any concerns these should be discussed at a meeting of the FNWG to explore solutions. Where it is agreed that divergence is not problematic no further steps need to be taken.

If, despite best efforts to consider all available evidence there remains a disagreement over the policy between one or more Parties, it is not agreed that it is acceptable for one or more Parties to diverge in the manner proposed and a cross-UK approach cannot be agreed, then the Parties will follow the dispute resolution process outlined below. A disagreement will only be regarded as a formal “dispute” if it has been taken to the formal dispute resolution process.

Most importantly, officials will be tasked with seeking a means of compromise. Any issues between Parties will be recorded, as this may help to inform the 'Review and Amendment' process when it is next conducted.

## Process

All Parties to this Framework agree to work together to develop policy on matters of mutual interest and will endeavour to reach agreement and work together to resolve disagreements, recognising the importance of co-operation where appropriate. This includes decision making arrangements which allow for policies to be drawn up and developed collaboratively between the Four Governments.

If one Party to this Framework considers that a new policy or measure agreed by the FNWG is not consistent with the aims of the Framework, it can trigger the dispute resolution process. The goal of the dispute avoidance and resolution mechanism is to avoid escalation to a higher official or ministerial level, by resolving any disagreements at the lowest possible level.

The outcomes of the intergovernmental relations review are in the process of being implemented. Once confirmation has been provided from each government, the outcomes of the review and appropriate intergovernmental structures will be reflected in this Common Framework.

The dispute resolution process will abide by the appropriate intergovernmental structures.

The aim of dispute resolution will be for issues to be discussed and resolved at the earliest stage possible. The Parties commit to maintain the distinction between:

- a. A difference of view (which has no impact on decisions taken by another party);
- b. A disagreement (which requires some resolution, ideally at official level); and
- c. A dispute (which must be escalated to Ministers for resolution and/or refers to a decision that has been made with an unwanted impact on another party).

The above distinctions should be used to ensure issues are escalated appropriately and the burden on dispute resolution processes are minimal.

In the first instance, if a dispute resolution process is triggered, the Organics Four Nations Working Group would seek to resolve it at the earliest opportunity.

At each stage policy teams and policy fora are expected to obtain and use expert opinion and advice, data reports and other sources to inform the handling of a difference, disagreement and – where identified – a dispute. If necessary, the FNWG would escalate to the SOPB and, if this fails, they would escalate to IMG EFRA.

Once all the other options outlined above have been exhausted, and if a dispute has still not been resolved, the disagreement may be referred to the appropriate intergovernmental structures. This is expected to be a method of last resort to be applied for only the most serious issues incapable of being resolved at portfolio level,

as there may be significant implications for the relationships between Parties, if all other alternatives have been exhausted.

The goal of this dispute avoidance and resolution mechanism is therefore to avoid escalation to this point, by resolving any disagreements at the lowest possible level. Referral to Ministerial level should be utilised only when genuine agreement cannot be reached and divergence would impact negatively on the ability to meet the Common Frameworks principles. In those areas where a common approach is not needed in order to meet these principles an "agreement to disagree" could be considered an acceptable resolution.

### **Timescales for escalation**

When a proposal is raised at official level, consideration will be given to the urgency of the proposal (i.e. how quickly a decision is required). This assessment will guide timescales for escalation of disagreement within the governance structure, with decisions requiring a more immediate resolution being escalated more quickly.

### **Evidence gathering**

At each stage further evidence may be requested from the preceding forum before the disagreement is discussed.

### **Third parties**

No third parties would be involved in dispute resolution.

## 7. Review and Amendment Mechanism

### Process

The Review and Amendment Mechanism (RAM) ensures the framework can adapt to changing policy and governance environments in the future. There are three types of review which are outlined below. The process for agreeing amendments should be identical regardless of the type of review. The RAM relies on consensus at each stage of the process from the Ministers responsible for the policy areas covered by the framework concordat.

Third parties can be used by any party to the framework to provide advice at any stage in the process. These include other government departments or bodies as well as external stakeholders such as NGOs and interest groups.

At the outset of the review stage, Parties to the framework must agree timelines for the process, including the possible amendment stage. If agreement is not reached in either the review or amendment stage, Parties to the framework can raise it as a dispute through the dispute avoidance and resolution mechanism (see Section 6).

### Review Stage

An initial review will take place 12 months after the initiation of the framework. During the initial review, Parties to the framework will discuss whether the governance and operational aspects of the framework are working effectively, and whether decisions made over the previous year need to be reflected in an update to the framework's concordat. This initial review is also intended as an opportunity to update the framework to take into account areas currently under discussion outside the remits of the policy teams.

A periodic review of the framework will take place every 3 years, or on a more frequent schedule if requested by members of the FNWG, in line with official or ministerial level meetings. The period of 3 years starts from the conclusion of a periodic review, or the initial review, and any amendment stages that follow. During the periodic review, Parties to the framework will discuss whether the governance and operational aspects of the framework are working effectively, and whether decisions made over the previous 3 years need to be reflected in an update to the framework's concordat.

An exceptional review of the framework is triggered by a 'significant issue'. A significant issue must be time sensitive and fundamentally impact the operation and/or the scope of the framework. The exceptional review may include a review of governance structures if all parties agree it is required. Otherwise, these issues are to be handled in the periodic review. The amendment stage can only be triggered through unanimous agreement by ministers.

## Amendment Stage

Following agreement that all Parties wish to enter the amendment stage, Parties will enter into discussion around the exact nature of the amendment. This can either be led by one party to the framework or all. If an amendment is deemed necessary during either type of review, the existing framework will remain in place until a final amendment has been agreed. As part of this process Parties may agree to interim measures on the relevant issue while the final amendment is decided. All amendments to the framework must be agreed by all Parties and a new framework concordat signed by all Parties.

If Parties cannot agree whether or how the framework should be amended this may become a disagreement and as such could be raised through the framework's dispute avoidance and resolution mechanism (see Section 6).

## 8. Monitoring

The Organics Four Nation Working Group will meet (quarterly at minimum and more frequently if requested by one or more Party), and communicate via regular correspondence, to manage current organic policy and to monitor the functioning of the framework. The purpose of monitoring is to assess:

- intergovernmental cooperation and collaboration as a result of the framework;
- whether parties are implementing and complying with the framework;
- whether divergence has taken place in contravention of the Common Framework principles; and
- whether divergence has taken place that impacts on organics policy covered by the framework.

The outcome of this monitoring will be used to inform joint decision-making, at both official and ministerial level, going forward and the review and amendment process (see section 7). As outlined in Section 5, Decision making, members of the FNWG will inform the group if they intend divergence on policy or propose changes they feel should apply at a cross-UK level (without prejudice to the NI Protocol). If it is agreed that such divergence is not problematic, or that a UK wide policy (without prejudice to the NI Protocol) will be adopted, then no further action needs to be taken. If there is disagreement on those matters that cannot be resolved, the dispute avoidance and resolution mechanism should be used.

## Annex A: Organics Four Nations Working Group - Terms of Reference

In peacetime only

To be agreed

The Organics Four Nations Working Group (FNWG) is the key strategic forum for UK-wide organics issues. It reaches, where possible, official-level agreement on UK and GB issues and, where appropriate, informs officials' recommendations to their respective Ministers.

The terms of reference of the FNWG in peacetime, is as follows:

### **Purpose / role of the group:**

- The purpose of this group is to establish and develop mechanisms between the Parties for coordination, cooperation, and collaboration within the organic policy area.
- All Parties agree to contribute to organic policy development, in addition to managing the application of current organic policy. This may involve discussion of any areas of concern with the current regime or otherwise bringing to the group's attention any policy change they would like to propose and solutions to any perceived issues.

### **Ways of working:**

- The FNWG will consist of representatives of each Party and will convene a minimum of four times per year. This will be a non-technical group for discussing issues, sharing information and horizon scanning. The group may meet more or less frequently as circumstances dictate.
- Each Party commits to sending at least one representative from the list of members in Annex A. Up to five additional representatives may attend with the prior agreement of the remaining FNWG members. Attendance will be via telephone, conference or in person. The list of members will be updated as required.
- Joint decision-making mechanisms - focusing on building consensus based decision-making, dispute prevention and dispute resolution processes for where agreement cannot be reached, or where an administration is not adhering to the terms set out in this group.
- All Parties agree to cooperate and work constructively to reach joint decisions on the application of the organic standards.
- All Parties commit to maintain good levels of communication throughout the decision-making process. This requires input at the quarterly meetings and outside of these meetings by email or conference call if any pressing issues arise.
- Parties initiating a change to matters pertaining to organic policy in its own jurisdiction should:

- a) Notify the proposed change to the FNWG via email or in person if at the FNWG meeting.
  - b) At the point of notification provide an assessment and summary of the change they wish to make.
  - c) Commit to work with the other Parties, gaining more detailed evidence where possible surrounding the notified change(s) and working to agree, within 3 months after initial notification, the impact of the change on the UK market as a whole. Assessment of the impact of a change on the UK market should use an agreed evidence base made up of technical data and scientific advice which all Parties have endorsed.
  - d) Before launching a public consultation on, or progressing in any other material way, the proposed change, each Party commits to consulting the FNWG (within three months).
- The Parties can express their views on whether or not they endorse the change. If there are concerns about the change, these should be discussed in meetings attended by appropriate working level officials from the Parties. Working-level meetings will explore whether the change should be amended in any way.
  - If, despite best efforts to consider all available evidence, there is disagreement over a change between one or more Parties, the dispute resolution process (as found in the overarching Statement of Intent) is triggered, and officials are tasked with seeking means of compromise.
  - Future policy development may include legislative or non-legislative measures and will not limit or constrain each administration from exercising devolved powers.

### **Governance:**

- The FNWG will seek to find solutions to organic issues within its own members but reserves the right to seek guidance from experts and/or consent from appropriate senior colleagues or Ministers including through existing portfolio channels such as Senior Officials Programme Board and IMG-EFRA, when complex issues arise.
- All Parties will work towards establishing a UK Expert Group on Organic Production. This will be a group for technical and complex organic issues. It is envisaged that the Expert Group, which will be a non-statutory body, will take on some of the roles currently taken by the EU Expert Group for Technical Advice on Organic Production (EGTOP). They will provide expertise to future decision making on organic policy.
- The UK Government should also make it clear when it is acting on behalf of England, the UK as a whole, or acting on behalf of England, Scotland and Wales.

### **Meetings:**

- A policy official responsible for organic policy in each Party must be invited to attend all FNWG meetings. They must be committed to working cooperatively to represent their own administration, whilst also recognising that joint decisions should always be sought wherever appropriate.

- Non-members can be invited with prior consent from at least one member of the FNWG from each Party. The circumstances in which this may occur could be, but is not limited to; input is required from an expert group or individual, leads from other policy areas where there are cross-cutting issues, individual development opportunity.
- The frequency this group meets can be amended as necessary if pertinent matters arise that require input from the FNWG. At least two of the Parties must agree to a change in scheduled meetings.
- Each Party will organise and chair the regular quarterly meetings in turn and will be responsible for producing the agenda for the meeting and the minutes from the meeting and circulating these to the rest of the FNWG.
- The order for organising and chairing the meeting shall be England, Northern Ireland, Scotland and Wales. England shall chair the first meeting.
- The chairing Party must provide an agenda to the group at least five working days prior to each meeting. Minutes from the meeting and action points will be circulated via email afterwards within five working days.
- The meeting organiser will ask all members via email for agenda items, at least 10 working days before a final agenda is sent out. Action points from the previous meeting or any points that were carried forward will be added to the agenda.

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