



Governance and Advisory Board Meeting

Australian National Contact Point for the OECD Guidelines for MNEs

MINUTES

1.30 – 4.30 pm Thursday 21 April 2022

Attendance via Video conference

Chairperson: Mr Tom Dickson, Senior Executive, Australian National Contact Point, Department of the Treasury (Treasury)

Observers:

Mr John Southalan, Independent Examiner, Australian National Contact Point

Ms Shanta Martin, Independent Examiner, Australian National Contact Point

Mr James Cockayne, Independent Examiner, Australian National Contact Point

Board members:

Ms Alison Drury, General Manager, Trade and International, Department of Industry, Science, Energy and Resources (DISER)

Mr Peter Scott, Acting Assistant Secretary, Competitiveness and Business Engagement, Department of Foreign Affairs and Trade (DFAT)

Mr Scott Barklamb, Director Workplace Relations, Australian Chamber of Commerce and Industry (ACCI)

Ms Kate Prior, Export Finance Australia (EFA) in place for John Hopkins

Ms Lorraine Finlay, Commissioner, Australian Human Rights Commission

Ms Serena Lillywhite (proxy member), Chief Executive Officer, Transparency International Australia (TIA)

Ms Vanessa Holben, Deputy Comptroller-General, Group Manager Customs, Australian Border Force (ABF)

Mr Rhys Davies (proxy member), Partner, DLA Piper Australia

Ms Keren Adams, Legal Director, Human Rights Law Centre (HRLC) and Member, Australian Corporate Accountability Network (ACAN)

AusNCP Secretariat:

Ms Michelle Evans, Assistant Director, Australian National Contact Point, Treasury

Ms Kate Wilson, Assistant Director, Australian National Contact Point, Treasury

Mr Edward Van Leer, Secretariat, Australian National Contact Point, Treasury

Ms Carmela Magnocavallo, Secretariat, Australian National Contact Point, Treasury

Apologies

Ms Laura Llewellyn, Director, Australian National Contact Point, Treasury

Mr John Hopkins, Chief Operating Officer and General Counsel, Export Finance Australia (EFA)

Ms Vanessa Zimmerman, Chief Executive Officer, Pillar Two

Ms Clare Middlemas, International Officer, Australian Council of Trade Unions (ACTU)

Mr David Tonkin, Chief Counsel, Legal, Procurement & Fraud, Australian Trade and Investment Commission (Austrade)

Ms Joanna Virtue, Assistant Secretary, Integrity & Criminal Law, Attorney-General's Department (AGD)

Mr Peter Colley (proxy member), National Research Director, Mining and Energy Division, Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU)

Mr Pero Stojanovski (proxy member), Deputy Chief Economist, Business Council of Australia (BCA)

Agenda

1. Opening remarks and apologies

Mr Dickson opened the meeting and welcomed all attendees to the AusNCP Governance and Advisory Board (the Board) meeting. Mr Dickson acknowledged the traditional owners of the land and paid respects to elder's past, present and emerging.

Mr Dickson welcomed new Secretariat team members Ms Wilson and Mr Van Leer.

Mr Dickson introduced two newly appointed Independent Examiners, Ms Martin and Mr Cockayne.

2. Action items from last meeting

Mr Dickson noted there were no action items from the 21 April 2021 meeting. Board members were advised that the work to revise the complaint submission form on the AusNCP website is ongoing.

3. Board Governance

Board membership arrangements

Mr Dickson noted that at the last Board meeting, members were invited to share their views out of session on current Board membership arrangements. No comments were received. The AusNCP Secretariat will now approach members individually to seek views on Board membership and the approach to Board appointments.

Suggested changes to the Board Terms of Reference will be developed for Board members' consideration out of session.

Action: AusNCP Secretariat to seek feedback on Board membership and appointments with individual members.

New language to describe non-government membership

Ms Evans sought Board member views on adjusting the description of non-government organisations on the Board to "civil society, business, and unions", to accurately reflect the groups those members represent. Members agreed to the new description.

Action: AusNCP Secretariat to update AusNCP documents to reflect revised language.

4. Managing conflicts of interest

Board Conflicts of Interests Guidance

Mr Dickson noted that at the last Board meeting Board members were asked to review the draft Australian Government Solicitor's (AGS) advice on handling of Board conflicts of interest. The updated guidance was circulated with the Board papers for this meeting. Board member comments were received and will be considered out of session.

The Board Terms of Reference were also circulated ahead of the meeting with minor updates to include multiple Independent Examiners.

Action: AusNCP Secretariat will circulate an updated version of the Board Conflicts of Interest Guidance with the Board for any final comments.

Current Register of Interests

Ms Magnocavallo shared that the current interests register was circulated with the Board papers for this meeting, noting an administrative error.

Ms Magnocavallo advised that transitional arrangements for Independent Examiner's to manage complaints are ongoing.

Members were reminded to keep the Secretariat informed about any new interests.

5. OECD Working Party on Responsible Business Conduct and National Contact Point meetings

Ms Evans gave an update on the AusNCP Secretariat's work with OECD on responsible business conduct through the Working Party on Responsible Business Conduct and the Network of National Contact Points. Key items included: peer reviews of Australia, Ireland and Sweden; draft recommendation on the role of government in RBC; new action plan for NCPs 2022-24; and forthcoming Ministerial meetings on RBC.

Members were updated on the extensive ongoing work on the Stocktaking of the Guidelines exercise. Members expressed their interest in the Stocktaking work and being consulted on proposals to update the OECD Guidelines for MNEs.

Action: AusNCP Secretariat to develop a framework for engagement with stakeholders on the Stocktaking of the Guidelines exercise.

6. Australian Peer Review Report

The draft Final Peer Review Report was circulated ahead of the meeting.

Ms Wilson noted that the AusNCP Peer Review Report will be finalised, and the Secretariat can initiate a formal response once the current government caretaker period has ended. The Secretariat has commenced work on its response and invited the Board to comment on the process.

Action: AusNCP Secretariat to advise Members when the Peer Review report is published so that they can promote and share with their networks.

7. AusNCP Engagement Strategy 2022-23

The draft AusNCP Engagement Strategy for 2022-23 was circulated ahead of the meeting.

Ms Wilson summarised the draft Strategy which responds to feedback received through the OECD Peer Review process. Members provided suggestions about organisations and events to include in the engagement activities.

Action: Members to provide comments on the draft AusNCP Engagement Strategy 2022-23 by 12 May 2022.

8. Round table update, including supportive promotional activities

Members were invited to update the Board on their activities to help promote responsible business conduct and the OECD Guidelines for MNEs.

Members reported on their responsible business and human rights-related activities undertaken by their organisations since the last Board meeting in December 2021.

Key activities included members' work through the Bribery Prevention Network and some initiatives focused on companies operating in the infrastructure and extractives industries abroad. Many of the members' organisations have an interest in the upcoming review of the Australian Modern Slavery Act.

9. Updated procedures

Ms Evans advised that the Secretariat has done a minor update of the complaint procedures to reflect the engagement of multiple Independent Examiners. The Australian NCP Peer Review had noted the need for this change.

Members were invited to provide comments on the draft updated procedures.

A more extensive update of the procedures will be undertaken over the next few months with the Independent Examiners. Members asked about a public consultation to help update the Procedures like the process undertaken in 2019. Members noted that stakeholders, such as parties to concluded and current complaints, could add value to help strengthen the procedures.

Action: AusNCP Secretariat to keep the Board updated on the process to update the procedures including plans for public consultation.

10. Other business and meeting close

Mr Dickson thanked all members and Independent Examiners for their contributions to the meeting. Special thanks and appreciation were extended to Mr John Southalan for his valuable contributions to the AusNCP since 2019.

Next Board meeting will be held in late November or December 2022.

11. Discussion about acting and recently closed complaints

Proxy and conflicted members of the Board left the meeting prior to commencing active case discussions.

Mr Southalan and Ms Martin provided an update on the AusNCP's current active cases. Members provided feedback on the handling of each case.

Note: Due to the sensitive and confidential nature of the casework detailed information has been excluded from these minutes that are published on the AusNCP website.