



Governance and Advisory Board Meeting

Australian National Contact Point for the OECD Guidelines for MNEs

MINUTES

Wednesday, 21 April 2021, 10.00 – 12.30 pm

Attendance via Video conference

Chairperson: Mr Tom Dickson, 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)

Ms Vanessa Holben, 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 John Hopkins, Chief Operating Officer and General Counsel, Export Finance Australia (EFA)

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

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

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

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)

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

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

AusNCP Secretariat

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

Ms Amy Burke, Assistant Director, Australian National Contact Point, Treasury

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

Ms Carmela Magnocavallo, Communications and Events Coordinator, Australian National Contact Point, Treasury

Apologies

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

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

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 elders past, present and emerging.

2. Action items from last meeting

Mr Dickson noted the action items from the 25 November 2020 meeting, confirming the AusNCP Secretariat finalised and published the update to the Terms of Reference including Annex: A (Guidelines for disclosing interests and managing conflicts). The AusNCP Secretariat also circulated OECD Working Party papers of interest, which included consultation on the Stocktaking Zero Draft and RBC Instrument. There were no other actions from the last meeting.

3. Board Governance

Conflicts of Interest Guidelines and Register

Mr Dickson thanked the Board for their feedback on the new Interests Register and invited members to continuously update the AusNCP Secretariat with any new or changing interests.

Procedural updates

Ms Burke shared that the AusNCP Secretariat is collecting a list of minor procedural improvements to be addressed in the next update, following any feedback arising from the September 2021 peer review and progress in active cases. A paper will be circulated for comment at the next Board meeting.

Ms Burke welcomed Board members to share their views prior to circulation of the paper.

4. AusNCP update on recent activities

Ms Llewellyn updated members on active casework, with a focus on those led by other NCPs where the AusNCP is being consulted.

Ms Evans shared the AusNCP's experience at the virtual OECD Working Party for Responsible Business Conduct (WPRBC) held 23-25 March 2021.

Ms Evans updated members on discussions around the two main agenda items at the meeting – zero draft of the Stocktake of the Guidelines and a draft recommendation on government policies and responsible business conduct.

The zero draft is an outline of the stocktaking paper with suggested improvements and key developments since the last update of Guidelines in 2011, including issues raised by the institutional stakeholders – OECD Watch, BIAC and TUAC. Noted that AusNCP consulted members and Australian Government agencies on the zero draft and provided that feedback to the OECD. Discussed main issues covered in the zero draft and raised by delegates and institutional stakeholders. Outlined next steps for the Stocktake, including an ad-hoc WPRBC meeting in mid-May to discuss the first draft and launch of a public consultation on the Stocktake via expert meetings at the June Global Forum on RBC and an OECD consultation website and online questionnaire. Noted that OECD plans to finalise the Stocktake through the Investment Committee and Council by end of 2021 for release at the 2022 Ministerial Council Meeting. However, European delegates raised concerns about their capacity to meet this timeline.

Discussed the draft Recommendation on Government Policies and Policy Coherence for RBC. The non-legally binding instrument brings together existing principles and guidance on the role

of Governments in implementing RBC but does not extend the scope of the OECD Guidelines, NCPs or RBC standards. Noted that AusNCP consulted across the Australian Government on the draft instrument and thanked members for their input. Next steps are for the draft to go to the Investment Committee then other relevant OECD groups for comment.

Ms Llewellyn provided an update on AusTender planning for the Independent Examiner role, with a pool of two or three examiners being considered to address additional caseload.

Action: *The Secretariat agreed to circulate the draft duty statement for the position(s).*

Ms Llewellyn summarised recent AusNCP promotional activities, referring to the updated 2020-21 Engagement strategy circulated ahead of the meeting. Noted that this included a number of presentations by the Independent Examiner. Ms Zimmerman proposed a new event could be added to the plan – an open stakeholder consultation on the OECD Stocktake of the Guidelines. This event was agreed and noted for action by the Secretariat.

Action: *Secretariat to investigate holding a roundtable to develop formal Australian stakeholder feedback on the Stocktake for the OECD. Add this event to the AusNCP 2021 Engagement Plan.*

5. Round table update, including supportive promotional activities

Members were invited to update the Board on their activities, including in-depth highlights from the Australian Council of Trade Unions and Export Finance Australia.

Significant activities have been undertaken by all members, including promotion of the OECD Guidelines and AusNCP through various events and publications. Other work includes submissions to parliamentary inquiries (external members); foreign bribery and corruption; Australia's Universal Periodic Review; trade diversification and market access; corporate business registers; development of a new corruption risk assessment tool; modern slavery and supply chain due diligence; support to extractives sector businesses working with indigenous communities; and support for fire and flood affected communities.

Ms Middlemas provided an update on the ACTU's recent RBC work with Australia's oil and gas enterprises operating in Myanmar. Resulted in Woodside suspending their offshore drilling and related business in Myanmar until the political situation with the military junta improves. Mr Colley discussed the CFMMEU's work with the Australian Climate Roundtable on a just transition to low emissions energy industries including RBC principles to support forthcoming closures of the Liddell and Yallourn coal-fired power stations.

Mr Hopkins provided an update on Export Finance Australia's ongoing work on bribery and corruption including joint engagement with DFAT and AGD through the OECD and membership of the Bribery Prevention Network, and how RBC is embedded in EFA's processes including statements from customers.

Action: *Secretariat to include a link to the Bribery Prevention Network on the AusNCP website.*

The Chair invited other members to provide quick updates on their work related to AusNCP and RBC.

HRLC, ACTU, ABF, GCNA and ACCI all mentioned engagement with, or attendance at, the Senate Inquiry into the Customs Amendment Bill 2020 (Banning Goods Produced by Uyghur Forced Labor).

Pillar Two noted that GCNA has released guidance for businesses that provides good practice steps for designing and implementing effective grievance mechanisms for modern slavery (see www.unglobalcompact.org.au/businesses-must-implement-methods-to-address-modern-slavery).

[slavery-complains-as-covid-19-exacerbates-the-issue/](#)). Includes references to the Guidelines and NCPs.

AHRC released Guidance on Responsible Business Conduct and the Apparel and Footwear Industry in Vietnam (see www.humanrights.gov.au/sites/default/files/vcci_apparel_and_footwear_guidance_2021_eng_web_7.pdf).

6. Peer Reviews

Ms Burke explained the upcoming Australian NCP Peer Review process to the Board, scheduled for September 2021. A paper was circulated to the Board ahead of the meeting with details. Members were informed that a questionnaire will go live online and have been asked to complete and promote the questionnaire amongst their networks.

7. Other business

Mr Dickson thanked proxy members for their support and welcomed ongoing feedback to the AusNCP.

8. Discussion about current complaints

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

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

9. Meeting close

Mr Dickson thanked remaining members for their support and welcomed ongoing feedback to the AusNCP.

Next meeting scheduled for November 2021.