

Reference: 20220158

27 May 2022



Dear 

Thank you for your Official Information Act request, received on 3 May 2022. You requested the following reports:

*Treasury report T98C/1340 "Producer Board Reform: Cabinet Paper",
Treasury report T98C/1379 "Aide Memoire for Producer Board Reform Paper
Going to Cabinet on Monday 4 May 1998*

Information being released

Please find enclosed the following documents:

Item	Date	Document Description	Decision
1.	29 April 1998	<i>Treasury report T98C/1340- Producer Board Reform: Cabinet Paper</i>	Released in Full
2.	1 May 1998	<i>Treasury report T98C/1379 -Aide Memoire for Producer Board Reform Paper Going to Cabinet on Monday 4 May 1998</i>	Released in Full

Please note that this letter (with your personal details removed) and enclosed documents may be published on the Treasury website.

This reply addresses the information you requested. You have the right to ask the Ombudsman to investigate and review my decision.

Yours sincerely

Reubhan Swann
Manager, Ministerial Advisory Service

TREASURY REPORT COVER SHEET

Report No: T98C/1340

Date: 29 April 1998

Security Classification:

Subject: **Producer Board Reform: Cabinet Paper**

	Action Sought	Deadline
Treasurer	Sign Draft Cabinet Paper and Refer to the Cabinet Office	10.00 am Thursday 30 April 1998
Minister of Finance	None	None
Associate Treasurer	None	None

Contact for Telephone Discussion (if required):

Name	Position	Telephone		Suggested First Contact
		Direct Line	After Hours	
Michael Papesch	Manager, Land & Natural Resources	471 5080	476 6767	✓
Roger Procter	Director, Regulatory Economics Directorate	471 5919	021 675 304	

AG/3/3
T98C/1340

29 April 1998

Treasurer

cc Minister of Finance
Associate Treasurer

PRODUCER BOARD REFORM: CABINET PAPER

1. Attached for your signature is a draft Cabinet paper for Monday 4 May 1998 proposing three options for progressing producer board reform in the 1998 Budget. The three options are:

- announcing the deregulation of the kiwifruit industry, from 1 April 1999. Under this option, all other producer boards would be asked to continue with the process of preparing industry plans, in terms of the second option outlined immediately below;
- announcing clear objectives and timetables for all boards preparing industry plans. Under this option, the Kiwifruit Marketing Board would be asked (as would all other Boards) to prepare an industry plan in accordance with the stated objectives. A date of 1 October 1998 would be set for the receipt of all of the industry plans
- making a strong statement in the 1998 Budget in support of the current process of industries preparing their own industry plans for the loss of statutory protection. This option is favoured by the Agriculture Ministers.

2. An earlier draft of this paper has been discussed with the Agriculture Ministers and their officials. Their comments have been incorporated into the paper as appropriate.

Recommendation

3. It is recommended that you **sign** the attached draft Cabinet paper.

Michael Papesch
for Secretary to the Treasury

Hon Winston Peters
Deputy Prime Minister and Treasurer

29 April 1998

MEMORANDUM FOR CABINET

PRODUCER BOARD REFORM

Executive Summary

1. This paper proposes three options for advancing producer board reform:
 - a announcement in the 1998 Budget of full deregulation of the kiwifruit industry as at 1 April 1999 (option 1), accompanied by a statement clearly setting out the Government's strategy for achieving reform of the remaining boards (option 2); or
 - b announcement in the 1998 Budget of the Government's objectives for the reform of all producer boards (including kiwifruit), accompanied by a timetable and process for reaching agreement with the boards by 1 October 1998 on their proposals for transition (option 2); or
 - c announcement in the 1998 Budget giving a strong message to reinforce the Government's current strategy and process for producer board deregulation (option 3).

Option 1: Kiwifruit Deregulation

2. The kiwifruit industry is already partially deregulated, and it is estimated that a majority of suppliers, by volume, would support full deregulation. Competitive marketing should improve both efficiency and innovation, and turn around the current poor performance of the industry. This would bring benefits for both industry members and the wider economy.

3. Risks of deregulation include weak selling and transitional costs. However, overseas evidence shows that these are short-term risks only, and will be outweighed by the gains from competition. Government and industry can ensure structures are in place to aid a smooth transition to deregulation.

4. The remaining producer boards with statutory export monopolies are not considered ready for deregulation at this time. However, there is a risk that announcement of kiwifruit deregulation at 1 April 1999 will create uncertainty for the other boards as to their own future. Any announcement on kiwifruit should be accompanied by a firm commitment to a reasonable timetable for reform of other producer boards, as outlined in Option 2 below.

Option 2: Announce objectives and timetable for all boards

5. Option 2 aims to increase the transparency and credibility of the current process by explicitly stating broad objectives which the Government would like to see from the current deregulation process, including a firm timetable for reform. Five proposed objectives which are consistent with the Government's general economic strategy (and good economic practice) are:

- i that the ability to export be truly contestable;
- ii that the domestic market be competitive;
- iii that there be complete separation of regulatory and commercial functions;
- iv that Research and Development (and other similar "club good" activities) must add value and, if possible, be funded voluntarily; and
- v that contribution of capital be non-compulsory.

6. Option 2 also proposes to bring forward the date by which boards are required to report back with their proposals for reform from the end of 1998 to 1 October 1998. The current report back date of 31 December 1998 may perpetuate existing uncertainty in these industries because the Government will not be in a position to make substantive comment on the proposals over the Christmas/New Year period.

Option 3: Strong Budget Message to Reinforce Existing Process (Text provided by Minister of Agriculture)

7. "The process already underway for removal of the producer boards' statutory backing is working. Implementing Option 1 or Option 2 would derail that process and seriously set back the pace of reform.

8. In Option 3, the Budget would contain a strong statement reaffirming that the statutory backing for all of the producer boards will be removed, and reiterating the expectation that the boards and industries will present

deregulation plans to the Government by the end of 1998. The statement would also make it clear that the Government will not rubber-stamp the plans but will assess them rigorously.

9. Option 3 would boost progress without diverting boards' and industries' efforts to fighting deregulation. It would also avoid accusations of bad faith in the Government's discussions in recent months with board and industry representatives."

OPTION 1: ANNOUNCE KIWIFRUIT DEREGULATION IN 1998 BUDGET

10. Deregulation is desirable because competitive exporting provides incentives for efficiency and innovation. It allows entrepreneurial growers and exporters to try new, innovative marketing approaches in new and existing markets.

Why Kiwifruit?

11. Full deregulation is possible in the kiwifruit industry at this time because of the following specific factors:

- a following last year's Kiwifruit Summit, there is already a large part of the kiwifruit industry (by volume) which supports deregulation; and
- b the conditions in the industry can readily support a deregulated environment because there is a large, well established post-harvest sector which is capable of, and interested in, exporting independently.

12. The Kiwifruit Marketing Board has performed poorly. For 7 years before the single desk was introduced, kiwifruit production grew at an average of 40% per year (compared to world production growth of 47% per year). Production has remained stagnant since the introduction of the single desk in 1989 while world production has grown at 11% per year. Chilean kiwifruit exports (which are exported competitively) grew at 14% per year between 1991 and 1996; whereas New Zealand's kiwifruit exports declined at 3% per year on average over that period. MAF forecasts showed that a typical Te Puke kiwifruit grower would make a loss in 1996/97 once their cost of capital was taken into account.

13. New Zealand is now the only country left in the world with single desk fruit marketing. The experience of other countries which have deregulated fruit exporting suggests that competitive marketing from New Zealand will also result in stronger export growth in the medium-term.

14. Further development of the KMB is likely to be hampered by lack of capital. Corporatisation would mean the KMB could grow and obtain capital from other sources.

15. Continued uncertainty over the timing of deregulation is bad for the industry.

Potential Risks

16. The most significant risk of deregulation is that exporters will compete against each other in the same market, and prices will fall (“weak selling”). There is also a possible loss of New Zealand’s reputation as a supplier of high-quality kiwifruit. Overseas experience shows that weak selling is a short-term risk only, as once exporters become aware of the risks they start to diversify markets and avoid continued undercutting in traditional markets. In South Africa’s recent deregulation of fruit exports, weak selling was a problem in the first year only.

17. There are also transitional risks associated with a move to deregulation, such as uncertainty for both suppliers and exporters, and inadequate information and communication.

18. Overseas experience clearly shows that in the long run, these transition costs should be outweighed by the benefits of contestability to the industry and to the economy. Deregulation is the best way to turn around the poor performance of the kiwifruit industry and enable growers to start making money.

19. This option proposes that kiwifruit exporting be fully competitive from the start of the 1999 export season. This can be done by repealing the Kiwifruit Marketing Regulations 1977. It is recommended that the Government announce in the 1998 Budget:

- a removal of the KMB’s statutory export monopoly on 1 April 1999;
- b separation of commercial interests (Zespri International and its subsidiary companies) from the regulatory interests of the KMB, with the ownership of the reconstituted Zespri to be redefined and shares transferred to individual growers; and
- c removal of the requirement for the KMB to purchase all fruit on 1 April 1999.

20. The detailed institutional arrangements for a deregulated industry need to be worked through together with the industry. Annex 4 to this paper proposes a set of detailed institutional arrangements that the industry would be consulted on in respect of implementation.

Other Boards

21. The remaining producer boards with statutory export monopolies are not considered ready for deregulation at this time. However, there is a risk that announcement of kiwifruit deregulation at 1 April 1999 will create uncertainty for

the other boards as to their own future; and that this may lead boards and industry members to start campaigning against deregulation. It is therefore recommended that any announcement on kiwifruit be accompanied by a firm commitment to a reasonable timetable for reform of other producer boards (see Option 2) .

Legislative Implications

22. A move to fully competitive exporting involves repealing the Kiwifruit Marketing Regulations 1977 by 1 April 1999.

23. In addition, the Primary Products Marketing Act requires that any amendment to the existing Kiwifruit Marketing Regulations be validated by Act of Parliament before the last day of the session in which the amendment was made. This validation can happen either before or after implementation, but should the session end before Parliament has validated the changes (e.g. if a general election were called) the amendments to regulations would automatically expire at the end of the session.

24. Legal advice is that, apart from the validation outlined in paragraph 23, no additional legislation would be required.

OPTION 2: ANNOUNCE OBJECTIVES AND TIMETABLE FOR REFORM OF ALL BOARDS

25. The Government's current producer board strategy is to ask all boards to inform the Government of their plans for removal of their statutory monopolies and powers by the end of 1998. The advantage of this strategy is that it ensures that the boards "own" their proposals. However, it also means they can propose arrangements which are against the interests of the industry and economy by:

- protecting their commercial positions - proposals for compulsory producer shareholding, dairy company mergers and continued ownership of onshore operations are examples of anti-competitive strategies in progress;
- securing alternative sources of funding which are protected by statute - for example compulsory levies; and/or
- proposing other arrangements which are not likely to lead to an optimal outcome or smooth transition.

26. These problems were strongly apparent in South Africa and Israel's practical experience of producer board reform.

27. In the absence of a definite date, this strategy may also generate considerable lobbying against reform, in place of preparation for it. This was also the case in South Africa and Israel.

28. Option 2 aims to increase the transparency and credibility of the current process by announcing in the Budget broad objectives which the Government would like to see from the current deregulation process, including a firm timetable for reform. This would also decrease the boards' uncertainty as to what will be acceptable to the Government; thereby decreasing the risk that any board will submit an unacceptable proposal. These objectives could apply to all boards if the Government decides not to deregulate kiwifruit.

29. Five proposed objectives which are consistent with the Government's general economic strategy (and good economic practice) are:

i That the ability to export be truly contestable.

In practice this objective would require that the boards do not, during the remaining period in which they have statutory powers, raise unfair barriers which prevent other potential exporters from exporting New Zealand produce; thereby encouraging a situation where producers have a choice of exporter.

ii That the domestic market be competitive

This requires that the export structures established do not adversely affect New Zealand consumers.

iii That there be complete separation of regulatory and commercial functions

This would entail a separation of the boards' current conflicts of interest as industry referee and player;

iv That Research and Development (and other similar "club good" activities) must add value and, if possible, be funded voluntarily.

This provides appropriate incentives for activities undertaken to be worthwhile and conducted efficiently. The Commodity Levies Act can be used to provide organisations with the ability to tax levies where appropriate.

v That contribution of capital be non-compulsory.

This means that individuals will be able to determine what investments are of highest value to them. It also gives the commercial descendants of the boards (post-deregulation) a strong incentive to maximise return on capital.

30. A risk is that statement of any objectives will cause attention to move from preparation for deregulation to interpreting the objectives. However, the above objectives are sufficiently high-level that they could be spelt out as long-term economic objectives of producer board reform against which proposals can be assessed. This will provide increased transparency and certainty for the boards and industries.

31. Public statement of the objectives (as opposed to secret communications with the boards) will allow the Government, rather than other parties, to control initial publicity surrounding them. Last time the Government informed the boards of their reform intentions in confidence, the boards made the information public within several days (*The Dominion* 7 March 1998 refers).

Timetable

32. The existence of a defined deregulation timetable with firm milestones to be met will increase certainty in producer board-controlled industries and will ensure progress is made. Part of this timetable has already been established with the boards' requirement to report back by the end of the year. However, this timing will make it difficult for a timely Government response. It may also generate considerable uncertainty because the Government is unlikely to be able to comment substantively over the Christmas/January period.

33. These problems could be partly overcome by bringing forward the report back date to 1 October 1998. This would enable the Government to action the boards' proposals much more quickly if they are satisfactory and require relatively swift action. If the Government decides to do this it would be desirable to give the boards as much notice as possible.

OPTION 3: STRONG BUDGET MESSAGE TO REINFORCE EXISTING PROCESS (MINISTER OF AGRICULTURE'S OPTION¹)

34. In February this year the Minister of Agriculture began meetings with all the producer boards (those with single desk status and those without) on the issue of deregulation. These discussions were based on the boards, and the sectors they operated in, accepting that the boards' statutory backing would be removed. Each board was asked to consider what it would want to put in place in the absence of special legislation, what issues would arise in the transition from the current situation, and what factors would influence the timing of deregulation. The boards were asked to report back by the end of 1998. As a result the industries have largely focussed on the nature of change, rather than the vexed question of **whether** change is desirable.

35. Since that time Ministers have made speeches on these issues and have had frequent contact with the boards. The Minister of Agriculture's assessment is that all the boards have acknowledged that deregulation is inevitable and are

¹ Text provided by the Minister of Agriculture

working to provide the deregulation plans we have sought.

36. The Minister of Agriculture believes that it would be useful to use the Budget to maintain impetus on producer board reform. This can best be achieved by reinforcing the Government's position that deregulation will happen and reiterating the expectation that the boards and industries will present plans to the Government by the end of 1998.

37. In the Minister of Agriculture's view, seeking final plans before the end of 1998 (eg by 1 October) would be seen by the boards and industries that Ministers have spoken with as a breach of faith. However, the Minister of Agriculture has of course asked for updates during the remainder of 1998.

38. The Minister of Agriculture recommends that the 1998 Budget:

- refer to the process that is underway;
- reaffirm that the Government is committed to the removal of statutory backing for producer boards;
- reaffirm that the Government will manage change so as to minimise disruption to these industries; and
- reaffirm that the Government will not rubber-stamp proposals but will subject them to rigorous assessment.

Consultation

39. There has been significant consultation with the kiwifruit industry over the past 12 months. This has included the kiwifruit summit and consultation over proposed onshore deregulation. The industry has not been consulted on this specific proposal.

40. The boards are aware that the Government expects them to produce a plan for deregulation by the end of 1998. However, they have not been consulted on the policy principles and no timetable for change has been agreed.

Minister of Agriculture's Comment

41. The Minister and the Associate Minister of Agriculture have been consulted in the preparation of this paper. Both Ministers support Option 3 and the Minister of Agriculture specifically made the following comments:

"Proposed Deregulation of Kiwifruit Industry in 1999

42. Deregulating the kiwifruit industry on 1 April 1999 may result in the benefits from reform of that industry accruing earlier, but at the expense of the pace of reform in other industries. The good faith and trust which exists

currently would be lost. The other industries with boards would divert their energies towards opposing the Government's approach. This would make the overall reform process longer and more economically costly than need be.

43. I consider that this paper does not adequately explain why the kiwifruit industry is more ready for deregulation than other industries with boards. Given that the onshore deregulation changes took effect only on 1 April 1998, in my view the kiwifruit industry would be ill equipped to successfully deal with deregulation in 1999.

44. There is doubt as to whether this change could be implemented by 1 April 1999. In particular, I have received preliminary legal advice that deregulation as described in the paper could not be achieved by regulations but would require an Act of Parliament.

45. There is no solid data on industry support for deregulation. An increasing number of growers and suppliers (those that own fruit at the time it is submitted to the Board) support eventual deregulation. At this time I estimate that support for deregulation in 1999 would be in the order of 30% by volume and 10% by number. This will grow over time, as industry leaders now largely accept the inevitability of change.

46. Overall I am opposed to specifically referring to deregulation of the kiwifruit industry by 1 April 1999 in the Budget. It is not the right way to proceed, and would be counter-productive relative to the overall issue of producer board reform.

Proposed Objectives

47. I agree that there are risks with respect to the way the boards might attempt now to create barriers to entry post-deregulation. However, I do **not** support the proposal to include in the Budget a set of objectives to guide boards in their preparation of reform proposals. The main outcome of this would be boards devoting their energy to debating the objectives with Government, rather than focusing on planning for the removal of their statutory backing. As with the kiwifruit proposal, it would derail the existing process and slow the pace of reform.

48. I also note that the draft objectives in this paper have been developed without adequate consultation and analysis. In addition, they are sufficiently ambiguous that they would almost certainly not be interpreted in the way that was intended.

49. I consider that the Government should manage the risk referred to above by:

- making it clear in the Budget that the Government will not merely be rubber stamping the boards' proposals; and

- conducting ongoing dialogue with the boards and industries as they develop their proposals.”

MAF Comment

50. “The Ministry of Agriculture wishes to record that consultation with departments on this paper was grossly inadequate, particularly in light of the importance of the issues. MAF strongly supports Option 3, as a practical means of moving forward. In MAF’s view, Option 1 would derail the process for other Boards. In addition, Option 1 would probably require legislation, which would be very risky in the time available. MAF is strongly opposed to Option 2. The draft objectives in the paper are ambiguous, and have been produced very quickly with limited opportunity for analysis. They would be likely to derail the process, as industry energy went into debating them.”

Relationship to Coalition Agreement

51. The Coalition Agreement policy on Producer Boards is to “support [them] as long as they retain supplier support”. There are a significant number of kiwifruit suppliers, by volume, who do not support the KMB and would like the right to export independently.

Financial Implications

52. This proposal has no fiscal implications.

Compliance Cost Statement

53. A transition to competitive marketing will require the KMB to adjust its structure and functions. Adjustment costs are likely to be outweighed by the benefits of contestability to the industry and the economy.

Recommendations

54. I recommend that Cabinet:

either (Option 1):

- a **agree** to the removal of the statutory export monopoly of the Kiwifruit Marketing Board (KMB) as at 1 April 1999;
- b **agree** to the removal of the requirement for the KMB to purchase all fruit as at 1 April 1999;
- c **agree** that the commercial arm of the KMB (Zespri) be separated from the regulatory arm of the Board and formed into a stand-alone limited liability company with an explicit shareholding structure;

- d **agree in principle** to the detailed institutional arrangements for the kiwifruit industry set out in Annex 4 to this paper, subject to consultation with industry representatives on implementation;
- e **note** that the above changes can be given effect by repeal of the Kiwifruit Marketing Regulations 1977, made under the Primary Products Marketing Act 1953;
- f **agree** that the other boards are not ready for deregulation at this stage;
- g **agree** that producer boards (other than the KMB) continue to prepare industry plans in terms of Option 2 below;
- h **note** that the Primary Products Marketing Act requires that any amendment to the existing Kiwifruit Marketing Regulations be confirmed by Act of Parliament before the last day of the session in which the amendment was made; and
- g **agree** to inclusion in the 1998 Budget Speech of the paragraphs attached in Annex 1

or (Option 2):

- h **note** that the current producer board strategy does not give the boards certainty as to what will be acceptable to the Government;
- i **agree** to increase the transparency and credibility of the current strategy by explicitly stating the following broad objectives of producer board reform in the Budget:
 - i that the ability to export be truly contestable;
 - ii that the domestic market be competitive;
 - iii that there be complete separation of regulatory and commercial functions;
 - iv that research and development (and other similar “club good” activities) must add value and, if possible, be funded voluntarily; and
 - v that contribution of capital be voluntary.
- j **agree** to better enable swift implementation of board plans - if desirable and necessary - by changing the date on which boards are required to report back on their plans for deregulation from 31 December 1998 to 1 October 1998; and

- k **agree** to inclusion in the 1998 Budget Speech of the paragraphs attached in Annex 2;

or (Option 3 – Minister of Agriculture’s recommendations):

- l **“agree** that the Government continue its existing policy of requesting all producer boards (those with single desk powers and those without), together with the industries they operate in, to present to the Government, by the end of this year, plans for the removal of the boards’ statutory backing;
- m **agree** that the Government maintain its existing approach for the Kiwifruit Marketing Board as described in the above recommendation, including assessment of the Board’s current ownership proposals;
- n **agree** that the 1998 Budget **not** announce objectives to guide the boards in their preparation of reform proposals;
- o **agree** to the 1998 Budget containing a strong statement reinforcing the Government’s existing process; and
- p **agree** to inclusion in the 1998 Budget Speech of the paragraphs attached in Annex 3.”

Hon Winston Peters
Deputy Prime Minister and Treasurer

ANNEX 1

Option 1 Text: Kiwifruit Deregulation

Continuing to improve New Zealand's performance in our export markets is a key objective for the economy.

We believe that a competitive export marketing structure is the best way to achieve this.

The kiwifruit industry is a leader in this regard. Following support from growers, this industry has already moved to partial deregulation.

In view of this, the Kiwifruit Marketing Board's export monopoly will be removed as at 1 April 1999.

New Zealand is now the only country left in the world with single desk fruit marketing. Overseas experience shows that moving to competitive marketing will lead to better performance and stronger export growth in the kiwifruit industry.

Improvements in innovation and efficiency will mean better returns for growers, and this will benefit the economy as a whole.

We will ensure that the transition to competitive marketing is a smooth one.

Growers and the Kiwifruit Marketing Board will be fully consulted on implementation. Further details of implementation will be developed by the Government with the Kiwifruit Marketing Board and in consultation with growers.

Other Producer Boards

In respect of other Producer Boards with statutory monopolies, we will continue to work with the Boards on progressing further reform, and expect that the industry plans currently under development will be presented to Government by 1 October 1998.

ANNEX 2

Option 2 Text: Announce Objectives and Timetable for Reform of All Boards

The aim of this Government is to continue to improve our performance in primary product export markets so that New Zealand farms and orchards can be as profitable as possible.

We believe that the best way to achieve this is by moving to a competitive export marketing structure.

For this reason, we have decided that producer board reform will be one of the Government's priorities for the coming year.

The Government wants to make sure that our primary producers are fully involved in making changes in their industries and in deciding how best to meet the challenge of an innovative, competitive exporting environment.

That is why we have asked the boards and producers themselves to take the lead on reform issues.

To assist in this process, the Government (or the Minister of Agriculture) will be publishing tonight a set of objectives for the reform process.

We have asked all producer boards with statutory exporting monopolies to report back to Government by October this year with a plan for reform, consistent with the Government's objectives.

These plans will provide a basis for timely and effective reform, led by the industries themselves.

ANNEX 3:

Option 3 Text: Strong Budget Message to Reinforce Existing Process (provided by Minister of Agriculture)

“The Government is committed to the removal of the statutory backing for all of New Zealand’s producer boards. We see this as an ongoing process, and we will ensure that disruptions to the industries are minimised.

We have asked the boards and industries to form plans for how they will operate without specific statutory backing, and to consider the timeline for deregulation. Each board is to report back to the Government with proposals by the end of 1998. The Government will assess those proposals rigorously, then implement appropriate change.

The Government is committed to reform in this area, to ensure that New Zealand’s vital primary sector continues to increase its performance and contribution to the economy.”

ANNEX 4:

Implementation Details for Kiwifruit Deregulation

1. Subject to consultation with industry on implementation details, the institutional arrangements for a deregulated kiwifruit industry would include:
 - i tradeable shares in Zespri to be issued to growers based on volumes supplied over some specified recent period to be agreed with the industry;
 - ii activities such as generic research and development, publicity and information to be the responsibility of a voluntary agency (e.g. the residual KNZ);
 - iii the Zespri brand to be vested in the Zespri company;
 - iv the new Chinensis 16A variety is currently owned by HortResearch and is licensed to Kiwifruit New Zealand. Licensing to others would be a matter for discretion of the residual KNZ;
 - v otherwise, the assets and liabilities of the current KMB to be transferred to the new Zespri company if they were predominantly used in commercial marketing and distribution activities; and
 - vi compliance with phytosanitary standards to be the responsibility of MAF on a cost recovered basis.

Transitional Arrangements

2. Transitional risks can be minimised if Government and industry move to make sure there are structures in place that will help suppliers and exporters to work together effectively in the new environment. These structures could include:
 - i an industry advisory board, that could act as a forum for consultation and help communicate policy changes to industry members;
 - ii an exporters' forum, to provide for better communications between competing exporters; and
 - iii an industry conference on marketing opportunities, that could bring together growers and exporters.

Timing

3. An officials' taskforce representing the Ministry of Agriculture and Forestry, the Ministry of Commerce and the Treasury, working in consultation with the Kiwifruit Marketing Board and other industry representatives, would report back

to Ministers by 1 October 1998 with detailed proposals for changes to regulations to give effect to the above decisions. This would allow for regulations to be amended in February 1999, in preparation for an implementation date of 1 April 1999.

TREASURY REPORT COVER SHEET

Report No: T98C/1379

Date: 1 May 1998

Security Classification:

Subject: **Aide Memoire for Producer Board Reform Paper
Going to Cabinet on Monday 4 May 1998**

	Action Sought	Deadline
Treasurer	Note the contents of this report and discuss with Officials at pre-Cabinet on Monday	Monday 4 May 1998
Minister of Finance	Note the contents of this report and discuss with Officials at pre-Cabinet on Monday	Monday 4 May 1998
Associate Treasurer	Note the contents of this report and discuss with Officials at pre-Cabinet on Monday	Monday 4 May 1998

Contact for Telephone Discussion (if required):

Name	Position	Telephone		Suggested First Contact
		Direct Line	After Hours	
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Roger Procter	Director, Regulatory Economics Directorate	471 5919	021 675 304	

1 May 1998

Treasurer

cc: Minister of Finance
Associate Treasurer

AIDE MEMOIRE FOR PRODUCER BOARD REFORM PAPER GOING TO CABINET ON MONDAY 4 MAY 1998

1. The Treasurer has submitted a Cabinet paper on producer board reform announcements in the Budget, for debate on 4 May 1998.
2. The Government's current approach to producer board reform is to ask the Boards to prepare their own plans for reform and present them to the Government by the end of 1998. This is unsatisfactory because:
 - it allows the Boards to propose, and create public pressure for, anti-competitive structures to be put in place;
 - December 1998 is so late that substantive reform could not be considered until 2000;
 - it relies on the goodwill of the boards (which have a vested commercial interest in maintaining the single desk) to cooperate voluntarily with reform; and
 - the Government is unlikely to be able to respond to the proposals until February 1999, until when there will be a policy vacuum. This may be seen as implicit acceptance of the Boards' proposals.

3. This approach has not been the subject of an explicit Cabinet decision. The Treasurer's paper proposes to strengthen it by proposing two alternatives for announcement in the Budget:

- a deregulation of kiwifruit marketing from 1 April 1999, plus announcement of broad Government objectives for reform of other producer boards and bringing forward the report-back date for other boards to 1 October 1998 (Option 1); or
- b announcement of broad Government objectives for producer board reform to be applied to all boards (including kiwifruit) in assessing their proposals and bringing forward the report back date to 1 October 1998 (Option 2).

4. The Minister of Agriculture has also inserted a third option – being to maintain the current approach.

5. The Treasury recommends that you support Option 1 – Kiwifruit Deregulation because it:

- captures the gains to be had from deregulating kiwifruit as soon as possible;
- sends a strong signal about performance to other producer boards;
- sets transparent ground rules for other boards to follow in developing their proposals for reform; and
- allows the Government to control the public release of those ground rules (rather than the boards).

6. The attached pages contain an analysis of the options and possible responses to arguments against adoption of options 1 or 2 (Treasury's recommended options).

7. This report is for your information only.

Roger Procter
for Secretary to the Treasury

Hon Winston Peters
Deputy Prime Minister and Treasurer

REASONS FOR A DIFFERENT APPROACH TO THE CURRENT ONE

- The Boards currently control the public debate and can put public pressure on the Government to implement proposals which may be contrary to the public interest;
- Kiwifruit is ready for deregulation and should not be held up by other industries;
- The current approach is having mixed success. Boards – especially Meat and Apple – are actively campaigning against change (see attached articles);
- The current approach allows Boards to set up anti-competitive arrangements now (with producer funding), and to propose anti-competitive arrangements. These will give the Boards increased power over producers once deregulation occurs; and
- The implementation of anti-competitive arrangements mitigates the benefits of producer board deregulation.

COMMENTS ON ARGUMENTS LIKELY TO ARISE

General Arguments

“The current process is working. We should not fiddle with it”

- There is little evidence that the current process is working. Boards are still lobbying heavily against removal of the single desk (see attached articles).
- The current process allows Boards time to implement anti-competitive arrangements and structures. If let go, this will remove most of the benefits of deregulation.

“Deregulating kiwifruit or stating objectives would derail the current process”

- There is no evidence to say the current process is working.
- Both alternatives are more likely to *assist* the current process by:
 - reinforcing the Government’s message;
 - sending a very clear signal to all boards; and thereby
 - adding credibility to the current approach.

Kiwifruit (Option 1)

“Kiwifruit is ill-equipped for deregulation”

- The kiwifruit industry has been deregulated for most of its life, except the past nine years.
- It is widely believed in the industry (as opposed to the board) that they are ready because they have:
 - a well-developed post-harvest sector which is capable of and willing to export independently;
 - well-established supply relationships; and
 - a more entrepreneurial culture than other producer board industries.
- There has been no satisfactory explanation as to why kiwifruit is not ready.

“There is not support for deregulation of kiwifruit”

- The Minister of Agriculture argues that there is 30% support by volume and 10% support by number of growers. This is significant.
- There is no basis for the Minister’s estimation. The figure is more likely to be 50% by volume.
- There was a strong desire for the onshore deregulation to be to Free-on-Truck, which effectively *means* deregulation. The results of onshore deregulation also indicate a lack of support for the board. The board’s company - Fruitlink - is struggling to retain 30% of the crop.
- It is impossible to get unequivocal support for deregulation because there will always be a range of views and the board controls most information going to growers. Israel and South Africa found that the Government had to take leadership with deregulation and, once a credible date was set, most industries rallied behind the Government.

“Deregulation would need extensive legislation”

- Our legal advice is that legislation – other than Parliamentary confirmation of Regulatory changes – is NOT necessary (given a pragmatic approach).
- Given that legislation is required for Parliamentary confirmation anyway, some minor legislative requirements would be possible anyway.

“It would cause other boards to fight reform”

- It would also give them a strong signal that the Government means business.

Objectives for Reform (Options 1 and 2)

“Stating objectives would divert attention to interpretation, rather than preparation for deregulation”

- It is better that objectives be interpreted now than completed plans be rejected later on.
- Explicit objectives would increase the transparency of what the Government expects; thereby decreasing uncertainty for the industries.

“It would be a mistake to state objectives publicly. This would cause criticism of the Government”

- The boards currently have control of publicity about the reform strategy. Publicly stating objectives will show leadership and will allow the Government to manage communications with the public.
- Last time the Minister of Agriculture talked to the Boards about reform (secretly), the Boards announced the conversation publicly within a number of days.

“Changing the report back date would be seen as a breach of faith”

- The current report back date (31 December 1998) is impractical because it allows no time for quick implementation if the Government desires. It also allows a long time (January 1999) for industry participants to generate pressure for implementation of proposals which may not be in New Zealand’s best interests.

Current Approach (Option 3)

“The Government should announce that we will not rubber-stamp proposals, but will subject them to rigorous assessment”

- This will cause speculation about what criteria the Government will use to assess proposals.
- Past actions cast doubt on the credibility of such a stance. In the kiwifruit onshore deregulation, the Government implemented what the board asked

for. The Government also requested some provisions to ensure competitive neutrality and the board has not satisfactorily complied.

- This approach is problematic. For example, the Dairy Board has indicated that there are 26 “things” they would like in return for deregulation. If it does not set the ground rules the Government can be expected to come under considerable pressure to allow implementation of proposals which are not in the best interests of New Zealand.

ANALYSIS OF EACH OPTION

	Advantages	Disadvantages
Option 1: <ul style="list-style-type: none"> • deregulate kiwifruit • announce objectives for reform of other boards • bring forward report-back for other boards to 1 October 1998 	<ul style="list-style-type: none"> • Kiwifruit industry gets benefits of reform as soon as possible (not held back by others) • Strong signal about performance to other boards • Greater transparency for other boards in reform process • Government controls release of objectives • Sufficient time to implement other Boards' proposals (if desired) in 1999 	<ul style="list-style-type: none"> • Possible disruption of reform effort for other boards • Possible loss of good faith with the boards
Option 2: <ul style="list-style-type: none"> • announce objectives for reform of all boards • bring forward report-back to 1 October 1998 	<ul style="list-style-type: none"> • Greater transparency of Government expectations in reform process • Government controls release of objectives • Sufficient time to implement Boards' proposals (if desired) in 1999 	<ul style="list-style-type: none"> • Possible shift of attention from preparing for deregulation to interpreting objectives
Option 3: Maintain status quo <ul style="list-style-type: none"> • ask boards to develop their own proposals and report back by 31 December 1998 	<ul style="list-style-type: none"> • maximises board "buy-in" • possibly decreases debate over "why deregulate" 	<ul style="list-style-type: none"> • allows boards to implement anti-competitive arrangements, both in their proposals and beforehand (using producers' money); • December 1998 is too late to consider policy changes for 1999 • policy vacuum in January 1999 as Government unlikely to be able to comment until February • relies on goodwill of boards to support Government attempt to remove statutory powers