



Governance and Advisory Board Meeting

Australian National Contact Point for the OECD Guidelines for MNEs

MINUTES

Wednesday, 25 November 2020, 10.00 – 12.40 pm

Attendance via Teleconference

Chairperson: Ms Kate Lynch, Senior Executive Australian National Contact Point, Department of the Treasury (Treasury)

Observer: Mr John Southalan, Independent Examiner, Australian National Contact Point

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

Dr Bradley Armstrong PSM, Deputy Comptroller-General, Group Manager Customs, Australian Border Force (ABF)

Mr Angus Mackenzie, Assistant Secretary, Competitiveness and Business Engagement, Department of Foreign Affairs and Trade (DFAT)

Mr Chris Collins, Head of Legal and Board Secretary, Export Finance Australia (EFA) *proxy in Mr John Hopkins absence*

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

Ms Padma Raman PSM, Chief Executive, Australian Human Rights Commission (HRC)

Ms Carolyn Barton, Manager, International and Strategic Engagement, Department of Industry, Science, Energy and Resources (DISER)

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

Mr Bryan Clark, Director, Trade and International Affairs, Australian Chamber of Commerce and Industry (ACCI)

Ms Vanessa Zimmerman, Chief Executive Officer, Pillar Two

Mr Peter Colley (proxy member), National Research Director, Mining and Energy Division, CFMEU

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

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

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

Apologies

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

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

AusNCP Secretariat

Ms Ruth Moore, Australian National Contact Point, Treasury

Ms Amy Burke, Australian National Contact Point, Treasury

Ms Carmela Magnocavallo, Australian National Contact Point, Treasury

Ms Michelle Evans, Australian National Contact Point, Treasury

Ms Laura Llewellyn, Australian National Contact Point, Treasury

Agenda

1. Opening remarks and apologies

Ms Lynch opened the meeting and welcomed all attendees to the AusNCP Governance and Advisory Board (Board) meeting. Ms Lynch acknowledged the traditional owners of the land and paid respects to elders past, present and emerging.

2. Action items from last meeting

Ms Lynch noted the action item from the 28 July 2020 meeting where the AusNCP Secretariat committed to reviewing the Terms of Reference. The Terms of Reference have since been updated and published on the website. There were no other actions from the last meeting.

3. Board Governance

Conflicts of Interest Guidelines

The AusNCP Secretariat circulated draft conflict of interest guidelines ahead of the meeting addressing a number of changes.

It was noted that at the November OECD Working Party for Responsible Business Conduct meeting the issue was discussed and it is expected the OECD will develop further guidance on managing conflicts of interest. The AusNCP's conflict of interest guidelines may be further adjusted if OECD guidance is released.

Ms Lynch briefly went through changes in the paper, which included more examples to provide clarity to Board members and expand wording around personal and professional conflict.

Members made observations and provided feedback on the proposed changes.

Ms Lynch invited members to provide comment on the guidelines in writing out of session and to share other conflicts of interest guidelines they are subscribed to which may be applicable to the AusNCP.

Members agreed to this and suggested the inclusion of a subsection in the AusNCP's conflict of interest guidelines relating to the Independent Examiner role.

Outcomes of process for replacement members

Ms Lynch congratulated Ms Vanessa Zimmerman (primary) and Mr Rhys Davies (proxy) for their success in the recent Expression of Interest round held by the AusNCP for two Business representatives for the Board.

Ms Lynch gave an overview of the process advising that strong applications were received and the Expression of interest process worked well in practice.

The practicality of union representation was discussed and Ms Lynch supported the view that in the event a union representative is required, the best action would be to consult with the ACTU to identify someone who can represent unions across the country. Members supported this approach.

4. AusNCP update on recent activities

Ms Moore provided Members with an update on active case work.

Ms Lynch shared the AusNCP's experience hosting a webinar about the roles and functions of the AusNCP and OECD Guidelines engaging with the academic sector.

Ms Lynch also shared the AusNCP's experience at the virtual 2020 OECD Working Party for Responsible Business Conduct and the NCP Networking meetings.

Mr Southalan provided an update on his recent activities which included attendance at UNSW's Diplomacy Training Program and Curtin University's 3rd Corporate Governance Research Symposium.

The AusNCP Secretariat circulated a draft Stakeholder engagement plan for 2020-21 ahead of the meeting and Ms Lynch invited members to provide comment in writing out of session.

5. Round table update, including supportive promotional activities and reflections on COVID-19 implications for RBC

Members were invited to update the committee on their activities, with a particular spotlight on Transparency International Australia and the Department of Foreign Affairs and Trade.

Ms Lillywhite provided an update on Transparency International Australia's upcoming launch of its National Integrity System Assessment and its Exporting Corruption Report. Ms Lillywhite shared that 47 countries were assessed for the Exporting Corruption Report and that Australia has dealt with a number of foreign bribery investigations in recent years.

Mr Mackenzie provided an update on DFAT's ongoing work on modern slavery, bribery and more. Mr Mackenzie also provided an overview of his role running the Competitive Business Engagement Branch and its importance in understanding DFAT's responsibilities relating to business and various codes, rules, legislation and regulation related to responsible business conduct.

6. Peer Reviews

Ms Burke explained the upcoming Australian NCP Peer Review process to the Board, scheduled for April 2021. A paper was circulated to the Board ahead of the meeting with details.

Members were informed that the peer review, facilitated by the OECD Secretariat, will be conducted virtually over 2-3 weeks. A questionnaire will go live online and Members will be asked to complete and promote the questionnaire amongst their networks.

Members were advised that a draft program will be circulated to the Board for feedback.

7. Discussion on current complaints

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

Mr Southalan provided an update on the AusNCP's current active cases. Members provided feedback on the handling of the cases to date.

Note: Due to the sensitive nature of the case work and the publication of these minutes, detailed information has been excluded from the minutes.

8. Other business and close

Ms Lynch thanked Members for their support and welcomed ongoing feedback to the AusNCP.

The next meeting is tentatively scheduled for March 2021.