

LUXNCP STAKEHOLDER CONSULTATION MEETING

27/01/2023 - MEETING MINUTES

Date: January 27, 2023

Time: 8:30 AM

Location: Hybrid (Ministry of the Economy & Webex)

Attendees¹: Antoniya ARGOVA (IDV), Basak BAGLAYAN (NCP), Sara BOUCHON (Luxinnovation), Gilles BOULTGEN (CET), Marian INGRAMS (OECD Watch), Nicolas SIMONS (UEL), Sophie ROBERGE (INDR), Céline MARCHANT (Barreau), Anne-Marie LOESCH (CC), Martine MIRKES (CSL), Alexandre MORTLETTE (Uni.Lu), Lejla MUJKIC (CCDH), Max MOUSEL (CCDH), Charles MULLER (FaHR), Alena SCHLÜNZ (ABBL), Christian SCHULLER (NCP), Ana-Luisa TEIXEIRA (Caritas), Nancy THOMAS (IMS), Jessica THYRION (ABBL), Jean-Louis ZEIEN (IDV)

AGENDA

- I. Welcome and introductions.
- II. Updates and information exchange.
 - OECD ministerial on RBC
 - Targeted update of the OECD Guidelines
 - NCP peer review
- III. Discussion and input on the promotional plan of the NCP for the year 2023.
- IV. Next steps.
- V. Closing.

DISCUSSIONS

WELCOME AND INTRODUCTIONS

- NCP members opened the meeting, and attendees introduced themselves and their organisations.
- The agenda was presented by BB (NCP), and meeting minutes will be shared before publication on the NCP website.

UPDATES AND INFORMATION EXCHANGE

UPCOMING OECD MINISTERIAL:

- NCP members provided information on the upcoming **OECD Ministerial dedicated to Responsible Business Conduct (RBC)**, titled "**Promoting and enabling responsible business conduct in the global economy.**"
- The ministerial will occur on 14-15 February at OECD HQ in Paris, with France and the United States as co-chairs and attendees from OECD and non-member countries, regional and international organisations, and experts. Luxembourg will be represented by the Ministry of Economy, with Minister Fayot in attendance.
- The agenda includes four plenary sessions on general RBC themes and four breakout sessions (global value chains, climate change, sustainable finance, digitalisation), with **Luxembourg chairing the session on sustainable finance.**
- The expected outcome is signing a ministerial declaration summarising agreements and actions to be taken.

THE TARGETED UPDATE OF THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES AND THE PUBLIC CONSULTATION OF THE DRAFT UPDATES:

- The OECD Guidelines are the leading standards on RBC, containing recommendations on various topics, including disclosure, human rights, labour relations, environment, anti-bribery, consumer protection, science and technology, competition laws, and taxation. First adopted in 1976, the Guidelines have been revised and updated five times to keep up with changes in the RBC landscape.
- In 2020, the OECD initiated a stocktaking to assess whether the current Guidelines were fit for purpose and found gaps in both substantive parts and implementation procedures. The OECD undertook a targeted update in 2022 to address these gaps.
- Currently, the OECD is inviting interested stakeholders to participate in the public consultation of the draft updates, which is open until **February 10, 2023.**

NCP PEER REVIEW:

- NCP members recalled the peer review of the NCP that took place in September.
- The NCP received the draft peer review report from the OECD Secretariat three weeks ago for fact-checking and clarifying unclear issues. The peer review team will finalise the report to be presented to the OECD Working Party on RBC (WPRBC) at the end of March. Following the declassification of the report by the OECD Investment Committee, the OECD will publish the report. The NCP will also post it on its website and email it to the stakeholders.
- Some of the (unofficial) findings of the report concern the structure and location of the NCP, NCP's legal basis, limited promotional activities and awareness, comments on transparency, visibility, stakeholder engagement, limitations of the website, suggestions on rules of procedures, and recommendations on handling specific instances.
The NCP has started working on some recommendations and will react further when the final report is released.
- The NCP has been asked to review the NCP of the Czech Republic, together with the NCPs of Sweden and Romania, during the last week of February. The Czech NCP has a different structure than the NCP Lux, making it a helpful exchange.

DISCUSSION AND INPUT ON THE PROMOTIONAL PLAN OF THE NCP FOR THE YEAR 2023

The NCP has two primary responsibilities: to receive and handle complaints about alleged violations of the OECD Guidelines and to promote the OECD Guidelines and the related due diligence guidance among stakeholders. Planned promotional events for 2023 include a peer learning workshop for companies to be organised with the Chamber of

Commerce, a conference with the University of Luxembourg, and a workshop with OECD experts on due diligence guidance for the financial sector.

At the meeting, the attendees were asked for their input on the further promotional activities the NCP should undertake in 2023, including events, promotional materials, and updates on the website. The aim was to determine the most relevant and valuable activities for stakeholders. The participants were also asked to consider and provide feedback on the idea of focusing on digitalisation as the overarching promotional theme for the year. This is due to the ongoing updates in the related chapter of the OECD Guidelines and the significance and complexity of the topic.

Input from Attendees included:

- NT (IMS) presented their due diligence guide and offered to share it with the participants once it is published and suggested holding a similar event with the NCP to the one held last year, targeting the IMS members.
- SB (Luxinnovation) offered to share the IMS' due diligence guide on their social media channels once it is available. SB also mentioned that Luxinnovation has a "digital transformation" department which can support the NCP on the technical aspects of digitalisation if needed.
- AM (Uni.Lu) asked how companies can be informed about the Guidelines. BB (NCP) explained that the Guidelines are recommendations from the adhering governments to their enterprises and that the NCP is tasked to promote them.
- AA (IDV) mentioned the Lux Pension Fund had integrated OECD due diligence as a criterion for their investments. Still, the UN Working Group, during their visit to Luxembourg, said that more efforts need to be made in the evaluation and follow-up. AA asked if the NCP is in contact with the Fund. CS (NCP) explained that it makes sense for pension funds to demonstrate good behaviour, given the amounts invested, and they have specification sheets that include sustainable development and finance, which are complementary to the OECD Guidelines. BB (NCP) suggested inviting pension funds to the planned workshop with OECD experts on OECD due diligence guidance for the financial sector.
- AM (Uni.Lu) asked about taking recommendations from other NCPs with different structures on promoting the Guidelines. BB (NCP) explained that the relationship among NCPs is an ongoing peer learning exercise through the OECD NCP network and regional NCP networks. They are members of the BENELUX+France network and have regular exchanges with them.
- SR (INDR) asked if it's possible to meet with the NCP to discuss better informing companies about the NCP. BB (NCP) agreed to schedule a meeting.
- MM (CSL) expressed interest in organising an information meeting with the NCP and stressed the importance of having employee representatives take part and learn about topics related to the OECD Guidelines and RBC. BB (NCP) agreed to follow up with an email.
- A-ML (CC) asked for more information on digitalization. BB (NCP) noted that it is a broad area with many implications, including online freedom of expression, digital privacy, and responsible use of AI, among others. This is one of the chapters of the Guidelines being revised significantly in the current updates, and that's why they want to focus on it and explore it further.

- BB (NCP) asked MI (OWatch), in light of her experiences with other NCPs, if she thinks it is a good idea to have a promotional focus and choose digitalisation as a topic. MI stated that it would be interesting to pick a focus topic for the year, allowing for a deeper dive. She advised separate consultations with different stakeholder groups. On the topic of digitalisation, MI noted that almost every company is somehow connected to digitalisation. She suggested it would be useful for the OECD to issue sectoral due diligence guidance on digitalisation. She also noted that it might be interesting to look closer at the relevant chapter of updated Guidelines and have a series of events to explore how different steps of due diligence and digitalisation relate.
- AA (IDV) asked if the OECD or NCPs had made any recommendations on including the financial sector in the Corporate Sustainability Due Diligence Directive (CSDDD), considering the OECD's due diligence guidance on the financial sector. CS (NCP) stated that as the Luxembourg NCP, they are also members of the Comité interministériel Devoir de diligence (CIDdD), established by the government to provide propositions and guidelines on due diligence. They represented both the Ministry of Economy and the NCP and brought their background and experiences with the OECD to the Comité, including greater alignment with international standards.
- CS (NCP) added that the NCP could support companies with the process of due diligence but not so much with the content, as it was up to each company to know their specificities.

NEXT STEPS

The NCP sought input from stakeholders on various questions related to stakeholder engagement, including the frequency of meetings and expectations from the NCP and the potential role of stakeholders.

- CS (NCP) mentioned that in addition to regular meetings, stakeholders could provide input anytime, and the advantage of having the group together is that everyone can contribute to the agenda and provide feedback.
- AA (IDV) mentioned that they would like to have meetings where they deep dive into the content and explore how stakeholders can participate in due diligence. BB (NCP) gave the example of the seminars with national human rights institutions and mentioned that they are open to proposals and suggestions on topics to focus on.
- J-LZ (IDV) inquired about the potential restructuring of the NCP post-peer review, referencing previous discussions in the Working Group. BB (NCP) informed that the NCP is reflecting on these questions and anticipates recommendations in the peer review report.
- A-LT (Caritas) expressed interest in hearing from a company about their good due diligence practices. BB (NCP) reiterated that the NCP will co-organize a peer learning event with the Chamber of Commerce and invite businesses to Luxembourg to share their good practices and suggested possibly combining the workshop with an event open to the public.
- MI (OWatch) offered perspectives from other NCPs and civil society organisations on stakeholder engagement. She mentioned the OECD Watch's criteria for assessment of an effective NCP advisory body, including the frequency of meetings (at least twice a year) and the involvement of the advisory body in both promotional activities and complaints handling. She mentioned the possibility of having a formal stakeholder advisory body and/or integrating stakeholders into the structure of the NCP, adding that the approach differs among the NCPs.
- MM (CCDH) asked how the group members were selected, and BB (NCP) explained that, primarily, the invitation was extended to those who participated in the peer review and the main representative stakeholders. MM (CCDH)

suggested inviting NGOs working on gender issues. CS (NGO) mentioned that they are open to all NGOs but could not have invited everyone. BB (NCP) suggested considering an event focused on RBC and vulnerable groups, including the gender perspective.

- MI (OWatch) highlighted the OECD Watch's Guidance for CSOs on Gender-Based Due Diligence. She mentioned that the OECD Watch advocates for gender-based due diligence at the OECD Working Party and would advocate for OECD due diligence guidance focusing on vulnerable and marginalised groups. She suggested that the current group should know what stakeholder engagement might look like, drawing attention to the OECD's note on different NCP structures and how they relate to stakeholders. BB (NCP) agreed to share the documents with the group and also drew attention to the work of the UN Working Group on Business and Human Rights on Gender lens to the UNGPs.
- CM (Barreau) expressed interest in a presentation on RBC and digitalisation and mentioned the Bar Association's work on "paperless justice." She also expressed interest in hearing mini-presentations from other stakeholders on their activities and achievements in the past six months. BB (NCP) stated that the "paperless justice" project sounds potentially interesting from an RBC perspective and is open for further discussion.
- MM (CCDH) suggested that twice-a-year meetings may not be enough. He also asked whether a meeting was planned after the publication of the PR report. GB (CET) reacted that the frequency of the meetings should depend on the purpose of the stakeholder group, its members and expectations. BB (NCP) proposed to call a meeting once the Peer Review Report is released in Spring to present the results and noted the Minister's intention to have a press conference after the report's publication.

THE MEETING WAS ADJOURNED AT 10.00 AM.

ACTION POINTS

- Plan and conduct promotional events for 2023, including a peer learning workshop with the Chamber of Commerce, a conference with the University of Luxembourg, and a workshop with OECD experts on due diligence guidance for the financial sector.
- Consider the input from attendees and determine the most relevant and useful promotional activities for different stakeholders.
- Consider focusing on digitalisation as the overarching promotional theme for 2023.
- Share the IMS due diligence guide with the stakeholders once it is available.
- Invite Lux Pension Fund to attend the workshop with OECD experts on OECD due diligence guidance for the financial sector.
- Consider the possibility of having a formal stakeholder advisory body and/or integrating stakeholders into the structure of the NCP.
- Schedule a meeting with INDR to discuss better informing companies about the NCP.
- Organize an information meeting with CSL.
- Share the peer review report once published and call for a meeting to present the findings.

RELEVANT LINKS AND DOCUMENTS

- [OECD Ministerial Meeting on RBC](#) (14-15 February, Paris)
- [10th OECD Global Forum on Responsible Business Conduct](#) (15 February – OECD Hybrid event, open to public, registration required)
- [OECD Forum on Due Diligence in the Garment and Footwear Sector](#) (16 -17 February 2023 - online event, registration required)
- [Public consultation on the targeted update of the OECD Guidelines for Multinational Enterprises](#) (Open until 10 February)
- [Measuring up: How CSOs can evaluate a company's gender due diligence](#) (OECD Watch, 2021)
- [Guide for National Contact Points on Structures and Activities](#) (OECD, 2019)
- [Gender lens to the UNGPs](#) (UN Working Group on Business and Human Rights, launched in 2017)

ⁱ IDV : L'Initiative pour un devoir de vigilance

NCP : National Contact Point

CET : Le Centre pour l'égalité de traitement

UEL : Union des Entreprises Luxembourgeoises

INDR : Institut national pour le développement durable et la RSE

CC : Chambre de Commerce

CSL : Chambre des salariés

CCDH : Commission consultative des Droits de l'Homme

FaHR : Finance & Human Rights

ALFI : Association of the Luxembourg Fund Industry

IMS : Inspiring More Sustainability

ABBL : Association des Banques et Banquiers, Luxembourg