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TO THE ORGANISATION FOR ECONOMIC
COOPERATION AND DEVELOPMENT
COMMISSION SYNDICALE CONSULTATIVE
AUPRÈS DE L'ORGANISATION DE COOPÉRATION
ET DE DÉVELOPPEMENT ÉCONOMIQUES

DIGITALISATION AND THE DIGITAL ECONOMY
TRADE UNION KEY MESSAGES

February 2017

In February 2017, the TUAC held a *Trade Union Forum on Digitalisation* and the digital economy in Paris (see www.tuac.org). The key recommendations that were drawn from the meeting are set out below. The intent is to use them as guidance to feed into the new OECD Horizontal Project on *Seizing the Benefits of Digitalization for Growth and Well Being,* which embarks on a two-year multi-disciplinary process towards deepening understanding on the impacts of technological change on economies. On the occasion of the OECD Ministerial Meeting on the Digital Economy and the first Trade Union Forum (21-23 June 2016, Mexico), TUAC already called on Ministers and the OECD to develop a policy framework to ensure that the expansion of the digital economy contributes to inclusive growth. The key recommendations will also support trade union inputs to G20, G7 and ILO discussions on the future of work and digital transformations of economic sectors and societies.

New technologies offer the prospect of improving productivity and transforming the economy in ways that support and protect decent working conditions. For example, technology could be used to ensure ethical supply chains through real-time monitoring of working conditions. If managed effectively, it has the potential to improve working conditions and the quality of life of workers in all sectors. Trade unions acknowledge this potential. At the same time, we are concerned that at the moment it seems that digitalisation moves ahead with little priority given to workers' rights or social protection.

Policies need to ensure that technology has positive impacts on growth, job quality and employment creation. Digitalisation and innovation must contribute to better living conditions and more equal societies.

A Just Transition for technological change

The Just Transition framework is a comprehensive set of policy proposals which addresses the vulnerability of workers and their communities: uncertainties regarding job impacts, risks of job losses, risks of undemocratic decision-making processes and of lowering rights at work, risks of regional or local economic downturn, among others. While the framework was initially developed by trade unions in the context of climate change, its key principles are valid and relevant to address technological change and the digitalisation of the economy.

Key principles of a Just Transition include:

- Research and early assessment of social and employment impacts
- Social dialogue and democratic consultation of social partners and stakeholders
- Active labour market policies and regulation, including training and skills development
- Social protection, including securing of pensions
- Community renewal and economic diversification plans
- Sound investments leading to high quality, decent jobs.

Shaping digital innovation processes

The full potential of digital innovation must be harnessed through comprehensive "whole-of-government" strategies that involve the social partners and combine industrial and innovation policy, digital economy, skills or "Future of Work" initiatives. Increasing technological convergence together with the predominance of the internet as a general purpose technology calls for pro-active policies that transcend policy "silos".

The overarching goal must be to foster progress not disruption. Digital innovation and diffusion should aim at strengthening innovative capacities of economies, sustainability and job creation and be based upon:

- Innovation systems that are co-designed through social dialogue in setting conditions for adaptation including through industrial cooperation and open innovation networks.
- Environmental safeguards, resource efficiency that reflect the imperative of a just transition to a low-carbon economy.
- Rules on intellectual property rights (related to standard-essential patents, software copyright, the right to access, process and delete data, the right to access digital platforms) that prevent the creation of private monopolies and ensure a fair distribution of gains created by digital technologies along the supply chain.
- Increased public investment in R&D, while connecting universities, higher education institutions and independent innovative practitioners.

The speed of the diffusion of digitalisation across the economy is a challenge in its own right. The introduction of new technologies needs to be transparent and inclusive. Design and monitoring processes need to be updated continuously and involve worker representatives through collective bargaining agreements. The introduction of new technologies needs to be based on:

- Open and universal standards (regulatory, technical and ethical standards) and best practices.
- Guarantees of non-digital back-ups in case of system failures.
- Robust risk assessment and management systems underpinned by the precautionary principle to ensure all new digital processes and networks are safe, fast and reliable between machines, sensors and people.
- Automation processes and other new working processes and tasks that both aim at productivity and quality of work and account for any risk of displacement of workers.

Not everybody benefits from digital diffusion – both in developing and in developed countries. Over half of the world's population – 4 billion people – do not have internet access. Combining

connectivity goals and social cohesion objectives requires:

- Reaching Sustainable Development Goal n°9 on affordable access to ICTs, the internet and digital services worldwide, including low-income earners, rural populations, workers at risk, women, youth and migrants.
- Gender-specific measures to close digital divides.
- Adequate public investments in high-speed broadband and fibre networks, as well as basic infrastructure, and ensuring that private investors follow standard accountability rules.
- An extension of transfers of free technology to developing countries to enable local content creation.
- Training and supervision of workers using new technologies and tailored programmes for digital literacy.
- Quality digital public services and e-government with sufficient staff and adequate IT-infrastructure, while maintaining non-digital options to retain relational services, especially in the public care sector and social services.

Quality jobs in digitalised economies

In a context of a rising global jobs gap and inequalities, expansive macroeconomic policies combined with labour market policies are necessary so as to create new quality jobs in line with innovation and industrial strategies and prevent further polarisation. Instead, the promotion of tacit knowledge and sector-specific skills will stimulate innovation. Quality jobs build on freedom of association, non-discrimination, fair remuneration, employment security and good working conditions. A just transition approach would ensure that overall employment levels are not affected by automation and digitalisation by:

- Creating or maintaining jobs in occupations that are less open to automation and digitalisation across all sectors and those enabled by new technologies in the ICT sector (e.g. IoT security) and STEM related fields, in the health sector and services, as well as through the transformation of industries to a low-carbon pathway, including smart grids management, maintenance, repair, re-manufacturing and recycling.
- Integrating provisions on digitalisation and technological diffusion in collective bargaining agreements and in firm-level information and consultation mechanisms (i.e. works councils) and in Global Framework Agreements and ensuring trade unions are engaged at an early stage of the introduction of new technologies.
- Using data to improve processes to amongst other avoid work intensification and standardisation.
- Ensuring strict compliance with working time regulation including the "right to disconnect", and standards and liability rules that protect occupational health and safety.
- Ensuring regulation on mobile work to prevent abuse and yet to facilitate the right to work remotely to create a more flexible, employee friendly working environment.

Skills development & effective training systems

In order to prepare for the likelihood of rapid digital diffusion, policy makers and social partners need to offer workers appropriate training for all age groups and across sectors to ensure continuous skills adaptation by:

- Giving a training guarantee (a right to training) to all workers and providing continuous on-the-job training to enhance skills use, strengthening VET systems and extending coverage to non-standard jobs.
- Anticipating future competency needs and updating curricula of education and training systems for all age groups in consultation with teachers and social partners (i.e. in Skills Councils). Providing on-the-job training co-designed with workers' representatives to reflect the needs of the working force.

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- Ensuring that "Massive Open Online Courses" used to deliver worker digital learning support are accredited, licensed and monitored for quality assurance processes.
- Ensuring teachers and educational professionals have access to training and can allocate time for it.
- Fostering cross-disciplinary skills including foundational knowledge (basic numeracy and literacy skills), digital literacy, cognitive, and social skills.
- Promoting enrolments in STEM and ICT related VET and higher education programmes, including coding, especially for women.
- Enabling adequately paid (and where necessary subsidised) full- or part-time educational leave and the right to return to a/ their full time job.

Regulatory loopholes in the digital economy

The digital economy builds on cross-border data flows, network effects, and the mobility of intangibles. This offers many opportunities to fully digitalised business to practice regulatory arbitrage between jurisdictions. This ranges from taxation to corporate governance, competition, labour standards, but also transport and housing. It may be argued that in some cases outright non-compliance with local or national regulation is part of the business models that drive the digital economy. Therefore, it is important to consider that:

- The guiding principle should be that the internet is a global public good built on openness, interoperability and net neutrality.
- While the "quality" of regulation can be improved in light of the digitalisation process, at the outset it is the digital economy that needs to adapt to regulation, not the other way round.
- On tax accountability, the G20/OECD "BEPS" Action Plan if fully implemented could address some of the tax arbitrage concerns, but not necessarily all of them. Additional tax measures that are specific to the digital economy should be considered, including the introduction of a "significant digital presence" principle and/or reform transfer pricing valuation toward unitary taxation. New data-based systems of exchange of information and monitoring can be deployed towards more effective tax collection.
- On corporate governance, large digital businesses with a market valuation above USD1bn, so-called "Unicorns", should adhere to transparency and accountability standards and practices. Right now, they operate far below acceptable levels considering their market and financial footprint. The corporate governance of digital businesses should be fit for purpose and commensurate to their market power.
- On competition, value creation based on the trading of personal and business data leads to concerns about data privacy and ownership, paired with increased market concentration through network effects. A revision and application of rules on data protection and competition, and intellectual property rights, needs to be made in light of the creation of quasi-monopolies in the digital economy.

Addressing challenges of work on online platforms

The challenges arising from on-demand and crowd work on online platforms have been widely acknowledged. 21st century digital progress cannot go hand in hand with 19th century working conditions. Platform work concerns all sectors, skills and wage levels, physical and online work. Decent work principles must apply to the online platform economy:

- Workers who, in practice, are dependent on a single employer (in this case, the platform intermediary) or a group of employers (several platforms or/ and contractors) should have an unconditional right to salaried employment contracts including minimum wages, pay and OHSE standards, adequate pension, unemployment and health insurance coverage, minimum paid sick leave, paid vacation leave and maternity/ paternity leave.
- All workers should have the right to freely organise, take collective action, negotiate

collective agreements, and make use of consultation mechanisms on changes in price setting and terms of services.

- It is vital to ensure competition laws do not prevent self-employed workers to join a trade union and engage in collective bargaining.
- Authorities have the means and the mandate to detect, deter and sanction disguised employment relationships and dependent self-employment, including the power to request and obtain without restriction platform data to monitor rents across borders and working hours while protecting individual data privacy.
- Minimum remuneration rates should be paid on an hourly basis and not be below national minimum wages or agreed wage standards after all workers' contributions and expenses related to performed tasks are deducted to shield workers from practices of non-payment and wage dumping resulting from worldwide competition for online tasks.
- Social protection schemes need to be universal and portable, if needed built on multi-employer plans, and account for the specifics of the platform economy, including irregularity in contributions and a lower threshold for access to benefits.
- The right to transfer online workers accounts (rankings and profiles) if desired must be guaranteed and provisions set that allow workers to engage on other platforms and with individual clients as long as they are treated as freelancers.
- Guidelines for deactivation of workers' accounts should be in place as well as the right to refuse jobs on legitimate grounds – together with the establishment of dispute resolution and grievance mechanisms.

Standards for data protection and privacy

Trans-border data flows often result in data capture by few providers in the digital economy. Ensuring open data sharing and access across borders remains vital. Protecting personal and sensitive public sector data is equally vital. It is therefore important to create better data governance regimes and legal rules, while ensuring interoperability and to:

- Set standards on data ownership including the right to access, process and deletion, and on the pricing of data so as to ensure privacy by design on use and circulation.
- Strengthen standards on data security and privacy to meet challenges posed by outsourced cloud services, analytics, algorithms and big data.
- Strengthen or introduce worker data protection legislation, thereby restricting surveillance and automated evaluation to only work relevant activities within legitimate boundaries of employee supervision – also adapted to mobile and platform work.
- Ensure rules for data portability for online users and workers.
- Ensure that public sector data is used for the public good with the strongest levels of protection for individuals. Impede the misuse of data to violate human rights and the right for collective action, freedom of expression and assembly.
- Address the risks associated with the use of ICT that promotes hatred, child pornography, cyberbullying and such abuses to ensure the safety and wellbeing of all.

Anticipation of change

Anticipating changes from digitalisation and the digital economy requires a close look at the impacts on employment and labour market structures, a granular and focused approach (i.e. measuring the impact on functional tasks rather than on occupations as a whole), assessing the impact of technologies separately and then their combined impact. Further improvements are needed to ensure robust and reliable assessments and foresight, particularly with regard to:

- Productivity growth (overall and sector-specific) and GDP growth, and the share of the digital economy
- Features of inclusive innovation systems

- Production and service systems, the environment, global value chains and societies
- New business models
- Market shares and wealth distribution in the digital economy
- Automatable or modified tasks through increased digitalisation
- Quantitative and qualitative changes in overall employment
- Sector-specific jobs growth and changes
- New forms of work (including on-demand and crowd work on online platforms)
- Skills needs (per occupation, sector and in general)
- Potential medical and occupational health impacts when using new technologies at work.

The role of trade unions

Trade union involvement in digitalisation processes reflects the long tradition of accompanying working people in past periods of rapid change so as to ensure the alignment of technological change and social progress. Trade union activities, supported by new digital tools, include:

- Monitoring the compliance with labour standards, by making full use of open data access, and informing workers about their rights and benefits.
- Ensuring that collective agreements and worker representation mechanisms account for the use of new technologies.
- Organising workers in new fast-growing businesses and sectors.
- Building capacity to organise self-employed workers and those in non-standard employment in the digital economy.
- Creating platforms for information and best-practice sharing.
- Participating in advisory councils on innovation and industrial policies and co-drafting new ICT, digitalisation and broader policy frameworks.
- Participating in skills ecosystems and the delivery of on-the-job training and VET systems, and co-design national competency strategies and promote training take-up.
- Using digital tools in campaigns, build exchange platforms, and e-training offers for members and non-members.
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