Standards Australia Submission

Productivity Commission Review of Chemicals and Plastics Regulation

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1. Introduction

Standards Australia welcomes the opportunity to make a submission to the Productivity Commission Review of Chemicals and Plastic Regulation.

Our chief objectives in making this submission are:

- To support the review and provide relevant background information to assist the Inquiry in its deliberations.
- To provide commentary where appropriate on the particular points in the Terms of Reference.
- To provide details of Standards Australia's role in the development of standards in the Chemicals and Plastics sectors
- To identify and act on improvements that could be made in the role of standards based solutions in both sectors
- To highlight our preparedness to work with other sector stakeholders in achieving greater national consistency, a key objective and outcome of any standards based process

1.1 Standards Australia as an Organisation

The Federal Government recognises Standards Australia as the nation's peak non-government standards development and approval body. Standards Australia prepares voluntary, technical and commercial standards for use in Australia and accredits other Australian Standards Development Organisations.

It meets national needs for contemporary, internationally aligned standards and related services that enhance Australia's economic efficiency and international competitiveness.

To ensure this, a Memorandum of Understanding has existed between Standards Australia and the Commonwealth Government since 1988. Among the principal accords are that no Australian Standard will contravene the World Trade Organization's requirements that national standards should not be used as non-tariff barriers to free trade; and agreement that no new Australian Standard will be developed where an acceptable international standard already exists.

Standards Australia is Australia's member of the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC) and the International Council of Societies of Industrial Design (ICSID), providing a link to international best practice and creating further efficiencies.

Standards Australia and Standards New Zealand work co-operatively in developing joint standards; approximately 32% of Australian standards are jointly developed and approximately 80% of New Zealand Standards are jointly developed. Standards Australia and Standards New Zealand have a Memorandum of Understanding in place setting out the principles to act in good faith and co-operate with one another to develop joint Australian/New Zealand Standards.

Commencing three years ago with the sale of its former commercial services, Standards Australia is undergoing significant change and is ambitiously recasting itself into a responsive and proactive standards approver and developer, capable of working with

industry sectors and governments to recognise, assist, service and/or develop nationally and internationally consistent self-regulatory regimes.

Standards Australia has well-established links into all areas of Australian business, professions, academia and the community with more than 9,000 experts drawn from over 1,000 nominating organisations developing around 500 new and revised standards each year. It has developed standards across most sectors of the Australian economy, in traditional industries such as goods and services, engineering and construction; in other technical areas such as health and food; in emerging new areas of technology such as e-health and nanotechnology; as well as in less technologically based subjects such as complaints handling and risk management.

1.2 The Productivity Commission Issues Paper

The Issues Paper highlights the complexity of the current regulatory regime for plastics and chemicals. It seeks "to identify measures that could be introduced to achieve a streamlined and harmonised system of national chemicals and plastics regulation and any alternatives to regulation". It cites concerns which were identified by the Regulation Taskforce (2006).

These included:

- The volume and complexity of existing regulations
- duplication and inconsistency between Commonwealth, state and territory regulatory regimes
- timeliness and cost of regulatory processes
- inadequate recognition of international standards and approval processes
- overly prescriptive regulation of labelling.

The Commission asks that submissions address two key questions:

1. What concerns do you have about Australia's regulatory regime for chemicals and plastic, and how substantial are they?
2. What policy changes do you recommend to address your concerns, and what would be their costs and benefits?

The Commission also states that the review is to "have regard to COAG's principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard-Setting Bodies, endorsed in April 1995 and amended in 1997 and 2004."

In preparing this submission, Standards Australia has also noted:

- submissions to previous reviews on this subject
- submissions made to the Regulation Taskforce, including that made by the Chemicals and Plastics Leadership Group in Nov 2005
- past submissions made by the Plastics and Chemicals Industry Association (PACIA) and other stakeholders.

2. The Chemicals Sector

To assist in the focus of our comment and contribution to this wide ranging review, Standards Australia has sought to address an array of matters raised in the issues paper within the framework of the key concerns identified in the findings of the Regulation Taskforce 2006.

2.1 Volume, complexity, duplication and inconsistency of regulations

Regulations apply in many areas of the chemicals industry in Australia. Whilst some regulations are Commonwealth, others are state-based. Several jurisdictions cover the areas of registration, scheduling and labelling of chemicals.

- The APVMA (Australian Pesticides and Veterinary Medicines Authority) cover registration of agricultural and veterinary chemicals.

- The TGA (Therapeutic Goods Administration) for therapeutic and pharmaceutical products.

- NICNAS (National Industrial Chemicals Notification and Assessment Scheme) for other chemicals, chiefly industrial chemicals, nanotechnology and cosmetic products.

- FSANZ (Food Standards Australia and New Zealand) operate in the area of chemicals that are food ingredients and additives.

- The Competent Authorities Panel (CAP) of the Advisory Committee on the Transport of Dangerous Goods (ACTDG) (which is administered by the National Transport Commission and the Department of Transport and Regional Services) oversees the list of chemicals that classified as dangerous goods.

- Radioactive chemicals are regulated by ARPANSA (Australian Radiation Protection and Nuclear Safety Agency) which is part of the Commonwealth Department of Health and Ageing.

- The Office of Chemical Safety is part of the Therapeutic Goods Administration (TGA) Group of Regulators, within the Australian Government Department of Health and Ageing (DoHA). The Office of Chemical Safety undertakes risk assessment and provides advice on potential public health risks posed by chemicals used in the community. The Office comprises :

    - the national industrial chemicals regulator, NICNAS;

    - chemicals assessment for public health risk assessment for veterinary chemicals, pesticides and other environmental chemicals;

    - public health controls/standards setting (secretariat for poisons scheduling); and

    - compliance and monitoring responsibilities to effect Australia's obligations under the UN Treaties and the Customs Act and supports the National Drug Strategy for the legitimate end use of controlled substances.

The Office of Chemical Safety also provides technical policy advice on national and international chemicals negotiations and treaty matters.

Various State and Territory regulatory authorities administer the regulations for the storage and transport of chemicals and State EPA departments also regulate in this area in terms of environmental issues e.g. emissions, waste disposal, siting of facilities.

In terms of storage and handling of chemicals, in 2001 the ASCC (Australian Safety and Compensation Council) published the *National Standard for the Storage and Handling of Dangerous Goods and the National Code of Practice for the Storage and Handling of Dangerous Goods*.

These two documents have been adopted as template legislation by most states and territories into their Occupational Health and Safety (Dangerous Goods) law, and make reference to the suite of Australian Standards for the storage and handling of dangerous goods as well as other relevant Australian Standards e.g. electrical equipment for use in hazardous zones and working in confined spaces. These Australian Standards are listed as codes of practice and have 'evidentiary status' in most states' regulations.

Codes of practice provide guidance on how to satisfy the obligations established under OHS statutes and regulations. Where codes of practice are called up as part of an OHS regulatory regime (Approved Codes of Practice), their role is generally to set out an acceptable means of discharging legislated duties and requirements. Codes of practice may be approved to provide guidance on how to comply with general duties in specific circumstances even where these are not the subject of regulations. Where codes of practice have statutory approval, they are not mandatory. Failure to comply with provisions of a code of practice does not in and of itself make a person liable to prosecution; however, non-compliance with such a code can be used as evidence that the OHS Act or the regulations have been breached unless it can be demonstrated that alternative practices were equal to or better than those in the code. Approved codes of practice are sometimes cited in support of preventative enforcement action (e.g. improvement and prohibition notices).

2.2 Recognition of international standards and unique Australian standards

The TGA recognises standards and approvals from Canada, the European Union, New Zealand, Singapore, USA and Switzerland, while APVMA has agreements with Canada and New Zealand. NICNAS has a 'priority existing chemicals' program and bilateral arrangements with New Zealand and Canada.

Generally the argument for unique Australian standards or requirements has been based on:

- Australia's small population and smaller industry size in comparison to Europe and the US;
- Australia's range of climatic conditions and distances between major centres;
- History, particularly in the naming of chemicals e.g. 'thinners', 'mineral turpentine' and 'LP Gas'. (These 'Australianisms' appear in the ADG Code and are slowly being phased out.)

Given that Australia is a member of the various UN, WHO and ILO committees at which the safety of individual chemicals is discussed, it would appear logical to adopt the work of these committees without having to reassess or re-label a chemical for Australian use.

At present the ASCC is considering the adoption of GHS (Globally Harmonized System of Chemicals Classification, prepared by the UN Subcommittee of Experts on the

Classification and Labelling of Chemicals) in Australia. A draft National Standard and Code of Practice for the Control of Workplace Chemicals has recently been out for public review and these documents contain elements of the Globally Harmonized System of Classification and Labelling (GHS).

While the source document indicates the criteria on which chemicals are to be classified, it does not contain quantitative test criteria or test methods upon which classification can be based. Many of the submissions to ASCC have indicated this deficiency and have proposed delaying the introduction of these documents until major trading partners such as the EU have completed their deliberations on the adoption of GHS.

Australia is a member of the United Nations Committee of Experts on the Transport of Dangerous Goods, but the forthcoming edition of the ADG Code is a complete 're-write' of the most recent edition of the UN Recommendations on the Transport of Dangerous Goods—Model Regulations. This work in particular has involved the ACTDG committee over nearly ten years. When adoption of the UN Recommendations, with a small volume of Australian additional regulations, was proposed to the committee, several members including some regulators disagreed.

A working group was set up to examine the proposal but its findings did not support the proposal. After the work was transferred from the Department of Transport and Regional Services to the National Transport Commission (NTC) a consultant was engaged to virtually rewrite the UN document as an Australian Code. This particular area is one in which Standards Australia could make a highly effective contribution by providing facilitation and drafting resources as well as an effective and transparent committee process.

Committees CH-009, Safe Handling of Chemicals and ME-017 Flammable and Combustible Liquids, comprise representatives of many of the regulatory authorities and industry groups that participated in ACTDG and some members have commented that this is a document that would have been better facilitated and drafted by Standards Australia due to the transparency of processes. (Standards New Zealand facilitates NZS 5433 which is the equivalent NZ regulation.)

In terms of International Standards published by ISO, there are few in the area of chemical safety or storage and handling. In most countries such issues are covered by national regulations, or codes such as those produced by NFPA (National Fire Protection Association) and ASTM in the USA. The ILO produces a series of chemical safety cards for an extensive range of chemicals, and most regulations (including those of all Australian states and territories) require Safety Data Sheets (SDS) for workplace chemicals.

In Australia, national consistency in dangerous goods storage, handling and transport is achieved through the adoption of the ASCC National Standard and Code of Practice and the ADG Code, as well as those Standards and handbooks facilitated by Standards Australia. Committees such as CH-009 Safe Handling of Chemicals are responsible for a suite of Australian Standards that address safe storage and handling of most types of dangerous goods, emergency procedure guides for transport incidents involving dangerous goods, and HB 76, Dangerous goods—Initial Emergency Response Guide, which is used extensively by emergency services throughout Australia and New Zealand when dealing with both transport and storage incidents involving dangerous goods.

The ISO Standard for Safety Data Sheets (ISO 11014-1, Safety data sheet for chemical products, Part 1: Content and order sections) has not been adopted in Australia as ASCC has developed its own requirements in these documents.

2.3 Labelling

Labelling of agricultural and veterinary chemicals is administered by APVMA and their labelling requires information on hazards (including any dangerous goods classification), conditions of use, application and dosage rates, and first aid.

For therapeutic goods, the Standard for the Uniform Scheduling of Drugs and Poisons (SUSDP) applies. This document, published by the Commonwealth Department of Health and Ageing, specifies signal wording and labelling for all scheduled drugs and poisons.

The Australian Dangerous Goods Code (ADG Code), currently published by the Department of Transport and Regional Services specifies labelling of bulk loads and transport packages of chemicals that are listed as dangerous goods. This is usually the coloured diamond with pictogram and number and signal word or words, such as ‘toxic’ or ‘flammable liquid’.

NOHSC: 2011, National Code of Practice for the Labelling of Workplace Substances published by the ASCC, specifies labelling requirements for workplace hazardous chemicals.

All of the above labelling requirements may apply to the one chemical, depending on its concentration, package size, use, application and commercial transport.

The draft National Code of Practice for the Labelling of Workplace Hazardous Chemicals, published by ASCC, has been at public review. Although this document has been based on the GHS system, exemptions still apply for chemicals regulated by APMVA. This is the type of inconsistency that has been viewed by many as having the potential to add significantly to the confusion regarding correct labelling, particularly where chemicals are imported.

CASE STUDY 1

Child-resistant packages

Issues of child safety were raised with Standards Australia last year, regarding the ability of children to access medicines (chiefly prescription medicines, paracetamol and iron tablets) in reclosable containers. Data from 80 cases of poisonings of children under 5 years of age in Queensland in one month indicated that 70 children were known to have accessed medicine from the original package (blister pack, bottle with child resistant closure, or bottle with simple cap). Of those 70 children, 34 were potentially exposed to toxic doses of medicine.

As a result of such statistics, Committee HE-016, Child resistant containers, agreed to revise AS 1928—2001, Child resistant packages, to align more closely with international standards. As part of the review, advice and participation was sought from representatives of the Therapeutic Goods Administration (TGA) and state health departments as well as a range of specialists including medical epidemiologists, pharmaceutical researchers, emergency paediatricians and packaging manufacturers. Standards Australia also hosted a workshop at which research findings were presented and the international standards that might be adopted in Australia were compared and discussed.

It was agreed that the committee should adopt ISO 8317:2003, Child-resistant packaging—Requirements and testing procedures for reclosable packages as an Australian Standard with national modifications. These modifications permit the use of smaller groups of children when testing packaging for resistance to opening by children, as the Australian population is significantly smaller than that of the USA or major European countries and it is more difficult to obtain a group of 100 children as required by ISO 8317. The document prepared by Committee HE-016 is now in the publication system and will be published as AS 1928—2007.

In regard to blister packs for both pharmaceutical and non-pharmaceutical products, Committee HE-016 is currently considering the adoption of two European Standards in this area but is still determining any appropriate Australian variations that might be required.

CASE STUDY 2

Storage of dangerous goods

Committee CH-009 is responsible for suite of Australian Standards providing requirements and recommendations for the storage and handling of dangerous goods.

In early 2007 a new edition of AS/NZS 3833, The storage and handling of mixed classes of dangerous goods, was published following a major review of the first edition of this Standard.

This Standard provides requirement and recommendations for storage of packaged dangerous goods and is used widely in warehousing operations and provided national uniformity in terms of the location, construction, operational safety and emergency management of such stores. This particular Standard takes a risk assessment approach to dangerous goods storage and then provides requirements and recommendations to be followed.

Subcommittee CH-009-11 met several times to consider submissions from the retail, dangerous goods and logistics industries and regulatory authorities aimed at improving the Standard in terms of relevance of requirements to small stores and small retail package sizes as well as clarifying which types of dangerous goods can be stored together in the same area.

The membership of Committee CH-009 and its subcommittees and working groups includes representatives from major industry groups, chemicals industry groups, and most state regulatory authorities for dangerous goods. Such a group enables differences in state regulations to be discussed openly with the aim of achieving national consistency in dangerous goods storage and handling via participation in the standardization process.

3. The Plastics Sector

3.1 The volume and complexity of existing chemical and plastics regulations

The Australian plastics pipes standards cover some plastics material requirements plus many dimensional, compatibility and not-plastics related performance requirements that do not fall under the scope of the study. Plastics pipes in Australia form part of the Australian pipe networks for water, sewerage, etc and as such have to be compatible with other components of these networks, including pipes and components made of other materials.

The specifications have to ensure compatibility with existing pipes - the dimensions of which date back to the "pre-metric" era in Australia and some of which are different to International specifications. As such, the plastics pipes standards are part of the plumbing regulations in Australia.

3.2 Duplication and inconsistency between Commonwealth, state and territory regulatory regimes

There is no duplication or inconsistency between Commonwealth, states and territory regulatory regimes in the plastics pipes area. The standards are developed with representation from national organisations ensuring a nationally consistent approach, for instance the Water Services Association of Australia (WSAA) that represents the various Water Authorities (Utilities) in Australia as users of these pipes, and the Plastics Industry Pipe Association (PIPA) that represents manufacturers and suppliers of the pipes on a National basis, including distributors and importers of the product.

3.3 Timeliness and cost of regulatory processes

Plastics pipes standards are voluntary documents unless called up by legislation or regulations. They are developed by balanced representative National Committees using a Consensus process. The documents specify minimum requirements to ensure the products are "fit for purpose" and comply with the Australian plumbing requirements. Whilst the preparation and maintenance of such standards requires considerable effort and cost, it reduces the cost and increases the timeliness of the regulatory processes by enabling regulators to reference the standards rather than developing specific requirements as part of the regulations themselves.

3.4 Inadequate recognition of international standards and approval processes

Standards Australia's Committees responsible for plastics pipes are actively involved in the preparation of relevant International Standards and are adopting International Standards whenever possible and appropriate. There are some unique Australian requirements due to the necessity of compatibility with existing water and piping systems (see 3.1 above). But when it comes to plastics material specifications, the Australian requirements are in line with International requirements. In some areas the Australian representatives and experts on the International Committees perform a leading role in the International standardisation process.

3.5 Overly prescriptive regulation of labelling

Labelling requirements of plastics pipes have to be consistent with Australian plumbing requirements. There are few plastics related labelling requirements.

3.6 Summary

In the context of the plastics sector, Australian Standards form an integrated suite of documents that are the corner stone of plumbing product regulation and ensure infrastructure pipe networks are fit for purpose. Standards are critical to the product certification process - in fact without appropriate standards there can be no product certification.

Australian Standards define raw material properties and performance (AS/NZS 4131) , product properties and performance (AS/NZS 4130, ISO) and interlink with other standards from other fields to ensure health (AS/NZS 4020) and overall system performance (AS 2033, AS/NZS 3500 and WSAA National Codes) are not compromised. They are an absolute necessity as the basis for any form of independent third party product certification.

4. Impact of regulation on productivity and competitiveness–the referencing of voluntary standards

Voluntary Australian Standards are often referenced into law and in so doing, effectively become a part of the regulatory framework. In its letter dated 29 August 2007 to the Productivity Commission, PACIA commented, in the context of a past inquiry into Workers Compensation and Occupational Health and Safety Frameworks that "There is currently no formal impact assessment of the (Australian) Standards or consideration of the costs and benefits, yet many standards have major impact on Australian industry."

This general issue was addressed in our response to the Productivity Commission's Review of Standards and Accreditation (April 2006), part of which is reproduced below:[1]

> "
>
> 8). The Report of the Taskforce on Reducing Regulatory Burdens on Business, commissioned by the Prime Minister and Treasurer in October 2005 and released on 7 April 2006 with the Australian Government's initial response, expressed concern that:
>
> "…business noted that few quality controls are in place to ensure that [Standards Australia's] standards are developed and drafted in ways that are consistent with their use as quasi-regulation…The Taskforce notes that government agencies need to ensure that, before a new or updated standard is referenced, it is subject to a regulatory impact assessment that takes into account, among other things, the compliance costs to business." (p.175)
>
> 9). Standards Australia in fact acknowledged similar issues and the responsibility incumbent upon regulators to conduct regulatory impact assessments before calling up voluntary Australian Standards® into law in its submission to the Regulation Taskforce of 22 November 2005:
>
> "Before any regulation is imposed on industry a regulatory impact statement is carried out. A similar process is undertaken by Standards Australia to determine the benefits, or otherwise, and potential costs of new standards on industry. However Standards Australia is limited in the amount of economic modelling it can reasonably do when the requirements in the Standard have yet to be determined and the extent of its voluntary application is uncertain.
>
> It should also be remembered that the decision on whether or not to commence development of an Australian Standard for voluntary application is a different question to whether the Government should intervene into the market with regulated requirements. It would be inappropriate for a private body like Standards Australia to undertake a RIS; however, the organisation can assist the RIS process by providing technical information about changes to Standards and new Standards that will provide some of the inputs to the RIS basis".
>
> *Recommendations:*
>
> 1) The RIS process needs to be at a high level and focused on whether there are other options than regulation to remedy a problem associated with a given product or practice.
>
> 2) Standards Australia wishes to work cooperatively with regulatory agencies developing RIS based on Australian Standards and identify any additional

[1] Standards Australia–Submission to Productivity Commission Review of Standards and Accreditation–Pages 10 and 11

information that Standards Australia might be able to provide to facilitate this process."

10). Standards Australia has since entered into dialogue with:

- business calling for nomination of standards for review or withdrawal where it is of concern that the imposts outweigh the benefits or that the benefits can no longer be justified;

- the Australian Building Codes Board (ABCB) to pilot improved RIS initiatives, tools and interactions that could be rolled out across all Australian Standards® that might be referenced in regulation (see Box 4); As a result of this dialogue preliminary impact assessment is now undertaken for ABCB for standards intended for referencing in the Building Code of Australia.

- the Office of Regulation Review (now the Office of Best Practice Regulation or OBPR) in relation to RIS and corresponding Standards Impact Statements (SIS) initiatives; and

- the Office of Small Business and its "business cost calculator" to ensure a consistent and improved approach to costing and cost benefit analysis associated with standards development proposals from their outset." (The calculator is now the responsibility of the OBPR.)

5. How is the need for a standard determined?

As part of its ongoing Transformation Process, Standards Australia has committed itself to a far more rigorous approach to standards development. This is to ensure that the development of an Australian standard actually delivers a net public benefit and the ongoing costs associated with the standard are understood and fully considered.

This approach was also required simply because the past approach to standards development, with its focus on standards initiation by committees, was simply not sustainable in resource terms (industry's and those of Standards Australia) and one could argue, public policy terms.

The following processes are now in place. Where a proposal for a new standard is proposed by an external source and the subject area is covered by an existing Technical Committee, then the proposal shall be referred to that Committee for initial evaluation and endorsement. Where no suitable Technical Committee exists a survey is undertaken of the relevant industry to ascertain the need for such a Standard and establish whether there is genuine community support for the project, will it improve economic efficiency, can it show a positive cost/benefit and is it in the national interest.

All new projects whether for new standards, revisions or amendments will need to be requested using the Project Selection Form (PSF). As part of the application for a new project a rigorous justification will be required before Standards Australia agrees to commit limited Project Management resources to a new project. The information that Standards Australia will require to be provided on the PSF will include:

- detailed definition of the project scope
- justification of the need and urgency
- careful consideration of options other than a Standard that may satisfy the project
- a costs and benefits analysis
- identification of all stakeholders likely to be impacted by the project, and
- identification of the obstacles that may prevent consensus being reached.

At the same time, possible Projects are announced on the web site of Standards Australia. Comments are requested from interested parties. These responses are then considered by Standards Australia before being presented formally to the Production Management Group (PMG) before a decision is made to instigate or reject a project. Where a project is to become joint with Standards New Zealand, the project also needs to be reviewed and accepted by Standards New Zealand.

The following aspects will be considered when determining whether or not to proceed and what priority should be allocated to approved projects.

Confirm Committee and stakeholder support

1. Nett public benefit e.g. Safety, Health,
2. Employment,
3. Quality of life
4. Support for Australia's legislative framework
5. Enhanced international competitiveness
6. Facilitation and harmonization of trade
7. Enhance the efficient use of natural resources
8. Generation of national wealth
9. Consumer protection
10. Cost/benefit analysis where the benefits of implementing the Standard exceed the costs of compliance

This Project Evaluation Process will be further refined and stakeholder input will be sought whenever appropriate.

Standards Australia has noted with approval the best practice material in the Productivity Commission's research report on standards and Accreditation. Standards Australia has proposed to the interdepartmental committee considering the Government's response to the PC report that the Memorandum of Understanding between Standards Australia and the Department of Industry, Tourism and Resources be amended as follows:

> ***Article 5 Standards Australia Undertakings***
>
> New 5.1 … Standards Australia will endeavour to achieve excellence in standard setting and standards design principles as set out in the Productivity Commission's research study report *Standard setting and laboratory accreditation* (2006) at Boxes 5.2 and 7.2.

The material from the PC report is at Appendix 1 to this submission.

6. Interface with Industry – a strategic engagement with sectors

In addition to the internal processes referred to above, geared to providing a far more rigorous scrutiny of proposals for the development of standards, there is also a major review of the current Sector Boards. In short, it is envisaged that following the release of a Discussion Paper in the near future:

- Standards Australia is to conduct an inclusive, consultative review of existing co-ordination groups, co-ordination committees, Standards Sector Boards and Standing Forums in 2007 seeking best alignment, inclusion and incorporation of stakeholder contributions under Standards Australia's new operating and governance framework; and

- alternative, inclusive Standards oversight and consultative mechanisms be identified and implemented from mid-2008 as an outcome of this review.

Standards Australia will be placing the highest priority on the quality of dialogue that we establish with stakeholders in the plastics and chemicals sectors throughout this consultation process -and beyond.

The objective is a more sustainable and prioritised approach to the development of standards servicing the needs of industry, regulators and most importantly, the general community. The setting of sector priorities through more improved consultative mechanisms can only enhance the efficacy, transparency and 'ownership' of the related decision making.

7. A nationally consistent approach

Australian Standards provide a nationally consistent framework for addressing key technical issues within the plastics and chemical sectors. Representatives of both sectors are to be found on numerous Standards Australia committees. The industry experience and expertise contributed to these committees is highly valued, yet as highlighted above, a more sustainable method of standard development is being developed.

Apart from the reasons already canvassed, it is recognized that industry investment of personnel and time in these committees and their processes is not limitless. The plastics and chemicals industries are no exception.

As recent meetings with representatives from some sectors has confirmed, collectively we must use this industry expertise and resources wisely and more efficiently. Having said that, national committees relating to plastics and chemicals and involving an array of stakeholders, currently produce consensus driven voluntary national solutions to often very complex issues. As acknowledged, some of these standards are ultimately referenced into regulation by government. That is a choice made by government.

These stakeholders can and do include industry, regulators, consumers, and other interested parties with a committee and process emphasis on:

- balanced representation
- transparency
- consensus
- rigour

Inevitably there has been criticism of the complexity of some of these standards, and the language used. Standards Australia is committed to ensuring that standards are developed in a manner that is as simple as sometimes complex issues permit. Australian Standards have a role to play in terms of assisting SMEs, making sometimes complex technical issues understandable and making Standards of practical use in the workplace.

8. Alignment with International standards

In the context of the review's focus on regulatory efficiency and cost / benefits associated with divergence from international standards, it is worth repeating relevant elements of our submission to the Productivity Commission Inquiry into Standards and Accreditation (April 2006) on this issue.[2]

[2] Standards Australia–Submission to Productivity Commission Review of Standards and Accreditation–Pages 15,16,17

24). "In Australia, a relatively high percentage of Australian Standards® are either identical adoptions of equivalent International Standards or include some minor modifications (see Table 2). Such modifications are limited to those absolutely necessary to meet Australian expectations of human health or safety, or more commonly, to take account of local climatic or geographic factors, as permitted under the WTO TBT Agreement.

25). One could ask what benefits does adoption as an Australian Standard® bring, given that the International Standard already exists? The principal reason is that Australian Standards® (regardless of their level of international alignment) are only developed where there is a demonstrated need in this country to address some issue.

There are significantly more International Standards than Australian Standards® and following them all would be a considerable burden on Australian industry. Once an Australian need has been demonstrated, and it's found that there is a suitable International Standard available, it is subjected to the full national consensus process.

Australian stakeholders determine whether the International Standard meets Australian needs and is suitable for Australian conditions, including whether any local modifications will be required, for example to meet local legal requirements. Some International Standards are simply unsuitable either because they are out of date, represent a lowest common denominator solution or are not actually widely implemented around the world.

26). A subsidiary benefit is that the Australian adoption can be priced below the level the international organisations would charge. For example, ISO 9001 is priced at CHF102 (AUD109.65) in electronic form from the ISO Web shop and the identical AS/NZS 9001 is AUD69.30 from Standards Australia's publishing partner.

Table 2 International Alignment of Australian Standards® at June 2005	
Total number of ISO and IEC Standards	20,590
Total number of Australian Standards®	6,582
Instances where alignment is possible*	2,743
Total adopted Including: Identical adoption Modified adoption	2,666 2,328 338

* An International Standard covers the same subject as an Australian Standard®

27). One might ask why the percentage isn't even higher? In simple terms, International Standards tend to be developed in areas that directly affect trade, such as raw materials, certain manufactured goods, test methods, information technology and communications. There are fewer International Standards (relative to national standards) in fields like methods of construction, occupational health and safety practices and consumer protection, which are seen by the international community as being national or regional issues.

28). It is fair to say that Europe has a disproportionately large involvement in, and influence over, International Standardization, a fact noted by the APEC Business Advisory Council in 2005 when it made a comparison with similar sized countries in this region (The Lazenby Report).

29). APEC member economies contribute about 60 per cent of the world gross domestic product; however, their involvement in ISO and IEC is only 30 per cent of all member bodies in terms of committee secretariats and participating

membership of committees. If Australia is going to be in a position to adopt International Standards, it needs to have a say in the content of those standards to ensure that they reflect not just the climatic conditions of this country but also the business needs, technical capacity and regulatory environment in Australia. A country can always submit comments, but the real decisions are made at the international meetings.

30). By way of example, in 2004/05, some 135 Australian delegates drawn from a diverse range of businesses and agencies attended meetings of ISO and IEC technical committees, with financial assistance through the Commonwealth Grant in Aid, to argue the case for positions developed by the equivalent Australian stakeholder committees. This travel is in addition to delegates funded through other specialist assistance programs funded by the Department of Communications, Information Technology and the Arts (DCITA) and the Department of Health and Ageing (DoHA). Some other delegates were fully funded by themselves or by their employers for participation in International Standards meetings.

31). Furthermore, 14 meetings of ISO and IEC technical committees and subcommittees were hosted in Australia that year, along with numerous working group meetings – providing opportunity for greater Australian involvement. It is only this deep involvement of Australian business, government and other stakeholders in shaping the development of International Standards that has allowed those standards to be adopted as Australian Standards® at present levels.

9. Interface with government

For the past two years, Standards Australia has met with many state governments, often in the context of the regulatory reviews being undertaken by various state agencies. We had also met with the Office of Best Practice Regulation at a Commonwealth level and have provided comment on the role of standards prior to the recently released Best Practice Regulation Handbook and discussed innovation and standards policy issues with the Department of Industry, Tourism and Resources.

These meetings, often with central agencies of government, have highlighted the mutual benefits of forging relationships at that level. Australian Standards need to complement sound public policy, collectively and individually.

Combined with the other initiatives that Standards Australia has undertaken which are outlined in this submission, we aim to establish a more strategic approach with governments. We have the same commitment to industry. It is Standards Australia's commitment to be 'part of the solution rather than part of the problem' which is our principal driver for better communication with industry, government and consumers.

10. Conclusion

The role of standards, in the context of this review, has not emerged as a key issue of concern in our discussions with stakeholders in the chemicals and plastics sectors. That is not to say that there have not been strong views expressed by some about the degree to which Australian standards are referenced into regulation, notably in the chemical sector. It needs to be said that the decision to do so is that of the regulator. The reality is that an existing Australian standard often represents the best technical and consensus based approach to any given issue at the time.

For its part, Standards Australia- as had been made clear in this submission - is making efforts to ensure that the decision making process to develop a standard is more rigorous. Both improved internal assessment processes and a more strategic engagement with government, regulatory, industry and community sectors will assist in this outcome, particularly the latter in terms of assessing the cost / benefit of the any proposed standard. This is a shared responsibility in terms of resources, expertise and genuine balance of perspectives. As we have stated elsewhere in this submission however, the ultimate responsibility for undertaking regulatory impact statements, when standards are indeed referenced, is seen to be that of the regulator. Standards Australia is committed to working with government in assisting where possible and appropriate in this process.

The area of Occupational Health and Safety may indeed be a point of difference in terms if the potential role of Standards Australia. We shall be engaging in discussions on this subject over the coming months. Given possible differences in view point on this issue, we will approach it constructively with all stakeholders and with both the broader public interest and sound public policy outcomes as our only drivers.

The issue and extent of cross referencing of standards is seen as a significant one to some stakeholders in the chemicals sector. The view has been expressed that to the greatest extent possible, all relevant information is available in the one document. The matter has been discussed at length with program managers. Cross referencing to other standards is seen as unavoidable to some extent but the concern in terms of adding more complexity has been noted and will be addressed in any practical and feasible manner.

Standards Australia remains committed to addressing issues relating to standards development that have been identified both in our internal review process and the Productivity Commission's own Review of Standards and Accreditation.

We are:

- Improving our approach to standards development with a view to increased timeliness and efficiency

- Reviewing our sector and industry consultation processes to ensure a more strategic and prioritised approach to standard setting. Our objective is to ensure that Australian Standards, individually and collectively, reflect the public interest, having particular regard for cost and benefits.

- Engaging with government, including state government, on issues pertaining to regulatory efficiency

Standards Australia will continue to strive for a balance of interests in addressing standards development issues affecting plastics and chemicals. Balancing costs and benefits of a standard will require strategic insight and input from all stakeholders at a senior level.

We will consult with the plastics and chemicals sector regarding the best mechanisms by which this can occur. The common imperative for all of us in ‘getting the balance right’ in these situations is earning continued public trust.

APPENDIX 1: Productivity Commission material on best practice in standards development

PC Box 5.2: Possible best practice governance and processes for consensus national standard setting

Determining the need for standards and setting priorities

- clear and appropriate criteria for determining the need for standards and priorities — applied consistently and transparently;
- primary criterion should be demonstrating a net benefit to the community as a whole;
- balance of costs and benefits should be determined based on consultation with relevant stakeholders;
- potential sales should not be an overriding determinant of whether a standard is produced;
- avoid duplication of, or overlap with, the work of other (national and international) standardising bodies;
- assess consistency with regulatory requirements;
- the special requirements of regulatory standards (see box 7.2) must be taken into account.

Transparency and consensus

- consumer, public interest and other independent representatives have adequate opportunities for input into governance and policy making — either direct representation or through formal consultation mechanisms;
- balanced representation of all relevant stakeholders on technical committees, including consumers and other user groups, governments, small business, environmental, etc;
- consensus decision making — fair and acceptable balancing of relevant interests;
- maximise scope for participation by general public

– open to public scrutiny at key stages of the process;

– publication of work programs, drafts for comment, etc;

– minimum periods for public comment;

– appropriate use of the internet to enhance accessibility/disseminate information.

Technical expertise

- standards making based on sound research; testing, knowledge, experience etc;
- ensure adequate involvement of government and 'independent' experts;
- enhance volunteer participation by reducing barriers.

Project management

- staff have appropriate skills and expertise;
- independence/impartiality;
- appropriate use of expert sub groups or external consultants to assist with standards writing, providing that core procedural requirements of independence, balance, transparency and consensus are retained;

- regular review of staff and Chair performance, feedback loops, appropriate ongoing training;
- processes carried out in an expeditious manner without compromising agreed objectives or scientific rigour (MoU);
- flexible and responsive processes to deal with special needs (for example responding to urgent health and safety issues or rapidly changing technological environment).

Impact analysis

- assessment process for the development of standards should be scientifically and economically rigorous (MoU). All assessments must be documented and publicly available

– at least broad assessment of impacts justifying development of proposed standard at project initiation phase and ongoing consideration of impacts throughout development of a standard;

– use of more rigorous impact analysis for standards that are to be referenced in regulation — responsibility of regulatory agency and needs to commence at the earliest practicable opportunity;

– incorporating risk assessment as appropriate.

Review

- systematic review processes for keeping standards up to date;
- post implementation reviews — flexibility to quickly review and amend standards when problems are raised;
- ongoing review of processes and outcomes against agreed performance indicators and periodic external independent evaluation and review of processes and performance.

Accountability and reporting

- clear accountability to stakeholders, including regular reporting of objectives, policies and performance;
- delivering standards against agreed and published objectives;
- effective management of conflicts of interest;
- sufficiently independent and efficient appeals and complaints handling processes.

PC Box 7.2: Some best practice design principles for standards

Some principles for voluntary standards

- addresses a demonstrated need and appropriately balances the requirements of all stakeholders — benefits to the community exceed the costs of compliance
- effective, efficient and up-to-date — reflecting current practice, modern technology and solutions
- objectives and performance aims are clear
- based on minimum acceptable practices wherever possible

– higher levels or additional requirements should be clearly or separately identified

- does not unnecessarily restrict competition; discourage innovation or restrict the adoption of technological improvements
- does not create unnecessary obstacles to international trade and, wherever

appropriate, based on international standards or other 'national' standards

- wherever appropriate, specify standards based on performance requirements, in addition to specific guidance on technical solutions

- does not conflict or overlap with regulatory/legislative requirements or other standards

- written in clear, concise and unambiguous language

– format and layout appropriate to the technical expertise of the anticipated user groups

– use of figures, diagrams, flow charts and other illustrations to aid clarity

- it can be determined with reasonable certainty whether or not any particular material, design, form of construction or product or service complies with the standard — wherever possible, standards include criteria and testing methods or other approved forms of verification relevant to assessing performance

- wherever possible, capable of accurate interpretation without reference to external sources

– cross references to other standards should be used sparingly to reduce the costs of compliance

Some additional (or modified) principles for regulatory standards

- must represent minimum effective solutions

- requirements essential for regulatory purposes are clearly separate from those which are not — tiering can be used, with essential regulatory requirements in one part and non-essential in another

- where appropriate, standards should be structured in a hierarchical form with the higher form (usually a regulation/legislative instrument) in performance terms and the lower form in prescriptive terms

- the standards supporting a performance regulation should clearly set out technical solutions (detailed specifications which are *deemed to satisfy* the performance requirements), ideally reflecting a *range* of ways in current use by which legal obligations can be met

- references in regulation should be to a specific standard (number and edition/date), not one that could be automatically changed or modified.