**National Contact Points and the evolving legal landscape**

Good morning and thank you for the kind invitation. I was asked to speak about NCPs and the **evolving legal landscape** for responsible business conduct.

The title of my topic does not have a question mark, but maybe there should be one, because indeed the paint on the RBC landscape is not dry yet, and it is difficult to be affirmative where NCPs will land, but let me summarise for you how we at the OECD Secretariat see things at the moment.

I propose to first try to **sketch the landscape**, focusing on the latest developments. I’ll then zoom in on **National Contact Points** for Responsible Business Conduct, to discuss what place they may have in the picture.

So **how is the legal landscape evolving**. For long, RBC was made up of voluntary norms such as the OECD MNE guidelines, through which governments conveyed their expectation that companies behave responsibly and conduct due diligence. These norms were made effective by reputational and market pressure, as well as soft institutional mechanisms such as the NCPs.

However, as the global economic activity grew year after year, and the need to make that development sustainable got more pressing, it became clear that a plurality of approaches should be considered: this is the famous ‘**smart mix**’ of voluntary and mandatory measures.

So for the last decade, alongside voluntary norms, we have been witnessing **essentially three types of regulatory developments** around due diligence:

* First, **disclosure laws**: which require companies to publish information related to their due diligence processes and/or outcomes — for example, the 2023 EU Corporate Sustainability Reporting Directive
* Second **regulations requiring companies to perform due diligence**, such as the 2022 Norwegian Transparency Act, which mandate human rights due diligence. Other examples are the French Loi de Vigilance, the German Supply Chain Act, or the EU’s CSDDD.
* Third we have **product and market-based measures**, which prohibit the import, export and/or placing on the market of products associated with certain risks or impacts. Examples include the 2023 EU Deforestation Regulation; or 2021 US Uyghur Forced Labour Prevention Act.

The OECD now evaluates that **75% of its members** now have put in place one or several of these regulations, but this extends beyond OECD members, for example the great lakes region regarding minerals, or China regarding non-financial disclosure. These developments fundamentally rejig the RBC landscape, and but do they mean that the **voluntary approach characterised by the OECD Guidelines will soon be out of the picture**?

**We do not think so**, if only because all these legislations, vary in design, scope and core objectives, leaving **many gaps** for which there will be no other norms than the Guidelines. For example, the Norwegian Transparency Act addresses human rights and employment impacts, but does not address environmental impacts, which remain covered by the Guidelines. Likewise, the CSDDD, if the new proposed changes are adopted, is expected to cover less than EU 1000 companies. For the million others, the Guidelines will still be the standard.

To further press the point, let me get to the **second part of my intervention** and take the case of NCPs to illustrate **how voluntary and mandatory approaches can combine** elegantly in this evolving legal landscape characterised by increased regulation.

As you know, NCPs have **three main** roles:

* They promote awareness and uptake of the Guidelines
* In the remedy field, they act as a non-judicial grievance mechanism, that’s the famous ‘specific instance’ process
* They can support their government’s efforts to develop, implement and foster coherence of policies to promote RBC.

Along all three roles, there are **opportunities** in the evolving landscape for NCPs.

Let me briefly discuss policy and promotion, before focusing on remedy, as it is the theme of this seminar.

**First**, how can NCPs support **sound policy** when it comes to due diligence regulation? As I said there is a lot of variety in these laws and this is normal. Some divergence in approaches will be expected as they naturally reflect differences in priorities and needs across countries, sectors, and issues.

But a **proliferation of requirements** which are not aligned leads to fragmentation, overlap and in some cases conflicting laws which businesses operating internationally have to navigate. This can increase compliance costs, generate confusion in the market, and lead to unpredictable outcomes for people and planet.

This is why **at the OECD we advocate alignment** of regulations with internationally agreed instruments which reflect the consensus of governments and stakeholders, and have been implemented for several decades by businesses already.

This clearly is an **aspect with which NCPs can help**: as experts on RBC and the Guidelines, they can advise their government on ensuring alignment with international norms. There is growing evidence that **governments are relying on their NCPs** for this kind of support: in 2024, we saw that NCPs were involved in RBC policy making in 67% of countries that were developing such policies. Additionally, 56% of NCPs reported that they were part of intergovernmental bodies in charge of RBC policy areas.

This is encouraging, but there **still is work to do**. Despite the fact that many due diligence regulations explicitly reference international standards, there is still **divergence in how governments define and understand due diligence**, and how closely they align their approaches with the internationally agreed due diligence process.  For example, most due diligence laws require companies in scope to conduct due diligence along their ‘supply chain’, but they differ in the terminology used and the scope of the chain. In some cases, it covers impacts downstream and upstream of the company’s own operations, like in the Guidelines; but in many in others only upstream is covered. This is the type of divergence an NCP could flag.

**Second**, let me now briefly turn to the promotional role of NCPs. As companies will have to prepare for compliance, the experience of NCPs in engaging with companies and stakeholders to **promote the implementation of due diligence** can be a useful resource. Here again the Norwegian NCP is a good example: I have heard that the **due diligence trainings** that the Norwegian NCP has been providing for a number of years suddenly became very popular around the time Norway passed its transparency act.

**Third**, let me now conclude with the role of NCPs as **grievance mechanisms**, and how this can support remediation under due diligence regulation. It should be noted that many such regulations provide for **binding remedy processes**, through administrative supervision or even civil liability. As a result, some thought that NCPs, with their voluntary dialogue-based approach might **lose relevance** and become less appealing for submitters, heralding perhaps a decrease in activity.

This is **not what we are observing**. If anything, there have never been as many specific instances as today, and the **most active NCPs are those of countries that recently passed a due diligence law**. In some of those countries, like Germany or the UK, the increase has even been spectacular. Very clearly, these regulations do **attract attention to RBC issues**, but it does not mean the grievance mechanisms under the regulations can capture everything. As I mentioned, the scope of these regulations is limited to certain companies, issues or geographies, meaning that for some cases the law’s grievance mechanism will not be available, but the NCP will.

But even for issues in scope, the NCP may play a role. Many regulations **require companies to remediate impacts**. So resolving an issue through an NCP specific instance might be a way to **comply with the law**. An example is the CSDDD, which will require all EU Member States to create supervisory authorities, with sanctioning power. The directive foresees that supervisory authorities, when deciding whether to fine a company for a failure of due diligence, can take into account efforts by the company to remediate ensuing harms. This might mean that resolving an issue through a specific instance can **earn you points under CSDDD**, that’s a big incentive to engage.

There’s **one more aspect** through which the NCPs grievance mechanism can be relevant in an age of due diligence regulation: it’s their **unmatched practical expertise**. In their 25 years of existence, NCPs have received over 750 cases, and in all these cases they have published one or several **statements** examining what responsible looks like in real life situations. This is a goldmine for companies that are trying to navigate RBC issues on a daily basis. The **Norwegian NCP is well known for its detailed statements**. It for example recently published a statement elucidating important questions related to due diligence in relation to mergers and acquisitions.

To conclude, the last few years have seen the RBC landscape **shift dramatically**, in particular with the emergence of due diligence regulation. This presents real opportunities, as long as it is carefully thought through and the new norms remain aligned with road tested and internationally agreed standards. NCPs can play an important role in this regard, so let me call on governments, companies and stakeholders to rely on this mechanism and invest in it.