



# Governance and Advisory Board Meeting

Australian National Contact Point for the OECD Guidelines for MNEs

## MINUTES

Thursday, 2 December 2021, 1.30 – 4.00 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 Alison Drury**, General Manager, Trade and International, Department of Industry, Science, Energy and Resources (DISER)

**Mr Angus Mackenzie**, Assistant Secretary, Competitiveness and Business Engagement, Department

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

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

**Ms Vanessa Zimmerman**, Chief Executive Officer, Pillar Two

**Ms Lorraine Finlay**, Commissioner, Australian Human Rights Commission

**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)

### AusNCP Secretariat

**Ms Laura Llewellyn**, 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

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

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

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

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

of Foreign Affairs and Trade (DFAT)

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

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

## 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 21 April 2021 meeting, confirming the AusNCP Secretariat circulated the draft duty statement for the Independent Examiner Recruitment round which is now live on AusTender. The AusNCP Secretariat also held a roundtable to develop Australian stakeholder feedback on the Stocktake for the OECD. The AusNCP Secretariat also included a link to the Bribery Prevention Network on the AusNCP website. There were no other actions from the last meeting.

### 3. Board Governance

#### Procedural updates

Mr Dickson noted the AusNCP Secretariat is collecting a list of procedural improvements to be addressed in the next update, following feedback received from the September 2021 peer review and progress with complaint cases. A paper on proposed procedural updates will be circulated for comment at the next Board meeting.

An updated complaint submission form will go live on the AusNCP website by the end of the year.

Mr Dickson invited Board members to share their views prior to circulation of the paper.

#### Appointment of ad-hoc Independent Examiner for Mallee Resources

Ms Llewellyn provided an update on the limited tender to select a new ad-hoc Independent Examiner to manage the Mallee Resources complaint (formerly Myanmar Metals). The AusNCP Secretariat will provide an update once the contract is finalised with the successful applicant.

#### Board membership arrangements

Mr Dickson noted the AusNCP Secretariat conducted an audit of Board membership status and proposed that membership be revisited in 2022, in combination with a review of the Board Terms of Reference.

Mr Dickson welcomed Board members to share their views out of session.

### 4. Managing conflicts of interest

#### Board

Mr Dickson noted the AusNCP is reviewing the current Conflicts of Interest Guidelines that is annexed to the Board Terms of Reference.

A paper with Australian Government Solicitor (AGS) advice on managing conflicts was circulated to the Board ahead of the meeting with details. Mr Dickson welcomed comments in and out of session.

#### Independent Examiner

Mr Dickson noted the AusNCP is also developing a conflicts framework to manage the interests of Independent Examiners with AGS advice. The Board will continue to be consulted on handling any identified Examiner conflicts.

## **5. AusNCP update on recent activities**

Ms Llewellyn updated members on active casework and welcomed feedback on the Board weekly updates.

Ms Llewellyn also shared an update on the live AusTender process to appoint two Independent Examiners. The Evaluation Committee for the tender consists of Treasury representatives and a representative from DFAT.

Ms Llewellyn thanks members who shared the tender with their networks.

Ms Evans updated members on the AusNCP's participation in OECD responsible business conduct meetings this year including the regular and special meetings of the Working Party for Responsible Business Conduct (WPRBC), the NCP Network meetings and the, Policy Makers Roundtable, Global Forum on Responsible Business Conduct. Priority policy issues include the Stocktaking of the OECD Guidelines, a draft Recommendation on the role of governments in promoting responsible business conduct, and a possible ministerial level meeting on responsible business conduct in late 2022.

AusNCP also participated in OECD Centre for Responsible Business Conduct meetings with APEC and a climate investment event.

Ms Evans thanked members for their contributions to the AusNCP's stakeholder roundtable on Stocktaking of the Guidelines that was submitted to the OECD's public consultation. The second OECD Stocktaking report will be published soon. Members were also thanked for their contributions to Australia's RBC policy coherence updates for OECD meetings and feedback on the draft Recommendation.

Ms Magnocavallo summarised recent AusNCP promotional activities, including new AusNCP Fact Sheet; podcast with Finance Against Slavery and Trafficking; and various presentations at OECD, University and UN Responsible Business and Human Rights organised events.

Ms Magnocavallo noted the AusNCP Engagement Strategy will be updated and circulated for the next Board meeting.

## **6. Round table update, including supportive promotional activities**

Members were invited to update the Board on their activities.

Activities have been undertaken by members, including promotion of responsible business conduct and human rights through various events and publications since the last Board meeting in April 2021.

Other work includes participation in the Australian Dialogue on Business and Human Rights, Roadmap for the next 10 years of the UN Guiding Principles, Beneficial Ownership in the mining sector and the Global Reporting Initiative.

## **7. Peer Review**

Ms Llewellyn thanked members for their participation in the Peer Review of the AusNCP in September 2021 by a panel from the OECD, Italy, New Zealand and Sweden and provided an overview of the experience. A paper was circulated to the Board ahead of the meeting with a summary of the Peer Review including draft findings and expected timelines for the panel's report expected to be released March-April 2022. The AusNCP will present and reflect on the findings at the next OECD NCP Network meeting.

## **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 throughout the year and welcomed ongoing feedback to the AusNCP.

Next Governance and Advisory Board meeting scheduled for April 2022.