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## **Terms of Reference for the NZNCP Liaison Group**

October 2019

The Ministry of Business, Innovation and Employment (MBIE) hosts New Zealand's National Contact Point (the NZNCP) for the OECD Guidelines on Multinational Enterprises (MNE Guidelines). The MNE Guidelines state that the fundamental role of an NCP is to further the effectiveness of the MNE Guidelines, by undertaking promotional activities, handling enquiries and contributing to the resolution of issues that arise relating to the implementation of the Guidelines in specific instances.

NCPs are to operate in accordance with core criteria of visibility, accessibility, transparency and accountability. The NZNCP hosts a Liaison Group to assist with and advise on its activities.

### **Liaison Group Members**

The Liaison Group will include representatives of government agencies and non-governmental organisations with expertise and interest in the range of topics covered by the MNE Guidelines, by invitation of the NZNCP.

Non-governmental representatives may act as their constituency representatives.

All Liaison Group members will be collegial and constructive in their approach to discussion and advice.

The MNE Guidelines cover a wide range of issues. From time to time, the Liaison Group might wish to call upon persons having a knowledge, experience or understanding of particular topics, from either a government agency or a non-governmental organisation. Any requests of this type will be raised with the Chair, who will invite such persons as and when appropriate.

### **Responsibilities of the Liaison Group**

- Contribute to furthering the effectiveness of the MNE Guidelines as a forum for dialogue.
- Assist and advise the NZNCP in relation to the promotion and awareness raising of the Guidelines.
- Monitor the effectiveness of the operation of the NZNCP, including recommending correct and fair procedures to be followed in line with the established and published NZNCP procedures for dealing with complaints.
- Recommend any changes to or further development of NZNCP procedures, in light of experience.
- Consider and discuss issues of general and specific application of the Guidelines when they arise, e.g. where new or contentious issues arise.



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- Identify where clarifications or improvements to the MNE Guidelines could usefully be brought to the attention of the OECD Investment Committee, and make recommendations to the NZNCP accordingly.
  - Keep its terms of reference under review.

### **Responsibilities of the NZNCP with respect to the Liaison Group**

- Invite members, aiming for a broad representation of interested stakeholders, and ad hoc expert participants.
- Keep the Group informed of current events in relation to both the NZNCP and the MNE Guidelines – in particular, regarding promotional activities, Specific Instances received, annual reporting to the OECD, and meetings at the OECD.
- Convene and chair Liaison Group meetings, and act as secretariat (take notes, draft minutes, confirm these with the Group, and post them on the NZNCP website).

### **Roles with respect to Specific Instances**

#### *NZNCP*

As set out in the Procedural Guidance in the MNE Guidelines, it is the NZNCP's responsibility to handle Specific Instances, including communicating with the parties involved and making decisions on the substantive issues raised. The MNE Guidelines state that once a Specific Instance has been assessed as meriting further examination, and an NCP is involved in resolving the issues, confidentiality of the proceedings will be maintained. The MNE Guidelines also set out a minimum level of transparency of the process by an NCP: annual reporting to the OECD on all Specific Instances handled, potential issue of a statement, and (usually) making the results of the procedures publicly available.

The NZNCP will provide an additional degree of transparency to the Liaison Group regarding its handling of Specific Instance procedures, toward maintaining the Group's confidence in its effectiveness. The NZNCP will inform the Liaison Group when it receives a Specific Instance, and keep the Liaison Group informed on progress as it handles the Specific Instance. The NZNCP will not disclose to the Group sensitive information received from the parties during the procedure.

#### *Liaison Group*

Toward monitoring the effectiveness of the NZNCP, the Liaison Group may discuss the NZNCP's handling of a Specific Instance in confidence, and make recommendations on procedures. The Liaison Group will not make decisions on the substance of Specific Instances.

In some cases, the parties to a Specific Instance may publicise the existence of the complaint, and possibly its substance; the MNE Guidelines specifically provide for the parties to communicate about and discuss the issues raised in a Specific Instance if they have not agreed on a resolution of those issues. Like other members of the public, Liaison Group members are free to comment publicly on such information already in the public domain.



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Liaison Group members will respect the MNE Guidelines' provisions regarding confidentiality in Specific Instance procedures, including with respect to information and views provided during the proceedings, even if those provisions have not been respected by the parties to the Specific Instance.

### **Transparency and Confidentiality**

The Liaison Group will operate in an open and transparent manner. The NZNCP will publish the list of member organisations of the Liaison Group, and the names of individual representatives will be provided upon reasonable request.

Should the NZNCP or any member of the Liaison Group request that particular issues be treated in a confidential manner, provided the Liaison Group as a whole agrees, all Liaison Group members will respect this confidentiality. Examples of when confidentiality might be requested are for discussions of Specific Instances, business sensitive information, or private information about one of the organisations represented on the Liaison Group. Confidential discussions will not be reflected in the Liaison Group meeting minutes beyond a note that a discussion was held.

### **Meetings**

The Liaison Group will aim to meet biannually (twice a year).

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