Trade Union
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TUAC

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TUAC Comments
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Key messages

TUAC welcomes the opportunity to participate into the discussions of the "OECD investment week" (22-23 october). While international trade opening and foreign investment offer opportunities for growth and for job creation, there are a number of well-known downside risks if policies, both domestically and internationally, are not designed appropriately – experience over the past decades show that we are not there yet. It is no surprise that the trade union movement follows with concerns the trade and investment agendas.

During this investment week, several forums and meetings took place, including the traditional TUAC/BIAC consultation with the OECD Investment Committee, the freedom of investment rountable, a joint meeting of the Trade Committee and the Investment Committee, and the launch of a new series of roundtables on investment for sustainable development. TUAC raised the following key trade union priorities :

- the so-called "regulatory coherence" approach, according to which domestic policies tend to become suspicious is concerning. Complying with regulation may come at a cost for businesses, but the cost to society is greater where protective regulations are not respected;
- TUAC will strongly oppose any policy pretending to retain foreign investment by reducing the cost of labour through labour flexibility;
- With regard to the discussion on global value chains, TUAC urges the Trade and Investment Committees to always assess whether foreign direct investment is linked to the real economy. Trade and investment policies should be devised hand in hand with the OECD Committees responsible for the BEPS discussions. Furthermore, trade and investment policies should always be linked to due diligence expectations throughout the global value chain;
- For the financing of sustainable development, public/private financing should always be assessed according to key criteria in order to evaluate accountability, transparency over risk-sharing, as well as actual impact towards the achievement of SDGs;
- TUAC welcomes that quality jobs is among the six proposed FDI quality indicators. The ILO decent work indicators constitute a useful precedent.

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Freedom of Investment Roundtable – Divestment Decisions by MNEs

The OECD is conducting an analysis of the drivers for foreign divestment, which is understood as the partial or full disposal of an asset or business unit. By highlighting the negative effects of divestment on productivity, output and employment this analysis prepares the ground for further discussions on policy recommendations – presumably to retain foreign investment.

Before jumping to policy conclusion however, TUAC believes that further research is warranted on the long-term impact of foreign divestment . Divestment for instance, could in the longer run lead to increased opportunities for domestic competitors, where they would be allowed to increase their output, mark-ups and wages . There is indeed a real possibility that foreign direct investment can impact negatively on domestic entrepreneurship when availability of skilled workers and access to credit is reduced. Foreign takeovers may also erode the domestic tax base. These elements need to be more thoroughly researched.

Of serious concern is the suggestion found in current OECD papers of a causality link between divestment and cost of labour : the higher the labour cost, the more likely the divestment. Higher labour market "efficiency", or rather individualised labour flexibility, is – we are told – also linked to reduced foreign divestment. TUAC strongly oppose any policy based on such findings. Working people's support to investment policies is very much dependent upon the potential improvement of living and working conditions. The proposition that, in order to prevent disinvestment, policies should aim at reducing the cost of labour through labour flexibility – which inevitably will drive down wages and job security – makes no sense to trade unions.

This proposition does not fit well with the parallel OECD work on jobs and labour market. In the revised OECD jobs strategy 2018, the OECD itself is now focussing on job quality and on more "equal outcomes" in the labour market. Besides providing helpful messages on macro-economic demand-side policy, the OECD now explicitly recognises the value and benefits of minimum wages, collective bargaining and job protection. It does not fit well neither with other Investment Committee projects, including on "FDI quality indicators". Such indicators include in particular quality jobs, including wages and benefits. For the sake of coherence, further action - if any - on disinvestment must fully integrate these discussions.

Joint meeting of the Trade Committee and the Investment Committee – New evidence on firm strategies in Global Value Chains (GVC)

TUAC is particularly interested in the new evidence on firm strategies in GVCs. As evidenced by the OECD, the dynamics leading to FDI are becoming more diverse, more intertwined and more complex. FDI discussions are no longer limited to tariff-jumping. They are also about scale, technological know-how, and diversification of the activities. Digitalisation of the economy is also blurring traditional boundaries. Business practices for FDI are as a result changing. Group structures are more complex than ever. MNEs also increasingly rely on non equity relationships (strategic partnership, outsourcing).

TUAC has strong concerns about these more complex business strategies as they can negatively impact corporate accountability throughout the GVC. Complex group structures and opaque contractual arrangements can contribute to the minimising or avoiding liability of the MNE towards human rights, tax and extreme workers' exploitation. Such practices cannot be treated neutrally, nor encouraged, by policy-makers.

TUAC therefore urges the Trade and Investment Committees to integrate the two following considerations in their discussions:

- always assess whether new forms of investment are linked to the real economy. Intangible assets, IP rights and inter-firms links are too briefly addressed in the current OECD papers. The OECD should be far more lucid about FDI distortions due to Base Erosion and Profit Shifting corporate tax strategies. TUAC recommends that trade and investment policies are devised hand-in-hand with the Committees responsible for the BEPS discussions.

- always link trade and investment policies to responsible business conduct ('RBC'). Trade unions have long campaigned for trade and investment policy and instruments to be used as a means to lever improvements in improving social and human rights standards. Governments should integrate RBC due diligence expectations into their own domestic policies and strategies on trade and investment, as well as introducing binding due diligence clauses in their trade and investment agreements.

Roundtable on investment and sustainable development

Session 1: financing for sustainable development

Blended finance is one of the rising stars of the public policy discussion on financing for sustainable development and on development cooperation. By mixing private and public moneys together, there is, we are told, a blue sky world ahead of us where we could all "transform billions into trillions". TUAC understands the argument that the private sector needs to step in to boost development and ensure coherence with publicly funded development cooperation programme. Public-private partnerships, however, raise issues of accountability, transparency over risk sharing, as well as actual impact towards the achievement of the SDGs.

The international trade union movement has developed a series of criteria for the assessment of private/ public financing . These criteria should be used at eligibility, appraisal and results assessment stages and cover the following topics: business conduct having regard in particular to RBC instruments, social dialogue, transparency, risk distribution and SDGs engagement.

Session 2: FDI indicators

TUAC is closely following the on-going discussions on FDI quality indicators. We very much welcome that quality job is among the six proposed clusters, as the increase of precarious jobs and inequalities are key concerns for the trade union movement. The importance of measuring quality jobs is such that it should be mainstreamed in all trade and investment discussions.

With regard to the future development of this indicator, TUAC recommends the ILO decent work indicators as a useful reference . These indicators include key elements such as employment opportunities, wages, working time, collective bargaining etc. Particular attention should also be paid to chapters IV and V of the OECD Guidelines for MNEs, which respectively cover human rights and employment and industrial relations.

Session 3: Developing an Agenda for the new Investment for Sustainable Development roundtable

TUAC supports this initiative and would make the following recommendations for improvement:

- TUAC's highlight of 2018 was the launch of the OECD Due Diligence Guidance for Responsible Business Conduct together with the Council Recommendation, in which Governments make a commitments to implement the due diligence guidance. The roundtable should address how to promote the implementation of the due diligence guidance in the context of supply chains;

- Take a more critical approach towards GVCs where they seek to minimise or avoid the firm's obligations to wards tax, human or employment rights;

- Have a more careful approach towards services liberalisation where it negatively affects universal and affordable access to fundamental public services;

- Take the full measure of aggressive tax planning and work hand-in-hand with the parallel BEPS discussions;

- Link quality FDI to decent work indicators, as well as responsible business conduct.