



Australian Government

The Treasury

Australian National Contact Point
for the OECD Guidelines for Multinational Enterprises

Final Statement

This Specific Instance was submitted by Mr Yacouba Traoré on behalf of the Former Employees Collective of the Australian Laboratory Services Mali SARL Laboratory Group against Australian Laboratory Services.

Published 8 March 2019

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EXECUTIVE SUMMARY

1. On 11 May 2015, Mr Yacouba Traoré on behalf of the Former Employees Collective of the Australian Laboratory Services Mali SARL Laboratory Group submitted a specific instance to the Australian National Contact Point (AusNCP) alleging non-observance of the OECD Guidelines for Multinational Enterprises (OECD Guidelines) by Australian Laboratory Services (ALS) in its operations at a facility in Bamako, Mali.
2. The complaint alleges that ALS breached the rights of Malian laboratory workers (and former workers) in relation to the unfair dismissal of 135 workers, including all union leaders. In addition, the complaint alleges that ALS mismanaged workers' illnesses, which it claims were caused by their handling of lead and other chemicals in the workplace.
3. Following an initial assessment by the AusNCP, the unfair dismissal allegations were viewed as not sufficiently substantiated and as such did not warrant further examination under the OECD Guidelines. The notifier's concerns about health and safety were found to merit further consideration and good offices were offered to the parties. This offer was subject to the notifier providing further information on the health claims and demonstrating authority to represent other individuals.
4. The AusNCP made several requests to the notifier for further information and demonstration of their authority to represent, but the notifier could not meet these requests. Nonetheless, the AusNCP met with representatives from ALS to discuss the matter. Information provided by ALS was passed by the AusNCP to the notifier (firstly in English and then subsequently in French).
5. The AusNCP is satisfied that ALS has relevant procedures and processes in place to support the health and safety of its employees and has put in place procedures across its global operations to prevent, identify and manage risks.
6. This statement is available on the AusNCP website at www.ausncp.gov.au.

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SPECIFIC INSTANCE

Parties

7. Mr Yacouba Traoré on behalf of the Former Employees Collective of the Australian Laboratory Services Mali SARL Laboratory Group (notifier). Mr Traoré is an affected individual and also the Secretary General of the labour union Fédération Nationale des Mines et de l'Énergie (FENAME).
8. Australian Laboratory Services (ALS), is a publicly traded corporation on the Australian Securities Exchange with headquarters in Queensland, Australia. ALS delivers analytical and testing services to a range of industries including mining, natural resources, environmental, food, pharmaceutical, industrial and inspection services across Africa, Asia, Australia, Europe and the Americas.

Other parties and National Contact Points

9. The AusNCP sought informal advice from the OECD Secretariat and the national contact points of Switzerland, Canada and France who had each received specific instances from the same notifier on similar issues.
10. The AusNCP engaged an external consultant for advice in the initial assessment stage of this case.
11. The AusNCP also advised the Trade Union Advisory Committee (TUAC) to the OECD and an Australian non-government organisation that the notifier may benefit from their assistance.

Complaint

12. On 11 May 2015, the notifier submitted a specific instance to the AusNCP alleging non-observance of the OECD Guidelines by ALS in its operations at a facility in Bamako, Mali.
13. The complaint alleges that the company breached the rights of Malian laboratory workers (and former workers) in relation to the unfair dismissal of 135 workers, including all union leaders. In addition, the complaint alleges that the company mismanaged workers' illnesses, which it claims were caused by their handling of lead and other chemicals in the workplace.

Outcomes sought

14. The notifier did not originally specify clear outcomes sought from the AusNCP process but was seeking that general measures be taken to restore the rights of the workers concerned.

ALS response

15. In its response ALS emphasised that good corporate governance was fundamental to the company's culture and business practices. This was supported with an explanation of a range of relevant ALS-wide products including: a Corporate Social Responsibility Standard, Annual Reports, a Code of Conduct and Corporate Health Safety and Environment Standards.
16. In relation to the industrial relations aspects of the complaint, ALS provided a summary of employment conditions at the Bamako facility including arrangements with employment agencies, information on dismissals made following breaches of ALS' code of conduct and information on the levels of demand for the services at the Bamako location.
17. In relation to the health aspects of the complaint, ALS provided an explanation and material supporting its training, operational practices and health monitoring program in relation to fire assay as well as a summary of testing results at the Bamako location.
18. ALS also expressed a willingness to engage in the process and welcomed the opportunity to resolve the complaint raised.

RELEVANT OECD GUIDELINES

19. The specific instance does not clearly reference which chapters or paragraphs of the Guidelines have been breached but in our analysis of the complaint, the predominant issues raised relate to the general policies; disclosure; human rights; environment; and employment and industrial relations chapters. The key sections of these chapters in relation to this case are outlined below.

20. Chapter II General Policy

A. Enterprises should:

2. Respect the internationally recognised human rights of those affected by their activities.

7. Develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate.

8. Promote awareness of and compliance by workers employed by multinational enterprises with respect to company policies through appropriate dissemination of these policies, including through training programmes.

9. Refrain from discriminatory or disciplinary action against workers who make *bona fide* reports to management or, as appropriate, to the competent public authorities, on practices that contravene the law, the *Guidelines* or the enterprise's policies.

11. Avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur.

21. Chapter III Disclosure

1. Enterprises should ensure that timely and accurate information is disclosed on all material matters regarding their activities, structure, financial situation, performance, ownership and governance. This information should be disclosed for the enterprise as a whole, and, where appropriate, along business lines or geographic areas. Disclosure policies of enterprises should be tailored to the nature, size and location of the enterprise, with due regard taken of costs, business confidentiality and other competitive concerns.

22. Chapter IV Human Rights

States have the duty to protect human rights. Enterprises should, within the framework of internationally recognised human rights, the international human rights obligations of the countries in which they operate as well as relevant domestic laws and regulations:

1. Respect human rights, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.
2. Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur.
6. Provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts.

23. Chapter V Employment and Industrial Relations

Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices and applicable international labour standards:

1. a) Respect the right of workers employed by the multinational enterprise to establish or join trade unions and representative organisations of their own choosing.
1. b) Respect the right of workers employed by the multinational enterprise to have trade unions and representative organisations of their own choosing recognised for the purpose of collective bargaining, and engage in constructive negotiations, either individually or through the employers' associations, with such representatives with a view to reaching agreements on terms and conditions of employment.
2. c) Provide information to workers and their representatives which enables them to obtain a true and fair view of the performance of the entity or, where appropriate, the enterprise as a whole.
3. Promote consultation and co-operation between employers and workers and their representatives on matters of mutual concern.
4. c) Take adequate steps to ensure occupational health and safety in their operations.
6. In considering changes in their operations which would have major employment effects, in particular in the case of the closure of an entity involving collective lay-offs or dismissals, provide reasonable notice of such changes to representatives of the workers in their employment and their organisations, and, where appropriate, to the relevant governmental authorities, and co-operate with worker representatives and appropriate governmental authorities so as to mitigate to the maximum extent practicable adverse effects. In light of the specific circumstances of each case, it would be appropriate if management were able to give such notice prior to the final decision being taken. Other means may also be employed to provide meaningful co-operation to mitigate the effects of such decisions.
7. In the context of bona fide negotiations with workers' representatives on conditions of employment, or while workers are exercising a right to organise, not threaten to transfer the whole or part of an operating unit from the country concerned nor transfer workers from the enterprises' component

entities in other countries in order to influence unfairly those negotiations or to hinder the exercise of a right to organise.

8. Enable authorised representatives of the workers in their employment to negotiate on collective bargaining or labour-management relations issues and allow the parties to consult on matters of mutual concern with representatives of management who are authorised to take decisions on those matters.

24. Chapter VI Environment

Enterprises should, within the framework of laws, regulations and administrative practices in the countries in which they operate, and in consideration of relevant international agreements, principles, objectives, and standards, take due account of the need to protect the environment, public health and safety, and generally to conduct their activities in a manner contributing to the wider goal of sustainable development. In particular, enterprises should:

1. Establish and maintain a system of environmental management appropriate to the enterprise including:

a) collection and evaluation of adequate and timely information regarding the environmental, health, and safety impacts of their activities;

b) establishment of measurable objectives, and where appropriate, targets for improved environmental performance and resource utilisation, including periodically reviewing the continuing relevance of these objectives; where appropriate, targets should be consistent with relevant national policies and international environmental commitments; and

c) regular monitoring and verification of progress toward environmental, health, and safety objectives or targets.

2. Taking into account concerns about cost, business confidentiality, the protection of intellectual property rights:

a) provide the public and workers with adequate, measurable and verifiable (where applicable) and timely information on the potential environment, health and safety impact of the activities of the enterprise, which could include reporting on progress in improving environmental performance; and

b) engage in adequate and timely communication and consultation with the communities directly affected by the environmental, health and safety policies of the enterprise and by their implementation.

7. Provide adequate education and training to workers in environmental health and safety matters, including the handling of hazardous materials and the prevention of environmental accidents, such as environmental impact assessment procedures, public relations, and environmental technologies.

INITIAL ASSESSMENT

25. The AusNCP considers that there are two defined aspects of the notifier's submission; alleged unfair dismissals, and alleged mismanagement of health and safety issues in the workplace.
26. In making an initial assessment the AusNCP reviewed the material provided by each of the parties. In addition to correspondence with the AusNCP this included a large amount of supporting evidence such as dismissal letters, legal proceedings, medical test results and ALS policies and procedures. The AusNCP also sought the advice of the AusNCP Oversight Committee, several other NCPS, the OECD Secretariat and an independent consultant.

Unfair dismissals

27. The complaint refers to alleged unfair dismissals of approximately 135 workers including all the union leaders from ALS' Bamako facility in Mali between 2012 and 2013. It also claims a lack of action from the Mali government and potential collaboration between ALS management and employment authorities.
28. The key areas of potential divergence from the Guidelines relate to the recommendations for the treatment of employees in relation to unionisation, exercising a right to organise and during a large downsizing of activities as set out in Chapter V (Employment and Industrial Relations).
29. The 135 workers referred to in this specific instance are a subset of a greater number of ex-employees from ALS' Bamako facility that since 2009 have been dismissed or have not had their contracts renewed. Of the 135 ex-employees, it appears that most individuals were on fixed-term, renewable contracts through employment agencies. However, Mr Traoré, who was the union delegate and deputy secretary of the ALS union committee, and another union delegate, appear to have been directly employed by ALS.
30. In relation to the dismissals of the two union delegates (including Mr Traoré), ALS has stated that these dismissals were due to misconduct and behaviour in breach of ALS' code of conduct. Material provided shows that the case of misconduct was reviewed by the Industrial Tribunal whose decision was subsequently overturned by the Court of Appeal which found that ALS' termination of the employee's contract was justified and misconduct had occurred. This is consistent with the International Labour Office's (ILO) March 2015 summary of the Malian Government's description of this event. A June 2017 summary of further discussions by the ILO in relation to this situation noted that further court proceedings in relation to the second union delegate were still ongoing. As such, the AusNCP considered that it was not substantiated that the two union delegates were dismissed due to union activity (which may have been relevant under the Guidelines) rather than behaviour in breach of the ALS code of conduct.

- 31.** The notifier alleges that the other approximately 133 dismissals occurred as a result of involvement in strike activity. Strike activity reportedly occurred in February 2013 and a large number of individuals had their contracts terminated in February 2013 by the employment agency contracted by ALS.
- 32.** Termination letters addressed from the employment agency to affected individuals state that ALS terminated its contract with the employment agency in January 2013. ALS has stated that the termination of its contract with the employment agency (and subsequent termination of individuals) was due to the downturn in the mining industry. Material provided shows a slowing in sample volumes received at the Bamako facility from around October 2012 in comparison to the levels received over the prior two years.
- 33.** On a superficial level the timing of the dismissals seems to correlate with the strike action as both occurred in February 2013. However, ALS's termination of its contract with the employment agency in January 2013 due to a downturn in sample volumes suggests that the decision was for operational reasons. As such, the AusNCP also considered it had not been substantiated that the dismissals in February 2013 represented ALS responding to unionisation or individuals exercising a right to organise.
- 34.** The AusNCP was told that due to an ongoing downturn, ALS continued to downsize the Bamako facility and for a time transitioned this site to a deposit collection facility with testing of samples occurring at other ALS facilities. Chapter V of the Guidelines provides that, in considering changes to their operations which would have major employment effects – in particular the closure of an entity involving collective layoffs or dismissals – an enterprise should provide reasonable notice to workers' representatives and engage with them before the final decision is taken to mitigate the potential adverse effects.
- 35.** As such, the AusNCP also sought advice from ALS on whether the process it followed to downsize operations was consistent with the Guidelines. ALS stated that it provided feedback to employees each year on the company's deteriorating performance and followed the requirements of Malian law for the process of retrenching employees. Throughout this process, ALS claims that it engaged with workers and their representatives regarding the retrenchments. ALS stated that it provided written notice to employees that it had sought approval from the Labour Inspectorate for the retrenchments and hosted site meetings with all employees to explain the reasons for the retrenchments, and to provide details of its proposed retrenchment package.
- 36.** Regarding the allegations for unfair dismissals, as described above the AusNCP concluded that the complainant's allegations were not sufficiently substantiated and as such, did not warrant further consideration under the Guidelines.

Alleged mismanagement of health and safety issues

- 37.** The second part of the complaint relates to ALS' management of workers' illnesses. The management of health and safety is material to the Guidelines – including Chapter II General Policies, IV Human Rights, V Employment and Industrial Relations and VI Environment.
- 38.** The notifier alleges that workers' illnesses were caused by handling lead and other chemicals in the workplace and the lack of safety precautions taken by ALS to protect them. As the material presented by both parties has focused on the management of lead and lead related illnesses, the potential effects of the management of other chemicals has not been considered in this assessment.
- 39.** Much of the material provided by the parties focuses on blood lead concentration. The World Health Organisation has stated that there is no known safe level of blood lead concentration and it is widely accepted that as lead exposure increases, the range and severity of symptoms and effects also increases. Despite this, it is generally accepted that in certain circumstances it is not possible to prevent all lead exposure and instead standards have been developed which focus on minimising and managing blood lead concentrations to reduce the risk of illness.
- 40.** In the material provided by the parties, several different international standards are presented which direct management, such as change of duties, more regular testing or removal from the workplace, at certain blood lead concentrations. For example, the French standard under Decree No.2003-1254 of 23/12/2003: Art. R.231-58-6 noted on the Biomnis Lab results (which conducted the testing of employees at the ALS Bamako facility) requires medical supervision of a male worker if their blood lead level exceeds 20 µg/dL and states that the threshold not to be exceeded is 40 µg/dL.
- 41.** From the material provided it is evident that some workers at ALS experienced blood lead concentrations in excess of 20 µg/dL and a smaller subset above 40 µg/dL which under a variety of international standards would require management. While it is unclear whether a legal standard for blood lead concentration management exists in Mali, the AusNCP considers it is not in dispute that ALS—as a multinational enterprise conducting similar work in other locations subject to legislated standards—is responsible for implementing effective management of lead and managing the significant health risks associated with lead exposure.
- 42.** ALS's global head office states that it utilises its corporate standards to monitor and control lead exposure for ALS Mali employees and notes that the blood results for ALS employees at the Bamako facility are in line with, or better than, those at other ALS locations. The ALS lead management standard is based on those in the United States and Australia which require removal of a male worker where blood lead concentration equals or exceeds 50 µg/dL. The company has also presented extensive policies and procedures relating to workplace health and safety, including an internal audit program to record and monitor implementation of group standards.

- 43.** At the request of Mali's Minister for Health in late 2013, the Chief Health Inspector in conjunction with several health related government agencies conducted an investigation into the existence of illness in the workers at ALS' Bamako facility. The report produced following this investigation indicates that the implementation of health and safety management practices may have been inconsistent over time. For example, the report states that according to workers blood lead level monitoring only commenced from 2008 despite ALS owning the site from 2006. The testing also does not appear to be consistent as significantly more individuals were tested in 2013 compared to previous years, although this increase is attributed to a response to the demands of workers. ALS submitted that the inspection report was biased and did not accurately represent the management of the Bamako facility.
- 44.** Given the conflicting perceptions of work health and safety practices presented in the health inspection report the AusNCP considered that the issues raised in relation to health and safety of workers warranted further examination under the Guidelines.

GOOD OFFICES

- 45.** Following the initial assessment the AusNCP offered its good offices to the parties to facilitate dialogue on issues related to the management of health and safety. The AusNCP requested the notifier to demonstrate his authority to act for others, provide further details on the health impacts to each individual and provide further advice on their desired outcomes.
- 46.** The notifier provided further information on desired outcomes but following several exchanges he confirmed that he would be unable to provide further evidence to demonstrate his authority to act for others or further details on health impacts. Due to apparent communication challenges and in order to ensure accessibility of the process, the AusNCP advised the Trade Union Advisory Committee (TUAC) to the OECD and an Australian non-government organisation that the notifier may benefit from their assistance.
- 47.** Despite the lack of information provided by the notifier, the AusNCP considered there was benefit in meeting with representatives from ALS to discuss the claim. ALS provided an explanation of the situation in Mali, including greater clarity on their previous interactions with the notifier. ALS also explained their global due diligence, and risk management practices, including the health and safety program, as it was operational at the Bamako facility.
- 48.** Following further correspondence with both parties, the AusNCP closed the good offices stage as without further information or a demonstration of authority, continued discussion was not likely to support further understanding or a resolution between the parties. Information provided by ALS was passed by the AusNCP to the notifier (firstly in English and then subsequently in French).

49. During the good offices stage the AusNCP received a submission from the notifier for a new specific instance. The AusNCP did not progress the submission as a new case as it appeared to be a subset of the unfair dismissals employment issues raised in this case which were considered not sufficiently substantiated.

CONCLUSION

Process

50. The AusNCP handled the conclusion stage of this specific instance in adherence with its updated specific instance handling procedures released in July 2018.
51. The AusNCP provides the following view based on discussions and correspondence with the parties throughout the initial assessment and good offices stages as well as an additional submission from the notifier subsequent to good offices.
52. Both parties were provided an opportunity to comment on a draft of this statement prior to publication. Minor changes and additional commentary from the AusNCP were included a result of comments received.

AusNCP view

53. The OECD Guidelines state that enterprises should take adequate steps to ensure occupational health and safety in their operations. This includes effective education and training for workers and effectively implementing adequate practices for the handling of hazardous materials. The Guidelines also anticipate that there may be issues and set expectations for companies to conduct appropriate monitoring, provide or engage in processes that allow concerns to be raised and where relevant address adverse impacts from their activities.
54. ALS has provided evidence of its health and safety programs, including training and use of safety equipment. Its internal compliance programs include regular reporting requirements from on site management. This is also supported by a regional management program that provides oversight and ensures consistency across locations.
55. In this case, ALS appears to have engaged reasonably when concerns were raised through its own and external complaint mechanisms. The notifier in this case originally raised health and safety concerns through ALS' whistle blower hotline. His concerns were handled by senior ALS representatives who travelled to Mali to meet with the notifier. This led to improvements by ALS including the translation of geochemistry procedures and ensuring that medical testing results were provided to employees. ALS also willingly engaged with the AusNCP's processes to further discuss the employment and health and safety concerns.

- 56.** ALS has demonstrated the ability to make improvements at an entity level to prevent or limit recurrence of an issue. In this case ALS acknowledged that the Bamako site was not fully integrated with the ALS group Health and Safety program until the end of 2008 despite its acquisition in 2006. ALS explained that since that time, the company has recognised the importance of ensuring its sites adhere to group standards more quickly and has stated that it now has a 100 day integration program for newly acquired sites.
- 57.** Noting the above, the AusNCP is satisfied that ALS is aware of its responsibilities in relation to the health and safety of its employees and has put in place procedures across its global operations to prevent, identify and manage risks.
- 58.** The AusNCP acknowledges that the timeframe for handling this matter has been unreasonably long. However, significant effort and resourcing has been applied to investigate claims, consult with other NCPs and translate correspondence in accordance with the principles of transparency, visibility and impartiality. The AusNCP would like to thank both parties for their patience and engagement in the matter.
- 59.** In reviewing this statement the notifier expressed disappointment that the issue raised was not resolved, asserted that the AusNCP was not impartial and requested that the AusNCP revise its code of ethics¹. The AusNCP strongly rejects claims that it acted partially. The AusNCP considers it approached this case diligently and made significant efforts to facilitate productive interaction with the parties in the circumstances.
- 60.** The notifier's comments also reiterated requests for financial compensation, noting that these had not been addressed by the AusNCP. Before being able to consider compensation (or other remedies) there must be a common understanding of the harm that has occurred and its origins and this information was not provided to the AusNCP. In this matter the AusNCP and parties were unable to reach a shared understanding on many elements of the complaint, making further discussion of compensation inappropriate.

¹ Throughout the handling of this case the AusNCP has been the subject of an independent review and a number of initiatives are being implemented in response. A restructure in 2019 will include the addition of an independent decision maker for specific instances and a multi-stakeholder governance and advisory body that will jointly improve independence and accountability of the AusNCP.

SCHEDULE OF KEY EVENTS

Specific Instance	Date
• Complaint submitted by Mr Traoré.	15 May 2015
• AusNCP requested complaint to be submitted in English and to include supporting information.	20 May 2015
• Complaint resubmitted by Mr Traoré in English.	21 May 2015
• Additional supporting documents provided by Mr Traoré.	22 May 2015 30 May 2015
• AusNCP acknowledged receipt of documents and discussed missing documents with Mr Traoré.	1 Jun- Jul 2015
• AusNCP arranged for translation of documents from French to English.	11 Aug 2015
Initial Assessment	Date
• AusNCP informed ALS and invited a response.	28 Aug 2015
• AusNCP provided ALS with documents provided by Mr Traoré.	1 Sep 2015
• ALS response to complaint received.	28 Sep 2015
• AusNCP requested further information from Mr Traoré.	29 Oct 2015
• Mr Traoré provided further information.	2-3 Nov 2015
• AusNCP sought further information from ALS.	2 Dec 2015
• ALS provided further information.	22 Dec 2015
• AusNCP contracted consultant to advise on initial assessment.	Mar 2016
• AusNCP requested further information from ALS.	31 Mar 2016
• ALS provided further information.	7 Apr 2016
• Consultant provided final advice on initial assessment.	14 Apr 2016
• AusNCP discussed case with Canadian NCP.	Nov 2016 Mar 2017
• Draft initial assessment sent to Oversight Committee, Canadian NCP, France NCP and Swiss NCP for comment.	Sep 2017
• AusNCP arranged translation of initial assessment.	Nov-Dec 2017
• AusNCP initial assessment decision provided to parties.	18 Dec 2017
Good Offices	Date
• Mr Traoré provided additional documents and responded to initial assessment decision.	4-5 Jan 2018

• AusNCP translated documents and requested Mr Traoré provide missing documents.	Jan 2018
• ALS responded to initial assessment decision.	30 Jan 2018
• Mr Traoré provided additional documents.	1 Feb 2018
• AusNCP requested Mr Traoré to provide authority to act and further health information.	4 Apr 2018
• Mr Traoré responded indicating that the AusNCP should rely on previously provided health information. Provided reference to law that he had authority and indicated would require further time to complete authority to act forms.	8 Apr 2018
• Mr Traoré submitted new specific instance which is a subset of employment issues raised in this case.	9 Apr 2018
• AusNCP acknowledged Mr Traoré emails and informed him that new submission is incomplete and should be made per the case submission form.	18 Apr 2018
• Mr Traoré resubmitted new complaint on AusNCP form.	20 Apr 2018
• AusNCP requested and received permission to share Mr Traoré's details with TUAC and Australian NGO in order for AusNCP to seek their support for Mr Traoré.	10 May 2018
• AusNCP met with ALS.	12 Jun 2018
• AusNCP provided Mr Traoré with documents previously provided by ALS and submitted a final request for further health information and demonstrated authority to act in order to continue good offices.	31 Jul 2018
• Mr Traoré stated that he is unable to provide further information.	1 Aug 2018
• AusNCP had phone discussion with ALS.	13 Aug 2018
• AusNCP informed both parties of decision to close good offices stage and provided opportunity to make a final submission.	3 Sep 2018
Final Statement	Date
• Mr Traoré provided a final submission.	7 Sep 2018
• First draft of Final Statement provided to parties for comment	15 Jan 2019
• ALS provided a response to draft Final Statement	15 Jan 2019
• Mr Traoré provided a response to draft Final Statement	23 Jan 2019
• AusNCP final statement published	6 Mar 2019

* From May 2017 the role of AusNCP was held by Ms Victoria Anderson. Prior to May 2017 other senior Treasury officials in the Foreign Investment Division held the role of AusNCP.

INSTITUTIONAL ARRANGEMENTS

The Australian Government is committed to promoting the use of the OECD Guidelines and implementing them effectively and consistently. Through business cooperation and support, the OECD Guidelines can positively influence business conduct and ultimately economic, environmental and social progress.

The OECD Guidelines are not legally binding. They are recommendations on responsible business conduct addressed by governments, including Australia, to multinational enterprises. Importantly, while the OECD Guidelines have been endorsed within the OECD international forum, they are not a substitute for, nor do they override, Australian or international law. They represent standards of behaviour that supplement Australian law and therefore do not create conflicting requirements.

Companies operating in Australia and Australian companies operating overseas are expected to act in accordance with the principles set out in the OECD Guidelines and to perform to — at minimum — the standards they recommend.

The OECD Guidelines can be seen as:

- a useful aid to business in developing their own code of conduct (they are not aimed at replacing or preventing companies from developing their own codes);
- complementary to other business, national and international initiatives on corporate responsibility, including domestic and international law in specific areas such as human rights and bribery; and
- providing an informal structure for resolving issues that may arise in relation to implementation of the OECD Guidelines in specific instances.

GOVERNANCE

Countries adhering to the OECD Guidelines have flexibility in organising their National Contact Points (NCPs) and in seeking the active support of social partners, including the business community, civil society and other interested parties.

Accordingly, the OECD Guidelines stipulate that NCPs:

- a)** will be composed and organised such that they provide an effective basis for dealing with the broad range of issues covered by the OECD Guidelines and enable the NCP to operate in an impartial manner while maintaining an adequate level of accountability to the adhering government;
- b)** can use different forms of organisation to meet this objective. A NCP can consist of senior representatives from one or more ministries, may be a senior government official or a government office headed by a senior official, be an interagency group, or one that contains independent experts. Representatives of the business community, worker organisations and other non-governmental organisations may also be included; and
- c)** will develop and maintain relations with representatives of the business community, worker organisations and other interested parties that are able to contribute to the effective functioning of the OECD Guidelines.

An Oversight Committee assists the AusNCP in its implementation of the OECD Guidelines, including advising on Specific Instances and broader international issues. Members of the Committee meet formally biannually and out of session as required, working collegially to support the AusNCP in promoting a sustainable approach to business conduct and engender mutual confidence between multinational enterprises and the communities in which they operate.

Ms Victoria Anderson, in her capacity as the Australian National Contact Point, is the current chair of the Oversight Committee. Officials from the Australian Treasury provide secretariat services to the Committee. Members of the Committee include representatives from the Department of Foreign Affairs and Trade; Attorney-General's Department; the Department of Home Affairs; the Department of Industry, Innovation and Science; the Department of Jobs and Small Business, Export Finance and Insurance Corporation; and Australian Trade Commission (Austrade). Other Departments, including the Department of Prime Minister and Cabinet, may participate in Committee meetings on an ad-hoc basis when issues of relevance arise. The Oversight Committee may call upon further experts where appropriate.