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**OECD GUIDELINES FOR  
MULTINATIONAL ENTERPRISES**

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Report on Activities in 2008/2009

by the **Australian National Contact Point**

The 2008-2009 Annual Report of the Australian National Contact Point is presented to the OECD Investment Committee in accordance with the Common Framework for Annual Reporting by National Contact Points (NCPs).

The activities of the Australian NCP during the period have focused on the assessment of a continuing specific instance, together with business and community consultations. The Australian NCP is continuing to consider how to enhance the promotional activities of the Guidelines.

## A. INSTITUTIONAL ARRANGEMENTS

(Annexes 1 and 2 to the Common Framework for Annual Reporting by National Contact Points do not require updating.)

- The Australian NCP for the OECD Guidelines is the Executive Member of the Foreign Investment Review Board (FIRB). The Executive Member of the FIRB also represents the Australian Government on the OECD Investment Committee. The contact details are as follows:

The Executive Member  
Foreign Investment Review Board  
c/- The Treasury  
CANBERRA ACT 2600

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- The FIRB is a four member non-statutory body that advises the Australian Government on foreign investment policy and its administration. Executive assistance to the Board and the NCP is provided by the Foreign Investment and Trade Policy Division of the Commonwealth Department of the Treasury. In addition to its function as a secretariat, the division advises the Government on international investment issues.
- The ANCP liaises with other government departments as necessary.
- The ANCP holds regular community consultations with business and other members of civil society, including representatives from Non Government Organisations (NGOs). The consultations aim to provide a forum for interested parties to raise issues relevant to the Guidelines with the Australian NCP, to facilitate discussion on OECD Investment Committee work programmes, and to provide ideas and assistance with the promotion of the Guidelines.

## B. INFORMATION AND PROMOTION

### INFORMATION

The ANCP's primary method of informing the public about the Guidelines and other OECD Investment Committee work is through the ANCP's website at <http://www.ausncp.gov.au>

- The website was reviewed and updated during 2008-09 to ensure its user friendliness and relevance are maintained. The website provides a range of information including: core documents such as the text of the Guidelines and the Risk Awareness Tool; basic procedural information such as the NCP's service charter, procedures for lodging specific instances and the NCP's deliberation procedures; links to other relevant websites.
- The ANCP is committed to maintaining this website as an effective and a current source of information on the Guidelines in Australia and links to relevant parties;
- The ANCP released a new guide to the Guidelines and the role of the ANCP in October 2007. The guide explains the status of the Guidelines in Australia and the role of the ANCP in promoting the Guidelines to business and in dealing with specific instances. The guide is distributed to business and to Government officials who can assist in promoting the Guidelines, particularly officials being posted overseas. The guide is also available on the website.

### PROMOTION

The ANCP wrote to a large number of major business and NGO stakeholders in August 2008 inviting comments, opinion, guidance and feedback on a number of issues relating to the Guidelines.

Through this correspondence, the ANCP was seeking to modify the past consultation process, which involved broad multistakeholder sessions, to encourage deeper and more thorough dialogue. The ANCP suggested smaller, more focused sessions – possibly one-on-one in nature or small targeted groups.

Unfortunately, the response from stakeholders was disappointing. Only two stakeholders expressed an interest in meeting with the ANCP, both of them NGOs.

The ANCP held a telephone conference with representatives from the Brotherhood of St Laurence and Oxfam Australia in September 2008.

The ANCP is currently considering further strategies for consulting with stakeholders.

Other activities by the ANCP in 2008-09 include:

- Continued promotion of the Guidelines through Australian Embassy and consular networks. This includes briefing senior Australian officials prior to their postings;
- Including information on the Guidelines on the website of the Australian Government Export Finance and Insurance Corporation (EFIC), and Austrade;

- Provision of information on the Guidelines and the NCP in all foreign investment approvals for business proposals;
- Participating in corporate social responsibility conferences and meetings hosted by other organizations, such as:
  - The United Nations Environment Program, the Australian Centre of Corporate Social Responsibility, Export Finance and Insurance Corporation and various NGO's.

## C. IMPLEMENTATION IN SPECIFIC INSTANCES

- The ANCP has detailed procedures for handling specific instances, consistent with the OECD's procedural guidance for dealing with specific instances. The procedures are available at <http://www.ausncp.gov.au>;
- In July 2007 the Australian National Contact Point (ANCP) for the Guidelines received notification of a 'specific instance' relating to the activities of a mining company in South America. In line with established procedures, we are currently handling the matter on a confidential basis;
- The submission was lodged by an Adelaide barrister, as agent for the parties;
- The submission alleges that the mining company has acted in a manner inconsistent with a number of provisions under the Guidelines through mining activities in South America;
- The ANCP has consulted with the NCP's from Switzerland and the United Kingdom in relation to this specific instance.
- The owners and shareholders of the mining company jointly commissioned a review of its social engagement, during which time the specific instance deliberation was suspended pending release of the report. The social review has since been released and the company has publicly responded positively to all of the recommendations in the report. The company appointed an independent facilitator in August 2008 and by December 2008 an agreement was reached between the company and one of the former communities in the area in regard to legacy issues and a way forward. There are five other communities for which an agreement is yet to be reached, but a process of consultation is in place.

### ***Specific Instances considered by NCPs to date***

(Annex 4 to the Investment Committee Common Framework for Annual Reporting by National Contact Points requires updating)

- A specific instance was launched in July 2007 and is currently under consideration;
- The GSL specific instance was the first specific instance to be raised with the ANCP since the 2000 review of the Guidelines. The GSL specific instance raised in June 2005 was successfully concluded in early April 2006.
- The ANZ specific instance was raised in August 2006 and concluded in September 2006.

#### D. OTHER

- The examination of another specific instance during this reporting period has provided the ANCP with a good opportunity to demonstrate the strong commitment to the core criteria of visibility, transparency and accountability in interactions with all stakeholders.
- Other activities such as efforts to promote the Guidelines through Australian embassy and consular networks and to foreigners investing in Australia are also good examples of how the ANCP has been operating in accordance with the core criteria for the operation of NCPs.
- The ANCP has plans to use the outcomes of, and feedback from the forthcoming Annual Meeting of National Contact Points to design constructive collaborative consultations with interested parties.

Australian National Contact Point  
May 2009