

# STANDARDS AND COMPLIANCE SYSTEMS FOR ORGANIC AND BIO-DYNAMIC AGRICULTURE IN AUSTRALIA: PAST, PRESENT AND FUTURE

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## Abstract

Australia does not yet have standards for organic and bio-dynamic produce for the domestic market, although there are standards for exports. Recently, there has been a move towards the establishment and adoption of standards for the domestic market. Debate has centred on which organisation would be most suitable to host such standards. An important issue was the acceptability of the final standards to the Government, so that it would be willing to legalise the word 'organic' according to those standards. Other issues of concern were ownership of and control over the standards, copyright, compliance with the standards, and costs of developing and maintaining standards.

Given the requirements identified by the industry as being of importance, the process of Standards Australia, an independent, not-for-profit body recognised by the Australian Government as the national standard-setting body overseeing the establishment of an Australian Standard appears to be the best option. The important requirement of industry ownership seems secure, while government regulation – facilitating compliance enforcement - is likely to follow with government acceptance of the process by which the Australian Standards are being established. In addition, the cost of this process will be significantly lower than that of the existing process with the National Standard.

*Keywords: organic standards, compliance, certification, accreditation, auditing, ownership, copyright, cost, Australia, National Standard, Australian Standard, Standards Australia, FSANZ, OFA, OIECC*

## Introduction

In Australia, the first written (private) organic standards were adopted in the mid-1980s, and the National Standard came into force in 1992. However, these applied only to exports, not to the domestic market. Although the export standards served as the *de facto* domestic standards, non-organic products could be sold as organic in the domestic market, as could products certified to standards not fully complying with the National Standard<sup>3</sup>, or by organisations not accredited by the Australian Quarantine and Inspection Service (AQIS)<sup>4</sup>. Thus, although most organic produce would have been sold as grown according to the National Standard, products that were not, or could not prove to have been grown according to these rules, also could be sold on the domestic market as 'organic' without much risk of legal repercussions. In addition, because of the lack of domestic standards, Australia could not require organic imports to be grown to a particular standard without infringing the national treatment provision of the World Trade Organization. Only when there is a legal definition (or standard) of the term 'organic' for produce grown in Australia and sold on the domestic market can that standard be used to prosecute for fraud and misrepresentation on the domestic market, and to regulate imports of goods labelled 'organic'. The same standard can also be used to define and regulate Australian organic products for exports from Australia.

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<sup>2</sup> OFA Board member since September 2006. The views expressed in this paper are those of the author, and do not necessarily reflect those of the OFA or any other institution.

<sup>3</sup> ACO certifies to 'Domestic-Only' (ACO 2005, 2006, BFA 2005, 2007).

<sup>4</sup> From 1 July 2007 OGA (Organic Growers of Australia) certifies small farmers (OGA 2007) and is not accredited by AQIS.

The issue of establishing a legal definition of 'organic' has long been a matter of contention between the Australian organic industry and policy makers. Within the industry, there has always been agreement that a legal definition, as defined in standards, is required to protect organic producers and consumers, and efforts were undertaken since the early 1990s to get such a definition established. However, until recently, the Australian Government was not in favour of government involvement in this area, instead preferring industry self-regulation.

This situation is now changing. In early 2006 the Organic Industry Export Consultative Committee (OIECC) and the Organic Federation of Australia (OFA) applied to Standards Australia (an independent, not-for-profit body recognised by the Australian Government as the national standard-setting body) to develop an Australian standard for organic and biodynamic produce. In early 2007, Standards Australia decided to proceed with the process. Progress has been made over the last year, albeit not without problems and anguish, and the Australian Standard is expected to be finalised in late 2008. The major areas of concern about the right approach included ownership and the accompanying right to change the standards, copyright, compliance with the standards and costs to the organic industry.

## Trust in organic products

### Standards

As long as there is a premium for organic products, and consumers cannot tell the difference between organic and conventional products by looking at them prior to purchase, there will be the temptation to pass off non-organic products as organic. To be able to protect consumers and genuine organic producers alike, it is important to have an environment in which such fraudulent behaviour can have legal repercussions<sup>5</sup>. For this to be the case there needs to be a definition of 'organic'. Such a (long) definition is called an 'organic standard'.

Standards in general are rules about how products are produced (standards for the process of production), or about specification of final products (standards for the product *per se*). In the case of organic agriculture, standards are about the farm management system, and are therefore process standards. Because of this it is not sufficient to test the product in a laboratory, but the whole farm system needs to be checked and certified.

Such standards serve a number of purposes. They:

- prescribe to *growers* what is allowed and not allowed to be practised or used in growing the crop and stock, and provide details about *inputs* allowed or disallowed;
- prescribe to others in the food chain, such as *processors, transporters, importers and exporters*, which processes and substances are allowed in the pursuit of their activities;
- indicate to *consumers* how organic products are produced;
- allow *legislators and regulators* to facilitate compliance through regulation.

Although the general principles are universal - as embedded in the Basic Standards for Organic Production and Processing of the International Federation of Organic Movements (IFOAM) - details can differ between countries and, indeed, within countries. Many countries

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<sup>5</sup> In a recent court case by the Australian Competition and Consumer Commission (ACCC) against G.O. Drew Pty Ltd (an egg packer and supplier) and its manager and compliance officer, Mr Timothy Drew, who were found to have substituted and sold non-organically produced eggs as organic eggs over a two year period, Justice Gray of the Federal Court, Melbourne, '...acknowledged the difficulty faced by the ACCC, from the case's outset, given the absence of any recognised definition of the term 'organic' and the difficulty this presented in creating an enforceable injunction in broader terms to prevent misrepresentation of eggs as 'organic' (ACCC 2007). Judge Gray mentioned that the injunction could be enforced only on the grounds that the eggs were sold as 'certified by NASAA', not on the grounds that they were not organic.

have minimum standards, often residing under the auspices of their government, such as in the major importing countries of organic produce, EU, USA and Japan (Commins 2004). This means that the ultimate decision about the content of the standards is the government's, and that it is out of the hands of the organic industry. This has proven to be contentious on several occasions. For example, at the time the US Department of Agriculture (USDA) was in the process of setting up the standards, it received close to 30,000 – mainly negative – submissions, which reflected the strong opposition of the organic industry to certain proposed inclusions, such as sewage sludge, irradiation of food and genetically modified material. Allen and Kovach (2000) mention that, although no analysis has been done to determine reasons for USDA's original stand, '...these actions are consistent with an attempt to weaken the standards in order to break down barriers to entry for large business firms and to increase opportunities for profits.' More recently, the EU amended its organic legislation, allowing accidental presence of 0.9 per cent contamination with genetically modified material, despite strong objections from the organic industry (Blake 2006; European Commission 2007).

Private standard-setting organisations in those countries are required to abide by those minimum standards, but are mostly allowed to set their own standards higher. The situation in the USA is an exception to that rule, where private standards can be neither lower nor higher than those set by the US Department of Agriculture (Hall 2007). In 2004 Commins mentioned 364 bodies (thought to be an underestimate) offering organic certification worldwide, with 65 of these stating that they had their own standards.

For a more detailed description of the situation in different countries, and implications for international trade, see Michaud, Wynen and Bowen (2004), Courville (2006) and Schmid (2007).

### **Compliance with standards**

Consumers cannot distinguish at the point of purchase between conventionally grown produce and produce that is grown according to organic standards. One way to assure the consumer that the product sold as 'organic' is indeed as described in the organic standards is to have a third independent party check the farm and certify that the produce was indeed produced according to those specified standards (that is, the producer has complied with the requirements as stipulated in the standards). Such an organisation is here called a 'certification body' (CB).

A compliance system can be run in one of two ways, depending on whether certification is mandatory:

- certification is a legal requirement, where it is illegal to sell products labelled as organic without certification. That is, certification is mandatory, and anybody selling products labelled as organic without a certification can be penalised in some way;
- adhering to specified organic standards is legally required, but certification is not mandatory. That is, it is illegal to sell products labelled as organic if not grown according to legally-enforceable standards.

In the second case, policing the requirement of adhering to standards is more difficult and more risky, as detection of fraud is dependent on sampling, not on automatic checking at specified intervals (such as once per year) in addition to random checks. Many countries have adopted the first system (mandatory certification). However, in some countries, such as the USA, there are special arrangements for some (small producers), where the second principle (certification not mandatory, but being legally required to abide by specified organic standards) is applied.

Historically, many CBs (both in Australia and overseas) not only certified organic farms, but also set their own (private) standards. However, those two functions – setting standards and certifying farms – don't have to be carried out by the same organisation, but can be separated. Strictly speaking, a standard-setting organisation that earns money from licensing producers (by allowing products to carry its logo stating production according to particular standards) has a vested interest in certification (Guthman 1998; Allen and Kovach 2000). Separation of these two functions would therefore be more appropriate.

### **Markets: domestic, import and export**

In many countries, including Australia, organic standards were initially adopted by private organisations for the domestic market. When organic agriculture became more popular, many governments then moved to regulate the use of the word 'organic', to protect both organic producers and consumers of organic products (Commins 2004). In other words, legislation was adopted that prescribed any product sold as 'organic' had to comply with certain standards. Such legislation took effect in the EU in 1992 for plants (EU Reg. 2092/91), and in 2000 for animal products (EU Reg. 1804/99), in Japan in 2000, and in the USA in 2002 (Courville 2006; Schmid 2007).

An extension of this line of action was that no imports were allowed of products labelled 'organic' that were not grown according to at least the minimum standards of the importing country. The other side of this situation is that countries exporting to several countries found themselves having to adhere to many different standards, resulting in increasing costs (Wynen 2004, Courville 2006). The International Task Force on Harmonization and Equivalence in Organic Agriculture (ITF), a combined effort by the UN Conference on Trade and Development (UNCTAD), Food and Agriculture Organization of the UN (FAO) and the International Federation of Organic Agriculture Movements (IFOAM), is a direct result of the confusing and costly situation created by the myriad of standards and import requirements. Its aim is to find more acceptable solutions than those presently available.

The private organisations often continued with their own standards and certification schemes, sometimes convincing buyers (such as supermarkets) in their (importing) country that they would import only organic produce with this organisation's label. Such policies by buyers – requiring sellers to adhere to private standards in addition to national standards, complicate matters for exporters of organic produce even further.

### **Accreditation**

For consumers to be confident that the CBs are doing a good job, auditing of the CBs is needed. This means that the CBs in their turn get 'certified' on compliance. This process is called accreditation. In Australia, this task has been undertaken by AQIS since 1992.

### **Logos**

Once a certification process is completed, and the producer has been accepted as complying with the standards, they may want to show that they have been officially recognised as complying. Certification usually brings with it the right to use a registered or trademarked logo, put out by the organisation to whose standards one is certified.

In the battle for market shares, private standard-setting organisations may try to convince retailers to accept as organic only those products that have a particular logo, such as theirs. This can become a problem for producers certified to other standards in the country, and also for importers (Wynen 2004). To this end, regulation may be introduced to prevent such anti-competitive behaviour. For example, recently the EU tried to make it mandatory to show the EU logo on all organic produce and prohibit claims of stricter private standards. However, although the EU organic logo is now mandatory, it does not prohibit stricter private standards and allows national or private logos to be displayed simultaneously on the organic product (European Commission 2007).

## **The Australian situation**

### **Standards, compliance and the markets**

In the second half of the 1980s, some private organizations, such as the National Association for Sustainable Agriculture, Australia (NASAA) and the Biological Farmers of Australia (BFA) had developed written organic standards which were used in the domestic market in Australia (Wynen 2007). Products certified under these arrangements were also exported as organic.

In the late 1980s it became clear the EU would introduce a regulation later known as EC Reg. 2092/91. This stipulated that imports of organic products into the EU would require official certificates. Henceforth, Australian exports to the EU would need to be accompanied by official certificates, stating that those products were certified at least to the level of the EU standard. One of the ways in which this could be done was for the exporting country to implement standards and a compliance scheme recognised by the EU as being equivalent to that of the EU itself. In anticipation of this requirement, the Australian Government (through the Australian Quarantine and Inspection Service (AQIS)) became involved in the process of organic certification.

Early in 1990, AQIS called a meeting of organic stakeholders to discuss the need to develop a national organic standard, and a system of compliance to that standard. The group consisted of representatives from the existing organic certifying organizations, NASAA, the BFA and the Biodynamic Research Institute (BDRI). Also present were representatives of the Australian Commonwealth Minister of Agriculture; the federal Department of Agriculture; three state Departments of Agriculture in their capacity as representatives of the Standing Committee on Agriculture/Australian Agricultural Council; the National Farmers Federation (a lobby group of conventional farmers); representatives for the consumer sector (the Federal Bureau of Consumers Affairs, the Australian Federation of Consumers Organisations and the Australian Consumers Association); and the Organic Retailers and Growers Association of Australia (ORGAV). At that meeting it was agreed to continue cooperation by formalizing the meeting's participants as the Organic Produce Advisory Council (OPAC), later to develop into OPEC (Organic Production Export Committee) and then into OIECC (Organic Industry Export Consultative Committee). OPAC was to draft minimum national standards and inspection guidelines, and advise the Minister of Agriculture on matters organic.

OPAC agreed to minimum national organic standards in late 1991. These standards were such that they would be acceptable for exports to the EU. In time, this enabled Australia to be one of the first countries accepted by the EU as a 'Third-Country', acknowledging the Australian standards and compliance scheme to be equivalent to that of the EU, and thereby enabling exports certified by Australian CBs audited by AQIS (see below). The standards, named 'the National Standard for Organic and Biodynamic Produce', were endorsed by the Minister and referenced in a Ministerial Export Order to give them the force of law from 1 January 1992. In other words, it was illegal for organic produce to be exported unless it was certified to be organic as defined in the National Standard. The 1992 National Standard was amended in 1998 and 2002 and revised again in 2005.

In 2003, when OPEC was renamed the Organic Industry Export Consultative Committee (OIECC), membership included not only representatives of AQIS and the certifiers (BDRI, BFA, NASAA, OHGA, OFC, SFQ), but also agricultural departments of the Commonwealth and two states (Victoria and NSW); the Organic Federation of Australia (OFA; the national organic peak body), and the Organic Produce Program of the Rural Industries Research and Development Corporation (RIRDC), a body that funds research on organic agriculture in Australia (Julie Crockett, AQIS 2007, pers. Comm., November). IFOAM had a position on OPEC and OIECC - with limited voting powers - between 2000 and 2005, during the time that Australia was represented on the IFOAM World Board (Liz Clay 2007, pers. comm., November).

The National Standard stipulated the requirements for crop and landless plant production, animal husbandry, aquaculture, food processing, packaging, storage, transport and labelling, as well as complementing Australian regulatory requirements such as environmental management and animal welfare (OPEC 2002).

Compliance with the National Standard was regulated by AQIS auditing the private CBs. Thus, any products certified by private CBs that AQIS accredited as certifiers could legally be exported as 'organic'. Because Australia was accepted by the EU as a country with equivalent standards and compliance scheme, products exported from Australia as 'organic' were acceptable in the EU. However, for other markets, such as the USA and Japan, certification had to include extra requirements in place for those markets after they introduced their

regulations. In other words, the certifiers had to undertake to certify for the National Standards plus other requirements specified by those markets 'add-ons'.<sup>6</sup>

Meanwhile, the legislation in place for the export market was in stark contrast to that for the domestic market. Although laws existed under the State/Territory fair trading acts (which draw their legal standing from the national Trade Practices Act) under which those who sell non-certified organic produce could be legally challenged on the basis of false and misleading labelling, success under this process was difficult to secure. No other law protected the consumer of organic produce against false labelling. Although this was, and is, the legal situation, the de-facto situation was that traders in the domestic market continued to trade in products certified to the same conditions as for the export market.

A second consequence of the situation of 'organic standards for export only' was that, due to World Trade Organization (WTO) rules relating to national treatment, the Australian Government could not prohibit imports of non-certified products labelled as 'organic' that did not comply with the National Standard.

### **The present situation**

In the 1990s, in addition to NASAA, the BDRI and the BFA (the certification arm of which is now called Australian Certified Organic (ACO), which is wholly-owned by the BFA) new organic CBs emerged. These include the Organic Growers Association (OGA, which recently (July 2007) has become a wholly-owned subsidiary of the BFA); the Tasmanian Organic-Dynamic Producers (TOP); the Organic Food Chain (OFC); Safe Food Queensland (SFQ), and AusQual (2007).

Australian CBs have their own standards that are at least as strict as the National Standard. AQIS is the accrediting body, and has the task of ensuring that the CBs certify according to standards at least at the level of the National Standard, and according to accepted rules of compliance.

Of the seven currently AQIS-approved certifying organisations, four are listed under European (and Swiss) law, and as such can provide inspection and certification services for all Australian export consignments. The same four organisations provide inspection and certification services for products exported to Japan and three organisations have 'conformity assessment' arrangements with the USDA National Organic Programme (NOP), with AusQual having applied for NOP recognition in November 2007 (see Table 1). Other countries including New Zealand, Malaysia, Thailand, Singapore and Canada currently accept Australian 'certified' produce that has been issued a government organic export certificate to verify its authenticity. The Korean Food and Drug Administration (KFDA) recognises ACO, BDRI, NASAA and OFC for processed organic foods. No AQIS-approved CB is recognised in its own right for fresh organic produce. At present, no foreign certification bodies are operating in Australia, and no local certification bodies work in association with international certification bodies for certification within Australia (Jenny Barnes, AQIS 2007, pers. comm., November).

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<sup>6</sup> For imports of organic products into the USA, products need to be certified by CBs approved by the National Organic Programme (NOP). Strictly speaking, products legally imported into the USA as 'organic' could be exported from Australia without the label 'organic'. In such a case the Australian producer could be certified to the NOP standards only, without having to go through an AQIS approved certification with an 'add-on'.

**Table 1: Australian organic certification bodies and their legal export possibilities**

		EU/Swiss	USA	Japan
ACO	Australian Certification Organisation	Yes	Yes	Yes
AusQual		No	Yes?	No
BDRI	Biodynamic Research Institute	Yes	No	Yes
NASAA	National Association for Sustainable Agriculture, Australia	Yes	Yes	Yes
OFC	Organic Food Chain	Yes	Yes	Yes
SFPQ	Safe Food Queensland	No	No	No
TOP	Tasmanian Organic-Dynamic Producers	No	No	No

At present (November 2007) the membership of OIECC is fairly similar to that in 2003, with adjustments in certifying organisations - excluding OHGA and including the Tasmania Organic Producers (TOP) and AusQual - a new entrant on the organic certification scene. It also includes OTACNet, a consumer group representative who, at this stage, does not have a voting right (Julie Crockett, AQIS 2007, pers. comm., November). This inclusion acknowledges, once again, the importance of the consumer in the standards debate, though absence of voting rights perhaps indicates doubt about the importance of such a role by those who decide on the committee's composition.

### The future

Within the organic industry it has been clear from the early days that the situation of having no protection of the word 'organic', accompanied by standards for the domestic trade, was a problem. For the government to recognise organic standards in legislation, government must be satisfied with the process by which the standards are produced.

In the past, many efforts went into trying to persuade the Federal Government to take action. In the 1990s, negotiations between OPAC and the then Australian and New Zealand Food Authority (ANZFA; now Food Standards Australia New Zealand (FSANZ)) did not result in the Authority agreeing to administer organic standards. One of the reasons was that organic agriculture was not considered to be a food safety issue; another reason was that standards pertained to a management process, not to the end product. The same obstacle - of organic standards covering a process, not product - was encountered in the late 1990s when the OFA attempted unsuccessfully to raise with FSANZ – the then ANZFA – the issue of organic products along with genetically modified organisms (GMOs), as a 'truth in labelling' issue. This position was taken by FSANZ as late as 2006 (see below).

In May 1999 the Federal Government hosted a stakeholder conference in Canberra at the behest of the International Competition Commission (ICC) to consider the options. Subsequently, in November 2002, the Primary Industries Standing Committee/Department of Agriculture, Fisheries and Forestry recommended that the organic industry initiate steps towards a registered Code of Conduct. Attempts were made via OIECC to commence with an industry Code of Conduct, but no agreement could be reached.

In May 2005 OIECC appointed a working group to report on the pros and cons of an Australian Standard to be developed by Standard Australia, an independent not for profit standard setting organisation. In November of that year OIECC resolved that AQIS should apply on its behalf to ask Standards Australia to develop an Australian Standard – which AQIS did in December. In January 2006 the OFA<sup>7</sup> sent a letter of support to Standards Australia for the AQIS application, together with its own supporting application. In May 2006 OIECC decided to put its application on hold. However, Standards Australia, after surveying a number of key stakeholders in the industry decided in November 2007 to go ahead with the development of the domestic standards in spite of the opposition of part of the organic industry. What were the issues?

<sup>7</sup> The Chair of the OFA, Andre Leu, deserves a special mention for his leadership in this area.

A major reason for opposing the role of Standards Australia in developing domestic standards was a concern about how to resolve the compliance system. But other issues, such as ownership of the standards and therefore control over the contents, and the copyright, were also seen as very important (OFA 2006a, 2006b, 2007; Kinnear 2006; BFA 2006). Related to this was the question whether the National Standard, used for export purposes, could be adopted as the Australian Standard. This would cut down the development cost of the Australian Standard considerably. A further issue then was the cost of maintenance of the Australian Standard as compared with other options.

Control over standards relates to the rights to the final decision about the content of organic standards. This dictates who has the right to make a decision over the final version of the standards, and who can change them over time.

The institutions that have in the past administered the organic national standards, or that could do so in the future, and those that have had, or could have, control over the content and the copyright are listed in Table 2.

**Table 2: Options for the development and maintenance of domestic organic standards**

	National Standard (export)	Australian Standard (domestic and export market)			
		1	2	3	4
Administration	AQIS	SA	FSANZ	OFA	OIECC
Ownership of content	OIECC	SA	FSANZ	OFA	OIECC
Copyright	OIECC	SAI	FSANZ	OFA	OIECC
Acceptable to legislators?	Yes	Yes	Not by FSANZ	???	???

Under 'National Standard', the present situation is summarized, showing that AQIS functions as the secretariat and OIECC has the right to determine the standards content and is the owner of the intellectual property. Although this standard was acceptable to the Government for the export market as shown by being referenced in a Ministerial Export Order in 1992, it was not acceptable for inclusion in regulations for the domestic market; hence the search for other options.

Under 'Australian Standard', four options are listed. The first, Standards Australia (SA), is the one which is in the process of being implemented, and is discussed in the next section. The second (FSANZ), third (OFA) and fourth (OIECC) are options that have been canvassed in the past, and are briefly discussed below.

## Standards Australia

### Ownership of and control over standards content

The first question concerns membership of the committee, how membership is established, the right to appoint and dismiss members, and whether the decisions are binding, and who can make the final decision on the inclusion or exclusion of committee members.

In the past, at the start of OPAC (the fore-runner of OIECC), AQIS invited a number of stakeholders, including organic certifiers, consumer representatives (from three different bodies), federal and state departments of agriculture and conventional farmers. Members of OIECC and its forerunners decided on the composition of the committee. Over time, the composition has changed and, for example at present (late 2007), although one consumer group is represented on OIECC, it does not have a voting right, as consumers did on OPAC in the early days.

Within Standards Australia, the Technical Committee (TC) FT-032 is the responsible committee to adopt and maintain organic standards. It is overseen by the Secretary of Standards Australia who decided on the composition of the first committee as an interim

committee, keeping in mind the need to have representatives from all sectors of the industry. Individual members of the committee were selected from nominations by relevant organizations such as government bodies; industry associations; and community-based, consumer, professional, technical or trade organisations.

At the first meeting of the TC FT-032 in May 2007 (Standards Australia 2007a), a subcommittee was established– voted in by FT-032 – to consider the advisability of making additions to FT-032. Although the management of Standards Australia has the final say, in reality the committee membership of FT-032 is determined by the existing FT-032 membership, which can be changed as the need for new skills arise. The committee members make their decisions by consensus. At present, the subcommittee comprises representatives from OFA, BFA, the Tasmanian DPIW, Safe Food Queensland and the Biodynamic Agriculture Association. It is chaired by the Chair of FT-032.

Currently, FT-032 is composed of organic sector stakeholders - most of which are national representative bodies (see Table 3). Some exceptions have been made, however, to ensure that remote and smaller States are represented. Organic Growers Association of Western Australia and the Tasmanian Department of Primary Industries and Water (DPIW) fit these criteria and are included.

**Table 3: Standards Australia: Organisations invited on FT-032**

• Bio-dynamic Research Institute	BDRI	Certification Body
• National Association for Sustainable Agriculture (NASAA)	NASAA	Certification Body
• Biological Farmers Australia/Organic Certifiers Australia	BFA/OCA	Certification Body
• Safe Food Queensland	SFQ	Certification Body
• Joint Accreditation System of Australia and New Zealand	JASANZ	Accreditor
• Organic Industry Export Consultative Committee (OIECC)	OIECC	National Standard
• Consumers' Federation of Australia	CFA	Consumers
• Organic Traders & Consumers Network	OTaCNet	Consumers + traders
• Choice		Consumers
• Australian Competition and Consumer Commission	ACCC	Consumers
• Australian National Retailers Association	ANRA	Traders
• Australian Food and Grocery Council	AFGC	Trade
• Department of Agriculture, Fisheries and Forestry (Commonwealth)	DAFF	DA
• Department of Primary Industries and Water, Tasmania	DPIW	DA
• Organic Federation of Australia	OFA	Processors
• Organic Federation of Australia	OFA	Producers

• Organic Dairy Farmers Co-operative Ltd	ODFC	Producers
• Bio-Dynamic Agriculture Australia	BDAA	Producers
• Organic Grower's Association of WA	OGA WA	Producers
• NSW Food Authority	NSW FA	

Source: <https://committees.standards.org.au/COMMITTEES/FT-032/ORGANISATIONS/> (retrieved November 13),

Regarding the contents of the standards, the National Standards were approved in 1992, and OIECC therefore only needs to maintain its standards, updating them in response to new requests and information that becomes available over time. A subcommittee – the National Standards Sub Committee (NSSC) – considers the detail, before its recommendations are brought before OIECC and voted on. This decision is binding. Members of the NSSC are appointed on merit and, at present (late 2007) the NSSC consists of members of BDRI, NASAA, BFA, OFC and AQIS.

In addition, the Standards Australia Technical Committee has appointed a working group on the basis of technical expertise. The first working group of FT-032 consisted of one member each of the BDRI, NASAA and AQIS, who are also members of the NSSC. Once they bring their recommendations to the full Technical Committee, the proposals are voted upon in that forum. After the draft is approved it may be made available for public comment, depending on the degree of differences from the National Standards. Comments received are reviewed by the committee and the final decisions are made by consensus. A final process approval is given by the Food Standards Sector Board on behalf of the Council of Standards Australia (Standards Australia 2007b).

### Copyright

It is generally assumed that the copyright to the Australian Standard is going to be held by Standards Australia International. However, it is possible for the Australian Standard, once accepted by the TC FT-032, to be 'housed' in a different organisation, a 'Standard Setting Organisation' that also has the copyright. This organisation would then pay Standards Australia for its services in developing and maintaining the standards – although it has been estimated that secretariat and management costs could be several hundred thousands dollars (The Organic Standard 2006).

The importance of holding the copyright over standards is that the owner can determine the price of the standards, as well as it perhaps being a matter of pride for the organic industry.

### Adoption of National Standard as Australian Standard

In the past, the National Standard has served as *de-facto* domestic standards. There is no reason to believe that those same standards are not acceptable, or are inappropriate, for the domestic trade *per se*. Given that, it makes sense for a number of reasons to adopt the National Standards as the Australian Standard:

- people in the organic industry are familiar with existing standards, so that the adoption would likely create minimum uncertainty and disturbance amongst producers, input and output industries, and CBs, especially in the short-run;
- no resources need to be spent on the re-invention of the standards that, in the end, will prove to be similar to the existing ones anyway.

There has been disquiet about this course of action, however, mainly because some regard this as the organic industry (OIECC) giving away the right over the content and ownership of the National Standard to an organization outside the organic movement (Standards Australia). However, the National Standard contains the provision that it can be used by anybody, as long as OIECC's ownership is acknowledged. In other words, it could be used anyway by Standards Australia, and adapted for possible changes needed for the domestic market.

Not surprisingly, the unease about this situation has subsided over time and FT-032 is presently using the National Standard as model for the Australian Standard. Once these standards are adapted and adopted, existing legislation can be changed such that they can also be used for export purposes. The National Standard would then become superfluous.

### **Compliance**

For the domestic market, there is general agreement that compulsory certification is preferred. The mechanism for carrying this out could be similar to that now operating for the export market. Compliance requirements with the National Standard are prescribed within the Export Orders. Produce destined to be exported as 'organic' can be exported as such only if certified by private CBs approved by a Competent Authority (which, under the National Standards, is AQIS). CBs certify according to private standards, which are audited for compliance with the National Standard. Additional requirements in the private standards can be accepted.

A similar situation could exist under the new arrangements, where private standards adhere as a minimum to the Australian Standard, and CBs would be audited by a Competent Authority on acceptability of their standards and certification activities.

Several organisations could take on the role of the Competent Authority. In Australia, the Joint Accreditation Service Australia and New Zealand (JAS-ANZ) is the main body accrediting non-organic CBs and auditing organisations. JAS-ANZ is recognised internationally in this regard. It could provide an accreditation service that is similar to AQIS, and would be acceptable to the government as the Competent Authority. The International Organic Accreditation Service (IOAS) is another organisation that can audit organic standards and CBs. IOAS currently audits CBs to the IFOAM standard and ISO65, and could also audit CBs to the Australian Standard. Two Australian CBs have accreditation with IFOAM already, and their compliance is audited by IOAS.

Once Australian organic standards have been agreed upon and adopted, the issue of compliance is of utmost importance. Originally, it was thought that Standards Australia does not have a mechanism by which it can prescribe compliance to its standards. However, it now appears to be possible. Another possibility in which mandatory certification to the Australian Standard can be prescribed is through legislation and regulation. This then would require state governments to incorporate this into their legislation.

### **Costs**

#### *National Standard*

At this point in time, the cost of development of the National Standard is not relevant, and can therefore be considered a sunk cost. However, maintenance costs do apply to the National Standard.

Contrary to the situation in most countries, the organic movement in Australia pays for the costs incurred by the government on its behalf. The AQIS program covers two tasks - the administrative cost related to OIECC (development and maintenance of the National Standard) and the accreditations of CBs. A third way in which AQIS contributes to the organic industry is by representation on international bodies, such as Codex Alimentarius, promoting exports and advising on market access. These last costs are paid for by the tax payer.

In 2002-2003 the two first tasks - development and maintenance of the National Standard and the accreditations of CBs - cost the organic and biodynamic sectors \$84,500. This was paid for, on a formula basis, by the CBs with a total of about 2,345 certifications. In 2005-6 the total cost to the certifiers was approximately \$105,000, with a total of 2,540 certified operators (Ian Lyall, AQIS, 2006, pers. comm., November). At present, each CB pays \$7,500 – totalling \$52,500, with a cost for auditing of \$269 per hour. As the number of hours spent on auditing reflects the size of the certifier at least in some way, this method of cost calculations assures that the larger CBs pay more of the total costs.

It is assumed here that the \$52,500 cover the costs of the administration of the standards although it is possible that the high cost for auditing may also partly cover administration cost. There are additional, non-attributed costs to the industry. In a Discussion Paper for, and endorsed by, the BFA, Kinnear (2006) calculated indirect costs in terms of the time spent by the various committee members and travelling costs for attending meetings, not included in other costings. His calculations are as follows: OIECC sits twice per year in Canberra. Its members and observers, consisting of representatives of AQIS, DAFF, all certifiers, OFA, RIRDC, and state agricultural departments (NSW and Vic) usually number around 14. A committee of four works on standard updates per teleconference between meetings (4 people times 4 days times \$350 per day) and, with an estimate of 1 day per year devoted to standards, this is calculated at \$5,600 plus \$2,000 (telephone) plus \$14,000 (14 people times 1 day times \$1,000 per day), to total \$21,600. This brings the total estimated annual cost of the National Standard to \$74,100 (see Table 4).

**Table 4: Estimated costs of development and maintenance of organic standards under alternative administrations**

Type of cost		AQIS	Standards Australia Kinnear (2006)	Standards Australia Wynen
<b>Development</b>	Indirect costs	sunk cost	97,000-162,000	44,550
	Copies Standard		120,000-240,000	
	<b>TOTAL</b>		<b>217,000-402,000</b>	<b>44,550</b>
<b>Maintenance</b>	Administration	52,500		
	Indirect costs	21,600	32,400-54,000	29,700
	Copies Standard		12,000-24,000	
	<b>TOTAL</b>	<b>74,100</b>	<b>44,400-78,000</b>	<b>29,700</b>

*Australian Standard*

For developing Australian standards via Standards Australia, Kinnear (2006) estimates that the cost of human resources (indirect costs) needed from the organic industry for standard development will amount to between \$97,000 to \$162,000 (12 to 20 people times 6 meetings times \$1,000 per person, plus 12 to 20 people times 6 days times \$350 per person). Using similar calculations for the maintenance of standards (12 to 20 people times 2 meetings times \$1,000 per person, plus 12 to 20 people times 2 days times \$350 per person), those would cost between \$32,000 to \$54,000 per year (note that it is not clear why the indirect and telephone costs for standards maintenance are assumed to be different under the AQIS and Standard Australia system).

Kinnear (2006) also notes the cost to producers of purchasing a copy of the standards published by Standards Australia International (SAI Global P/L), which has an agreement with SA to publish standards. At an estimated cost of \$50 to \$100 per copy, with 2,400 certified operators, the initial cost was calculated to amount to between \$120,000 and \$240,000. Thereafter, two changes per year at \$5 each would bring the annual cost to between \$12,000 and \$24,000.

The total cost to the organic sector of developing the Australian Standard would then amount to between \$217,000 and \$402,000, and for maintaining the standards between \$44,400 and \$78,000, according to Kinnear (2006)

Costings of work carried out by committee members, especially in time, can vary greatly, but accepting the price per unit (per day) to facilitate comparisons of before and after the introduction of domestic standards, the following points are relevant:

- Although the costs of such meetings, both in opportunity costs of time devoted to these activities and financial costs of travelling, can be considerable, members must consider the benefits of attending to be higher than the costs, as they would otherwise decline to be a member of the committee. The net costs are therefore likely to be from zero to positive, and it is debatable whether putting in the gross costs is relevant. Assuming it is relevant, costs of developing and maintaining the Australian Standard are estimated as follows:

1. Standards development, estimated at \$44,550, as follows:
  - i. When calculating costs of Australian standards to the organic industry, it seems irrelevant to include costs paid by organisations not exclusively, or mainly, organic. For the organic sector *per se*, the shift from export to the domestic scene means that some organisations involved are similar as in the OIECC process (such as CBs and OFA), while there is more focus on consumers, producers and traders in the current composition of the TC (shown in Table 3). Indeed, of the 21 present members, only 11 are directly involved with organic agriculture. The costs of the development of the standards shown in the last column in Table 4 have therefore been counted for all 11 members representing organic organisations.
  - ii. As the whole of the industry recognises benefits in having domestic standards similar to the National Standard, there is no reason why much effort needs to be put into the development of new standards. Indeed, it has now been decided that the Australian Standard will be similar to the National Standard. However, even if the National Standard is adopted by the Standards Australia TC, it will take some effort to go through the right channels, so that some costs would need to be counted – as it would for any other organisation involved in the adoption of domestic organic standards. Including half of the time allocated by Kinnear (2006) seems a generous estimate of cost of standard development from an existing model (11 people times 3 days times \$1,000 per day, plus 11 people times 3 days times \$350 per day).

2. Standards maintenance, estimated at \$29,700 as follows:

with 11 representatives of the organic industry represented on FT-032, and accepting the same assumptions as adopted in Kinnear (2006), the total annual cost to the organic industry of maintaining the Australian Standard is estimated at \$29,700 (11 times 2 times \$1000, plus 11 times 2 times \$350) instead of \$32,400-\$54,000. In addition, AQIS has indicated that it would find standards set by Standards Australia acceptable for use in the export market. The Export Orders will be changed such that it calls up the Australian (domestic) Standard instead of the National Standard. In such a case there is no need for OIECC to maintain the National Standard, and the costs which OIECC charges the organic industry in administration of the maintenance of organic standards should be deducted from the total costs of the AQIS process for standard maintenance - this was not done in the calculations by Kinnear.

- Standards – at present, the National Standards are mostly only purchased by government departments, NGOs and large corporations. If the present system continues, where certifications are carried out according to private standards at least as stringent as the national standards, clients of the CBs would not purchase standards directly from SAI, and therefore few costs would be incurred by them on this item.

No costs have therefore been added for purchasing of copies of the standards. Only gross costs are shown in Table 4, so no value has been placed on the benefits of participating in this process.

The calculations by the different authors lead to considerably different answers – Kinnear arriving at a standards development cost of between \$200,000 and \$400,000 (approximately half of which is costs of copies of the standards), and an annual maintenance cost of between \$44,000 and \$78,000. This compares with the existing annual maintenance cost of the National Standards (AQIS) of over \$74,000.

Counting the costs of an Australian Standard to the organic industry only, however, brings the development costs to be under \$45,000 - less than the maintenance cost AQIS charges the

organic sector annually – not to speak of the indirect costs Kinnear estimates at over \$20,000 per year.

The maintenance cost of an Australian Standard developed under Standards Australia to the organic industry only would amount to \$29,700 (human resources costs), less than half of the total of \$74,000 estimated under the AQIS system.

## **Other options for developing and maintaining organic standards in Australia**

From time to time organisations other than Standards Australia have been considered as options for developing and maintaining domestic organic standards. These include FSANZ, OFA and OEICC. Their potential roles are discussed here.

### **Food Standards Australia New Zealand (FSANZ)**

Most, if not all, standards for food in Australia are regulated by FSANZ which ‘... protects the health and safety of the people in Australia and New Zealand by maintaining a safe food supply. FSANZ is a bi-national independent statutory authority that develops food standards for composition, labelling and contaminants, including microbiological limits, that apply to all foods produced or imported for sale in Australia and New Zealand. In Australia, FSANZ develops food standards to cover the whole of the food supply chain – from paddock to plate – for both the food manufacturing industry and primary producers. FSANZ works in partnership with Australia’s Commonwealth, State and Territory Governments and the New Zealand Government’ (Standards Australia/FSANZ 2006). FSANZ also seeks ‘to engage industry, consumers and public health professionals in [its] work’.

Already in the early 1990s, efforts were made by several organisations, such as OPAC/AQIS and NASAA, to get the then ANZFA to accept responsibility over the organic standards and the compliance scheme for the domestic market. However, FSANZ has never been willing to take on organic products. In addition to organic production being considered by ANZFA not to be a food safety issue, it considered standards for organic production to be a process, not a product standard. Although AQIS tried to convince FSANZ that problems related to production standards (such as the necessity for certification of producers) could be overcome, FSANZ has maintained ANZFA’s position of non-acceptance of responsibility of standards for organic products.

More recently, in March 2006, FSANZ, together with Standards Australia, issued a press release in which the two organisations announced the signing of a memorandum of understanding (MoU) to work closer in developing food standards in Australia. Organic agriculture was specifically mentioned as follows: “Consumers and organic growers are also interested in uniform accreditation for organic food. Once again, this isn’t a safety issue for inclusion in the Food Standards Code but it is under consideration as a future Australian Standard on Organics and biodynamic produce by Standards Australia” (Standards Australia 2006). Thus, FSANZ can reference the Australian Standard in the Food Standards Code, and the signing of the Memorandum of Understanding with Standards Australia facilitates this.

Given the historic lack of interest in organic standards from the side of FSANZ, and the incongruity of FSANZ’s mandates and policies with the issues of importance to the organic industry – standards ownership and costs – it is puzzling that the BFA, who originally was vehemently opposed to the development of an Australian Standard with Standards Australia (Australian Food News 2007), proposed ‘...that the organic industry revisits the option of a legalised control of the word organic within the Food Standards Code as administered by FSANZ’ (Kinnear 2006). Apart from the fact that there is little reason to believe that FSANZ would change its mind at this point in time after such a long resistance to this idea, it is unlikely that FSANZ would have been acceptable to the broader organic sector anyway. This is because FSANZ has the final say over changes in such a standard (Code) – an issue of prominent importance for the organic sector.

An example of FSANZ being able to change standards despite objections from stakeholders is the mandatory addition of folate in bread and flour in 2006. Some people from the medical

profession proposed mandatory fortification of flour to FSANZ. Although the flour milling and bread/baking industries opposed it, FSANZ decided to go ahead with it. In the end, the only exemption granted was for organic flour and this was due to OANZ (Organics Aotearoa New Zealand) lobbying their minister who met with FSANZ and ensured that the exemption was included in the Code.

A further issue is that FSANZ works on the basis of cost recovery. It can therefore be expected that, if FSANZ had adopted the National Standard as a Food Standards Code, development costs would have been considerably higher than those estimated for Standards Australia, and maintenance costs would have been similar to those now paid to, and calculated for the process under AQIS.

### **Organic Federation of Australia (OFA)**

The possibility of the OFA developing and administering the domestic standards has been considered in the past. However, although the organisation was established in 1997, its development was very much impeded by lack of financial resources and historic disunity within the organic sector, especially in the early years but extending into the present to some degree (Wynen and Fritz 2007). As the introduction of domestic standards in Australia was, and is, an urgent matter, the responsibility of the development of the Australian Standard at this point in time would probably have placed an unacceptable strain on the OFA.

In addition, the acceptance of organic standards via Standards Australia by relevant government authorities is guaranteed (see Standards Australia 2007c; Primary Industries Ministerial Council 2007). The OFA does not enjoy the same kind of standing with the Government in relation to standard setting, and organic standards developed under the auspices of the OFA can therefore not be guaranteed the same degree of acceptance. Carriage of the process of organic standard development by Standard Australia should therefore be considered the less risky option - a view likely to have been taken into consideration when deciding on the best way forward by an industry that considers the goal of legal protection of 'organic' of utmost importance.

### **Organic Industry Export Consultative Committee (OIECC)**

The BFA Discussion Paper (Kinnear 2006) proposed that the industry members of OIECC form a legal entity to take ownership and control of the National Standard. It calculated an establishment cost of \$29,000, and an ongoing annual cost of \$35,600.

In a later paper, the BFA (2006) proposed four options of organic standard development and maintenance. These all centre on the possibility of organic standards being developed and maintained by either the private sector (including Australian and New Zealand organic organisations, and presumably including OIECC) or by a Standards Development Organisation accredited by Standards Australia (and Standards New Zealand). The resulting organic standards could then be referenced by FSANZ. This was clearly the next step between its earlier proposal of ANZFA taking on organic standards '...within the Food Standards Code' and OFA's position of Standards Australia having the responsibility for, and management of, the development of organic standards.

However, these ideas seem to have been dropped, as the BFA has been fully cooperating with the Standards Australia process since September 2007.

### **Summary**

Although the export standards have until now served as the *de facto* domestic standards, non-organic products and products certified to standards not complying with the National Standard, or by CBs not accredited by AQIS could be sold as organic in the Australian domestic market with little fear of legal repercussions.

There was no doubt in the minds of the Australian organic industry leaders that the legalisation of the word 'organic', with accompanying standards to define the word, was long

overdue, and that legally binding organic standards for the domestic market needed to be implemented as soon as possible.

The process of achieving this in collaboration with Standards Australia is now underway. Thus, FSANZ, OFA and OIECC are no longer being considered for this task. Issues that have caused anguish in organic circles include ownership and control over content, copyright, compliance, and cost.

The private standard-setting organizations seem to agree that the organic industry itself will need to have *ownership* of the standards. Analysing the issues of who determines membership of committees and acceptance of the standard, ownership of the domestic standards by the organic industry seems a feature of the standards developed under Standards Australia.

The issue of *copyright* is perhaps less important than originally thought. The price of the standards at present is not of relevance for most producers, traders and others in need of standards, because they can receive copies of the standards from their CB, or can merely download them from the internet. If the present system continues, where certifications are carried out according to private standards, no or few standards would need to be purchased, and few additional costs incurred, by those certified.

A third area of agreement is that a mandatory *compliance* system should accompany the Australian Standard, requiring certification with, perhaps, exemptions for example for small farmers, as in the USA. Compliance could possibly be included in the Australian Standard. If this proves not to be possible, other options, such as state regulations, is a possibility.

There is no doubt that the establishment of an Australian Standard incurs costs, irrespective of which organisation is doing it. Nevertheless, costs will vary according to how exactly the change is carried out. One estimate of the full gross costs of a system managed by Standards Australia was around \$300,000 for development, with further annual maintenance costs of around \$60,000 (Kinnear 2006). However, cost calculations are rather different if the underlying assumptions are somewhat refined. Given the National Standard is to be adopted as the Australian Standard, it will be possible to use the Australian Standard also for the export market, thus making the maintenance of the National Standard superfluous. The annual maintenance costs of the Australian Standard may amount to just under \$30,000, a considerable saving for the organic sector when compared with the maintenance cost of over \$74,000 estimated for AQIS. There are also costs of setting up the domestic scheme under Standards Australia as it would be under any organisation. These calculations do not take into account the holding of copyright.

In summary, disagreement within the organic community over the best way to develop and maintain Australian organic standards has dissolved over time. Progress in this area in the near future, with standards developed and maintained involving Standards Australia, seems likely. The industry now considers that ownership of the standards, and control over the content is possible under the same system. This situation would be considered an improvement on that in countries such as those in the EU and in the USA, where governments have the final say over the content of organic standards. Part of the gain of this approach, however, depends on the representation of groups chosen or appointed to develop the standards, though there seems little disagreement within the Technical Committee. The issue of copyright is perhaps not as critical as first made out by some in the industry, especially if private CBs, who derive their standards from the Australian Standard, can continue their practice of providing standards to those who wish to be certified. The industry seems united in demanding compulsory compliance with the standards, an issue that looks as if it is possible to be accommodated in the Standard Australia process. The fear of expanding costs for the industry, apart from costs for standards, seems totally unfounded. It appears that, financially, the industry would be better off with an Australian Standard developed and maintained under Standards Australia than with organic standards under AQIS or FSANZ.

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