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1. In your view, what makes a National Contact Point (NCP) successful?
<p>Key elements are:</p> <ul style="list-style-type: none"> • Visibility • Accessibility • Transparency - process and outcomes • Accountability for decisions <p>NB: Supplemental response providing international perspectives to follow.</p>
2. Are there any aspects of the Australian NCP's (ANCP) current structure or location you consider problematic?
<p>Location: The ANCP is geographically situated in Canberra and is not easily accessible by the majority of either Australian businesses or civil society organisations.</p> <p>We recommend considering an alternative geographical location, such as Sydney or Melbourne.</p> <p>The function and office of the ANCP is located within the Treasury Department of the Australian Government. Consequently, the ANCP lacks independence from the government agencies whose role it is to promote and funds international business activity.</p> <p>We recommend that the ANCP be relocated either outside of government entirely, or outside of the Treasury Department, to limit the potential for actual or perceived conflicts of interest.</p> <p>Structure: The ANCP has a simple structure of one individual. This limits the operation of the ANCP. It curtails the visibility and impact of the ANCP. This in turn limits awareness about the existence and operation of the ANCP. One person working on a part-time basis is, in our view, insufficient to adequately and effectively fulfil the NCP role.</p> <p>We recommend additional funding to improve resourcing and staffing of the ANCP.</p>

3. In the future, what administrative structure do you think will work best for the ANCP?

We recommend that the ANCP be removed from the Treasury Department of government and restructured so as to promote independence and impartiality. In achieving independence, we recommend including individuals who are qualified, independent specialists with experience and expertise relevant to the OECD Guidelines, including in human rights law and policy, in the ANCP's oversight body. Ideally, this oversight body would be quadripartite in nature comprising representatives from government, business, trade unions and civil society organisations. We recommend that ANCP neither Chair, nor participate as a member, in the ANCP oversight body. Public reports by the oversight body on steps taken to oversee the ANCP are also recommended.

4. How can the ANCP engage most effectively with non-government organisations, including business, unions, industry groups, academia and civil society?

In considering how the ANCP can most effectively engage with stakeholders, we recommend the following:

- Raising the profile of the ANCP to enhance its ability to fulfil its complaints handling role.
- Achieving greater visibility and participation in relevant events, such as the GCNA/ AHRC Annual Dialogue on Business and Human Rights, or similar.
- Developing a strategy to promote the OECD Guidelines, including the complaint mechanism, amongst both the business and non-business community.
- Undertaking an awareness-raising, or education campaign, aimed at different audiences (ie: CSOs, businesses) to explain the ANCP's functionality, operation and how to access its complaints-handling mechanism.
- Promoting the ANCP, its website and the OECD Guidelines in Australia.
- Hosting events, workshops and training and information sessions in different Australian CBDs to promote OECD Guidelines and role of the ANCP.
- Developing and disseminating relevant awareness-raising materials.
- Obtaining enhanced resourcing for dedicated staff and improved budget to finance activities.

5. To what extent has your organisation engaged with the OECD Guidelines for Multinational Enterprises or the ANCP?

N/A in Australia. We officially launched in this region on 19 July 2017. Our Australian operations have only very recently commenced.

NB: Supplemental response regarding engagement internationally to follow.

6. What support should the ANCP provide to complainants and MNEs when handling complaints under the OECD Guidelines?

We recommend the following:

- Clarity and transparency about process and timing to ensure parties understand the steps involved in the complaints mechanism.
- Identify and manage expectations of parties involved in the complaints process.
- Responsiveness and feedback to be provided to parties on progress of complaints at key stages in the complaints process.

7. Do you have any other views for the ANCP Review to consider?

Further recommendations and proposals for consideration include:

- Developing a strategy for achieving enhanced transparency re process and publication of outcomes.
- Considering the feasibility of publishing ANCP findings on whether the OECD Guidelines have been breached where parties fail to resolve a complaint, or where an MNE refuses to engage in the ANCP's complaint resolution process.
- Developing a mechanism to ensure that recommendations of the ANCP are taken into account by governmental authorities in their decisions on, for example, public procurement, export credits and investment guarantees.
- Participation in, and contribution to, international OECD NCP peer review processes.
- Exploring options for introducing a follow-up process to monitor a company's compliance with the ANCP's recommendations.

8. (BUSINESS ONLY) What international guidance or multi-stakeholder initiatives do you use when designing corporate responsibility/sustainability programs and policies for your organisation?

N/A

9. (BUSINESS ONLY) How accessible is that guidance? Has it been straight-forward to apply in the Australian context?

N/A

From: Amy Sinclair [<mailto:sinclair@business-humanrights.org>]
Sent: Tuesday, 1 August 2017 4:52 PM
To: Alex Newton <alex@alexnewton.com.au>
Subject: Re: ANCP 2017 Review - consultation meeting invitation [SEC=UNCLASSIFIED]

Dear Alex

I hope the ANCP review process is tracking well.

As previously mentioned, I wanted to pass on responses from international colleagues at the Business & Human Rights Resource Centre on the operation of NCPs overseas. In addition to my responses submitted via the online consultation, I would like to now provide a couple of additional comments from my colleagues. I hope you are able to take these into consideration in developing your findings.

1) Applicable standards:

Among the administrative and financial hurdles associated with making a claim via the OECD complaints mechanism, a significant challenge is setting common standards and practices.

Each NCP operates in its own way, to some extent. To achieve consistency and certainty, we would recommend that a key focus for the ANCP should be to:

- clearly outline and communicate its procedural requirements for accepting a case; and
- communicate transparently on the procedural steps it will follow once the case is taken up.

There have been several interesting cases involving surveillance technology companies, filed with both the German and UK NCP, with the German NCP declining to accept the case and the UK NCP accepting it. Since that time, the German NCP has undergone a review and re-structure. For a comparison of how the German and UK NCP have differently judged similar complaints, we direct you to the materials provided by ECCHR [here](#).

2) Good practice examples:

Several effective NCPs operate in Europe, examples being the Norwegian, the Dutch and the Danish NCPs. The Danish NCP ruled on a garment case in connection with the Rana Plaza collapse and the [ruling](#) is viewed as progressive as it identifies a common ground between both parties - the company and complainants.

Please say if you have any questions.

Warm wishes,
Amy

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