



Australian Government

Rural Industries Research and
Development Corporation

Indigenous Fair Trade in Australia

— *Scoping study* —

RIRDC Publication No. 10/172





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Development Corporation**

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Scoping Study

By Michael Spencer and Jocelyn Hardie

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Foreword

Indigenous Australians make up more than 30 per cent of the population of the Northern Territory and also represent a significant share of the population in remote areas. Finding ways in which Indigenous Australians can engage in the mainstream economy on their terms has the potential to achieve important social, economic and cultural benefits for the whole community. Building on knowledge of ‘country’ can create economic returns for Australia.

Today a range of products can be identified that have a direct relationship with Aboriginal knowledge and culture in the areas of bush foods, tourism, and arts and crafts. However there are concerns that traditional knowledge can be taken and absorbed by larger enterprises without benefit or regard for the traditions that nurtured that knowledge over thousands of years. Aboriginal people have expressed concerns that any businesses they develop may have trouble competing with larger enterprises that have better access to capital and management expertise. This report was prompted by interest in whether an indigenous certification and labelling program could allow products and services to be recognised in the market, thereby generating benefit flows to communities and protection for traditional knowledge.

The report finds that there is support for a program that recognises products and services from Aboriginal communities. Support is evident from the communities themselves but also customers for these products and services. Groups such as Aboriginal Bush Traders in Darwin are already thinking about such a program to support communities they serve. This report sets out a framework for developing a labelling and certification program and the potential for such a program to be part of the international fair trade movement. It looks at the issues and costs involved and the steps required. It recommends that further steps be taken to develop a national program and a work plan for such a project.

The Rural Industries Research and Development Corporation invests in new and emerging industries on behalf of government, industry and communities. This study will help determine next steps in a project that could increase the confidence of Aboriginal communities to develop new businesses based on knowledge of ‘country’ that could add significantly to the economies of remote parts of Australia.

This report is an addition to RIRDC’s diverse range of over 2000 research publications and it forms part of our New Plant Products R&D program, which aims to facilitate the development of new industries based on plants or plant products that have commercial potential for Australia.

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About the Author

Michael Spencer is actively involved in the development and management of environmental verification and labelling programs. He is the honorary founding Chief Executive of the Forest Stewardship Council (FSC) in Australia; he is a founding Director of the Water Stewardship Initiative, and; a Co-Chair of the global umbrella organisation the Alliance for Water Stewardship Inc. He provides consultancy services to organizations including the International Social and Environmental Accreditation and Labelling Alliance (ISEAL) and the International Responsible Mine Assurance Program (IRMA). He is a Senior Associate at the National Institute of Economic and Industry Research (NIEIR) and consults widely on business strategy, economic and public policy issues. He previously worked as Head of Marketing and Communication for FSC International in Germany; Head of Corporate Citizenship at National Australia Bank; Vice-President Communication BHP Billiton, and; Senior Adviser to the Premier of Victoria. He holds a BA in politics and economics from Melbourne University and graduate qualifications in public policy and management.

Jocelyn Hardie recently completed the Master of International Policy Studies program at La Trobe University in Melbourne. During her studies she participated in an internship at Fairtrade Labelling of Australia and New Zealand in Melbourne. Previous degrees include a Bachelor of Arts in Anthropology from the University of Lethbridge in Canada. Since her three years living in Australia, she has developed a keen interest in Australian Indigenous politics.

Acknowledgments

The authors would like to acknowledge the support of Professor Luigi Palombi and Professor Peter Drahos from the Centre for the Governance of Knowledge and Development at the Australian National University and Cameron Neil of Fairtrade Labelling Australia and New Zealand. The initial momentum for this project stems from Professor Palombi and Professor Drahos' research, *The Sustainable Use of Australia's Biodiversity: Transfer of Traditional Knowledge and Intellectual Property* funded by the Australian Research Council (ARC). The direction for this scoping study draws from several 2009 meetings and workshops. The 'ARC TK IP Project: Indigenous Economic Development Workshop' held in Broome, brought together a collection of representatives from indigenous enterprise based on traditional knowledge, industry, government, and research. An additional meeting 'Australian Indigenous Social and Environmental Certification: What Are The Opportunities and Challenges?' was hosted by Fairtrade Labelling Australia and New Zealand to explore ideas and opportunities regarding the potential benefits of social and environmental certification for Indigenous Australian enterprises and communities. The early part of this report draws heavily on work of ISEAL and for that Dr Sasha Courville and her team deserve credit although the authors accept responsibility for the interpretation given in this report. Most importantly, the authors would like to acknowledge the many people who gave freely of their time to meet the research team in Melbourne, Broome, Darwin and Alice Springs.

Abbreviations

AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies
ANFIL	Australian Native Food Industry Limited
ANU	Australian National University
ARC	Australian Research Council
ATSIC	Aboriginal and Torres Strait Islander Commission
FLANZ	Fairtrade Labelling Australia and New Zealand
FLO	Fairtrade Labelling Organisation International
FLO-Cert	FLO-Cert GmbH (certification body)
FSC	Forest Stewardship Council
FTAANZ	Fair Trade Association of Australia and New Zealand
IHA	Indigenous Harvest Australia
ISEAL	International Social and Environmental Accreditation and Labelling Alliance

Key terms

Fairtrade and fair trade

In this report when *Fairtrade* is used as one word it refers specifically to conformity assessment program operated by the Fairtrade Labelling Organisation (FLO), its associated certification body FLO-CERT and Fairtrade labelling initiatives such as Fairtrade Labelling Australia and New Zealand (FLANZ). If the reference is to the general concept of *fair trade*, this will be written as two words.

Certification and conformity assessment

The term *certification* is often misused to refer to a system for conformity assessment and labelling. Certification is a particular part of this process that relates to the verification that a product or service exhibits certain characteristics or meets specified requirements. The broader term *conformity assessment* encompasses verification, certification and accreditation. Often, although not always, conformity assessment is associated with a *conformity mark* otherwise known as a product label.

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Executive Summary

What the report is about

Conformity assessment programs are based on a standard against which performance of organisations, companies or people can be verified and certified. A conformity assessment program linked to a certification mark – a logo or product label – can be a powerful tool for change in addressing social or environmental impacts and issues. This report investigates the potential for a tool for Indigenous Australians who are developing businesses, based on their knowledge and ‘country’; enterprises that could strengthen confidence, economy and culture. It investigates whether such a tool could be linked to or be part of the broader global fair trade movement.

Who is the report targeted at

The report provides an implementation tool for the next stage in development of such a program. It will be of interest to people considering how to gain recognition for products and services from Aboriginal communities in the market, how to identify and protect traditional knowledge, how to encourage economic development and self-sufficiency and to strengthen communities. It is intended for people working in businesses, thinking about new businesses or promoting business development in Aboriginal communities as well as people in the supply chain for products and services from communities, people working in fair trade, certification bodies or government policy.

Background

The study focused on three potential industries for certification: bush foods, Aboriginal tourism, and handicrafts and art in three regional centres in Broome (WA), Darwin (NT) and Alice Springs (NT). Although people have been working with bush foods for 20 years, it is still a relatively immature industry. However there is considerable interest in Aboriginal participation. Cultural tourism related to Aboriginal culture and legends is seen as an important and growing industry segment in northern Australia, particularly the Northern Territory. Handicrafts and art are fairly long-standing and mature industries. However there is growing recognition that customers want to support authentic Aboriginal products that provide benefits to Aboriginal artists and communities, and that a system is required to facilitate this.

This project followed a sequence of discussions involving the Centre for the Governance of Knowledge and Development at the Australian National University (ANU) and Fairtrade Australia and New Zealand (FLANZ). A workshop was held in Sydney under the auspice of FLANZ and the International Social and Environmental Accreditation and Labelling Alliance (ISEAL) in 2008 involving representatives from different standard setting programs as well as other stakeholders interested in how a certification program could support Aboriginal enterprise (particularly bush foods). It was followed by a conference in Broome involving about 70 people participating in the bush foods industry, many from Aboriginal communities and enterprises as well as FLANZ and the ANU.

Objectives

The objective of this research was to scope the potential for Indigenous Fairtrade in Australia using conformity assessment tools. Objectives for the proposed conformity assessment program are set out in Table 1. The scope of the program encompasses Aboriginal communities; Aboriginal enterprises endorsed by communities; all products and services offered by these communities and related businesses, and; traders who buy, sell and process products from Aboriginal enterprises. In contrast to the global Fairtrade system, this program would certify communities and businesses rather than specific products.

Table 1: Objectives of proposed certification system

Issue	Objective
Traditional Knowledge	Facilitate commercialisation of traditional knowledge, where communities wish to do this, while enhancing ownership of that knowledge
Authenticity	Identify products and services from Aboriginal communities (and traditional knowledge) in the commercial marketplace
Development	Generate a price premium from products and services marketed that is of long-term benefit to Aboriginal communities
Environment	Recognise sustainable management of natural resources and ecosystems by Aboriginal communities
Traditional Community	Encourage active engagement of Aboriginal people in country and respect for traditions and traditional knowledge

Methods Used

The development of an indigenous fair trade system in Australia is seen as a multi-stage project with Stage 1 being the conceptual discussions that have taken place in previous workshops to establish interest. This project represents Stage 2 and builds these conceptual discussions into a proposal that provides both a structure to the concept as well as a workplan and budget to progress the concept. Stage 3 would be an implementation stage where a range of stakeholders are engaged to further develop and implement the proposal, initially through a series of pilot projects.

This project has reviewed relevant literature, considered comments and outcomes from previous workshops, identified issues and drivers and, translated these into objectives and scope for the proposed conformity assessment program. The objectives set out in Table 1 have not been prioritised as it is envisaged this would be an important task for the multi-stakeholder steering group envisaged as part of Stage 3. An analysis has been undertaken to see how this proposal would fit with fair trade programs and the potential products and services that may be certified. Issues for the next stage have been identified, and a work program and draft budget prepared.

Key findings

Responding specifically to the Terms of Reference for this project, the study has found:

- There is a fairly clear and well-established roadmap for the development of a conformity assessment program and certification market to follow. This is summarised (Chapter 1) as are the main features of fair trade programs (Chapter 2). The issues and impacts which stakeholders expect a proposed conformity assessment program to address are described (Chapter 3).
- The approach recommended (Chapter 7) involves a series of multi-stakeholder working groups, coordinated by a project steering committee, to establish components of the system. These are: (1) standards that set out requirements for participation; (2) a verification process for evaluating against the standard; (3) a brand and labelling system to create market recognition for products and services that have been certified, and; (4) a stakeholder governance system.
- A list of issues to be resolved through this development process has been included (Chapter 6).
- A budget of \$261,000 in Year 1 and \$292,000 in Year 2 has been estimated for this project (Chapter 7). Funding would be sought from government agencies interested in promoting development in remote communities, philanthropic donors and major industries operating in remote areas such as mining companies (Appendix 2).

- It is recommended that the program not be tied to specific products as is the case with Fairtrade but is instead tied to communities and their enterprises. Products identified for the next phase are discussed (Chapter 5). While the system will be different from Fairtrade, it will be compatible with the World Fair Trade Organisation standard (Chapter 4).
- The project team found a high level of interest from indigenous business people. A list of stakeholders is included (Appendix 1). There is evidence of support for the project but one issue will be that different groups and individuals have different objectives (Chapter 3).
- In relation to protection of traditional knowledge, it needs to be borne in mind, that a conformity assessment program and mark are not a substitute for intellectual property law. Any protection offered through a program such as the one discussed in this report, would be by way of public claim of prior ownership by traditional owners for products and services that may be certified.

Implications

In summary, there is a case for further development of an indigenous fair-trade certification system. The link between country, culture, community and economy is a powerful one for Aboriginal Australians. Participation in economic activities that relate to traditional culture (e.g. art and wild harvesting) is high because these activities fit with culture and country. These activities can engage people in building economies. Certification can support this through special recognition in the mainstream economy.

Where indigenous economic activities intersect with the mainstream economy communities will face the normal commercial pressures of competition and bargaining. A certification mark offers the opportunity for customers and end-consumers that want to support Aboriginal enterprises to show preference for these products with their buying decisions. Fairtrade labelling has demonstrated that there are consumers willing to seek out and pay more for products that support development goals.

Recommendations

The report recommends moving to the next phase of developing the program and undertaking pilot trials of the proposed conformity assessment program. There is sufficient support to warrant such an initiative. There is already evidence of moves to develop smaller more fragmented programs. A broader national program would have stronger market influence.

Introduction

This project is a further development of a concept that has been evolving for some time through the efforts of Fairtrade Labelling Australia and New Zealand (FLANZ) and the Centre for the Governance of Knowledge and Development at the ANU. Two workshops that were held in Sydney and Broome prior to the commencement of this project created interest and engagement from many parts of industry, Aboriginal people and Aboriginal businesses.

Many of the business that would be considered for any labelling or certification program are still at a relatively immature stage of development. As a result, the introduction of a new program would need to be carefully considered so it did not impose burdens on these businesses that they could not support. At the same time, it has been apparent that the Fairtrade system could not accommodate the objective sought by potential participants because of the way that program is currently framed. It is focused on products that require a specific standard to be drafted and it is based on a nominated list of countries that have developing economies. This project would struggle on both grounds because Australia is a developed country – even though some of the communities that would benefit from this program exist in conditions that have been described as equivalent to a developing country – and, the project needs to be able to accommodate a wide range of products that are not currently covered by Fairtrade. However, it would appear that there is scope for this project to be aligned with the draft standard of the World Fair Trade Organisation.

An important assumption of this project has been that any program developed would be aligned with the global requirements of ISEAL. As a result, there is an extensive discussion of these requirements at the start of the report. This essentially sets out a framework for the rest of the report and is intended in part, as a point of reference for future development of the certification program. There is a growing awareness of the need for consistency between conformity assessments programs and that they adhere to a set of international rules and guidelines. While this project has been led by FTAANZ and the team from the ANU, it was also conceived as a project for the ISEAL roundtable group of ISEAL affiliates in Australia.

In developing conformity assessment programs, experience dictates that the most important issue to have clear at the outset is the objectives of the program – what it is trying to achieve – and the scope of the program – what it will be applied to. While these are intuitively self-evident, being clear about these matters can be overlooked when advocates and proponents are enthusiastic about getting a program started. For that reason, this report spends some time at the outset considering the issues that give rise to an interest in developing a program and the ‘impact’ that the program would need to address. In this case, these impacts have an historical context related to the settlement of Australia by Europeans and the loss of a traditional Aboriginal economy. While it is unlikely that a traditional economy can be put back together again, it is important that Aboriginal people have an opportunity to define areas of economic activity that are consistent with their culture and traditions and gain recognition in contemporary markets for products and services that have this relationship.

Objectives

There is evidence of some demand for fair trade certification of indigenous products/producers in Australia. Before moving to a full-scale feasibility study, there is a need to carry out a preliminary analysis of the issues raised by indigenous certification in the Australian context to determine whether more resources should be devoted to this matter. The research team was asked to report on:

- What are the technical questions and issues that a feasibility study should examine, and what activities are recommended to provide these answers?
- What is a reasonable cost estimate for a feasibility study and what are some likely sources of funding?
- What are the issues around eligibility criteria of indigenous groups for fair trade certification in Australia?
- What are some likely products that might form part of a feasibility study?
- Is it possible to identify indigenous groups/businesses that could participate in a full scale feasibility study? Is there evidence of real support within indigenous groups for indigenous fair trade certification?
- How suitable do existing fair trade systems appear to be for the purposes of indigenous fair trade certification?
- Given all of the above, on the weight of evidence is there an emerging case for applying fair trade models to indigenous products/producers to facilitate economic and social empowerment that justifies moving to a full scale feasibility study?

Methodology

Terms of Reference for this study asked for the following to be included:

1. Undertake a literature review, including reviewing existing economic data; and
2. Conduct interviews with key stakeholders:
 - a. Supply side (beneficiaries and intermediaries)
 - b. Demand side (consumers, retailers, brands)
 - c. Certifying and marketing organisations (FLO, WFTO, FLANZ and FLAANZ, Organic movement, ISEAL)
 - d. Indigenous producer groups and indigenous business organisations
3. Compile a stakeholder contact database for use in the feasibility study

In consultation with Professors Palombi and Drahos the research team interpreted the brief broadly so as to be in a position to recommend the scheme that best fitted the requirements, based on interviews, of Indigenous Australians and their communities. A briefing on the key stakeholders to this research was also provided by the ANU team. These stakeholders had been previously defined within the terms of their *ARC Traditional Knowledge and Intellectual Property Project* and had had previous contact with the research through interviews and workshops for that project.

1 Making claims about products

This study was asked to consider whether there is sufficient demand for a conformity assessment program that can generate benefits for Aboriginal communities through recognition of products and services based on their traditional knowledge. This traditional knowledge is deeply rooted in the land or country of particular Aboriginal communities hence it is related to traditional ownership or responsibility for that country. The study is further interested in whether such a conformity assessment program is compatible with existing fair trade programs.

This chapter establishes a framework for considering a conformity assessment program. It outlines the elements of a credible social and environmental conformity assessment. It draws heavily on work undertaken by ISEAL for new and emerging initiatives.

1.1 Standardisation and product labelling

Conformity assessment is based on the existence of a standard that establishes the benchmark against which conformity can be assessed and a credible verification program that can assess and validate conformity with that standard. A standard is a document that sets out the rules and requirements in a way that allows for common and repeated use. A conformity or certification mark is a product label that essentially makes a claim that a product or service (or process, system, person or organisation) conforms to a set of requirements. These elements are necessary but not sufficient to assure the credibility of a product (or service) labelling program.

Standards have many purposes apart from product labelling. The International Organisation for Standardisation (ISO) is most likely the world's largest developer of standards. It offers 17,000 standards for management, agriculture, engineering, manufacturing, distribution, food safety and medical devices (ISO 2008). ISO is best known for its quality management standards (ISO 9000) and environmental management standard (ISO 14000). It does not offer a label for organisations that conform to its standards although many customers for its standards do offer labels.

There are a great number of product claims and labels that assess conformity but are not associated with a recognised standard. Marketers invent some product claims and labels. Some are based on a form of standard that lacks rigor, clarity and purpose. Some lack credible verification. The Heart Foundation 'tick' was one of the most visible symbols in the Australian market until media reports questioned its integrity and asked if the main criteria for access to the label was the payment of a license fee. The Woolmark label was once one of the most recognised symbols in the world but did not have clear purpose once competition from re-used wool diminished as an issue.

ISO has developed a body of knowledge around conformity assessment programs and produces a range of relevant guides and standards on this subject (for instance; the Code of Good Practice (ISO/IEC Guide 60:2004), Product Certification Guide (ISO/IEC Guide 67:2004) and, Vocabulary and General Principles (ISO/IEC 17000:2004)). While these documents represent core knowledge on conformity assessment, social and environmental labelling organisations have supplemented this knowledge with their own 'Codes of Practice' that are adapted to the particular needs of social and environmental conformity assessment programs. Many of the founding organisations¹ in this area formed the ISEAL Alliance that is gradually developing a *metagovernance* system role.

The growing prominence of product claims has attracted regulatory interest in recent years. The Australian Competition and Consumer Commission (ACCC) is the main regulator of product labelling

¹ Fairtrade; Social Accountability International (SAI); Rainforest Alliance; Forest Stewardship Council (FSC), Marine Stewardship Council (MSC), Marine Aquatic Council (MAC) and; the International Federation of Organic Agriculture Movements (IFOAM)

through its administration of the consumer protection elements of the *Trade Practices Act (1974) (Cwth)*. The Act applies to all forms of marketing including claims on packaging, labelling or in advertising and promotion. Two provisions of the Act are relevant: Misleading and Deceptive Conduct and; False or Misleading Representations. The former relates to claims where there is a ‘real or not remote’ possibility that a member of the target audience has been misled. The latter can attract criminal penalty. “The Act requires that business not falsely represent goods as being of a particular standard, quality, value, grade, composition, style or made having a particular history or previous use.” (ACCC 2008). While the Act is intended to ensure claims are not misleading, these provisions also protect bone fide trademarks and certification marks (registered under the *Trade Marks Act 1995*).

The key issue to note at this point is that any conformity assessment program developed for indigenous traditional knowledge will need to conform to a set of norms for such programs that are essential to establish credibility and acceptance of such a program. Its design should also be undertaken mindful of the need to only make claims that can be verified and justified to ensure legal compliance. This report will principally use the framework for developing and maintaining conformity assessment programs developed by ISEAL. It does so for two reasons; the report is interested in the applicability of Fairtrade (a founding member of ISEAL), and; the ISEAL framework is focused more generally on the sorts of objectives envisaged for this program.

1.2 Elements of conformity assessment programs

Social and environmental conformity assessment programs associated with ISEAL generally deal with products or processes. That is the ‘way products or services are manufactured, produced and/or processed, or the way natural resources are extracted or harvested’. Generally they will have most, if not all, of the following elements:

- A standard against which conformity is assessed that conforms to international norms in terms of how it is produced and set out;
- A verification program that is sufficiently comprehensive and rigorous that it can assure users of the system that it has integrity and can protect the ‘brand’ of the program;
- A branding and labelling system that allows customers for the program to identify conforming products and services and discriminate in favour of those products;
- A governance structure that reflects the diversity of stakeholders in the program; operates transparently, openly and democratically, and attracts and retains stakeholder support;
- A financial or business model that can underpin the system and provide for its long-term financial sustainability without prohibitive costs for entry;
- A system for monitoring, measuring and reporting impacts of the program.

The latter two points are vital for the long term success and survival of voluntary programs and need to be given sufficient attention in the design of any program.

Another key issue in developing a voluntary social and environmental conformity assessment program is balancing accessibility with integrity; in other words not having the bar for access (the standard and verification process) so high no-one can meet the requirements, but not having it so low that it lacks integrity and does not meet the expectations and objectives stakeholders have for the program.

1.3 Developing a standard

Developing a standard is both a technical task and a political one. It is technical in that the process needs to create a document that is credible and can be applied repeatedly for measuring processes and performance; it is political in that both the objectives and the implementation of the standard will require stakeholder endorsement and support to be effective. There are a series of steps required for an effective standards development process.

- Setting clear objectives including issues to be addressed by the standard
- Identifying and bringing together key stakeholders
- Defining a structure for the standard, a process and work program
- Establishing robust (multi-stakeholder) decision making processes
- Engaging technical expertise relevant to the standard development
- Communicating with stakeholders about the process
- Developing a draft standard
- Stakeholder consultation on the draft standard
- Field or pilot testing functionality and fit for purpose
- Revision and publication of drafts
- Publication of the final standard with a timetable for review

These elements can be represented as a process below.

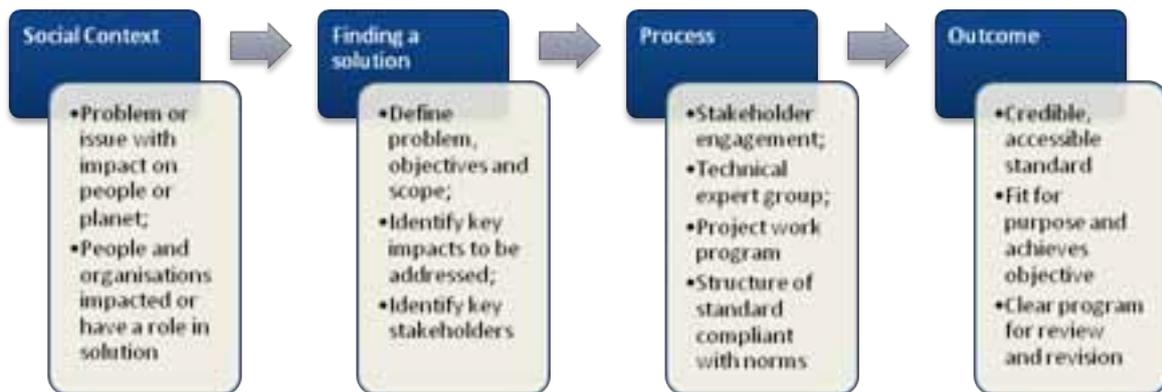


Figure 1: Process for developing conformity assessment program

Two elements are at the heart of a good standards development process; identification of stakeholders and setting clear objectives. These can be undertaken simultaneously or in no particular order. Generally, the need for a standard will emerge from a group of stakeholders who will develop a set of objectives and a list of people and organisations who could be impacted either positively or negatively by development of the standard. ISEAL has developed support material for new standard setting organisations ISEAL (2007a) and a Code of Good Practice for Setting Social and Environmental Standards (ISEAL 2010). The following discussion draws on both documents. For a more complete explanation these documents should be consulted.

1.3.1 Setting clear objectives

Setting clear objectives at the beginning will underpin a successful standard setting process. To set clear objectives, it is essential to have in mind the impacts (social and/or environmental) the standard is trying to address (the subject of impacts will be returned to later). Objectives need to be defined in concrete terms that identify the change the standard is trying to achieve. The sponsoring organisation also needs to justify that there is a need for the standard and sufficient interest in its application. Two examples are: “Fairtrade is a strategy for poverty alleviation and sustainable development” and; “The goal of the Forest Stewardship Council is to promote environmentally responsible, socially beneficial and economically viable management of the worlds forests ...”.

Organisations also need to be sure to differentiate between the social and/or environmental objectives for the standard and the objectives for the organisations as illustrated in Table 1.

Table 2: Setting objectives based on impacts (ISEAL 2007)

Type of Objective	Example of Specific Objective
Social and environmental objectives	Conservation of biodiversity
	Fair wages for producers
	No child labour
Organisational objectives	Broad stakeholder participation
	Transparent operating procedures
	Balanced stakeholder decision making

In its revision to the Code of Good Practice released in 2010, ISEAL incorporated its requirement for clear objectives into a requirement for a more thorough Terms of Reference (TOR) at the start of any standard setting process. This TOR includes most of the items discussed above:

- Justification of the need for the standard including an assessment of whether the proposed standard will meet an expressed need, documentation of what other standards exist or are in development that would meet all or part of the expressed need and an assessment of where the final standard is intended to be applied.
- Clear objectives that the standard seeks to achieve, in particular those objectives that focus on social, environmental and/or economic aspects; and
- An assessment of risks in implementing the standard and how to mitigate for these (including risks the standard may not achieve its objectives or may have unintended consequences).

1.3.2 Identifying stakeholders

Identification and engagement of stakeholders is as important as setting clear objectives for a successful standards development process. It can be the most difficult part of a standards development process. There are a number of challenges; identification of all relevant stakeholders, convincing stakeholders that it is worthwhile to participate in the process, and, making sure they have the opportunity to play an effective and meaningful role in development of the standard.

The ISEAL Code of Good Practices requires that a *stakeholder mapping* exercise be undertaken at the beginning of any standards development process to identify “major interest sectors and key interested parties, based on the standard’s objectives”. The mapping exercise needs to identify who is relevant to the standard and why and, for each sector, what are likely to be the key issues, the key people and organisations and the communication channels needed to reach these stakeholders (ISEAL 2010). There are two types of stakeholders; those directly affected (directly impacted by implementation of the standard) and indirectly affected (have an interest in implementation of the standard). Examples of stakeholders include; producers, traders and trade associations, wholesalers and intermediaries, retailers, consumers, trade unions, social NGOs, environmental NGOs, indigenous groups, government and local authorities, international organisations, research and academic bodies, certification bodies.

ISEAL requires that stakeholders be approached proactively to contribute to a consultation process on a standard. If that approach fails to gain input from key stakeholders then the need for the standard or the approach to stakeholders should be reassessed. ISEAL further requires that goals be set for stakeholder participation. It recommends that stakeholders are engaged at the beginning of the standard development process and that the process is open and transparent with a clear roadmap so participants can understand the whole process and where they can contribute. Steps also need to be

taken to ensure disadvantaged stakeholders can participate by funding their participation, culturally appropriate communication tools and capacity building to assist participation. Where representative organisations are involved, it is important to ensure they are seen as legitimate representatives.

1.3.3 Structure, process and work program

A standard is based on a logical hierarchy that links the objectives defined at the outset (and affirmed through the impact analysis, stakeholder mapping and consultation) with the outcomes required in the field to realise the objectives. Elements of this hierarchy are set out in Table 2.

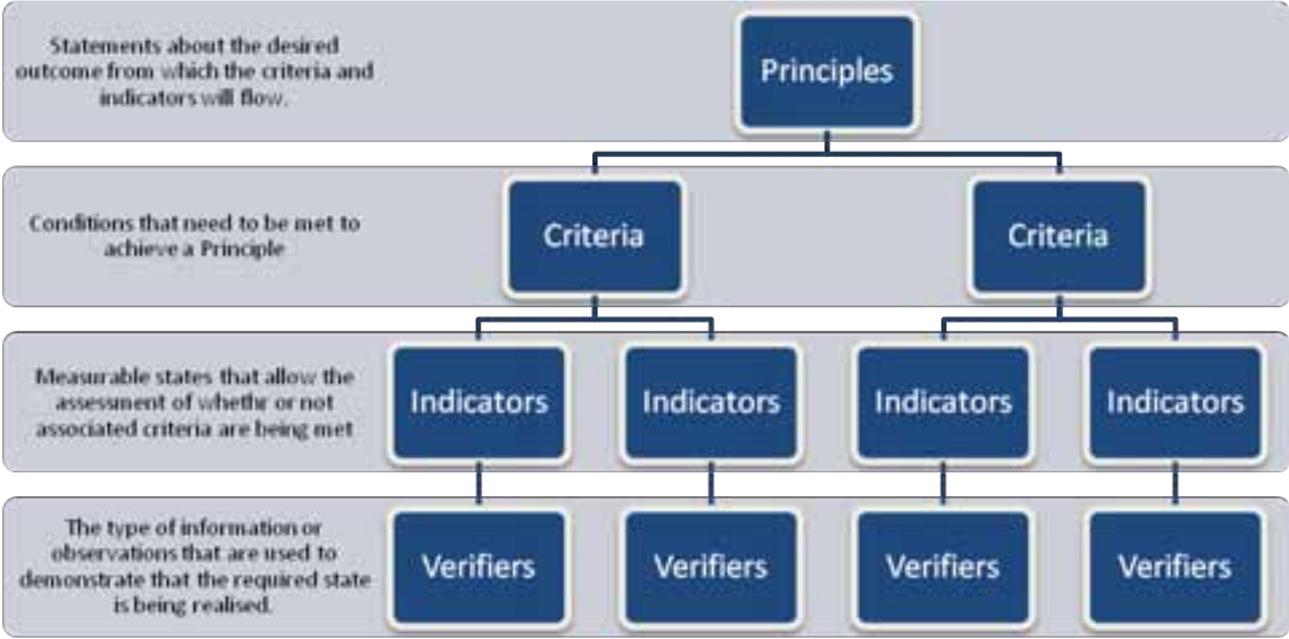


Figure 2: Elements of a Standard from ISEAL (2007a) derived from Natural Resources Institute
www.nri.org

In developing a standard it is advisable to have as tight as possible a list of principles. Too many principles can make the standard too complex and both difficult and expensive to audit. For instance, the Forest Stewardship Council has a globally relevant set of Principles and Criteria for responsible forest management. The standard has 10 principles and 56 criteria that flow from these principles. Most FSC national standards will have between 160 and 220 indicators of performance against which operations are audited. In developing criteria and indicators that underlie core principles, ISEAL (2007a) recommends following SMART principles: Indicators that are Specific, Measurable, Achievable, Relevant and/or Realistic, and Time-bound and/or Trackable.

At this early stage of developing a standard it is necessary to agree on some fundamental issues such as the level of change sought through the standard (is it to reflect best practice or set minimum acceptable performance); and whether the standard will focus on performance (generally outcomes) or system requirements (processes) or a combination of both, and; what stage of the production process the standard will apply (production/harvest, supply chain, point of sale or all through the life cycle). Each choice will have implications for how the standard is developed and designed or indeed whether more than one standard is required (a production standard, traceability standard etc.). The standard development process must consider whether it will assess absolute levels of performance (pass/fail) or escalating levels of performance (gold, silver bronze); it will need to decide whether it will tolerate any non-conformances and if so whether it needs a system of minor and major non-conformances for compliance, and, whether it will provide for implementation of certain elements of the standard over time (time-based implementation). It will need to be clear in setting the scope, whether the standard tolerates local differences, national differences or is seen as global.

Process issues that need to be addressed at this early stage of a standard's development include:

- Documented procedures for the standard setting process
- Record keeping process (available to interested parties)
- A complaints resolution process
- Terms of Reference (noted earlier)
- A public summary setting out
 - Contact information and how to contribute to the process
 - Summary of terms of reference
 - Steps in the standard setting process (including timelines and opportunities to contribute)
 - Decision making procedures (how decisions are made and by whom)
 - A publicly available work program setting out
 - Organisation's name
 - Contact point
 - Details of standard under preparation
 - Any previous standards adopted
 - Brief description of the scope of the standard.
- A particular set of issues likely to be encountered for the program envisaged would be the impact of distance, climate and culture on the timing and conduct of such a process. For example, access can be limited during the 'wet' in Northern Australia; there will be a need to build trust and commitment among communities who have seen a lot of 'consultations' without corresponding 'outcomes', and; cultural commitments such as 'sorry business' cannot be predicted. In addition, language and communication infrastructure will impact a consultation processes.

1.3.4 Decision making and engaging technical expertise

Standard-setting processes will strive to achieve consensus on the proposed standard among a balance of interested parties. The organisation developing the standard needs to define criteria to determine when alternative decision-making procedures come into effect. Consensus is defined as:

General agreement, characterised by the absence of sustained opposition to substantial issues by any important part of the concerned interests. It should be the result of a process seeking to take into account the views of interested parties, particularly those directly affected, and to reconcile any conflicting arguments. It need not imply unanimity. (ISEAL 2007a)

Decision making in the standards development process needs to be appropriate to give stakeholders confidence in the process (and take account of the fact that views may change during a consultation process). Confidence "is a question of empowerment and representation" (ISEAL 2007a). Decision making needs to be balanced, open and transparent and to correct for potential biases where some interests may have the potential to exert greater influence over the process. The decision making process needs to make clear where final decisions will be made. However, where final decisions are to be made by non-representative bodies, it will be important that they confine the scope of their decision to whether an agreed and appropriate procedure has been followed. The ISEAL Code (ISEAL 2010) requires that participation is open to all interested parties and reflects a balance of interests. Interested parties include those with relevant expertise, those who will be affected by the standard, and those that could influence implementation of the standard.

There will often be a requirement for people or groups of people with technical expertise to assist the formulation of a standard. Technical Committees are groups of experts that do not require balanced representation. "Their role is to prepare initial draft standards and then to amalgamate stakeholder input and integrate that into subsequent revisions of the draft standards. Technical committees can be appointed or elected and can be permanent or ad hoc." (ISEAL 2007a)

1.3.5 Public consultation

In developing standards, there will generally be more than one draft before a standard is finalised. The first draft will normally be released with a 60-day period for consultation. Second or subsequent drafts will generally have a 30-day consultation period. (These periods should take account of circumstances such as those referred to above relating to distance, seasons, culture and communication.) While it may be possible if there is very little controversy to avoid a second consultation period, at least two public consultation periods would be normal particularly where there is controversy or dispute. Standard setting organisations are required to take into account all comments and input received during consultation. There is a requirement to compile comments and produce a public summary of how each material issue has been addressed. Interested parties need to be provided with meaningful opportunities to contribute to the standard development (or revision) process.

1.3.6 Review and revision

All standards should be publicly available and published promptly. Translations of draft and final versions should also be available. A process to receive comments and clarification needs to be established and maintained. The standard should be reviewed at least once every five years for continued relevance and effectiveness in meeting stated objectives.

1.4 Verification

Development of standards does not in and of itself guarantee credibility or integrity of claims made in relation to products or services. Verification is the process by which claims of compliance with a standard are assessed and validated. Verification may be carried out by a company in relation to its own products or services (first party claims), by a buyer of those products or services (second party claims) or by an entity that is independent of both parties and other interests (third party claims).

Third party verification systems are generally considered to be more credible than first party and more practical and cost effective than second party. But the credibility of the third party model is not universally accepted. Concerns relate to perceptions of third party certification bodies having a financial interest in maximising the number of certificates they issue and maintain. This section will not provide a full account of debate over credible verification. It will outline some issues that need to be considered and sketch some verification models.

1.4.1 Issues and considerations for verification systems

Verification systems rarely offer a 100 per cent guarantee of compliance. Systems may be complex and require judgement by different auditors. They will often be based on sampling of operations and time based 'audits' (annual, six monthly, bi-annual etc.). The auditor is not at the site or in the plant or field all the time. However the verification system needs to strive for credibility with stakeholders based on conformity with international norms and best practice.

Consistency of application and interpretation of standards are essential in developing a credible verification system. This will normally mean the imposition of requirements around audit process and procedures as well as training of auditors. Compliance with these requirements (in a system involving independent certification bodies) is verified by an Accreditation Body that maintains standards for the certification process. Some examples are provided below.

Interoperability is increasingly important as organisations confront an ever expanding array of conformity assessment programs. It is important in reducing complexity and costs and therefore making conformity assessment more accessible. It is also important where the certification program needs to work along a supply chain and a number of different auditors may be involved. Increasingly, customers are expecting to achieve a suite of certification outcomes from a single audit visit.

Cost is a major issue in determining accessibility. The more complex the verification program, the

more time required and therefore the higher the cost. Smaller and community based enterprises are excluded by conformity assessment programs where the cost of entry is too high. Reducing costs can have implications for integrity and credibility. In a program such as the one envisaged in this paper, cost will be an important consideration given the small size of many communities. In Stage 3, considerable thought will need to be given to how costs can be minimised yet integrity maintained.

Conflict of interest needs to be managed in order to maintain credibility. This generally requires that the verification or certification body is independent of the company or organisations being certified and also independent of the standard setting organisation.

Verification processes will be subject to complaints about delays, lack of flexibility and bureaucracy. Most organisations will have theories on how the verification process could be simpler or cheaper. Transparency is in part an antidote to these claims when the reasons for certain requirements and costs are communicated to system users and the reasons for decisions are publicly available.

Verification processes also need to be supported by an effective contractual system that makes clear rights and responsibilities as well as ownership of intellectual property such as labels. Contracts need to set out the consequences of breaching the requirements of the system such as suspension or withdrawal of certificates, the right to make claims or use labels.

1.4.2 Models of verification

Different models of verification exist. The simplest model is that the standard setting organisation authorises a single entity to verify compliance with its standards. A more complex model is where certification decisions are made by independent third party organisations (certification bodies) that are in turn accredited by an intermediary called an accreditation body.

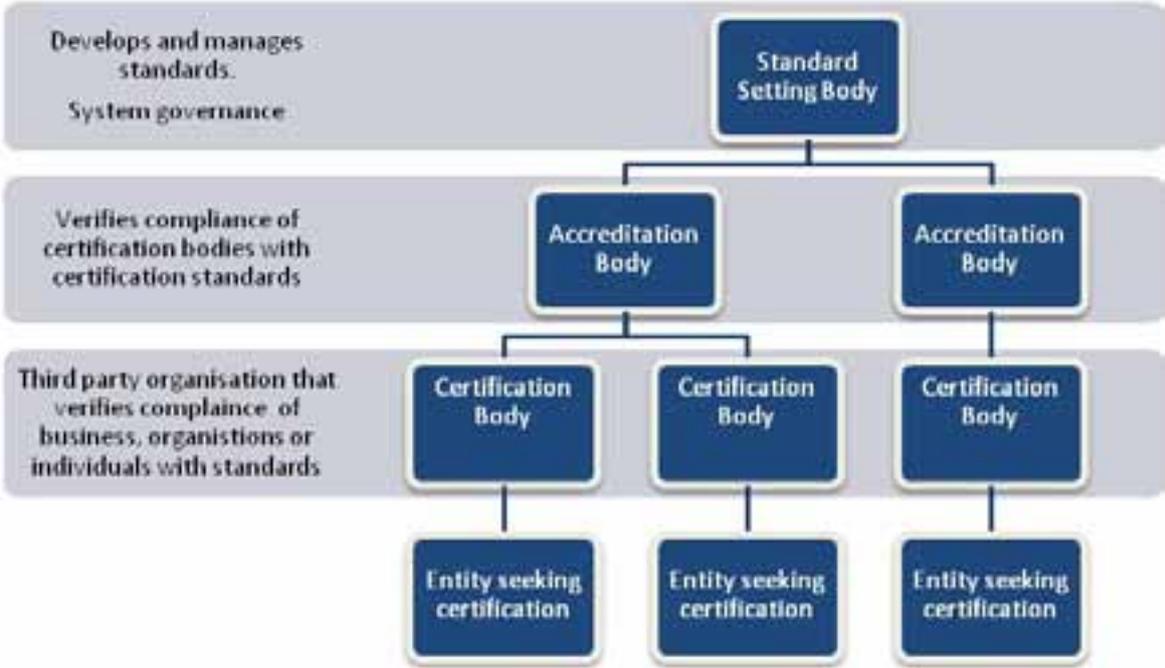


Figure 3: Indicative verification structure

In the model above there could conceivably be multiple standard setting organisations using the same Accreditation Body (as happens with Accreditation Services International who accredit on behalf of the Forest Stewardship Council (FSC) and the Marine Stewardship Council (MSC)) and there could be a lot more certification bodies (FSC has 20 certification bodies). Equally there could be one or multiple Accreditation Bodies. Certification Bodies certifying ISO standards for instance can be accredited through a number of national and regional accreditation bodies such as JAS-ANZ, the Joint

Accreditation Body for Australia and New Zealand. The important issue in this model is the separation of standard setting from certification decisions to protect against conflict of interest.

ISO sets rules (Guides) for how Accreditation Bodies and how Certification Bodies should operate to ensure the integrity of decision-making. For instance, the same people who actually undertake audits should not make certification decisions. The auditor will normally provide a report to a certification committee within the certification body on whether the particular organisation is compliant.

1.5 Branding and Labelling

Every organisation, program or entity has a brand. The brand is created by its positioning in its market and how other people (stakeholders) perceive it among the range of entities they know. The entity may actively manage its brand or it may not in which case it simply accepts the perceptions others form and that in effect create the brand. Successful organisations tend to have very strong and clear strategies for managing their brand.

How the program uses its brand and whether it labels products, are decisions that a conformity assessment program needs to take quite early in its development; long before they start to become drivers of success in the market. If the system is to have an ‘on-product label’ or simply be used for business-to-business promotion will influence how the system is designed. An ‘on-product label’ means that every product needs to have claims verified through some form of traceability program. This can be quite complex if the supply chain is long and with many players. If the brand is expected to develop real market value, then this will be important in how the business model is developed and the program is financed. Elements of the brand and label will need to gain trademark or copyright protection. The more value the program builds the more resources will be required to police trademark and copyright infringements and protect the integrity of the program.

There are three positions a conformity assessment program could take on labelling and branding:

- An activist position using the brand and a label to create a market driver (high profile);
- A passive position where the brand is essentially a business-to-business recognition of a management approach or commitment (medium profile), or;
- No label (low profile)

1.5.1 Creating market driver

Most social or environmental conformity assessment programs rely on market ‘pull’ to effect change. The system represents itself to a customer segment as driving a change they would like to see, an impact they would like to avoid or an initiative they would like to support. To achieve this, the program creates a point of contact with customers. Generally this is through an ‘on-product’ label or trademark that is associated with a claim made by the system. This claim will normally reflect the program’s objectives (FSC: The mark of responsible forestry/Because Forests Matter; Fairtrade: A better deal etc.). Any product claim needs to be validated. So any program needs to be clear about what claim it is seeking to make to customers; how can this be validated through the supply chain and through the application of the standard (objectives, scope and implementation of the standard).

There is growing concern from customer-facing organisations such as retailers about the range of product labels confronting consumers. In some countries, retailers have attempted to aggregate labels under a corporate banner to simplify choices for customers. This has not always worked. There are also pressures from funding organisations to see greater cooperation between social and environmental labelling programs. This move is in its infancy. A pilot on co-branding is underway between the Forest Stewardship Council and Fairtrade. Organics and Fairtrade have also often been associated as a combined product offer to customers (Figure 4). It can be expected that this trend will build over the next five to ten years and there will be more examples of co-branding.

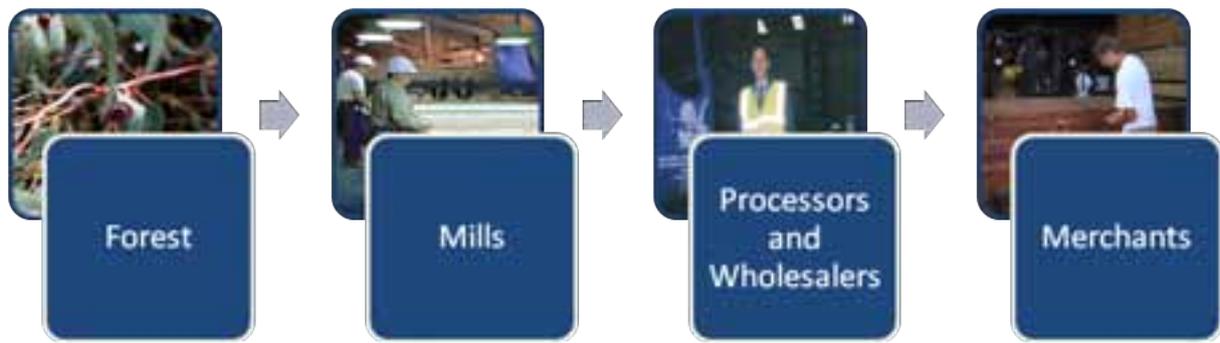


Figure 4: The FSC Chain of Custody system

1.5.2 Medium and low profile brands

Some conformity assessment programs are more interested in providing benchmarking opportunities to participants than a market driver. For instance, the International Responsible Minesite Assurance (IRMA) Program is not interested in a ‘product-brand’ that could act as a market driver. It wants to provide a benchmark for the industry and a claim for intermediate customers that they might report in corporate publications but not on-product. For instance the annual report of such a customer company may claim that all the mines supplying a particular commodity were IRMA accredited. The mining company may make a similar claim about the proportion of its operations that are certified. But it is not envisaged that this program will result in an on-product claim to the effect that all the raw material in this steel roofing is from responsible mining operations accredited by IRMA.

An even lower profile approach is that taken by ISO. That organisation does not allow its logo to be associated with any claims of conformity with its standards because it is not a conformity assessment program; it merely develops standards. “Allowing the ISO logo to be used would give the false impression that ISO carries out certification activities, or has approved or authorized the organization using its logo. These activities are not business functions of ISO.”

1.5.3 Partial and differentiated claims

Any scheme will face pressure to deal with partial compliance with a standard. This may mean that not all the requirements can be complied with or not all requirements can be met at the same level. This has consequences for the labelling program in so far it requires the label for partial compliance to be clearly differentiated in order to protect integrity or to comply with *truth in labelling* laws or consumer protection laws. Various solutions have been used such as with the Forest Stewardship Council a “Mixed Sources” labelling meaning not everything sourced in that product was compliant with the standard for responsible forest management. Another approach is a *star rating* system as seen most clearly with energy rating programs. An appliance for instance may use a label at virtually any level but relative performance is shown by the number of stars (one to five generally). A similar approach is used for green building rates. These sorts of solutions will have implications for how the program is designed and the standards are written so there is a clear set of indicators for each level of performance.



Figure 5: Energy rating certification star system to differentiate levels of claims

1.6 Governance

Governance includes the exercise of control, management and authority through organisational structures, rules, relationships and decision-making processes. It is the mechanism by which the entity is controlled, by which it is accountable, decisions are made, by whom and how. Governance defines the relationship an organisation has with its stakeholders (ISEAL 2007c). In a multi-stakeholder system it is in part the mechanism for achieving legal compliance, stakeholder engagement, stakeholder endorsement and conflict resolution. It influences all aspects of a program's development, legitimacy and success. But there is no 'one-size-fits-all' governance solution. There is a range of models that are appropriate to different situations.

Within ISEAL there is considerable variation in governance arrangements. These arrangements are normally the result of the historical evolution of the different organisations and reflect the environment in which they operate. There is inevitably a trade-off between efficiency and the level of democracy afforded to stakeholders. All involve stakeholder participation but this may vary from an appointed council or advisory group through to an extensive membership base that, when assembled, becomes the principle decision making entity for the organisation. In general, where an organisation positions itself on the continuum between the most democratic form of organisation and the most efficient is the result of the level of stakeholder conflict over outcomes.

Multi-stakeholder governance systems need to take account of:

- Conflict (and lack of trust) between participants
- Different personal drivers for participants (financial, emotional, rational)
- The need for consensus-based decision-making
- Combining market-based legal compliance with multi-stakeholder decision-making

In a previous paper (Spencer 2008), ten organisational challenges were identified for multi-stakeholder governance models:

1. The model needs to be inclusive, accommodating a diversity of interests, individuals and organisations
2. Stakeholders need to be able to fully engage in both the challenge and solution being proposed
3. Stakeholders need to be able to coalesce around common interests and decision-making modes
4. The organisation needs to build and maintain trust and integrity with all stakeholders
5. There must be recognition of a clear and strong compliance driver
6. It must provide for leadership that can lead and deal with complexity

7. It must provide for learning, integrating, transforming
8. It must allow for staged development and a sub-organising capability (national, regional)
9. The model must be simple but non-hierarchical and embody collective decisions
10. There should be an identified source of metagovernance (governance of governance)

Practical issues that need to be decided include:

- Is it a separate legal entity or housed within another entity?
- What activities will the organisation engage in or leave for others? (Does it do trademark management or leave this to another organisation? Does it do accreditation?)
- Is it a membership-based organisation or does the Board constitute the membership?
- What are the different governing bodies, committees etc; their roles, powers responsibilities?
- How are members of different bodies selected and who do they represent?
- How are decisions reached? By voting, consensus? What are the rules?

The diversity of approaches is shown in the following diagrams from ISEAL (2007c)

The Forest Stewardship Council is a membership-based organisation where members are divided into three chambers and this structure is reflected in the board and other committees (Figure 6).

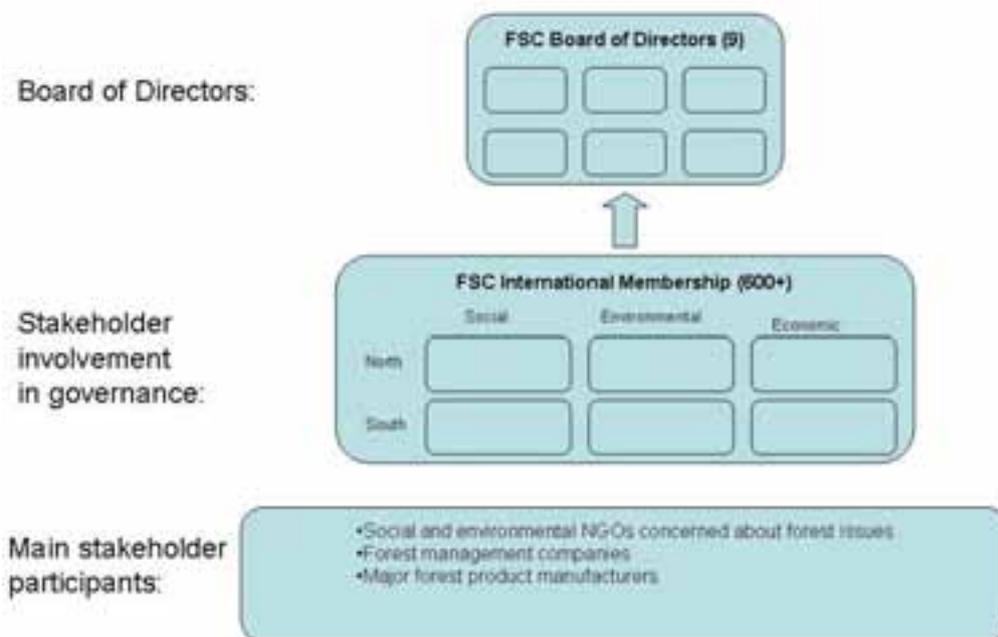


Figure 6: Governance structure Forest Stewardship Council

The Marine Stewardship Council has quite a different structure where the Board is the membership and stakeholders are engaged by way of the Stakeholder Council (not elected but structured to reflect the main stakeholder groups) and a Technical Advisory Board (Figure 7)

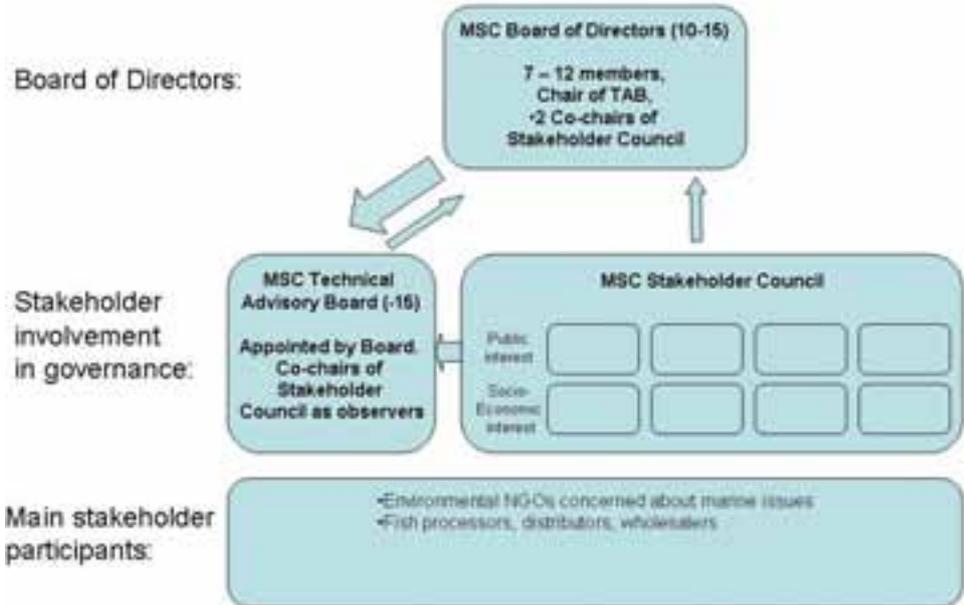


Figure 7: Marine Stewardship Council governance structure

The International Federation of Organic Agriculture Organisations on the other hand is structured as a more conventional membership-based organisation even though it is in many ways a Federation of national organisations (Figure 8).

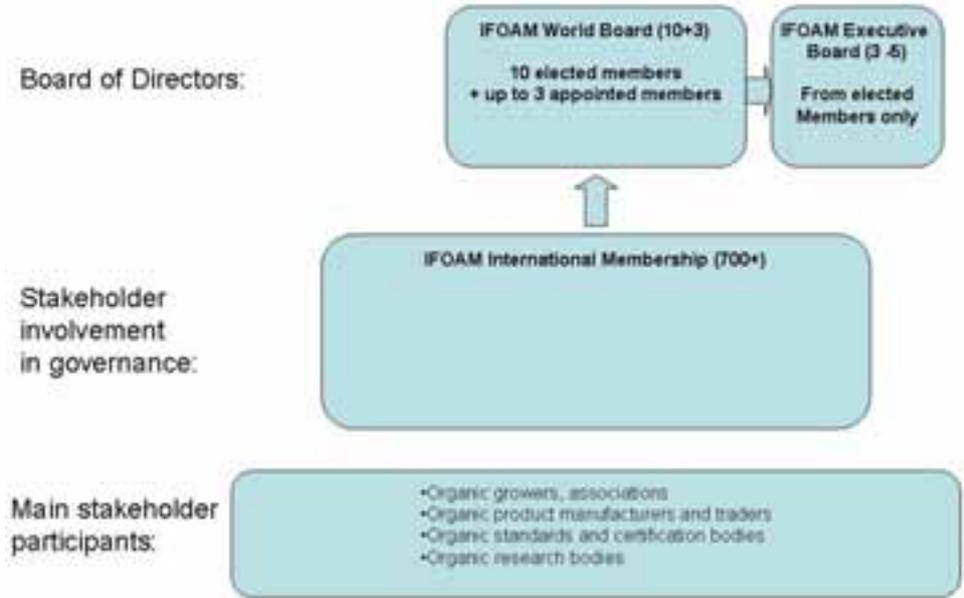


Figure 8: IFOAM governance structure

These examples provide some indication of how existing programs have dealt with governance issues. As indicated previously, the level of conflict around the objectives of the organisation will often determine the extent to which efficiency is balanced by democracy.

1.7 Financial models

Long-term financial sustainability is often one of the most under-researched topics when a new conformity assessment program is being developed. While funding is often available at the start from philanthropists, governments or development agencies these organisations either move on to other priorities after a period of time or expect the program to become financially self-sufficient. This can be debilitating to the point of fatal for programs where insufficient thought and preparation has been invested in this area from the start. For instance, suddenly moving to a user pays requirement for trademark use when companies and other organisations have been accustomed to free use can mean that customers for the conformity assessment program stop using it. Alternatively, systems that are developed based on subsidising the cost of certification – particularly for small communities or enterprises – find they cannot continue with certification once these subsidies are removed.

The key issue to identify is where the system creates value for uses – who benefits – and of those who benefit, which will have the capacity to pay the costs of the system. In designing the financial model it needs to be remembered that direct costs are not the only costs. For instance, a community may need to pay annual certification costs (time for an auditor to undertake an inspection and prepare a report that is then reviewed by a certification committee) but there will also be costs associated with the governance of the system and ongoing maintenance (review of standards, accreditation, communication) and brand building. These costs all need to be considered at the start and matched to revenue opportunities. A business plan developed at the outset should identify the gap between costs and revenue that needs to be met by external support but it should also show (realistically) how this gap will be closed over time as the system matures.

Identifying revenue possibilities essentially means identifying the different product opportunities created by the system; standards, labels, brand association (sponsorship), issuing certificates, accreditation, education and training, communication channels, books and other resources, membership and events. All of these are opportunities that will vary depending on the nature of the organisation, its stakeholders and objectives. Income sources can be identified as funding, earned income and sponsorship opportunities. When long-term income flows are compatible with the long-term costs of running the conformity assessment program then the program is viable and this provides the basis on which the business or financial model is developed.

1.8 Impacts

The purpose of establishing a social or environmental conformity assessment program is to make an impact on a problem or situation that requires change or support or some form of action. It is necessary to anticipate that as a program develops and moves from being ‘a good idea’ to ‘part of the landscape’ stakeholders will need to be convinced that it is worthwhile in the sense that it is having the impacts anticipated. Some programs do not establish the mechanism for measuring impacts from the start (either by including adequate measurement in the standard or in the certification requirements) and do not establish the data collection and analysis mechanism that would allow this to be turned into simple statements about performance and outcomes. Failure to address this issue will sap long-term confidence in the program particularly as it becomes more successful and attracts critics who argue that it is ineffective or should be doing more. Measuring impacts should be integrated into the audit process as this is the most cost efficient and effective mechanism to collect data.

ISEAL has developed a Code of Practice for measuring impacts that will help improve practice in this area and the overall credibility of social and environmental conformity assessment programs. A starting point is to develop a common language between programs but also within programs. Outputs, inputs, outcomes and impacts need to have that common language and set of descriptors if they are to

be managed. The Impacts Code will require standards systems to develop an Assessment Plan that includes all the steps required to assess their contributions to impacts. These steps include:

- Choosing from among a core list the social and environmental issues where the standards systems intends to have an impact
- Defining the intended impact that the system is seeking to achieve for each issue
- For each issue, defining the desired behaviour change that is most likely to get to the intended impact (these are outcomes or areas of influence)
- Defining the strategies (areas of direct control – activities and outputs) that are being implemented to get to the outcomes
- Choosing indicators to measure whether the changes in behaviour or practices come about and whether these practices lead to the desired impacts
- Gathering data about changes in behaviour and practice through the audit process, including data about other issues prioritised by stakeholders and unintended results
- Conducting or contracting out evaluations of impact to draw causal links between outcomes and impacts
- Analysis of data to determine contribution to impact and to learn the extent to which strategies are leading to desired outcomes and impacts
- Feedback loops to refine the content of the standard, the strategies for supporting uptake of the standard, and the theory for how change comes about

Having a strong system for measuring impact, change or outcomes will ensure the program remains relevant to its stakeholder base and will assist with implementing the financial model, as the program will be better able to demonstrate the value it creates.

2 Fair Trade

Fairtrade is a conformity assessment program that aims to achieve better prices, decent working conditions, local sustainability, and fair terms of trade for farmers and workers in the developing world (FTA 2010). Fairtrade has a vision “of a world in which all producers can enjoy secure and sustainable livelihoods, fulfil their potential and decide on their future.”(FLO 2009) The Fairtrade Labelling Organisation (FLO) is an organisation of 24 members (producer networks and national labelling initiatives) that manages the Fairtrade system; sets standards, and; supports producers and traders. FLO-CERT is a separate organisation that certifies against FLO standards. Key constituents of the Fairtrade system are National Fairtrade Organisations that market and promote Fairtrade; Producers who cultivate or make products that enter the Fairtrade system; Business partners who are traders and brand-owners that sell products and put the Fairtrade label on products; Retailers who distribute and sell products, and; Consumers who buy Fairtrade labelled products. (FLO 2010)

The concept of *fair trade* is not exclusive to Fairtrade. Individuals, organisations and companies make claims in relation to fair trade as a concept or even a set of principles. The World Fair Trade Organisation differentiates itself from Fairtrade by saying it is committed to 100% fair trade; is the ‘authentic voice of fair trade and the guardian of fair trade values’. “The goal of the WFTO is to enable small producers to improve their livelihoods and communities through sustainable Fair Trade. It does this by delivering market access through policy, advocacy, campaigning, marketing and monitoring.” (WFTO 2010) Conformity assessment is one tool WFTO is seeking to use in achieving its mission and it has been developing a Sustainable Fair Trade Management System standard since 2007. The standard has been developed using the ISEAL Code outlined in the previous chapter and has now been pilot tested (WFTO 2009). WFTO is a network of 350 organisations in 70 countries.

This chapter will focus on the more developed and widely known Fairtrade (one word) system but will also examine the WFTO draft standard and conformity assessment system. In Australia the two work together and FLANZ promotes the activities and objectives of both FLO and WFTO.

2.1 Standards

2.1.1 Fairtrade Standards

The broad objective of Fairtrade standards is to support the sustainable development of small-scale producers and agricultural workers in the poorest countries in the world. The key objectives of the standards are to:

- ensure that producers receive prices that cover their average costs of sustainable production;
- provide an additional Fairtrade Premium which can be invested in projects that enhance social, economic and environmental development;
- enable pre-financing for producers who require it;
- facilitate long-term trading partnerships and enable greater producer control over the trading process;
- set clear minimum and progressive criteria to ensure that the conditions of production and trade of all Fairtrade certified products are socially and economically fair and, environmentally responsible.

Fairtrade is a member of ISEAL and adheres broadly to the approach set out in the previous sections of this report including the involvement of stakeholders in standards setting and governance. The

objectives of the standard setting process are expressed through a series of standards that cover generic issues, and prices and product specific issues.

At the core of the Fairtrade suite of standards are 'Generic Standards' which cover Trade Standards, Prohibited Materials, Small Producers' Organisations' standards, Hired Labour Situations and Contract Production. Accompanying these standards are 16 product specific standards covering bananas, cocoa, coffee, dried fruit, fresh fruit, fresh vegetables, fruit juice, herbs and spices, honey, nuts and oil seeds, quinoa, rice, cane sugar, soybeans and pulses, tea and wine grapes. Four non-food standards cover gold, flowers and plants, cotton, and sports balls. The system has a further set of seven explanatory documents on different aspects of the standards.

The producer standards only apply to products that come from small farmer organisations or companies with hired labour (for certain products only) in countries with low to medium development status in Africa, Asia, Oceania, Latin America and the Caribbean. Australia is not a producer country within the Fairtrade system and is out of the scope as currently defined.

2.1.1.1 Small Producers' Organisations

The focus of this standard is small poor farmers in target countries. Small producers (FLO 2010a) are required to form producer organisations (cooperatives, associations etc.) that engage in commercial activities and contribute to sustainable, social and economic development of members and communities. These organisations have to be democratically controlled by members (every person has voting rights). Within a year of being certified, the organisation must produce a 'needs assessment' and within three years it must produce a 'development plan' setting out objectives and timeframes. The plan must include an employment policy and how the Fairtrade Premium will be used. Members meet annually in a 'General Assembly' to approve the plan. At least 50 per cent of members must be small producers who account for at least 50 per cent of Fairtrade sales. The organisation cannot discriminate between members; it must have a constitution, be registered, have appropriate administrative arrangements, prepare an annual business plan and strategic plan.

Producer organisations receive benefit from the Fairtrade Minimum Price and the Fairtrade Premium. The latter is intended as an investment in the lives of small producers, workers and their families and communities through projects identified in the development plan. The Premium must be clearly identified in the accounts and reported to members. Expenditure of the Premium is monitored to ensure it is meeting the objectives of the plan. Over time, the benefits of Fairtrade are expected to make the producer organisation stronger and economically sustainable.

The producer standard includes environmental obligations although at present producers are not audited against this requirement (pending a revised standard). Requirements include nominating a person as being responsible for establishing an environmental plan; prohibition of harvesting from protected areas or illegal activities; mapping protected areas; education and control of chemical use and disposal, soil erosion and fertility; management of fire, and prohibition on use of genetically modified organisms (GMOs). Labour conditions in the standard require the development of an employment policy, freedom from discrimination, freedom of labour (no forced or bonded labour or child labour), freedom of association and minimum conditions (in line with national laws, official agreements and minimum wages).

There are also standards for small-scale producers who are not yet organized as a democratic producer organisation. On an interim basis, they can join Fairtrade if they have a partnership with a 'promoting body' (that may be a private company or an NGO) that will assist them to form an independent organization.

2.1.1.2 Producer standards for hired labour

The focus of this standard (FLO 2006a) is landless labourers in target countries working with products generally grown on larger farms employing labour; products such as tea, bananas and flowers. The

standard applies to organized labour. Employers must pay “decent wages, guarantee the right to join trade unions and provide good housing where needed. There are three main principles:

- Management of the Fairtrade Premium (A ‘Joint Body’, which includes workers and management, is responsible for the management of the Fairtrade Premium in accordance with Fairtrade Standards)
- Freedom of association & collective bargaining (Workers have the right to join an independent union to collectively negotiate their working conditions)
- Working conditions (Working conditions are equitable for all workers. Salaries must be equal or higher than the regional average or the minimum wage in effect. Health and safety measures must be established in order to avoid work-related injuries.)

The standard applies to all companies working with hired labour such as farms, plantations and factories. The term ‘workers’ refers to all workers including migrant, temporary, seasonal, sub-contracted and permanent workers. It is not limited to field workers but is limited to unionised staff so would normally exclude middle and senior management.

2.1.1.3 Trade Standards

Fairtrade Trade Standards set out the requirements for traders in Fairtrade products; traders must:

- Pay a price to producers that aim to cover the costs of sustainable production: the Fairtrade Minimum Price.
- Pay an additional sum that producers can invest in development: the Fairtrade Premium.
- Partially pay in advance, when producers ask for it.
- Sign contracts that allow for long-term planning and sustainable production practices

2.1.2 WFTO Standard

WFTO’s Sustainable Fair Trade Management System (SFTMS) is being designed “for marginalised artisan cooperatives, groups and businesses to certify them as ‘Fair Trade’. Currently these organisations are not catered for by the Fairtrade standards as they focus on products with a new standard being required for every new product or commodity. SFTMS is focused at a company or organisational level and can encompass a range of products produced by one organisation. WFTO also says that “in most countries in Asia, Latin American and Africa producers cannot sell Fairtrade labelled products in their local markets, because there are currently no national labelling initiatives licensed to issue the Fairtrade label.” (WFTO 2010)

The standard is currently in its second draft, stakeholder consultation has been held and at least one pilot has been conducted. The Standard is intended to apply to any organization worldwide with the following principles embedded in its mission and practices:

- Provides Market Access for Marginalised Producers
- Maintains Sustainable and Equitable Trading Relationships
- Fosters Capacity Building & Empowerment for Producers
- Demonstrates Transparency & Accountability and adherence to local and international law
- Promotes Environmental Sustainability

The standard seeks to reflect the following 10 Principles of the WFTO:

1. Creating opportunities for economically disadvantaged producers (a strategy for poverty alleviation and sustainable development)

2. Transparency and accountability (transparent, fair and respectful commercial relations)
3. Capacity building (a means to develop producers' independence)
4. Promoting Fair Trade (raise awareness of the possibility of greater justice in world trade)
5. Payment of a fair price (a fair price that has been agreed through dialogue and participation and enables production which is socially just and environmentally sound)
6. Gender equity (women's work is properly valued and rewarded)
7. Working conditions (safe and healthy working environment for producers)
8. Child labour (respect the UN Convention on the Rights of the Child, local laws and social norms; disclose the involvement of children in production)
9. The environment (encourage better environmental practices and the application of responsible methods of production)
10. Trade relations (trade with concern for the social, economic and environmental wellbeing of marginalised small producers and do not maximise profit at their expense)

Key elements of the standard are a set of basic requirements (public mission statement, inventory of legal requirements, baseline assessment, areas for improvement, long-term improvement program); implementation requirements (HR, capacity building, sustainability, fair price, trading practices and communication), and measures for managing and monitoring the system.

The first successful pilot of the standard was with a UK-based Panama hat company (Pachacuti) that manufactures in Latin America. The company said it had used the WFTO standard rather than Fairtrade because WFTO looks at “an integrated supply chain, rather than just certifying the commodity i.e. cotton. In terms of garment production, most of the added value is in the design and production of the garment or accessory and it is therefore essential that there is a reputable label which guarantees that design, weaving, sewing, knitting, dyeing and finishing all adhere to high Fair Trade and environmental standards.”²

2.2 Verification

2.2.1 Fairtrade verification

Verification for compliance with Fairtrade standards is undertaken by an independent organisation FLO-Cert. Fairtrade owns FLO-Cert and there is no separate accreditation organisation. FLO-Cert is the sole certifier for Fairtrade. While this reduces a layer of compliance it also reduces competitive pressure (which can remove pressure to keep costs down) and reduces the separation between the standard setting organisation and the certifying organisation (although they are separate companies with separate Boards). FLO-Cert addresses the issue of credibility by seeking independent certification to ISO requirements for a certification organisation (ISO Guide 65). It says this guarantees quality, transparency and independence in certification decision making. It is audited to Guide 65 and through its affiliation with ISEAL is subject to regular peer reviews of its processes and operations. FLO-Cert works through a network of more than 70 auditors who inspect both producers and traders in Fairtrade products.

2.2.2 Fairtrade verification costs

FLO derives income from the Fairtrade label but producers and traders are required to meet the costs of FLO-Cert verification. There are two elements to these costs; an application fee of €500 (AUD 725) (although this has recently increased) and an Annual Fee. The Annual Fee is based on a sliding scale geared to the number of producers in a Producer Organisation and the products to be certified. An organisation of less than 50 members is charged an Annual Fee of €1,400 (AUD 2,025) rising to €2,200 (AUD 3,180) for an organisation of between 100 and 250 members and €3,400 (AUD 4,916) for organisations with more than 1,000 members. In addition there is a charge of €200 (AUD 289) for each extra commodity, €400 (AUD 576) for each extra day that may be required for an audit and

² <http://www.panamas.co.uk/fairtrade/sftms/>

between €350 and €600 (AUD 506 and 868) if an exemption is required for a prohibited material. Costs are of a similar scale for a plantation except they are based on the number of workers.

2.2.3 WFTO verification

WFTO verification is still in development and costs are not published. However WFTO says that its certification will be “at relatively low cost” because “unlike the Fairtrade label which is applied and paid for on a product-by-product basis, the SFTMS applies to an entire business and all of its products and services”. (WFTO 2010)

2.3 Branding

2.3.1 Fairtrade branding

The Fairtrade label is an on-product certification mark that is recognised worldwide. It is applied by the last point of transformation in the supply chain (wholesalers, coffee roasters etc) who package and label products. These businesses must be licensed by a Fairtrade National Labelling Organisation to apply the label and must purchase from a FLO-Cert certified supplier (trader or producer). Some \$5.4 billion in Fairtrade labelled products were sold worldwide in 2009 and about \$50 million of those sales were in Australia and New Zealand. Some 1.2 million farmers and workers participate in the system in 60 countries. In Australia, there are 215 Fairtrade licensed businesses.



Figure 9: The Fairtrade certification mark and product label

2.3.2 WFTO Branding

WFTO has an interim certification mark for pilot certification against its draft standard.



Figure 10: Interim WFTO Certification Mark

WFTO members who are ‘monitored’ (not certified) are entitled to use an ‘organizational mark’ to “differentiate their brands” and sell goods on the organisation’s World of Good online retail site. Monitoring is based on an organisational self-assessment, which is reviewed by WFTO staff and subject to external verification where there are complaints or unresolved issues.



Figure 11: WFTO Organisational Mark

2.4 Governance

2.4.1 Fairtrade governance

A Board of Directors governs Fairtrade Labelling Organisation International and consists of:

- 5 representatives from the Labelling Initiatives
- 4 representatives from Fairtrade-certified producer organizations (2 from Latin America, one from Africa, one from Asia)
- 2 representatives from Fairtrade-registered traders
- 2 independent Board Members

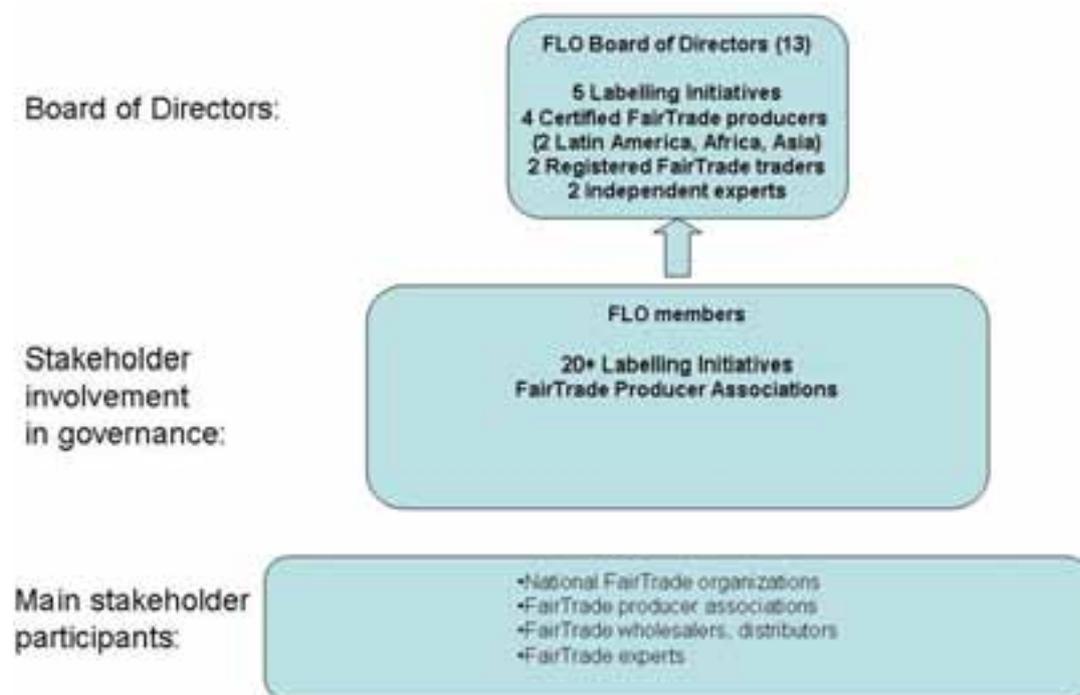


Figure 12: FLO governance structure (ISEAL 2007c)

The Board's role is to guide FLO to becoming the worldwide reference for consumer and producer choice in Fairtrade certification. The Board has a series of committees whose members are appointed by the Board:

- The Standards Committee
- The Finance Committee
- The Governance/Nominations Committee

The Board normally takes decisions by consensus. If this cannot be achieved, decisions are made by vote with each member having one vote.

2.4.2 FLO-Cert governance

FLO-CERT's mission is 'To contribute to the Social and Economic Development of Farmers and Workers in the Global South through a credible and competent Certification System'. While it is fully owned by FLO, FLO-CERT operates as a completely autonomous and separate organization. It has an independent Supervisory Board with a balance of key stakeholders including certified operators, independent experts, consumer representatives and the CEO of FLO. FLO-CERT maintains a separate staff structure with its own management and information management system. An independent Certification Committee meets every two months to advise FLO-CERT on certification decisions and policies.

2.4.3 WFTO governance

The WFTO Board of Directors is responsible for developing and implementing plans agreed by the members at the Annual General Meeting. "It is the guardian of the WFTO Constitution and Principles for Fair Trade Organizations. It makes policy, and decides which organisations may join the network." The Governance arrangement resembles more of a federation with each region represented by an elected Board member who acts as a point of contact for members in that region and may be involved in the co-ordination of national and regional platforms. The WFTO Board consists of:

- President
- Regional Representatives (5)
- Independent representatives (3)

2.7 Financial models

FLO International generates most of its revenue from membership contributions of national labelling initiatives or member bodies that in turn, generate income from a license fee charged to users of the Fairtrade Certification Mark. Generally, Fairtrade licensees are companies that act as the final processor (e.g. coffee roaster, chocolate manufacturer), brand owner, packager and first distribution point of products containing Fairtrade Certified ingredients. The specific rules and charges for the license fee are set by FLO national initiatives on a country-by-country basis, and so differ between countries. In the UK the license fee is 1.8% of the net sales value of the labelled products calculated and charged quarterly, with a minimum charge of £100/quarter. In Australia and New Zealand a fee of 2% of the net sales value is levied by FLANZ. The FLO financial model is therefore based explicitly on a license charge for use of intellectual property – the certification mark. Retailers do not have to pay a license fee as the products they purchase are already labelled. They are provided with an approval for promotional material connected with Fairtrade products.

FLO-Cert business model has been described previously and is essentially a fee for service activity for certifying producers, plantation owners and traders in Fairtrade products.

As the WFTO certification program is still at pilot test stage it is not clear how the business model will work however, it would appear to be based on a fee-for-service certification program and membership fees for member organisations (producers and supporters).

3 Prospects for Indigenous Fair Trade

This chapter will examine the demand and role for an indigenous fair trade program in Australia. The analysis is based on a literature review, interviews conducted with indigenous people actively involved in businesses or business development, interviews with business people that interact with indigenous people, and the framework set out in earlier chapters of this report.

3.1 Background

Drivers for an indigenous fair trade system in Australia need to be seen in the context of the history of relations between Aboriginal people and the broader European economy established in Australia following British settlement in 1788. The Aboriginal economy and the elaborate system of land tenure (or more correctly relationships with the land) on which it was based was overrun by military force and only allowed to continue where it did not compromise colonial interests. The approach of British and Australian governments to Aboriginal customary and traditional rights for the first two centuries of European settlement was summarised by Justice Blackburn in the Northern Territory Supreme Court in 1971³ as the doctrine of *terra nullius* (Latin: land of none). The judgement reinforced the approach taken at the time of settlement and encapsulated in a proclamation issued by NSW Governor Bourke in 1835 in response to John Batman negotiating a treaty with Aboriginal people for the acquisition of land in the vicinity of Melbourne⁴. Bourke's proclamation made it clear that land belonged to no one prior to the British Crown taking possession and land could only be acquired from the Crown and not from Aboriginal people.

Indigenous societies were effectively treated as itinerant and stripped of their property at the convenience and to the advantage of the colonials (Ritter 2009).

This represented more than just a loss of property rights. Traditional Aboriginal society was based on an affinity with the land (country); as European settlement spread, dispossession represented a systematic destruction of Aboriginal culture, society and economy. At times this happened benignly:

The kartiya (white man) came to the blackfella. They met and shook hands the kartiya way. 'I want to meet, sit down and talk, get to know you', he said. He brought the blackfella into the station to learn the kartiya way of living and to work there (Yiyili 2005).

At other times this happened brutally as Henry Reynolds records in this account from an old woman recalling childhood memories of an attack on her clan by native police on behalf of settlers:

Big mob come up from Atherton/all the native police come up/all got rifle, all got handcuffs/fire for bullock, roast im, altogether/bullock is for tucker/shoot him altogether, shoot im altogether/chuck im in fire/all the revolvers going on/talk about smell/nobody gonna be alive/chuck im in the fire, half alive/singout/you all finished no more/native police shot im all/widow come back crying/she lose im husband/all finished, they shootem live (Reynolds 1999).

For most of the twentieth century, the prevailing view in Australia was that Aboriginal society would eventually disappear; it was a case of *when not if*. It was not a matter of regret to many. Reynolds observed in the Introduction to his earlier account of *Aborigines and Settlers*: "Their gradual disappearance from literary attention coincided with the destruction of tribal society in south-eastern Australia and the universal acceptance of the conviction that Aborigines were a dying race" (Reynolds

³ *Milirrpum v Nabalco Pty Ltd and Commonwealth of Australia*. Supreme Court of the Northern Territory, Blackburn J, (1971) FLR 141

⁴ National Archives of Australia, Governor Bourke's Proclamation of 1835 (UK), <http://www.foundingdocs.gov.au/scan.asp?slD=287>

1972). This attitude was reflected in the first sentence of the first volume of Manning Clarke's epic six volume *History of Australia*: "Civilization did not begin in Australia until the last quarter of the eighteenth century." Although he qualified this to some extent: "The early inhabitants of the continent created cultures but not civilizations" (Clarke 1962).

During the 1960s and 1970s there was renewed interest in pre-European Aboriginal society that coincided with a period of de-colonisation in the British Commonwealth and the emergence of the civil rights movement in the United States. A former student of Clarke, Geoffrey Blainey in his work *Triumph of the Nomads*, brought much of this work together. Blainey and others challenged the 'great Australian silence' about the historical role of the Aborigines (Reynolds 1972). The work of D.J. Mulvaney, Professor of Prehistory at the ANU, was an important part of this re-evaluation of Aboriginal society and refuting the notion Aboriginal society had nothing to offer.

... evidence to refute such notions has always been available to those who watched traditional Aboriginal food-producing activities or read explorers' journals with critical understanding. The blinkers of prejudice and preconceptions are so effective that Aboriginal society has been condemned for being unproductive and aimlessly nomadic. Only recently have scholarly evaluations redressed the balance. Aboriginal people in 1788 actually exploited the resources available with greater efficiency and ate a better balanced diet than most European town - or Asian country - dwellers of the time. Their way of living also demanded less labour, allowing them more time for creative activities. Aboriginal society at the time when Europeans disrupted and denigrated it was based on a different understanding of management and production (Mulvaney 1987).

For more than 200 years, Aboriginal society had been fractured, disrupted and in many respects broken. Traditional Aboriginal society survives in a form only in those parts of Australia either too remote or uneconomic for the European economy and society to seek to dominate. A mass of knowledge about this country has been lost as whole tribes were scattered, or worse. In the last century a generation was taken away from their families. Knowledge in Aboriginal society is passed orally from generation to generation. When a generation is removed or a tribe dispersed that knowledge is lost. Even the visual recordings that remain on rocks and in special places lose their meaning without a generation who can interpret the signs and symbols of their forebears.

Reynolds wrote in 1972 that: "A new deal for the Aborigines will ultimately depend, not only on socio-economic innovation, but also on a basic readjustment of our world outlook and, as a corollary, a reinterpretation of our history." That process had started with historical events such as the 1965 Australian Freedom Rides inspired by the civil rights movement, and litigation such as the 1971 Gove Case. Significant progress can be recognized in the 1967 Constitutional amendment giving Commonwealth power to make laws for the benefit of Aboriginal Australians. Subsequent enactments include the Racial Discrimination Act in 1975 and the Aboriginal Land Rights (Northern Territory) Act in 1976. A most profound change followed the 1992 decision of the High Court in respect of proceeding brought by a group of Meriam people from the Torres Strait seeking exclusive *use, possession and ownership* of the island of Mer. The High Court recognised the doctrine of native title and the right of traditional owners to *possess, use, occupy and enjoy* their country in what became known as the Mabo case⁵. This legal reunification of Aboriginal people with their country was limited and did not extend to areas occupied by settlers under freehold title or exclusive leasehold.

The combination of these legal developments; social developments such as the *outstation movement*; the return of members of the stolen generation or others who were the victims of policies that separated Aboriginal people from their country, and; a greater interest by government in Aboriginal policy has contributed to some rebuilding of traditional relationships with country. In the Northern Territory for instance, 45 per cent of land is now under Aboriginal control (OIPC 2006). Just over half of people who nominated themselves in a 2002 survey of Aboriginal people identified with a clan,

⁵ *Mabo v Queensland [No2]* (1992) CLR 1

tribe or language group and about 22 per cent live on a homeland or traditional country. Census data showed there was a marked increase in the number of people identifying themselves as Aboriginal between from 1991 to the latest census in 2006 (AHRC 2008).

In recent years there has been some evolution of businesses linked to traditional knowledge of country in areas such as eco-tourism, bush foods and traditional arts and crafts. There is growing interest from both domestic and international markets in products that have an authentic Aboriginal genesis because they are based on traditional knowledge and country or because the benefits of purchases go to Aboriginal people. However, in developing these businesses Aboriginal people face significant disadvantage even though they will have access to assistance through agencies such as Indigenous Business Australia and philanthropic support. While Australia is a relatively affluent country, Aboriginal people often live in conditions more akin to those of a developing country. Compared to non-indigenous Australians, Aboriginal Australians face (AHRC 2008):

- Life expectancy on average 17 years less
- Disability rates twice as high
- Income about two thirds less for comparable groups
- Employment participation about two thirds less
- Lower educational attainment, school retention and Year 12 completion
- Two to three times the rate of infant mortality
- Twice as many low birth weight babies
- Twice as likely to report health as fair or poor
- Teenage birth rates five times higher

The same factors that disadvantage Aboriginal communities in social terms also disadvantage them in economic terms. It is difficult for Aboriginal businesses to compete in highly competitive markets and against entrepreneurs who are eager to associate their products with Aboriginal people for commercial advantage or who take Aboriginal knowledge and commercialise it themselves.

3.2 Issues

The challenge for a proposed conformity assessment program is whether it can contribute to addressing the impacts of 200 years of European occupation of Australia on Aboriginal people. The following diagram shows that a role for this program is to provide an intervention that contributes to moving the condition of Aboriginal people in Australia across the bottom of this cycle by recreating an indigenous economy that has a strong relationship to customers, culture and country.

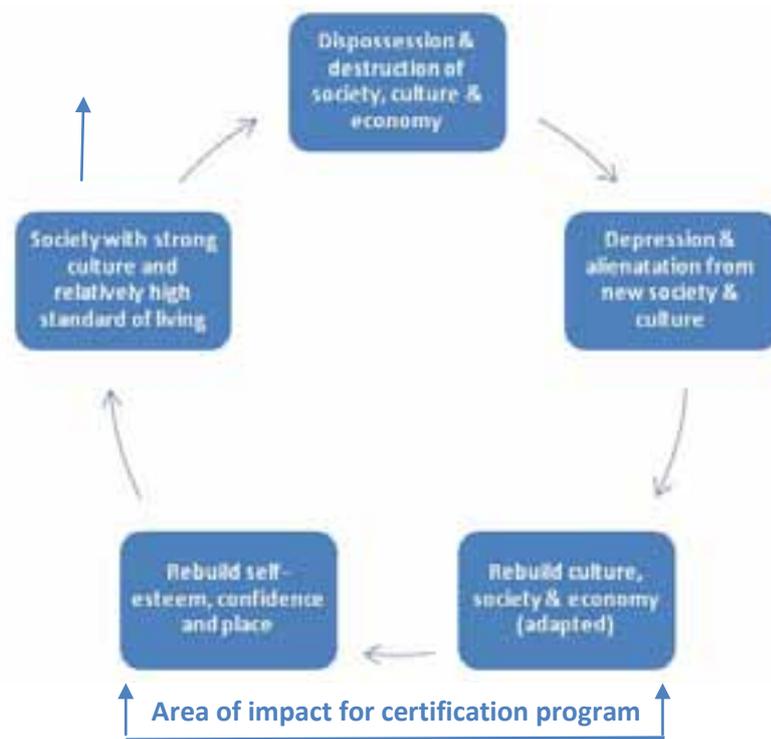


Figure 13: Indicative impact of conformity assessment program

In discussing the possibility for a program with various stakeholders, the following specific issues have been raised as ones they see the program addressing.

3.2.1 Traditional knowledge and intellectual property

Vital to indigenous cultures, is specific knowledge about country. Through history knowledge was transmitted intergenerationally through songs, social practices, and oral traditions. These communal assets are subject to constant reinterpretation, which UNESCO has defined as Intangible Cultural Heritage (UNESCO 2005, in Janke 2008). “A concern for Indigenous people is that the ownership of the intellectual property, which is generated from such processes, is often not owned by them” (Janke 2008). Aboriginal people expressed concern to the research team about protection of their traditional knowledge from exploitation by businesses that would return no benefits to the owners of that knowledge and could undermine the ability of traditional owners to commercialise their knowledge. The context for these conversations was the potential for various plants or bush foods to be commercialised. Both women and men indicated that they knew a number of plants with commercial potential but would not talk to people outside of the clan group for fear that this potential would be harnessed and exploited by outsiders. They said they would not seek to do anything with these plants or contribute to research until protection was in place that would respect traditional knowledge and their elders as the owners and custodians of this knowledge.

Two examples were provided; one current and the other historical to show how traditional knowledge about plants had been taken from the owners’ commercial interests.

3.2.1.1 Plums and patents

The current example relates to a plant known colloquially as the Kakadu Plum or Billy Goat Plum in the Northern Territory, and Bush Plum or Gubinge in Western Australia (*Terminalia ferdinandiana*). The plant is relatively common in woodlands particularly behind coastal dunes in northern Australia. It is sought after by the cosmetics industry and as a food additive because of extremely high levels of Vitamin C (reputedly the highest of any fruit) and high levels of antioxidants.

In one instance, a Northern Territory participant with expertise in the plant had worked with a US consumer products company on development of commercial plantations that could see the plant harvested more efficiently and more sustainably than traditional wild harvesting. He felt he had been assured that one objective of the project was to develop indigenous enterprises that would benefit traditional owners from areas where the plant was derived. However after a review of the project's economics by a strategist from the US, he says he was informed it would be more economic for the company to establish the plantations in Brazil. He left the company and it wound up its operation in the Territory. The concern here was that the company had acquired both the plant and knowledge about it from people in the Northern Territory but there was fear benefit from any commercialization would accrue to US commercial interests and not traditional owners.

Concern about outside interests using the plant without any return to the custodians of the land was brought into sharp focus by reports that patents have been applied for on processes related to Kakadu Plum or Gubinge. Responding to a question on notice in the Senate, Industry Minister Senator Carr advised in March 2009 that 12 patent applications had been lodged relating to the Kakadu Plum, eight in Australia and four in the United States. The applications related to either cosmetics or dietary products (one for an ice cream flavour) and processes for extracting the ingredients of the plant (Carr 2009). The awareness of these patents reinforced the determination of some of the projects' informants that caution should be exercised in the disclosure of their special knowledge of bush foods. Some research participants discussed the need for protecting their knowledge from exploitation (or 'theft' as some see it) from outside business interests.

3.2.1.2 Macadamia Nuts

People spoken to in the course of this research referred to the history of the macadamia as an example of what would happen to bush foods if Aboriginal people shared their knowledge with entrepreneurs who were not from their country and did not respect traditional ownership. The Macadamia (*Macadamia integrifolia*) was a traditional food in what is now New South Wales and Queensland. The genus was described by Baron Ferdinand von Mueller in 1857. In 1858 the superintendent of the Brisbane Botanic Gardens saw a boy eating the nut without ill effect and by 1869 King Jacky, an elder of the Logan River clan south of Brisbane, regularly collected and traded nuts with settlers. In 1881 the nut was introduced to Hawaii as a windbreak and in 1882 the first commercial plantation was established near Lismore in NSW. In 1925 the first commercial plantation was established in Hawaii. The industry developed in both countries with an estimated annual turnover of about \$250 million. Recently it has been developed in other countries including South Africa and Malaysia. It is widely described as 'the only major horticulture crop developed from the Australian flora' (CSIRO undated). However, the important point noted by people in the course of compiling this report was that Aboriginal people derived no benefit from this substantial industry that was based on a nut which they had been processing for thousands of years. A product which is of 'material and cultural importance to Aboriginal people (QEPA 2006).

3.2.1.3 Intellectual property law

These examples illustrate the issues that give rise to fear that custodianship of traditional knowledge will not be respected by commercial interests. To some extent they reflect concerns of intellectual property owners generally about their ability to control the use of their knowledge. The legal system deals with this by attempting to balance the rights of intellectual property owners with an economic imperative to foster commercialisation of knowledge. However for traditional owners there are broader issues related to cultural integrity and prior dispossession of collective property.

Terri Janke, a descendant of the Meriam people of the Torres Strait Islands, is also the director of a Sydney based law firm with a charter is to "advance the protection of indigenous Australian people in respect of intellectual and cultural property matters" (Janke 2005). In 1998 Janke produced a now often cited discussion paper *Our Culture: Our Future – Report on Indigenous Cultural and Intellectual Property Rights*. The report was coordinated by AIATSIS, and commissioned by the no-longer existent ATSIC. Janke states that at the "heart" of aboriginal concerns for traditional

knowledge are “issues of cultural integrity and authenticity” (Janke 1998). Indigenous culture and intellectual property rights are heritage rights. Heritage consists of the intangible and tangible aspects of the whole body of cultural practices, resources and knowledge systems developed, nurtured and refined by Indigenous people and passed on by them as part of expressing their cultural identity (Janke 1998). This heritage therefore is a “living one” which includes reinterpretation of past, present, and even future. This broad and flexible definition of indigenous culture and intellectual property is flexible to include notions of different groups over different periods of time.

Janke’s development of an indigenous rights based paradigm transcends purely tangible intellectual property law; a position clearly enunciated by Mick Dodson:

We assert that our identity and our rights are not reducible to the rights of individuals... With its cult of the individual and its emphasis on individual rights, non-Indigenous people in the western world have failed to acknowledge the collective nature of Indigenous societies, and have provided inadequate protection for the group rights of peoples (Halbert 2005).

Through their research on traditional knowledge and intellectual property, Drahos and Palombi are examining the potential for a unique Australian approach to IP law and the potential for building trust. Trust has broken down between indigenous and non-indigenous people through the appropriation of traditional knowledge. A system that recognised the intangible and communal aspects of indigenous intellectual property would work to restore trust and improve access sharing. Stable and fairly compensated knowledge diffusion would lead to increased economic opportunities for all Australians. In the context of the international discussions over a possible treaty to protect traditional knowledge the possible advantages of voluntary certification systems over more conventional intellectual property approaches have been discussed (Drahos, 2004; Drahos, 2007). One obvious advantage is that such systems are not dependent upon states agreeing to a treaty.

A 1996 Senate Inquiry into the Commercial Utilisation of Australian Native Wildlife recommended, *inter alia*, that the Federal Government give greater attention to the importance of intellectual property rights of Aboriginal people in relation to the use of wildlife and that Aboriginal people be consulted where commercial opportunities are identified on lands where there are communities which have strong traditional links to those lands (Senate 1998).

At present the response to these issues is framed in terms of prevailing legal options available to all intellectual property owners. Responding to a question about protection of traditional knowledge associated with the Kakadu Plum, Industry Minister Kim Carr said: “traditional knowledge can be protected under the Patents Act 1990, Trade Marks Act 1995, Plant Breeder’s Rights Act 1994 and Designs Act 2003 provided the standard legislative requirements for protection are met. Trade practices, confidential information and unfair competition laws may also have a role in the protection of traditional knowledge.” He said indigenous people could also seek protection, for example, by notifying the Commissioner of reasons why an invention is not patentable because it is not novel or inventive under Section 27 of the Patents Act. He said this may “include notification of evidence of any traditional knowledge”. This could modify the scope of a patent if the information was shown to predate the application, or could prevent the grant of the patent all together. Section 59 allows any interested person to oppose the granting of a patent (Carr 2009).

However, based on the adversarial approach of British law, this approach would involve costly legal monitoring and litigation for communities that rarely had resources for legal action or to gather scientific evidence that would withstand the scrutiny of a formal court setting. Indigenous access to court process is also limited by cultural disconnects, language and conceptual differences as well as logistical problems. Senator Carr did point out that pending patent applications relating to the Kakadu Plum would not limit the ability of Aboriginal communities to commercialise their traditional knowledge. “The fact that a patent may refer to, claim compositions of, or be to a method involving the Kakadu Plum does not necessarily mean that such a patent would prevent commercialisation by Indigenous communities.” He said: “Commercialisation may be able to occur and co-exist with

patented aspects of the Kakadu Plum – much depends on what is to be commercialised, and the breadth of any patented uses or extracts.”

3.2.2 Authenticity

Related to concerns over protection of traditional knowledge are claims of authenticity in relation to products and services from Aboriginal communities and/or traditional knowledge. This concern arose in relation to the suite of products considered for this report; bush food, arts and crafts and tourism.

3.2.2.1 Bush foods

Aboriginal people were concerned about the potential rapid growth of the bush food industry and that it could quickly over-run any enterprises developed by Aboriginal communities. At present there is no clear way for Aboriginal communities to distinguish their products in this marketplace. Entrepreneurs establishing commercial plantations of bush foods could capture the market by being able to supply consistently at a lower price than communities that may prefer, for instance, wild-harvest because this was more consistent with their traditional way of life. An authenticity mark would allow customers to choose to support Aboriginal communities even if it meant paying a higher price. There was also concern with the way bush foods are marketed and promoted. This included over-emphasis of a bush food ingredient when it was only a minor component to garner authenticity; wrong descriptions of foods and; misleading names. It was claimed for instance, that a fruit commonly referred to in downstream products as a ‘Bush Tomato’ was in fact another fruit. Another issue was the promotion of Gubinge (from the Kimberley) as Kakadu Plum (from Arnhem Land). People in Broome found this offensive but felt powerless to address the issue.

3.2.2.2 Arts and Crafts

Claims of authenticity are becoming common in the Aboriginal arts and crafts area. None have a credible verification process and some appear quite cynical. Some claim the artistic work itself is authentic such as “Authentic Aboriginal Art” or “Australian Aboriginal Art”; others claim a connection to traditional knowledge such as “Knowledge of the Dreaming”, and; some appear to claim a direct connection with Aboriginal communities such as “Royalties from this product go back to the artist and the community” even though the same label states the product is “Made in China”. It was put to the research team that a lot of the handicrafts’ business takes Aboriginal motifs and design of traditional goods such didgeridoos and manufactures in Indonesia or China.

The concern over authenticity has prompted some activity at the high end of the fine art market with purchasers encouraged through government brochures to ask for a ‘Certificate of Authenticity’. Such a certificate should include; the artist’s name, title of the work, when and where the work was made, language group of the artist, cultural information, the community arts centre involved and an artist’s statement. In the near future this process will be institutionalised through a Code of Practice being developed by The Australia Council⁶ in cooperation with a range of industry participants including DesArt (Association of Central Australian Aboriginal Arts and Crafts Centres). The Code “aims to contribute to the wellbeing of Indigenous Australians by providing a tool to regulate the conduct of dealers in the Indigenous art industry”. This will ensure:

- fair and ethical trade with Indigenous artists
- transparency with the promotion and sale of Indigenous artwork
- a fair and equitable dispute resolution system for disputes arising under the Code

⁶ See Australia Council web site: http://www.australiacouncil.gov.au/the_arts/aboriginal_and_torres_strait_islander/code_of_conduct

The Code is voluntary and will be implemented initially for a two year, self-regulatory period

In Darwin, the Aboriginal Bush Trades Association intends to develop its own certification program to verify authenticity and other issues. Arts Centres present themselves as reliable places where people can confidently buy authentic work that benefits artists and their community.

Efforts to improve the authenticity of art tend to focus on the high end and it would appear very little effort has been made to date to verify authenticity of the handicrafts and souvenir market. Effort is now being made through organisations such as Aboriginal Bush Traders, however the market remains difficult for consumers to navigate.

3.2.2.3 Aboriginal tourism

The potential for Aboriginal tourism has been recognised for some time; there is global demand for an authentic experience of indigenous culture and there is potential for Aboriginal communities to meet this demand by developing self-sustaining businesses. Tourism is a competitive industry and indigenous operators can be out-resourced by mainstream operators with stronger marketing efforts and the opportunity to sell packaged tours. One commercial web site boasts: “There is a wealth of secrets and mysteries to be unfolded when it comes to the ancient Aboriginal culture.” But the site has no links to indigenous operators.

Efforts are being made to promote indigenous tourism enterprises through business support sites that provide advice and networking opportunities to existing or emerging businesses. There is an indigenous tourism web portal⁷ and a networking site⁸ operated by indigenous tour operators. However there does not appear to be an authentication program for indigenous operators that can provide guidance to customers wishing to support indigenous businesses. Ecotourism Australia promotes a program ‘Respecting Our Culture’ (ROC) to accredit operators in the Aboriginal tourism sector; being owned and managed by indigenous people is not a consideration. The organisation’s web site lists 35 ROC accredited operators. They are expected to be sensitive to cultural values and support Aboriginal communities. Ecotourism Australia says⁹ that ROC:

- Provides travellers with a recognised symbol as a means of identifying accredited Indigenous tourism products
- Elevates the value and profile of Indigenous tourism experiences as a leading Australian tourism product
- Assists Indigenous tourism product to become internationally market ready
- Offers a guide to operators that will respect and protect cultural tourism practices that are sensitive to the needs of local communities
- Provides business and operational templates to assist businesses in improving their economic, environmental and risk management performance
- Offers guidelines for improved environmental practices minimising impacts and creating more efficient use of the land and other natural resources
- Is endorsed by Tourism Accreditation Australia (TAAL) as a national tourism accreditation program

⁷ <http://www.indigenoustourism.australia.com>

⁸ <http://aboriginaltouroperators.com.au/industry.htm>

⁹ <http://www.ecotourism.org.au/roc.asp>

While the program is useful it does not verify authenticity in the sense that it would allow Aboriginal enterprises to distinguish themselves.

3.2.3 Economic development

A related concept to both intellectual property and authenticity is ‘who benefits’ and how products and services contribute to the economic development of Aboriginal communities. As this is a fundamental component of fair trade it was raised by a range of stakeholders who approached the subject from different perspectives.

3.2.3.1 Aboriginal enterprises

People operating existing Aboriginal enterprises (particularly those in bush foods) were interested in issues such as maximising their return, getting a fair price and finding an avenue to market for their products. They were interested in how their activities could further downstream value-adding that could provide additional jobs for their communities. Most were somewhat sceptical about Development Funds based on allocating a proportion of revenue. They did not feel they had witnessed any substantial benefits flow to communities from these initiatives.

3.2.3.2 Intermediaries

Organisations such as Land Councils and Development Agencies are grouped together here as intermediaries even though they can play a very specific and hands-on role. These organisations were very focused on the development opportunities that could be derived from a certification program. They saw benefit in stimulating enterprises that could capitalise on special market recognition and become a form of sustainable economic activity for communities. In pursuit of this however, people in these organisations tended to favour a broad approach to the products and enterprises that could be certified. They did not feel the need for certified products to be only based on traditional knowledge. For instance, plantations for bush foods (as opposed to traditional wild harvest) based on cultivated plant stock (not from country) were acceptable for this group. Equally new and innovative uses of Aboriginal land such as carbon-offset schemes were seen as appropriate for certification.

3.2.3.3 Customers

Customers for indigenous products and services, who already promote community development as part of their offer, were interested in a certification mechanism that could standardise and verify benefits from this approach. For instance, Robins Foods, a major buyer of Bush Tomato from Central Australia and Kakadu Plum from Northern Australia currently works through two foundations, the Coles Indigenous Foods Fund and its own Outback Spirit Foundation. The former receives a share of income generated by bush foods sold through Coles supermarkets (from Robins and Coles) while the latter seeks deductible gift donations for projects that support economic development of Aboriginal communities. Juleigh Robins sees this approach as similar to the Fairtrade Premium and believes formal verification of this, together with an internationally recognised label such as Fairtrade, would be of benefit to her business and Aboriginal communities where her company sources bush foods. Such an approach could also be applied to verify claims currently being made on some handicrafts regarding ‘royalties’ or other income being returned to Aboriginal communities

Gayle and Mike Quarmby, through bushfood label Outback Pride, are also customers of indigenous products promoting community development. The ‘Outback Pride Project’ promotes the “Australian native food industry by developing a network of production sites within traditional Aboriginal communities” (Outback Pride 2010). Indigenous communities establish plots with financial support from federal and /or state government programs. Through their Reedy Creek Nursery the Quarmby’s provide horticultural expertise, on-site training, and plant and other materials to get plots in operation. They continue visiting site to provide support, but communities are required to cover labour and other production costs. Details are laid out in MOU between the Nursery and each participating community, which restricts plant sales for non-indigenous commercial growers to protect communities’ traditional

knowledge. It is also agreed that Plant Variety Rights will not be applied for at any stage. Once communities' harvest, produce is purchased back by the Quarmby's for processing, marketing and distribution. Outback Pride products, marketed for their relationship to community development, have found some success through Oxfam Fair Trade Shops in Australia. The link to traditional communities is also a selling feature for distributors such as Indigenous owned and operated Bookabee Tours. Although recognizing the beneficial marketing link to traditional knowledge for Outback Pride Products, Gayle Quarmby articulated some practical concerns related to cost, complexity, and administrative responsibilities for verification for the label. She had some concerns about how the system operated within communities where operations already have some dependence on government support.

3.2.4 Environment

The importance of any conformity assessment program including environmental criteria was stressed by a number of Aboriginal people working with bush foods. Early development of Gubinge in the Kimberley started the equivalent of a gold rush as people went harvesting recklessly in expectation of receiving \$10 to \$15 a kilo for the fruit. In some instance whole trees were cut down to obtain the fruit. It prompted the Western Australian government to act to protect the plant and establish a research program at the Kimberley TAFE. At the same time, many people participating in the harvesting of bush foods do so as a way of maintaining a close connection with their country and caring for country; recognising the value of the plants and eco-systems and re-engaging with traditional knowledge. Participants in bush harvesting felt they were restoring their culture and country, and preserving it for future generations. This would also apply to eco-tourism (where the ROC certification program already has a substantial environmental component) and even to handicrafts where overharvesting of wood for products such as boomerangs and didgeridoos was identified as an issue that needed to be managed.

Stability of wild harvest is addressed by indigenous communities participating in the Federal Government's Indigenous Protected Areas (IPA) program. A review of the program in 2006 found that it was contributing to conservation objectives as well as providing meaningful work for indigenous communities. The program supports 38 IPAs covering 23 million hectares (DSE 2010).

Environmental management has an interesting intersection with economic development and authenticity. While wild harvest may be authentic it has limits in terms of the amount of fruit available for an economic enterprise and this is likely to encourage consideration of plantations. On the other hand, introducing non-indigenous species of plants and animals in pursuit of economic development could have a negative environmental effect as well as undermine authenticity of the products sold.

3.2.5 Respect for traditional values

There was a concern among some Aboriginal people that traditional knowledge was not being passed on because young people were less interested ('more interested in iPods and mobile phones'). It was felt that a program that enhanced the value of traditional knowledge would also enhance respect in the non-Aboriginal world and, among the younger generation. As noted earlier, in 2002 only 22 per cent of Aboriginal people lived on their traditional country. The development of economic opportunities could encourage people to remain or even return to their country. This would encourage the preservation of traditional knowledge as a long-term asset of the community (amongst a wider group of people). This would not only have cultural and economic benefits but health as well. Aboriginal people living on country have better health outcomes than those living elsewhere (AHRC 2008).

3.3 Objectives of a conformity assessment program

Based on the foregoing, there would be a mixture of objectives that could, for the moment, be somewhat contradictory. It is not seen as the role of this project to sort out contradictions but to note

them for resolution through a multi-stakeholder standards development process in a later phase. The objectives that fall out of the foregoing analysis would be:

Issue	Objective
Traditional Knowledge	Facilitate commercialisation of traditional knowledge where communities wish to do this while enhancing ownership of that knowledge
Authenticity	Identify products and services from Aboriginal communities (and traditional knowledge) in the commercial marketplace
Development	Generate a price premium from products and services marketed that is of long-term benefit to Aboriginal communities
Environment	Recognise sustainable management of natural resources and ecosystems by Aboriginal communities
Traditional Community	Encourage active engagement of Aboriginal people in their country and respect for traditions and traditional knowledge

Figure 14: Objectives of proposed conformity assessment program

In summary the objective of the program would be to:

- Identify products and services from Aboriginal communities and Aboriginal traditional knowledge
- Generate a price premium for products that could be used for long term development of the community
- Encourage good governance and sustainability of country and community

3.4 Scope of the program

Scope will need to be constructed carefully as it will impact important considerations for this project. For instance, the proposition above would imply a focus on Aboriginal people who have a relationship with country and community. As noted earlier, this would exclude almost half of Aboriginal Australians who do not associate with clan, tribe or language. However it may encourage the 30 per cent who identify with clan, tribe or language but do not live on country to re-engage with country. Another consideration is that a broad scope focused on communities rather than products would be incompatible with the existing Fairtrade program (although not necessarily with the WFTO program).

Despite these considerations, a starting proposition for this project is that the scope envisaged is all products and services produced by businesses that are part of Aboriginal communities with an identifiable governance structures and clear relationships with land either as traditional owners or long-term residents. The latter would include communities that have developed since the arrival of Europeans in the vicinity of centres such as Alice Springs and Darwin. In relation to traditional owners it is expected there would be a traditional governance structure based on elders and in relation to towns it is expected there would be a democratic, transparent and representative governance structure. Organisations such as businesses or, for instance, Arts Centres sanctioned by the community governance structure would be within the scope of the conformity assessment program providing their objectives were compatible with the objectives for this program.

Customers for and traders in products from communities would be eligible for certification and the final processor in a supply chain (as with Fairtrade) would be entitled to add the certification mark under license. The scope is summarised in Table 2.

Table 3: Scope of proposed conformity assessment program

Scope	Description
Aboriginal communities	Communities with identifiable governance structure and clear relationship with country or place
Aboriginal business enterprises	Business and organisations that provide benefit to the community and are recognised by the community
All products and services	Any product or service produced or provided by community members or business enterprise
Traders and other customers	Customers and other intermediaries handling and trading in products and services from Aboriginal communities

3.5 Stakeholders

The project has identified a range of stakeholders listed at Annex 1. This is not an exhaustive list of stakeholders but reflects the focus on this study on the Western Kimberley, Darwin and Alice Springs. Stakeholders fall into the following categories:

- Aboriginal elders or their nominees
- Aboriginal people operating businesses interested in participating in the program
- Intermediaries (Land Councils, Aboriginal Development Organisations, IBA etc.)
- Customers (buyers of products from Aboriginal communities)
- Retailers (of end products)
- Environmental NGOs
- Social Development NGOs
- Government agencies
- Standard setting (Fairtrade), accreditation and certification bodies
- Consumers

3.6 Governance

It is envisaged that a multi-stakeholder process would be initiated to develop a standard for this program as well as a long-term organisational structure to eventually house and run the program. Governance of the standard setting and establishment process would need to recognise that members of Aboriginal communities are the main objective of this program but may well be the ones less inclined to participate or speak. So the governance would need to take account of this and provide these representatives with a preferential place in the governance system. One way of achieving this would be for Aboriginal communities to be guaranteed a fixed proportion (majority) of votes on any question that could not be resolved by consensus of the steering group.

3.7 Principles and criteria

The Principles and criteria for the proposed program would be resolved during the standards development process. However, as a starting point the objectives outlined in Table 1 would focus this initial discussion.

3.8 Branding and marketing

Developing a strong and recognisable brand in multiple product markets will be an important task. This would involve ensuring the program had a strong and clear meaning that resonated with end customers and a trademark that was visually distinctive and easy to use. One option to be explored would be a co-branding strategy with Fairtrade. This would need to be negotiated based on the final scope and objectives of the standard but could lead to a joint label being developed. This would allow the new program to develop an immediate market presence and build on that to create a strong market pull much earlier than would otherwise occur.

3.9 Demand

This project has not undertaken formal market research and it is expected that would be a component of a subsequent phase in development of this program. Demand for the program has been identified through discussion with stakeholders who were all interested in the opportunity and willing to discuss its potential at length. As already noted however, different stakeholders have different views on the objectives for this program. It would be important to reassess demand once there was a higher level of consensus around the objectives and scope as well as more detailed work on standards, verification and costs. For the moment it is sufficient to note that there is demand for a program from: Aboriginal communities and enterprises that are interested in being distinguished through a certification mark; intermediaries interested in a tool to promote development, and; customers interested in market recognition for supporting for Aboriginal communities. Market demand can be illustrated by the fact that claims are already being made on products relating to fair trade, authenticity and respect for country. For instance:

- Aboriginal Bush Traders (ABT) in Darwin has already commissioned a report on developing a certification program to support its objectives of assisting with “the development, retail and promotion of Indigenous products and services from around the Top End”. ABT is a not-for-profit initiative of Darwin Regional Indigenous Advancement & CDEP Inc (DRIACDEP).
- The Australia Council with support from the Department of Environment, Water, Heritage and the Arts is currently working with an Industry Alliance representing Aboriginal Artists and Arts Centres as well as commercial galleries, public galleries and auction houses to develop the Indigenous Australian Art Commercial Code of Conduct that would set minimum standards for practice and fair dealing with the indigenous arts industry.
- Outback Spirit (Robins Foods) makes statements about fair trade on some products while on others statements are made about the Outback Spirit Foundation’s objectives of supporting sustainable indigenous business development in order to deliver “economic, social, cultural, health and wellbeing outcomes for indigenous people”.
- Outback Pride attempts to include throughout its business practice a level of respect for the traditional knowledge of the communities it works with. They also include on their packaging a statement “jobs and training for Indigenous Australians”. These two aspects of their products have had marketplace appeal to distributors and consumers.
- There is evidence of extensive use of claims about authenticity and support for Aboriginal communities in the handicrafts industry suggesting there is a customer demand for these sorts of claims to be made on products (although these claims do not appear to be verified).
- Development of the Respecting Our Country (ROC) certification program suggests there is demand within that sector for verification of claims as well as certification of businesses offering culturally based tours or tours that offer an experience of interacting with indigenous people and the spiritual and cultural values of country. There were some problems with the program after start-up but it is now being managed through Ecotourism Australia.

These developments would suggest there is a strong level of interest in certification in the broad areas defined by the objectives and scope of the proposed program.

4 Compatibility with Fair Trade

Having defined objectives and scope for the proposed conformity assessment program, the next task is to examine whether such a program is compatible with existing fair trade programs or whether its objectives and scope are quite separate.

4.1 Evaluation of compatibility

Table 4 sets out the results of an exercise in matching the objectives and scope of the proposed program with Fairtrade (FLO) standards and the WFTO draft standard. The objectives of the proposed program are clearly broader than either program although there is consistency in relation to ‘development’ and ‘environment’ objectives. There is a difference in terms of how the scope of the proposed indigenous fair trade scheme matches Fairtrade and WFTO.

The focus of Fairtrade on defined products and defined countries presents a major compatibility problem for the proposed program. The products envisaged for this program are not currently covered by Fairtrade standards and Australia, as a developed country, is not a country in which Fairtrade producer standards operate. While the country scope of Fairtrade could be extended, extending the range of products covered by Fairtrade would involve writing additional standards and developing fair pricing mechanisms. The product specific approach could also be a constraint on communities developing new products.

The WFTO approach, with its focus on enterprises, is more compatible with the proposed program. It accommodates community enterprises, all products and services and trading systems. The focus on Aboriginal communities and community governance mechanisms would be somewhat beyond the scope of the current WFTO standard but not outside of its intent in so far as community development and capacity building are strong parts of the WFTO approach.

Traditional knowledge and authenticity objectives are not part of either of the existing fair trade programs. This would need to be a consideration in the next stage of development where the priorities attached to different objectives could be established through a stakeholder working group. Given the strong interest in the development of this program and support from FTAANZ these matters could be resolved and would not exclude a strong relationship between the programs.

Table 4: Comparison of proposed objectives and scope with Fairtrade and WFTO

		Fairtrade	WFTO
Objectives	Traditional Knowledge	No	No
	Authenticity	No	No
	Development	Yes	Yes
	Environment	Yes	Yes
	Traditional Community	Part	No
Scope	Aboriginal Communities	No	No
	Community Enterprises	No	Yes
	All Products & Services	Limited	Yes
	Traders & customers	Yes	Yes

A closer examination was undertaken of the WFTO standard. Instead of asking if Fairtrade and WFTO were compatible with the proposed indigenous program, the question was asked whether the proposed program was compatible with WFTO. The results based on analysing the objectives and scopes of the programs are provided in Table 5. It shows that at a high level, and in the absence of a formal verification process, the proposed program would be broadly compatible with the WFTO standard. That the proposed indigenous program goes beyond the WFTO standard in certain respects (traditional knowledge and authenticity for example) does not make it incompatible.

Table 5: Compatibility of proposed program with WFTO standard

WFTO Program		Objectives					Scope			
		Traditional Knowledge	Authentic	Development	Environment	Community governance	Aust. Aboriginal Communities	Community Enterprise	All Products	Traders
Standards	Economic Opportunities	√	√	√						
	Transparency					√				
	Trading Practices	√		√						√
	Fair price	√		√						√
	Child Labour					√				
	Discrimination					√				
	Working Conditions							√		√
	Capacity Building			√						
	Promotion		√							
	Environment				√					
Scope	Marginalised Producers						√			
	Trading Relationships									√
	Capacity Building							√		
	Transparency					√				
	Environmental				√					

4.2 Importance of compatibility

A question that needs to be asked is what the existing fair trade programs could offer the proposed indigenous certification program. There are a number of answers:

- Both Fairtrade and WFTO have networks of groups, individuals and companies who would be interested in the objectives of this program and whose experience and support could be valuable to both its development and ongoing operation;
- Both programs could contribute to peer reviews of the standard based on their own experience in this area and provide other technical assistance to its development.
- It may be desirable for the development of the proposed standard to be managed from within the existing FLANZ organisational infrastructure. This would avoid the first task of the development process being to set up and register an organisation to receive and pay funds.
- Both programs, particularly Fairtrade can offer market access. Fairtrade is already working with a network of retailers in Australia and New Zealand (primary market for the proposed program) and has access to a global network and global markets.
- Fairtrade in particular could offer significant brand leverage for any new conformity assessment program and its certification mark. It may be possible to negotiate a joint or shared label with Fairtrade to maximise market leverage and build on the credibility of Fairtrade in the market. If this was not possible then it could be possible to co-brand with the lesser known (and still being developed) WFTO product label.
- Some people consulted during this research suggested that it may be desirable if the proposed program was part of a global program to recognise products from indigenous communities. To some extent the fair trade programs do this. However, if it was thought desirable over time to develop this proposal into a global program the infrastructure of FLO or WFTO could provide the vehicle through which this could be achieved.

4.3 Future approach

Any further development of this proposal should seek to include both WFTO and Fairtrade Labelling Australia and New Zealand. Opportunities to work with these programs and include them as part of the stakeholder group should be an important consideration. If possible, an opportunity for the development phase of this project to be housed within FLANZ should be considered rather than establishing a new organisation too early in the development of this project.

5 Product opportunities

The study initially set out to look at bush foods as potential products to be included in any new conformity assessment program. However, as the research progressed it became apparent that there were other products and services that could be included. In this section, opportunities are considered in bush foods as well as arts and handicrafts, Aboriginal tourism and ecological services. Discussion is focused on trading opportunities between indigenous communities and the broader economy. However, the program should consider opportunities for trade between communities particularly in the early stages while experience with commercial activities is being developed (or indeed inter-community trade may be sufficient to meet the needs of the communities concerned). These opportunities will benefit from lower overheads (transport, commercial costs, audit costs etc) and will be determined by the individual circumstances of the communities involved.

5.1 Bush foods

Recent estimates have valued the Australian native food industry at \$30 million a year including raw product and retail sales values (RIRDC 2010). There are few consolidated values available on native food production, but estimates since 1997 indicate slow growth (Dennet 2010). Very small when compared to Australia's conventional food production industry, native foods are receiving increasing interest from Australian consumers. Over the past two decades estimated industry value almost doubled (Woodall 2010).

Fourteen species make up the key commercially produced native foods with a further 25 more introduced or researched for commercial use (RIRDC 2008). Only one native Australian food, the macadamia nut, has had success in the conventional food market. Its sales are excluded from the previous industry estimates as its development happened long before the commercial recognition of other native foods and much of it outside of Australia. Unlike large-scale macadamia plantations, Australia's native food industry is populated with small companies and a few medium exceptions. The industry is characterized by "short supply chains or lack of coordination, relying on spot marketing prices" (Cleary *et al.* 2009). In 2006 the Australian Native Food Industry Limited (ANFIL) was established to improve coordination and support for industry stakeholders. ANFIL promotes commercial activities, information exchange between members, and represents the industry in matters of national advocacy and lobbying. It is the recognized national body, which seeks to represent all interests within the industry. Despite its broad scope ANFIL currently lacks indigenous representation.

Before European settlement of Australia, indigenous people relied exclusively on the native plants and animals available to them. These fulfilled needs for fuel, shelter, tools, medicines and food. Plants and animals were profoundly ingrained in sacred creative and spiritual activities, as well as the more mundane day-to-day activities. Knowledge of native plants and animals were passed on to new generations orally and through participation in all activities sacred and mundane. Despite hundreds of years of cultural fracture and encroachment through colonialism many Aboriginal people today continue to learn the biological knowledge accumulated by their ancestors. While traditionally this knowledge is acquired as children, many consolidate this knowledge as adults. Knowledge of country, and the plants and animals that exist within it, not only provide people with a sense of cultural identity, but sense of pride and well-being. Many of the Aboriginal people spoken to expressed concern that knowledge that has provided them with a source of cultural empowerment will not be passed on to following generations. These fears are not unfounded in the face of homogenizing effects of the modern economy and cosmopolitan culture, as well as the connection such knowledge has to country and the lack of social and economic stability available to people living on country. Activities involving bush foods provide additional benefits such as social events, promoting exercise and healthy diets. "The role of native foods in Australia is far from purely economic" (Dennett).

Although the native food industry, as expressed by ANFIL, does have regard for Aboriginals

traditional knowledge, the impetus for industry development is recognized in various participants from the food and foodservices industries, including restaurateurs “who introduced native food into their menus during the early and mid-1980s” (RIRDC 2008). Another pioneer of the industry, Vic Cherikoff authored with Jennifer Isaacs *The Bush Food Handbook*. The 1989 publication provided information on gathering and growing, as well as recipes of bush foods. The book provides more user-friendly information on bush foods; building on a previous book by Isaacs *Bush Food*, which draws heavily from Aboriginal culture and knowledge (Isaacs 1987). Astonishingly to Isaacs and her publishers the original book had received widespread interest. Building on its popularity the follow-up book drew on Cherikoff’s savvy for the commercialization and marketing of native foods (Cherikoff *et al.*, 1989). Since the early days of bush foods’ introduction into modern Australian menus, more than 35 native species have been introduced with varying degrees of commercialization (RIRDC 2008).

Moving ahead 20 years, industry strategy today is to be identified by the term ‘native’ as opposed to ‘bush’ foods in an attempt to rid itself of identification with survivalist conceptualization of bush tucker, as well as the less appetizing food items to many Australian palates such as the witchetty grub. Instead, industry participants at the Inaugural Native Foods Conference wished to see the native food industry develop a stronghold as gourmet and novel food products (ANFIL 2010). The most widely commercialized species in the native food industry are grown and harvested for their edible fruits, seeds, or leaves. Their introductions into the market are mostly as fruit based products, spices, and dried seasonings. The lack of broader uses may have contributed to the industry’s slow growth despite consumer interests in the cultural and ecological benefits of native foods (Woodall 2010).

In the recent RIRDC published report *New Root Vegetables for the Native Food Industry*, “a distinct lack of native vegetable products available and a requirement for native vegetable products was identified by consumers, chefs, and suppliers of native foods.” The profile of native foods would benefit from vegetable products that could be used to replace staple foods (Woodall 2010). Lack of knowledge of native foods’ taste and their inappropriate use is felt to contribute to negative perception of native foods hampering growth of the industry. Consumer demand in recent years for produce such as the Kakadu Plum and the Bush Tomato has exceeded supply, while wattle seed has experienced oversupply. Supply chain fragmentation and the ‘booms and busts’ experienced with wild-harvested products has made the development of a consumer base difficult for processors and retailers. Despite a lack of consumer market research for Australian native foods, researchers have been positive about consumer reception (Woodall 2010). A place for native Australian foods in the tourist trade is obvious. Domestically the native foods market could grow through consumer desires to:

- buy local
- vary their diet
- enjoy particular health benefits that may be demonstrated, and/or
- appreciate or identify with Australia’s natural and indigenous heritage as a culinary and cultural experience (Woodall 2010).

In order to provide greater accessibility and marketability for Australian native foods in domestic and foreign markets, research has been undertaken to create uniform terminology for the emerging native foods industry. As the national industry body, ANFIL is challenged by being a small volunteer based organization that is attempting to provide broad reaching consultation on this topic. As was previously discussed, the complexity of indigenous consultation on marketing terms can reflect the cultural and political diversity within and between Aboriginal groups. Despite ANFIL consultation, Aboriginal informants involved in the commercial native foods industry preferred terms such as ‘bush’ and ‘indigenous’ over native foods. Although basic terminology may appear as a benign issue, lack of Aboriginal involvement and input into industry decisions contributes to widening the gap in market place information. Research and terminology creation in the areas of nutrition, taste, and marketing divide the native food industry from its origins in Aboriginal traditional knowledge. Aboriginal people have some of the appropriate resources for engagement with native foods including traditional

knowledge of plants and animals, and access to country, but engagement in native food commercial ventures has been marginal (Cleary *et al.* 2009).

Supply through wild-harvest is still the common form of production for at least three of the commercialized native foods. Two products of special interest in this study, *Solanum centrale* (Bush Tomato, Bush Raisin) and *Terminalia ferdinandiana* (Kakadu plum, Gubinge, Billy Goat Plum) have supply chains in which Indigenous people do much of the commercial wild harvesting. The role of many Aboriginal people in the native food industry is that of “primary producer” (Cleary *et al.* 2009). Primary producers within the new and volatile value chains of these native foods experience vulnerabilities relating to large supply and demand fluctuations, as well as slim profit margins. A particular issue relating to Aboriginal wild harvest is the dependency on a few traders as their connection to the market (Cleary *et al.* 2009).

5.1.1 Kakadu Plum

Known widely as Kakadu Plum this small green fruit is produced by a tree (*Terminalia ferdinandiana*) that grows across the north of Western Australia and the Northern Territory. Variation in tree and fruit exist throughout this region. The fruit is the approximate size of a large olive; it has a large pip, and a mild sweet flavour. In recent years it has gained attention for having the highest amount of vitamin C of any fruit. It also has a host of other phytochemicals – a burgeoning topic of research in human health. Added to the list of super-foods such as Tibetan Goji Berry and the Brazilian Açai Berry, Kakadu Plum is in demand from international companies within the pharmaceuticals, cosmetics, and health food industries. The potential for growth in demand is very high. As previously stated plant material has been taken to the United States for research and several patents for extraction processes are pending or have been awarded. Plantation development in Brazil is a concern to traditional owners and cooperatives wishing to engage in commercialization of the product.

Wild harvest of the plum takes place throughout all regions where it grows. The harvest takes place during the wet season beginning in December and continuing until April. Harvest has been more commercially successful in the Kimberley region where Aboriginal people have had more commercial impetus and where state laws are more favourable to wild harvest than the Northern Territory.

Commercial supply has been problematic. Wild harvest of the fruit is complicated by the large distribution of trees. Low volumes and large costs in bringing fruit to market effectively marginalize producers. In 2009 the fruit pickers working for producers made wages of approximately \$11 per kg. Average fruit picking capacity is almost 10 kg per worker per day (Brikbeck 2009). Fruit price paid to the producer ranges between \$20-30 per kg. The lower end of the pay scale provides very slim profit margins. If there is a coordination blunder producers may not profit.

Organization of the wild harvest has come in several forms. Indigenous Harvest Australia (IHA) has been an indigenous owned cooperative since 2006. Commencing as a part of a regional community development project, the cooperative is made up of a small number of families who do the picking. Families own shares along with a small number of additional investors. A board of directors makes decisions democratically. Despite the cooperative organization IHA still deals with difficult production constraints. Group cohesion and consensus have been a challenge with one member family recently opting to harvest independently. Independent harvesters have developed different harvest organization techniques. One producer’s commitments to traditional techniques of caring for country have resulted in enhancing the consistency of his plum yields.

Although some estimates place maximum production capacity close to 100 tonnes of fruit for the Kimberley, harvesting constraints and production costs make this amount very ambitious. IHA’s maximum harvest ever was only 12 tonnes. During 2008-09 total harvests for the region provided less than 5 tonnes of plum as the market collapsed for one of the main buyers (Birkbeck 2009). Supply constraints and cost inefficiency provide the largest challenges to the development of a stable Kakadu Plum industry. As was previously discussed, branding is a problem for producers who bare no

association to Kakadu – the geographic location. Producers from different regions would prefer a more generic branding. Administration and marketing abilities were also mentioned as challenges.

Recognizing the cultural and economic potential for indigenous people in the northern regions, researchers are examining three types of plum production - wild harvest, enrichment planting, and cultivation. Wild harvest provides the only real example of successful commercialization, but the cost and logistics, contributing to unstable supply, have damaged market confidence. Aboriginal people have been receptive to wild harvest for its many noneconomic benefits and in many discussions preferred it to other forms of production for its reinvigoration of traditional activities. Enrichment planting being trialled at Broome TAFE under the direction of Kim Courteney may provide a more acceptable approach to indigenous groups valuing the tradition of wild harvest, while still improving density and cost efficiency. Enrichment planting requires maintenance of drip irrigation and some slashing and control burns. Traditional horticultural approaches were the least appealing to most indigenous informants. Although this type of cultivation has not been successfully commercialized in the Kimberley, theoretically, it holds the most potential for cost efficiency. Based on experience of past unsuccessful horticultural programs in indigenous communities the most appropriate direction for the industry may be to create programs based on the first two types of production. IHA and independent producers have expressed interest in enrichment style of production.

A conformity assessment scheme to improve fairness of trade, as well as reward aboriginal traditional knowledge would be challenged by the volatility of the current Kakadu Plum industry. The sustainability of any scheme would depend on navigation of this instability. Although, there is also reason to consider how a conformity assessment scheme could have a valuable role contributing to the stability the industry needs. Loving Earth, a Melbourne based company specializing in fairly traded raw chocolate, is marketing the link between superfoods and traditional knowledge. The company seeks to ‘honour indigenous traditional knowledge’ by paying a premium price for the specialty foods and sourcing from indigenous producers where possible.

Improving the confidence and links between producers and buyers through a conformity assessment scheme could improve Aboriginal producers’ knowledge and accessibility to market their product, thereby lessening their dependence on one buyer. Although there are a number of challenges engaging with new industry, a conformity assessment scheme could help indigenous producers gain some early advantages in the Bush Plum market. Honouring their traditional knowledge claims in the product marketing could contribute to a source of pride in indigenous identity and community empowerment rather than the feeling of exploitation expressed by some informants citing the loss of the Macadamia Nut or patenting on traditional foods.

5.1.2 Bush Tomato

The Bush Tomato is native to Central Australia and can be found in parts of South Australia, Western Australia, and the Northern Territory. *Solanum centrale* is a small shrub growing in areas with 150 to 300 mm of rainfall. The fruit is small and green when unripe and ripens and dries to a deep red-brown. Bush Tomato’s intense flavours are earthy caramel and tomato with a pungent aftertaste. One of the most popularly commercialized bush foods; it is used as a dried spice and seasoning, and to make chutneys and relishes.

Bush Tomato is one of the most traded native foods. Demand for Bush Tomato has occasionally exceeded supply creating conflict and monopolistic behaviours among buyers (Bryceson 2008). Most production is wild harvest, but there is small-scale commercial cultivation taking place in South and Central Australia. Approximate wholesale prices of whole dried tomato at \$35 per kg and dried and ground is \$41 per kg. Although accounts differ, bush harvesters receive \$4-10 per kg for cleaned and semi-dried Bush Tomato. Further research is needed to understand the national wage standard viability for bush tomato harvesters. Approximately 15 to 20 tonnes are traded each year. Wild harvested volumes change significantly from year to year because of changing environmental conditions. The lack of supply stability has encouraged the move to Bush Tomato cultivation. The Outback Pride Project has commercially cultivated the Bush Tomato along with 25 other native

foods, with varied success in 26 indigenous communities throughout dessert areas of South Australia and the Northern Territory (Landline 2007). One of the more successful species cultivated in the project, the Bush Tomato fruiting cycle has been expanded to eight months instead of just two months (as in the wild) with the use of water-wise irrigation systems (Outback Pride 2010). Pwerte Arntarntarenhe Desert Garden Produce (DGP) is an aboriginal corporation doing a small amount of commercial cultivation of the Bush Tomato, as well as participatory research focusing on the viability of producing Bush Tomatoes through cultivation. Although there has been a high demand for Bush Tomato and development of a cultivation strategy has been underway for many years, DGP estimated it is still two years away from a profitable enterprise based on cultivation.

Like the wild harvest of the Bush Plum, the Bush Tomato harvest in Central Australia has important non-economic value for indigenous people.

Consideration of the non-market social and cultural element of bush food chains in which Aboriginal people participate, particularly as non-cosmopolite producers, has been identified by DKCRC as critical to developing effective and efficient industry chains that both reward Aboriginal people economically and accommodate their social cultural values (Cleary *et al.* 2008).

The DKCRC Report *Hands Across the Desert: Linking Aboriginal Australians to each other and to the bush food industry* explains that careful attention to “balance between economic and social factors” is important because this balance will differ from one industry value chain to the next. Although there are similarities with the wild harvest of Bush Plum in the Kimberley, the Aboriginal women who harvest the Bush Tomato have different language and cultural barriers. An interview with one indigenous informant who was close to these women expressed the need to develop mechanisms through which information could be more easily distributed so that the women would be given the opportunity to gain understanding of the industry. The informant expressed concern that the cultural experience of the woman had at times made commercial interactions foreign and stressful. Culturally and logistically appropriate communication could improve relationships and build capacity.

A conformity assessment scheme to improve fairness of trade, as well as reward aboriginal traditional knowledge would be challenged by the volatility of the current Bush Tomato industry. The sustainability of any scheme would depend on navigation of this instability.

5.1.3 Indigenous enterprise in the bush foods supply chain

It is clear from the above examples that the role of Aboriginal people in the native food industry is predominantly as primary producers. A conformity assessment scheme that rewards aboriginal traditional knowledge has clear connections to the previous example of bush food related economic activities on country such as the wild harvest. The positive aspects of participation in wild harvest and engagement with the native food industry have been examined for their value beyond economic. What place does indigenous enterprise have further along the value chain in a conformity assessment scheme based on knowledge and country? During this study two indigenous businesses were examined, which are involved in the bush foods supply chain.

- As part of the Larrakia Minbeni Ranger Program, the Minbeni women rangers use traditional and modern land management practices to restore and protect important ecosystems on their land. These women, who regularly spend time on country, practise wild harvest of native foods and are developing a range of preserved goods with the goal of marketing them through Aboriginal Bush Traders.
- Kungka’s Can Cook is a catering business showcasing Indigenous produce. The meaning of Kungka’s is ‘women’ in Pintjatjarra. Owned and operated by indigenous woman Rayleen Brown, Kungka’s has provided an avenue for education about indigenous culture and native foods. Rayleen also seeks to provide healthy foods for all her events. Starting from an opportunity offered by the Central Land Council, the business now caters for groups

throughout central Australia. Catering for both indigenous and non-indigenous clients, an important aspect of Kungka's is that aboriginal clients can feel more at ease with her hosting. The company works with local people, including family, who either harvest to order or present themselves at the business with bush foods they have caught or harvested.

These enterprises introduce questions on limitations for a conformity assessment scheme to improve the fairness of trade and reward aboriginal traditional knowledge. They raise issues about the kind of questions that would need to be examined when defining authenticity. The women's ranger group is an Australian government program that has a small budget for enterprise creation. Food services, for instance, is not a traditional activity but most of the food is sourced through wild harvest.

5.2 Other industries

5.2.1 Aboriginal art

Unlike the young and volatile native food industry, indigenous art is a well-developed industry and a highly sought-after product - both domestically and internationally. Art and Art Centres have become essential parts of some indigenous communities. The existence of Art Centres provides work opportunities, social opportunities, as well as providing individuals and their communities with economic opportunities to sell their art. The success of Art Centres relates in part to their alignment with indigenous cultural sensibilities.

Works of celebrated artists such as Lofty Nabardayal Nadjamerrek fetch prices in the tens of thousands of dollars. The demand for aboriginal art and the high prices some works garner has also created opportunities for exploitation and manipulation of some of the poorest people in Australia. The uninformed consumer of aboriginal art would have little way of knowing legitimate and ethically purchased art, from art, that has been counterfeited or obtained through unethical and exploitive purchasing practices. One research participant believed there were private galleries paying as little as 15 percent to aboriginal artists for their work and in some cases exchanging food and other items for art works. The Australian government and organizations such as DesArt produce information on sourcing ethical indigenous art and craft. The Australian government is trialling the Indigenous Australian Art Commercial Code of Conduct that sets out minimum standards of practice and fair dealing in the Indigenous visual arts industry. To create the code the Australia Council worked with an Industry Alliance Group made up of artists, indigenous art centres, commercial art galleries, auction houses, and a number of visual arts peak bodies. The Code of Conduct only provides verification for products valued over several hundred dollars. This leaves the lower priced aboriginal art and craft without an authentication label.

5.2.2 Souvenirs, handicrafts and jewellery

Popular Australian souvenirs – boomerang, didgeridoo, dot motifs – often relate to aboriginal traditional knowledge. Gift stores are awash with items making independent claims of authenticity. Items ranging from postcards and t-shirts to intricately designed Wira bowls make claims that royalties are returned to the artist or aboriginal community. Tourists passing through have little opportunity to tell the difference between such items or verify claims.

Jewellery making and handicrafts are activities sometimes used by aboriginal communities to supplement income. Some communities will participate in the bush harvest of native foods, but when a particular food goes out of season they will harvest seeds, nuts, and grasses to make jewellery. Jewellery making and handicrafts are also a traditional cultural way to socialise and pass on traditional knowledge. The amazing array of claims on aboriginal handicrafts and Australian souvenirs provides evidence that a conformity assessment scheme based on traditional knowledge would be a positive step in providing consumers with an assured choice that respects indigenous Australians traditional knowledge and creates an income flow to communities.

The Aboriginal Bush Traders (Darwin) have recognized the link between indigenous culture and art, and tourism creating a gift store and tourism hub where tourists can buy souvenirs and tours which are made and operated by indigenous communities.

5.2.3 Aboriginal tourism

Tourism is another industry suitable to the lifestyle of many aboriginal people. Aboriginal people can host tours when they get bookings or could just focus on the peak tourist season and so be free to wild harvest during the wet. Several research participants provide tours. Some have established tour businesses and others provided informal lessons on indigenous culture and native foods during bushwalks. These activities provide supplemental income and the opportunity for education and to share their culture. Guluyambi Cultural tours in Kakadu, owned by a local indigenous corporation hire young aboriginal tour guides with a wealth of traditional knowledge on bush foods, crocodiles and other wildlife, as well as, aboriginal law. Having a conformity assessment scheme could provide tourists with the choice to directly support local aboriginal people who operate tours on country.

5.2.4 Other (carbon trading)

Over the last several decades' aboriginal traditional knowledge of ecological succession and controlled burns has gone from being disregarded as senseless destruction to a key fire management tool used by state governments. Research on carbon sequestration, such as the work of Professor Jeremy Russell-Smith, shows controlled burns reduced carbon emissions. Russell-Smith shared his research with delegates at the 2009 Broome Workshop. Systematic controlled burns were developed by Aboriginal Australians over the millennia to promote growth of specific plants and to prevent the build up of dead fuel that can lead to devastating hot fires. These traditional practices can contribute to avoided carbon emissions and reducing global warming. Despite withdrawal of the Federal emissions trading scheme (ETS), private enterprise and conservation organizations are providing options for people to buy carbon offsets. The federal government has recognized this value by paying indigenous people to care for country through a ranger program. A future ETS could pay Aboriginal people for their services in carbon offsets and sequestration. In 2006 the first carbon trading agreement of this kind was struck between Conoco-Phillips and the Northern Territory Government and Aboriginal communities. Other organisations are now looking at this as a viable business and social development option. Rowan Fowley of Centrefarms in Alice Springs is developing a carbon trading fund for indigenous people living on country.

6 Issues requiring resolution

This report has raised as many questions as it answers which is neither surprising nor unusual. This section will attempt to catalogue those questions that require resolution in the next phase of this project. They are grouped according to the elements of the next phase of work (Chapter 7)

6.1 Establishment phase

The next phase of the project will take place over approximately two years. During this phase the standard or standards will be written, a verification process agreed, branding matters resolved and a longer term governance process will be developed. Considerable intellectual property will be created through this process. An organisation will need to acquire this intellectual property with a view to passing it on to the organisation that will eventually own the standards and the system. An organisation will also need to be the entity that receives payments for the next phase and makes payments in order to implement the work program, and, provide leadership to this process and a link to a metagovernance entity such as ISEAL as well as people and groups who fund the development phase. The first question is whether this entity is:

1. An independent legal entity set up for the specific purpose of developing the standard, promoting the system, receiving and making payments, or;
2. Housed within an existing entity such as the FTAANZ that acts as a promoter of the program during the establishment phase, or;
3. The organisation exists informally without a legal entity but an institution such as the ANU receives and pays funds for the program.

6.2 Governance

A multi-stakeholder governance structure will need to be developed to oversee the project and provide guidance that reflects perspectives of the broader stakeholder base of the organisation. This phase will culminate in pilot trials of the proposed standard so where community stakeholders are concerned, these should be selected from the proposed pilot area (while being mindful of the longer term needs of a national program).

Key questions would be:

1. Who are the key stakeholder groups that must be represented on the working group and what is an appropriate balance of stakeholders keeping in mind the purpose of the program?
2. How should the disadvantage of Aboriginal communities be considered in the working group to make sure they are fully engaged and 'own' the outcome?
3. What constitutes consensus in the working group (if there is not unanimous agreement)?

A dispute resolution process will be required to assist retaining engagement of stakeholders when there is disagreement between stakeholders. This will require articulation of a set of principles specific to a standards development process around which the engagement would take place.

4. What would an acceptable dispute resolution process look like to assist in retaining the engagement of all stakeholders?

6.3 Objectives

As has been noted in the body of the report, this program is attempting to develop a conformity assessment program for a broad sweep of objectives; broader than existing fair trade programs. The objectives developed through this scoping study reflect issues raised with the research team. They have not been prioritised.

1. The working group or steering committee will need to review the objectives and prioritise them should it not be possible to achieve all of these objectives or all of the objectives fully through the program.

A working group will also need to consider specific elements of the objectives; questions related to traditional knowledge, such as:

2. What is meant by traditional knowledge? Is this only knowledge held by elders?
3. How will boundaries of traditional knowledge be set in areas where communities are fragmented and there are consequent gaps in knowledge?
4. How will the program work with the legal system to protect knowledge (e.g. include clear statements of ownership of IP)?

Questions related to authenticity, such as:

5. What are the boundaries of authenticity? Only products and services derived from traditional knowledge of a community's country?
6. How will the program deal with issues such as horticultural improvement through developing new plant varieties?
7. How will the program deal with the development of plantations or more intensive harvesting where wild-harvesting is the traditional practice?
8. How will the program deal with new activities that are not traditional activities such as further processing and value-adding or the development of carbon offset products based on carbon retention and storage activities?

The development objective will also require clarification particularly where there is likely to be a trade-off between development and other objectives. In the course of this research, some Aboriginal people expressed scepticism about the involvement of entrepreneurs in the program (regardless of whether they were European or Aboriginal). Issues will arise where there is a trade-off between development and traditional values.

9. How will the program deal with conflicts between the development objective and other objectives of the program?

In terms of the price premium and fair price elements of the development objective, one trader has said that market pressure would not allow that business to offer more and that if the premium was to be higher the price would be lower or vice versa. In the relatively small markets that many of the products from Aboriginal communities operate, striking a fair price may be difficult.

10. What mechanism will be used to determine a fair price and reasonable premium in order to affect the development objectives of the program?

Environmental objectives are included in the Fairtrade system but at this stage most are not compulsory suggesting that it may be difficult to implement a similar set of criteria through this program. It will be important to decide whether the Fairtrade approach will be adopted or another approach sought to achieve environmental outcomes.

11. Will the program develop its own environmental criteria or take the existing approach of either Fairtrade or WFTO?
12. Will this program seek to focus on performance-based outcomes from environmental criteria or the implementation of processes (such as the appointment of an environmental manager – the main existing requirement of the Fairtrade Producers' Standard)?
13. As with the Development objective, how will trade-offs between the environmental objective and other objectives be resolved?

With the development of social and environmental conformity assessment programs, there is often an aspirational objective that is included. Strengthening traditional communities was put to the research team and it is unlikely to clash with other objectives but it could be hard to develop criteria and indicators that are meaningful (other than people returning to traditional country).

14. How will enrichment of traditional communities be measured?
15. Does this objective risk creating divisions between those who live on country, those who continue to identify with a clan but do not live on country and, those who identify themselves as Aboriginal but do not identify with either clan or country?

6.4 Scope

Like the objectives, scope will be an area where there will be questions that require resolution at the outset of a process. However, if these questions can be resolved it will make the development of the standard more straightforward.

The main area requiring further discussion and resolution is who is in and who is out of the program scope. The draft scope provided in Chapter 3 talks about “Communities with identifiable governance structure and clear relationship with country or place”.

1. Is this an acceptable definition of who is covered by the program?
2. Are stakeholders comfortable with who this definition leaves out (people who may have lost their relationship with tribe or clan and their country)?
3. If not, what is another way of defining scope that is still meaningful in the context of the objectives for this program (or do the objectives need to be rewritten given the scope and objectives are closely linked)?

In considering Aboriginal business enterprises within the scope of this program it was considered that this would include organisations such as Art Centres but be limited to businesses that have the imprimatur of community elders (or where a traditional governance system does not exist the prevailing governance system).

4. Are stakeholders comfortable that this will exclude independent indigenous business people who operate without a strong relationship to the community or a commitment to benefit their community through, for instance, profit sharing or community development activities (they could still participate as traders)?

The report proposes that the scope include any product or service that is consistent with the scope of the project and the objectives of the project.

5. Can a set of principles and criteria be developed that can accommodate such a broad and loose objective in terms of the product or service to be certified?

In terms of downstream activities, the project is based on adopting a similar approach to Fairtrade where customers are certified as complying with a Traders standard and labelling occurs at the last point of processing in the supply chain. This raises questions such as:

6. Will the system develop its own Chain of Custody or ‘Traders’ standard?
7. What sort of ‘on-product’ claims will be made and will they require a ‘one-up-one-down’ traceability system for verification?
8. Who will be able to label? Under what conditions?
9. How will the system deal with mixed sources? For example, Outback Spirit ‘Rejuvenating Water’ includes a small amount of ‘Kakadu Plum’ extract. Would this product attract an on-product label even though only a small amount of the final product comes from the program? Would there be minimum requirements as per Fairtrade? Would Outback Spirit in this example still be able to make some form of claim?

6.5 Costs and business model

Costs and business model are other areas that still require considerable work.

1. How much value can the system create?
2. Where will that value be created?
3. How much will the system cost to start up?
4. How much will it cost to run? How should those costs be apportioned? Who pays?
5. Is the long-term business model based on the system paying its own way?

6.6 Verification

As noted earlier, the form of verification adopted will be important to both the integrity of the program and the cost of the program. A balance will need to be found.

1. What sort of verification process will be adopted? Independent third party verification? Its own certification program? Fairtrade certification (FLO-Cert)?
2. How frequently will auditing be required? How comprehensive? What are stakeholder expectations in terms of intensity of audit? Likelihood of cheating?

6.7 Governance

A long-term governance process will need to be developed.

1. Will the program eventually be run by a membership-based organisation?
2. Will long-term governance be a multi-stakeholder form of governance?
3. Will it be representative of stakeholder groups?
4. Will stakeholder governance and management/business governance be separated?

6.8 Branding

Over the course of the next phase a number of issues will need to be resolved early in this phase. These include issues raised above such as on-product label and mixed sources as well as:

- Core brand message
- Brand architecture (one label or several)
- Potential for co-branding (Joint Fairtrade label)
- Brand licensing and trademark protection

7 The next phase

The next phase in development of the project will start with the findings of this report, in particular the draft objectives and scope for the assessment program; the draft workplan and; the list of interested stakeholders. It will build on this report with the following steps:

7.1 Establish project steering committee

The steering committee would be comprised of people committed to the objectives of the project and adopting a credible process based on the ISEAL Code of Good Practice to achieve those objectives. It should include people that reflect the key interests covered by the Scope but will not necessarily be a representative body (although it would need to be a widely respected group). It would be comprised of six to nine people and act as an Interim Board providing leadership and governance oversight of the process. Their first task would be to review and agree the issues and impacts to be addressed, the objectives and scope for the project and, the workplan proposed for the next phase of development. This report recommends that pilot work be undertaken in Broome, Darwin and Alice Springs as people in these centres are already familiar with project. Therefore, the steering committee should include community and Aboriginal business representative from these centres.

7.2 Establish a standard working group or roundtable

This group would be commissioned by the steering committee to develop the standard based on the agreed objectives and scope. It would be particularly important that this group represent the key stakeholders who would have to work with the standard. This group could be larger than the steering committee depending on what was required to ensure all significant interests were adequately represented. They would review the objectives and scope and the impacts to be addressed before working through, in sequence, how these would translate into a set of Principles, Criteria, Indicators and Verifiers against which communities participating in the program could be audited. They would need to resolve some of the boundaries highlighted in the previous chapter; how different objectives were prioritised and how the project could deal with a multiplicity of products and services that could eventually be part of the program. These matters would all be summarised in a documented Terms of Reference for the standards development work.

The standards roundtable would also oversee an adapted Fairtrade Trader standard or development of a trading standard/chain of custody system specifically for this program.

7.2.1 ISEAL compliance issues

The Steering Committee would be responsible for ensuring roundtable compliance of the standard setting procedure by having and maintaining; documented procedures for the standard setting process; a record keeping process (available to interested parties); a complaints resolution process, and; issuing a public summary on the project that sets out the following matters:

- Contact information and how to contribute to the process
- Summary of the Terms of Reference
- Steps in the standard setting process (including timelines and opportunities to contribute)
- Decision making procedures (how decisions are made and by whom)
- A work program setting out the above as well as details of standard under preparation; any previous standards adopted, and, a brief description of the scope of the standard

7.2.2 Technical working groups

These would be specialist groups who would advise the Standards roundtable on specific issues relevant to the industries selected for the pilot; bush foods, Aboriginal tourism, arts and handicrafts.

There would also be a technical group to advise on the Trader standard that would include downstream participants in the supply chain such as processors, wholesalers and retailers.

7.2.3 Expert support

The steering committee would need to ensure the roundtable was provided with expert support to help understand how the standard would work and how best to draft a standard. This would include the incorporation of ISO basic reference standards such as ISO 9000 series and ISO 1400 series as well as elements of the Fairtrade and WFTO standards. It would be important that the standard was not over-written (and therefore too complicated) and that it could work with standards that already exist such as the Ecotourism ROC standard, any potential standard developed by Aboriginal Bush Traders and the Code of Practice for Aboriginal art. Based on input from the roundtable and its technical working groups, a subgroup led by a consultant expert would prepare a first draft of the standards for discussion with the roundtable. Once the roundtable group signed off on the first draft it would be circulated for comment by people likely to be affected or who would be important to the success of the standard (workability). Comments would also be sought from potential auditors.

7.2.4 First consultation

The first round of consultation would be open for at least 60 days. While in many cases the standard is simply released for public comment, in this case it would be recommended that consultation take the form of face to face meetings with groups of stakeholders. Important consideration should be given to how the standard is communicated to Aboriginal stakeholders, particularly those for whom English is not their first (or often second) language. It may be necessary that some consultation be undertaken in language using diagrams to show how the process works.

7.2.5 Review and revise

The expert support team will need to collate comments and work through the implication of those comments with the standards roundtable. Based on this discussion, a revised version of the standard would be presented to the roundtable for consideration prior to it being circulated for a further 30 day consultation period. The expert team should prepare a summary of the major changes that have been made and where changes were not made following comments being received. This summary will need to be approved and formally issued by the roundtable group.

7.2.6 Second consultation

The length of the second consultation will depend on the comments received in the first round and whether there are matters outstanding on which additional comment is sought. If there is a relatively high level of consensus around the draft, this second round could be a formality. However, if there are major issues to be resolved a further round of face to face discussion may be required.

7.2.7 Pilot testing

The second draft of the standard should be subject to pilot testing before it is finalised. This involves applying the standard in a working situation using the same form of verification likely to be adopted for the final standard. It needs to be tested for workability (whether the criteria, indicators and verifiers adopted are meaningful in an audit process), efficiency (whether it can be audited in a reasonable and cost effective manner) and outcomes (whether it addresses the impacts and produces the outcomes envisaged in the design process).

Generally a pilot will involve professional auditors conducting an audit against the standard and being observed by people who record issues and obstacles encountered by either the auditor or the organisation being audited. Where indicators cannot be audited (because data for instance may not be available) or where to audit an indicator would take too long (and therefore not be possible in an

efficient process), these need to be reported to the roundtable and alternative approaches considered in the final version of the standard.

7.2.8 Finalisation and publication

Once outstanding issues are resolved and there is consensus from the working group the Steering Committee will need to review the standard for compliance with good process and approve the final version. If there is consensus at the roundtable the steering committee should not re-open matters that have been resolved by the roundtable. It should focus on good process and quality. Once approved, the standard should be published with a process for ongoing comment and a review timetable (generally every five years).

7.2.9 Trading or Chain of Custody standard

While running the process to develop a community standard, a parallel process will be required to develop a Trader or Chain of Custody standard. This standard will need to deliver some key elements of the system such as a fair price and premium. It will also have relevance in terms of protecting traditional knowledge and authenticity. It could be substantially adapted from existing standards such as the Fairtrade Trader standard and requirements of the WFTO standard. This will allow the standard to be developed fairly quickly and could be consulted on simultaneously with the community standard for efficiency and cost saving reasons. As with the community standard, once it is finalised it should be published with a comment process and review timetable.

7.3 Verification process

The steering committee will have to give careful consideration to an appropriate verification process that complements the standards and fulfils the promise of the brand. It will be necessary for the steering committee to make an in-principle commitment to a model for verification during the standard setting process as this may influence the final content of the standard. A final decision should be made prior to the pilot testing phase so that the verification process can be tested to determine whether the model selected is cost effective and can deliver the integrity required.

If the steering committee (in consultation with the standards roundtable) can make an ‘in-principle’ commitment to a verification model during the standards design phase, further detailed work on this process could be undertaken by a technical working team that would report back. This could be a largely separate exercise from the standards development process.

7.4 Labelling, branding and the business model

As most of the value in the system is likely to be created through customer demand for products and services branded with the mark of the program, it would be efficient to consider labelling, branding and the future business model as one project. This could be assigned to a specific technical working group reporting directly to the steering committee. It should comprise a diverse group of stakeholders but include people with experience in branding and marketing as well as financial modelling and business development. As part of the workplan for this group it is envisaged some market research should be undertaken to test the value end-customers would see from a label. This work could also assist in prioritising different objectives in the standard setting process as, at the end of the day, it will be customer demand that will determine what customers for the system see of value and will pay to receive. This project could proceed independently of the standards development process and verification development process with the steering committee ensuring there is appropriate interaction between the three groups (through some overlapping memberships of the different technical groups).

7.5 Governance and organisational development

The final project the steering committee will need to manage is one focused on the longer term organisational development for the program. This working group will need to advise the steering committee on how the project can grow from a development and pilot exercise to a national model. It will need to consider who would be the long term participants in the system (beyond the pilot phase) and what sort of governance process would be necessary to engage a cross section of these stakeholders and win their support for the program. There are a number of models that the group would need to examine depending on the level of stakeholder 'democracy' required to retain endorsement. These range from the elaborate multi-stakeholder model of the FSC to the minimalist model of the Marine Stewardship Council where the organisation is essentially the Board and stakeholders have an advisory role to the Board. It is expected that the model will be important to reflect cultural issues of participants and overcome potential for fragmentation. The model will therefore require its own consultation process and its development should be led by people experienced in these processes.

7.6 Timeframe

It is expected the project would proceed over two years or eight quarters. Components of this workplan would be implemented based on the schedule set out in Table 6.

7.7 Budget

A budget has been prepared based on the above workplan and timeframe and is included as Table 7. The budget is spread over two years with costs in Year 1 of \$261,000 and costs in Year 2 of \$292,000. These costs are based on a number of assumptions:

1. Participants in the Steering Committee and working groups will contribute their time free of charge but will be reimbursed for any costs incurred (travel, accommodation)
2. Participants in the Steering Committee and working groups (apart from specialists on the Verification Group and the Brand, Label and Business Group) will be drawn from the pilot areas of Broome, Darwin and Alice Springs and meetings will rotate between these centres
3. Meeting schedules will be designed to coincide so individuals with overlapping commitments (Steering Committee and a Working Group) will not need to travel twice
4. Technical support will be for defined projects (e.g. drafting standards) with secretariat support for Working Groups provided by the Steering Committee secretariat
5. The allocation for consultation is to cover instances where it is not possible to coincide a meeting of the relevant group with a consultation session
6. This budget does not include an allocation for start-up costs for the completed program. It is expected that this will be the subject of a separate proposal prepared in Year 2

7.8 Funding

Funding would be sought from a range of sources including government agencies interested in promoting business development in Aboriginal and remote communities, philanthropic foundations and community funds set up by major companies particularly mining companies. Some funds may also be available from foundations operating in the area such as the Outback Spirit Foundation.

Table 6: Proposed project workplan and timeframe

Task	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8
Establish Steering Committee	X							
Review Objectives, Scope & Workplan	X							
Establish Standards Roundtable		X						
Establish Industry Technical Working Groups			X					
Assemble Expert Support Team		X						
Prepare Draft 1 of Community Standard		X	X	X				
First consultation					X			
Review and revise						X		
Second consultation						X		
Pilot testing						X		
Review, revise and finalise standard							X	
Approve and publish final version							X	
Prepare Draft 1 Trading Standard			X	X				
First consultation					X			
Review and revise						X		
Second consultation						X		
Pilot testing						X		
Review, revise and finalise							X	
Approve and publish final Trading Standard							X	
Establish Verification Working Group			X					
Agree principles			X					
Technical design				X				
Consultation					X			
Pilot test						X		
Finalise, approve and post							X	
Establish brand & business Working Group			X					
Preliminary design of proposal				X				
Market research					X			
Consultation					X			
Financial modelling					X			
Finalise and forward to Steering Group						X		
Establish Governance Working Group				X				
Initial design process of proposal				X	X			
Consultation with stakeholders					X			
Review and revise						X		
Forward recommendation to Steering Group						X		
Develop hand-over strategy						X		
Transition funding arrangements						X		
Prepare constitution for NewOrg						X	X	
Establish Interim Board							X	
First meeting of New Org								X

Table 7: Draft budget for development phase

		Year 1		Year 2		
	Unit Price	Units	Total	Units	Total	Total
Steering Committee						
Sitting costs (7 members)	4000	8	32000	7	28000	60000
Secretariat (1 consultant + support)	2000	40	80000	40	80000	160000
Standards Roundtable						
Sitting costs (10 members)	6000	4	24000	3	18000	42000
Technical Support	1500	15	22500	10	15000	37500
Technical Working Groups			15000		5000	20000
Communication materials			10000		10000	20000
Pilot trials					15000	15000
Consultation meeting	7000			2	14000	14000
Verification Working Group						
Sitting costs (4 members)	3000	3	10000	1	3000	13000
Technical Support	1500	4	6000	4	6000	12000
Travel/consultation			3000			3000
Brand, label, business Working Group						
Sitting costs (4 members)	3000	3	9000	3	9000	18000
Technical/Legal Support	2500	5	12500	10	25000	37500
Market Research			20000			20000
Governance Working Group						
Sitting fees (4 members)	2000	1	2000	4	8000	10000
Constitution & business registration			5000		10000	15000
Contingency			10000		10000	20000
Total			261000		292000	553,000

Results

Given the limited timeframe for this report, it has broadly achieved its objectives. There was some scepticism at the outset due to the constraints of the Fairtrade system as to whether the objective envisaged could be accommodated within that scheme. After discussing these matters further with proponents of the program it became apparent that the form of any conformity assessment program was less important than whether a 'certification' program could achieve the outcomes sought.

One observation is that there are a wide range of objectives and goals for this program and that will be one of the first challenges for the next phase of development should that proceed. It will be necessary, with the involvement of the groups who this program is intended to benefit, to prioritise and think through any potential trade-offs should there be conflict between objectives.

In relation to protection of traditional knowledge, it needs to be borne in mind, that a conformity assessment program and mark are not a substitute for intellectual property law. Any protection offered through a program such as the one discussed in this report, would be by way of public claim of prior ownership by traditional owners for products and services that may be certified.

It is hoped this report will provide a roadmap for the next stage in the development of this program. It has set out the steps required to develop a conformity assessment program, established a starting objective and scope for the program, listed the main issues that need to be considered in the development phase and established a working budget so this next phase can be considered.

The research team was asked to consider eligibility criteria for indigenous groups to participate in any proposed program. The approach suggested is that aboriginal communities be eligible where there is a clear governance system for that community. In other words, where there is the authority of elders for communities on country and where there is a democratic and transparent governance arrangement for people living in towns. Both require a relationship to place (country or town).

Aboriginal businesses will be the main participants. Here the distinction between Aboriginal businesses (within the meaning of this program) and businesses involving Aboriginal people will be the relationship those businesses have with their community. To establish that relationship, the community elders will need to see that there is benefit flowing from that operation to the community generally on top of any private benefits flowing to people who may own those businesses. This will require further work in the next phase to clearly define what benefits and how much benefit.

This proposal departs significantly from the Fairtrade product-based approach and in that sense will have a closer relationship with the WFTO standard than the FLO standards. It is proposed that the program not be product specific but should be framed in a way that can accommodate a wide range of products and services. To achieve this, the standard will have to be written in a way that creates a mechanism for negotiating a fair price rather than setting a fair price as happens with Fairtrade.

The project has identified a range of stakeholders who would be interested in participating in further development of the project. It is recommended that the next phase be based on Broome, Darwin and Alice Springs because people in these centres are familiar with the project as a result of this visit and the previous workshop held in Broome (2009). A number of people from these centres indicated they would be willing to participate at various levels and were passionate about the objectives.

In summary, there is a case for further development of this project. The link between country, culture, community and economy is a powerful one for Aboriginal Australians. Participation in economic activities that relate to traditional culture (e.g. art and wild harvesting) has high levels of participation because they fit with culture and country. They can engage people in building their own economy. Certification can support this through special recognition in the mainstream economy.

Implications

Successive Australian Governments, state governments, welfare organisations and others have struggled with engaging Aboriginal Australians in economic activity. Sometimes programs have been poorly framed and based on European concepts of work and business. Many Aboriginal people have commitments to family and country and their culture revolves around these commitments rather than a nine-to-five job. The success of Art Centres in the desert regions and the enthusiasm for wild harvesting in the Kimberley would suggest there are benefits from supporting different opportunities for wealth generation that are more consistent with tradition values and lifestyles.

To generate cash-flow, economic activities need to intersect with the mainstream economy where they will face the normal commercial pressures of competition and bargaining. A certification mark offers the opportunity for customers and end-consumers who want to support Aboriginal enterprises to preference these products with their buying decisions. Fairtrade labelling has shown there are consumers willing to seek out and pay more for products that support development goals.

This program will aim to link indigenous enterprise to consumer sentiment and create a market pull for products and services from aboriginal communities. In doing so, it will reward Aboriginal people for initiatives that are consistent with their life goals while creating some protection from exploitation and generating broader benefit flows. It may take some years for the impact to be seen through new and innovative enterprises. But if the market pull of this demand-side initiative is successful, it has the potential to increase self-esteem and confidence in Aboriginal communities that will in turn encourage further business development and innovation.

The potential to stimulate innovation based on traditional knowledge offers significant gains for government in terms of reduced welfare dependency. Increasing self-esteem and confidence (combined with reinforcing community governance structures) creates the potential for stronger and more self-reliant communities. For remote Australia and the significant areas that are now under Aboriginal management (45 percent of the Northern Territory) this could mean better utilisation of assets (people and land) with flow-on effects to other businesses through increased economic activity. A key requirement for success will be that this is a project owned by communities, not imposed.

Recommendations

The key recommendation emerging from this report is that the concept be progressed through the next stage of development and that that be based around enterprises that are already emerging in Broome, Darwin and Alice Springs.

Steps involved with implementing this recommendation and a budget are set out in Chapter 7

As a first step, a Steering Committee should be formed of key people willing to lead the project who reflect the interests of communities in the selected centres as well as other stakeholder interests. The group does not necessarily need to be representative but must be committed to the goals.

It would be proposed that an initial group of five people form the Steering Group with the potential for this to grow to seven or a maximum of nine people.

The project could be hosted within Fairtrade Australia, at least initially, who would act as the organisation that receives and disperses funds on behalf of the steering committee (at least until the committee has had an opportunity to consider whether it wants its own organisational structure).

A funding proposal will be prepared that provides an overview of the findings of this report and the key motivation for the project. This will be discussed with the funding organisations nominated. Given the total project costs is estimated at \$553,000 over two years an initial commitment of \$130,000 (first half of first year) would be required before the project could formally commence.

Appendix 1 - Stakeholders

The project has identified a range of potential stakeholders. This is not an exhaustive list of stakeholders but reflects the focus of this study on the areas of Western Kimberley, Darwin and Alice Springs. There are still gaps between this list and the broad categories of stakeholders identified in Chapter 3 of this report that will require further work. Stakeholders fall into the following categories:

- **Aboriginal people operating or in business**

Raylene Brown-Kungkas Can Cook

Bruno Dann-Independent Bush Plum Harvest/ Twin Lakes Cultural Park

Jimmy Edgar-Independent Bush Plum Harvesting

Pat Torres-Indigenous Harvest Australia

Deb Sibosado-Djugarargyn Community, WA

Val Sibosado-Indigenous Harvest Australia

Maree Mando-Indigenous Harvest Australia

Selina King-Indigenous Harvest Australia

Max Emery-Bush Tomato Producer, Pwerte Arntarntarenhe Desert Garden Produce (DGP)

Ruth Emery-Bush Tomato Producer, Pwerte Arntarntarenhe Desert Garden Produce (DGP)

Aboriginal Bush Traders

Ms. Lorraine Williams-Larrakia Minbeni Ranger Program

Intermediaries (Land Councils, Aboriginal Development Organisations, IBA etc.)

Tyronne Garstone-Kullari Regional CDEP

Raymond Christophers-Nirrumbuck Aboriginal Corporation

Sam Henderson-Indigenous Business Australia

Suzanne O'Connell-Nirrumbuck Aboriginal Corporation

Margaret Rasa-Indigenous Business Australia

Susan Shirtcliff-Marnda Mia Limited

Alison Vidal-Marnda Mia Limited

Allan Cooney-Centrefarm Aboriginal Horticulture

Rowan Foley-Centrefarm Aboriginal Horticulture

Sharon Keeffe-Indigenous Business Australia

Christine Godden-DesArt

Customers (buyers of products from Aboriginal communities)

Ms. Juleigh Robins-Robins Foods Pty Limited

Robert Forbes-Coradji Pty Limited

Mike and Gayle Quarmby-Outback Pride

Scott Fry-Loving Earth

Retailers (of end products)

Coles

Academics, educators and researchers

Peter Drahos- ANU

Luigi Palombi-ANU

Jenny Cleary-University of SA

Murray McGregor-Desert Knowledge CRC

Kim Courtney-Broom TAFE

Jan Ferguson-Desert Knowledge CRC

Julian Gorman-CDU School for Environmental Research

Beau Austin-CDU School for Environmental Research

Janet Hunt-ANU Centre for Aboriginal Economic Policy Research

Standard setting (Fairtrade), Accreditation and Certification bodies

Dr Sasha Corville, -ISEAL

Paul Deighton- New Internationalist/ World Fair Trade Organisation

Cameron Neil -Operations Manager, FLAANZ

Michael Spencer -CEO, FSC

Consumers

Choice

Appendix 2 - Potential Donors

BHP Billiton

Steve Birbeck - Natural Stewardship Circle

BP

Coles Indigenous Food Fund

Christensen Fund

Department of Families, Housing, Community Services and Indigenous - Charles Liggett

Tim Goodwin

Indigenous Partnerships Enterprise - Colin Carter

Natalie Walker-Australian Indigenous Minority Supplier Council (AIMSC)

Lauren Wapling

Westpac

Woodside Energy

Rural Industries Research and Development Corporation (RIRDC) - Alison Saunders

Rio Tinto

Glossary

Certification

The term certification is often misused to refer to a system for conformity assessment and labelling. Certification is a particular part of this process that relates to the verification that a product or service (or object, process, system organisation or person) exhibits certain characteristics or meets specified requirements. The broader term ‘conformity assessment’ is an umbrella term that encompasses verification, certification and accreditation. Often, although not always, conformity assessment is associated with a conformity assessment or certification ‘mark’ otherwise known as a product label. The following definitions adapted from ISEAL (2007) will be used in this report.

Conformity assessment is literally the assessment of conformity with a standard; a demonstration that specified requirements relating to a product, process, system, person or body are fulfilled. Encompasses verification, certification and accreditation.

Verification means the confirmation, through the provision of objective evidence, that specified requirements have been fulfilled. An assessor or inspector verifies that requirements of a standard have been fulfilled. Verification results are the basis for certification or accreditation decisions.

Certification is the third party attestation related to products, processes, systems or persons that fulfilment of specified requirements has been demonstrated. A decision on certification is taken based on information provided by an inspector or assessor or auditor.

Accreditation: Third-party attestation of a certification body’s demonstrated competence to carry out specific conformity assessment tasks. A decision on accreditation is taken based on the demonstrated competence of a certification body to evaluate compliance with a standard.

Fairtrade

In this report when *Fairtrade* is used as one word it refers specifically to the Fairtrade Labelling Organisation (FLO), its associated certification body FLO-CERT and the national Fairtrade labelling initiatives such as FLANZ. If the reference is to the general concept of fair trade this will be written as two words.

Stakeholders

The concept of stakeholders is widely used but rarely defined. In this report, the concept of stakeholders will be used to define people, organisations and businesses that are likely to be impacted (positively or negatively) by a change (a decision, innovation or external intervention); have an interest in that change of innovation or; can contribute to the success (or failure) of that innovation in achieving its objectives or intended results.

Traditional Owners

In broad terms, the *Aboriginal Land Rights (Northern Territory) Act 1976 (Commonwealth)*, section 3(1) provides the following definition:

‘traditional Aboriginal owners’, in relation to land, means a local descent group of Aboriginals who –

- a) have common spiritual affiliations to a site on the land, being affiliations that place the group under a primary spiritual responsibility for that site and for the land; and
- b) are entitled by Aboriginal tradition to forage as of right over that land.

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Indigenous Fair Trade in Australia

— *Scoping study* —

by Michael Spencer and Jocelyn Hardie

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This report is interested in whether fair trade could be useful to Indigenous Australians who are developing businesses, based on traditional knowledge and 'country'; enterprises that could strengthen confidence, economy and culture. It is also interested in whether such certification could be linked to or be part of the broader global fair trade movement.

This study focused on three potential industries for certification: bush foods, Aboriginal tourism, and handicrafts and art in three regional centres in Broome (WA), Darwin (NT) and Alice Springs (NT). Although people have been working with bush foods for 20 years, it is still a relatively immature industry but there is considerable interest in Aboriginal participation. Cultural tourism related to Aboriginal culture and legends is seen as an important and growing segment in northern Australia.

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