Fourth Regional Consultation on Business and Human Rights for Latin America and the Caribbean. **Looking ahead: Actions to Foster Responsible Business Conduct**

**Parallel Session**

**Business and Human Rights and the National Contact Points for RBC**

**Venue:** Santiago, Chile - United Nations Economic Commission for Latin America and the Caribbean (ECLAC)

**Date:** 4 September 2019

**Time:** 10:10 - 11:40 am

**Organizers:** OECD

**Background**

National Contact Points for Responsible Business Conduct (NCPs for RBC) are agencies established by governments adhering to the OECD Guidelines for Multinational Enterprises (the Guidelines). The Guidelines are the broadest internationally recognised instrument for RBC. The mandate of NCPs under the Guidelines is twofold: to promote the Guidelines and related due diligence guidance, and to handle cases (referred to as “specific instances”) as a non-judicial grievance mechanism. To date, 48 governments have an NCP of which 7 countries in Latin America: Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico and Peru.

An important feature of the Guidelines and NCPs is that they align with other international RBC instruments, in particular the UN Guiding Principles on Business and Human Rights (UNGP). The Human Rights Chapter of the Guidelines is aligned with the substantive provisions of the second pillar of the UNGP (in particular the requirement that companies exercise due diligence in respect of their human rights impacts), and NCPs qualify as state-based non-judicial mechanisms under the third pillar of the UNGP. NCPs are therefore promotion and grievance mechanisms not only for the Guidelines, but also *de facto* for the UNGP.

The Guidelines afford government flexibility as to how to structure their NCPs, so long as NCPs meet the criteria of visibility, accessibility, transparency and accountability. This is why some NCPs are composed of civil servants from one or several ministries, other NCPs are ‘multipartite’ as they involve businesses, trade unions and/or civil society alongside civil servants, and yet others are composed of independent experts. Mechanisms are in place within the network of NCPs to ensure continuous improvement of NCP structures, such as peer learning activities and peer reviews. The NCP from Chile completed a peer review in 2018, and the NCP from Argentina will undergo a peer review in September 2019.
In their promotion function, NCPs ensure that businesses are aware and trained about the Guidelines and UNGP requirements, and that stakeholders are informed about the Guidelines, their relationship with other instruments like the UNGP and the role of the NCP in furthering their effectiveness. They build relations of trust with social partners to help notably with the resolution of future issues arising in relation with the implementation of the Guidelines by companies. Promotion by NCPs take a number of forms. NCPs maintain informative websites, and regularly organise or participate to events, conferences, seminars, workshops or trainings to meet, inform and network with business and stakeholders.

In their case-handling function, NCPs provide a mediation and conciliation platform for helping to resolve cases (referred to as “specific instances”) relating to non-observance of the Guidelines. Dispute resolution through NCPs is intended to be consensual and focused on identifying constructive solutions and mutual agreement between parties. When handling cases, NCPs are required to act in a way that is impartial, predictable, equitable and compatible with the Guidelines. Case-handling by NCPs is characterised by its flexibility. In particular, any individual or organisation with an interest in the matter can submit a case to an NCP regarding a company operating in or from the country of the NCP.

Structure

The panel will gather representatives from the NCPs and users of the mechanism to discuss the various ways in which NCPs can act as a promotion and grievance mechanism under the Guidelines and the UNGP.

Speakers

Moderator: Prof. Christine Kaufmann (Chair, OECD Working Party on RBC)

Panellists (tbc):

- Representative of the Danish NCP
- Representative of the Argentinian NCP
- Representative of the Canadian NCP
- Business representative
- Civil society representative

NCP cases in Latin America

NCPs from the LAC region have to date concluded over 20 cases relating to human rights, and several additional cases are currently in progress. For example, in 2016, the Brazilian NCP helped Kinross Brasil Mineração and communities whose homes had been damaged as a result of the use of explosives by the company to reach agreement on financing the renovation of damaged homes or resettlement where necessary. More information at http://mneguidelines.oecd.org/database/instances/br0020.htm