

1 August 2019

Secretariat
Australian National Contact Point
c/- Foreign Investment Division
The Treasury
Langton Crescent
CANBERRA ACT 2600

By email: amy.burke@treasury.gov.au

Dear Madam,

Australian National Contact Point: Procedures Consultation

The Law Council welcomes the updated Australian National Contact Point Complaint Procedures (**AusNCP Procedures**) and considers the proposed changes to be a significant improvement.

Particularly, the Law Council notes with approval the appointment of an Independent Examiner (**Examiner**) to manage all complaints brought to the AusNCP. The Law Council warmly welcomes the appointment of Mr John Southalan to this important position, noting that he is formerly of the Law Council's Business and Human Rights Committee and has been a highly valued member.

Similarly, the newly created AusNCP Governance and Advisory Board (**Board**) is an important step forward. As recognised by the AusNCP, this will help to ensure that the AusNCP is 'visible, accessible, transparent and accountable, in accordance with its obligations under the OECD Guidelines for Multinational Enterprises'.¹ The Law Council notes that in its previous submission to the AusNCP it recommended the development of a body of this nature.²

The Law Council further takes this opportunity to encourage the Examiner and its Secretariat, to proactively engage in the external promotion of the Organisation for Economic Co-operation and Development Multinational Guidelines (**the Guidelines**) as standards of responsible business conduct. This is essential to meeting the dual purpose of the AusNCP, to both resolve complaints and promote knowledge of and resort to the Guidelines to redress grievances. The active promotion of OECD Guidelines is a key means

¹ Australian National Contact Point, *Governance and Advisory Board* <<http://www.ausncp.gov.au/about/governance-and-advisory-board>>.

² See Law Council of Australia, Submission to the Australian National Contact Point, *Improving Specific Instance Procedures*, 8 June 2018, 16.

of implementing Australia's obligations under the United Nations Guiding Principles on Business and Human Rights.³

Without broader promotional efforts, and genuine engagement by businesses, government entities and other stakeholders, these important procedural changes may not translate into tangible improvements with respect to the implementation of international standards in Australia, and may represent a missed opportunity to build a robust business and human rights culture. The Law Council considers it similarly worthwhile to include a distinct focus on the legal sector when conducting awareness raising on the Guidelines.

The Law Council's Business and Human Rights Committee is willing to engage directly with the AusNCP and the Examiner on this point. Should you wish to discuss this further, in the first instance please contact Ms Sarah Sacher, Policy Lawyer at sarah.sacher@lawcouncil.asn.au or on 02 6246 3724.

Thank you for considering these views.

Yours sincerely

Pauline Wright
Treasurer

³ See eg Foundational Principle 2: United Nations Office of the Higher Commissioner for Human Rights, *Guiding Principles on Business and Human Rights*, HR/PUB/11/04 (2011).