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Liaison Committee with International Non-Governmental Organisations

TUAC Discussion Paper – "Divided, We (still) Stand - The Urgency of People-Centred Policies

Meeting with Representatives of the Trade Union Advisory Committee (TUAC) to the OECD

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Divided we (still) stand

1. In 2011, the OECD adopted a Vision Statement for its 50th anniversary: "better policies for better lives"[1]. That same year, the flagship report on inequalities "Divided we stand"[2] was released. Divisions in the economy and in society stubbornly persist today across many dimensions: income, societal, regional, corporate, and between states. Social discontent and protests are mounting with the yellow vests movement in France, protests against high living costs and inequality in Chile, and in a number of other OECD and non-OECD countries.

The many dimensions of inequalities

2. Rising inequality is powered by chronically unequal income distribution – a matter that is now affecting the "bottom 90%" with the middle class being under pressure. It also has other dimensions: labour market divides resulting from the individualisation of labour market risks and lack of access to quality jobs and training, gender and spatial divides – the on-going digital transformation is likely to exacerbate this further.

Income inequalities and the squeezing of the middle class

3. Previously an engine for growth, today's middle class is finding itself under increasing pressure. As evidenced by the OECD, household incomes have been lagging behind rising costs of living – almost 40% of middle-income households are financially vulnerable[3]. Middle-class children today have less of a chance of achieving the same standard of living as their parents, despite being the most educated generation to date[4]. Combined with increased labour-market uncertainties, inequality in wages and in wealth (the top 10% holding half of total wealth) are adding further pressure to the fabric of cohesion in our societies. Income inequality no longer "only" concerns the bottom 40% of the income distribution, but also the bottom 90%.

Labour market divides

4. Wages are growing significantly slower than before the financial crisis, despite consistently low unemployment[5]. The recent pick-up in wage growth in some countries is not fundamentally reversing the trend. The post-crisis job "recovery" was achieved on the back of job quality, fuelled by the weakening of collective bargaining and employment protection and by low minimum wage floors. The traditional flexibility model that grants employers a licence to hire and fire workers at short notice, whatever the cost for workers and society, still prevails. This leads to an increasing number of under-employed, part-time or temporarily employed workers, as well as atypical work. They may not all be reflected in unemployment statistics, but all have a significant impact on job and income security of people.

5. Younger, more urban, populations end up in non-standard forms of work (NSFW) stripped of labour rights by platform businesses (e.g. they are "*40-50% less likely to receive any form of income support during out-of-work spells*"[6]) pointing to the rise of dependent (bogus) self-employment. 16% of the self-employed are financially dependent on one client[7]. Labour-market monopsonies in the sector of online platforms are particularly strong[8]. Drawing from an infinite pool of labour, online-platform work is tied to adverse consequences on remuneration, working conditions and social protection. However, a hidden employment relationship exists, as companies control workers in terms of pricing and access to jobs.

Digital and regional divides

6. On the current trajectory, the digital transformation might further exacerbate inequalities. The OECD Economic Outlook 2019 speaks of "*non-inclusive digitalisation [that] can undermine equality of opportunities and exacerbate income gaps*"[9]. Automation of routine-heavy, lower-income occupations might result in further labour-market segmentation[10]. Regional divides are also significant as reported by the OECD: "*The share of jobs at high risk nears 40% in some regions (e.g. West Slovakia) and is as low as 4% in others (e.g. the region around the Norwegian capital Oslo)*"[11]. Spatial divides also increase due to connectivity gaps based on insufficient broadband coverage. Digitally segmented processes lead to more complex value chains and cross-border work – and hence, more fragmented and "fissured" workplaces. While wages in the ICT sector rise, the expected gains from digitalisation do not translate into increasing labour income shares[12]. Gender pay-gaps also remain very high in digitally intensive industries[13].

The failures of government and international co-operation

7. Divisions are also affecting the very ability of governments to co-operate regionally and internationally. Beyond the trade tensions that are threatening growth prospects in the short term, the lack of a global coherent framework including on a basic universal floor of labour rights in trade and investment systems is a failure. Governments also failed to steer our economies out of the crisis, and are far too timid to co-ordinate fiscal policy and choose the elusive private finance alternative instead.

Multilateralism and trade tensions

8. Trade tensions are real and, in the short term, are adding downside risks to global growth prospects. Yet, for TUAC the root causes are to be found in the "incomplete, outdated and imbalanced" multilateral framework enabled by governments for far too long[14]. The consequences are shifted onto workers and working families. The inability of governments to agree on a basic universal floor for its citizens, including by putting ILO and labour provisions in the trade and investment system, has been and remains at the very core of public backlash around the world. Comparable businesses should compete on comparable terms on all three dimensions. In the steel sector, overcapacity and outdated infrastructure have opened the door for trade conflicts setting the US against both China and Europe[15]. Social standards are given short shrift over import duties, state ownership and balanced import/exports[16]. Future policies must be about fair trade to lay any hope for a fertile economic ground.

The incomplete monetary policy response

9. Quantitative easing (QE) by central bankers is *de facto* the only lifeline that we have had in the post-2008 recovery. QE has helped to prevent deflation and to stabilise financial markets but constitutes an incomplete response if not backed both by global finance that works for the real economy and by proactive fiscal policies. The monetary inflows have not translated into any real pick-up in corporate investment. The "hurdle rate" (i.e. the minimum return on investment that a company expects before taking a decision to invest) remains sticky at 10-12%. Most profits are channelled into shareholder dividends and share buybacks, fuelling asset bubbles. Meanwhile, corporate debt has continuously grown over the last decade reaching historic records[17]. The resulting zero-bound interest rate environment has had dire consequences for institutional investors with long-term liabilities, in particular for pension funds, the financial sustainability of which in large part is determined by long-term interest rates.

The failure of co-ordinated fiscal policy and the elusive private finance alternative

10. It is obvious that governments should take action and engage in ambitious co-ordinated fiscal policy to stimulate the economy. They need to do so not only to sustain growth, but also to repair the damage inflicted on government administrations and the public sector at large that are still recovering from massive austerity budget-cuts.

The need to (re)build infrastructure, finance an “inclusive” digital transformation and the transition to a low-carbon economy, calls for greater use of public investment and public procurement, particularly in the zero-bound interest-rate environment that is making public finance solutions far more competitive than in the past.

11. And yet, the proposition that private finance can step in and substitute public finance is still dominating the policy debate. A proposition that is partly geared by the illusion of “transforming billions into trillions”, inappropriately seeking to portray public goods and social purposes as a mere “asset class” for private investors.

The crisis of confidence in big business

12. Corporate profits and wealth creation have been flourishing, the redistribution to workers has not. Since the 2008 crisis, in all but six OECD countries, businesses have increased their share of gross value added[18]. In all but one OECD country the share of profits increased (both shareholder dividends and retained profits). During that same period however, the share redistributed to labour has decreased in a majority of OECD countries. These figures confirm the steady decline of the labour income share[19] and the decoupling of wages and productivity. The belief in the wealth creation mission of the firm is crumbling. Corporate concentration comes at a heavy cost with the dominant position of Big Tech as a particular concern. Fragmented business entities, cross-border operations and profits made out of intangibles all pose new regulatory and labour market challenges.

Corporate concentration

13. The increase of corporate concentration is a continuous trend both in the manufacturing and service sectors[20]. Above a certain level, market power has a chilling effect on investment. Smaller firms and potentially new entrants are discouraged from investing in innovation or their workforce. Corporate concentration comes at a heavy cost for income distribution and workers’ bargaining power. On this ground, labour market monopsonies create a situation of deep imbalances in the bargaining power between employers and workers as confirmed in the 2019 Employment Outlook.

The rise of Big Tech

14. Concentration is particularly pronounced in the digital economy where business models thrive on network effects and data capture. The number of mergers and acquisitions (M&As) in digitally intensive sectors grew by 40% since the crisis and mark-ups are growing[21]. Geographic and market concentrations are particularly acute in the most disruptive parts of the sector, such as artificial intelligence[22]. In terms of labour market effects, the dominant position in the primary market has trickle-down effects on the secondary market. Online e-commerce platforms with quasi-monopoly status will also enjoy an equally dominant position in logistics and transport sectors, entailing unbalanced labour relations on both markets[23]. Any badly designed agreement on digital trade that would leave space to deregulation will further strengthen concentration and control by a limited number of firms and countries – negatively affecting innovation and job quality.

Fragmented businesses

15. Outsourcing and internationalisation of businesses are not a new phenomenon. The combination of globalisation and digitalisation is however bringing it to new levels. In less financially valued industries (e.g. services, food, manufacturing, transport and maintenance), the global race to the bottom has accelerated. Lower costs and pricing directly correlates to lower income and greater social insecurity for workers, and a less favourable bargaining position for SMEs and smaller suppliers and subcontractors in the supply chain.

16. The growing relevance of intangibles is adding pressure as leading firms (the OECD’s so-called “superstar firms”) can capture ever more wealth and value and prevent the diffusion of knowledge, while leading on R&D investments. The employment and labour dimension of global value chains must be reasserted. According to recent

OECD research, labour accounts for 51% of income in global value chains, followed by intangible assets (27%), tangible assets (16%) and taxes (6%)[24].

The Urgency of People-Centred Policies

17. There is a sense of urgency in light of the uncontrolled rise of inequalities, the dangers of increasingly divided societies and the impotence of international co-operation. Turning to people-centred policies would require a fundamental change in policy strategies. In the short term, governments need to co-ordinate actions to revive growth through fiscal stimulus. In the longer run, past OECD Ministerial Council Meetings (MCMs) have addressed multilateralism and the digital transformation. This has to be further developed and tied to social cohesion goals. In what follows, the TUAC focuses on three key issues: fair labour market outcomes, accounting for corporate wealth creation and building trust in collective action.

Ensuring fair labour market outcomes

18. Recent OECD recommendations and reports on employment are displaying a change in the policy thinking of the Organisation on the balance between job quantity and quality. This focus on fair labour outcomes needs to be translated from "words" (i.e. OECD flagship reports) into "actions" (OECD country-specific recommendations and policies). In this regard, the OECD should embrace the concept of Just Transitions to climate change and adapt it to the digital transformation. The Organisation has moved a long way in addressing the massive skills challenges ahead, but concerns remain about access and cost-sharing (who pays?) and the effective governance (including the role of social partners) of lifelong learning.

Collective bargaining for better outcomes

19. Labour market opportunities and risks need to be shared fairly in the economy. They need to be managed and hence negotiated collectively between employers and workers, so as to ensure fair labour market outcomes *before* safety nets and redistributions kick in. That was one of the objectives of the OECD Employment Ministerial of 2016, and it should remain as such for the OECD in the future[25]. The revised Jobs Strategy and the 2018 & 2019 editions of the Employment Outlook have paved the way to more nuanced and granular analytical work on collective bargaining, showing its contributions to productivity and inclusive growth. This should be translated into policy objectives of strengthening labour market institutions, promoting social dialogue and regulating in favour of enabling wider unionisation. Co-ordinated collective bargaining systems are now acknowledged to deliver higher employment, lower unemployment, a better integration of vulnerable groups and less wage inequality than fully decentralised systems[26]. Minimum wages are, at last, seen as ensuring fair pay, preventing exploitation of workers, boosting compliance with taxes, making work pay and anchoring wage-bargaining, in particular for workers with a weak bargaining position. As the dedicated OECD report on collective bargaining re-affirms, "collective bargaining matters for some of the policy objectives that policy makers and citizens care most about: employment, wages, inequality and productivity"[27]. It also provides gateways to accompany technological change, manage organisational change and protect workers from regulatory arbitrage resulting in non-standard forms of work.

Better protections through Just Transition frameworks

20. The ILO provides a framework for Just Transitions to climate change and the shift to low-carbon economies[28]. The OECD should embrace that concept and adapt it to the digital transformation. Just Transition entails a strong social dialogue, investment in infrastructure, communities, training / career guidance, and appropriate industrial and

taxation policies[29]. Strong financial commitments are also paramount: OECD data shows that training and social security costs for one year could entail 1-5% of GDP for 'acceptable' transitions[30]. At the same time, "innovative" forms of employment contracts must be firmly set against collective and individual protection safeguards[31]. This means extending the right to collective bargaining to all workers (against competition law), thereby giving them a voice and help lifting labour market monopsonies. In terms of policy action, the following framework conditions should be installed: (1) employment tests and legislation against the misqualification of the employment relationship (including a burden of proof on the employer); (2) extended access to social protection and adult learning to all workers; and (3) reduction of (tax) incentives to employ on non-standard contracts.

The massive training challenge

21. The life-long learning landscape is one of under-investment (also by employers) and under-utilisation, unequal educational attainment levels with vulnerable groups left behind. 25-34 year-olds with tertiary education earn 38% more than their peers with upper secondary education while 45-54 year-olds earn 70% more. Participation in Vocational Education and Training remains far too low[32]. The low-skills trap might aggravate: 22% of adults across OECD countries have low educational levels and only 20% of adults with low skills participate in job-related adult learning[33]. Measures such as individual learning or saving accounts are welcome, but current design and scope do not scale up and do not reach all employment types. Serious concerns also remain about cost-sharing questions[34]. Negotiating time and financial compensation for training is hence important. The OECD's revised Skills Strategy[35] and the Getting Skills Right[36] report outlines seven areas of action for trade unions and employers in training governance and provision. They need support from policy-makers as partners in training governance, members of Skills / Sector Councils, training providers and as representatives of apprentices and adult workers who seek quality training to enhance their competencies and employability.

Accounting for corporate wealth creation

22. There is urgency to address the heavy concentration of wealth created by firms that benefit from globalisation and digitalisation and the very unbalanced distribution of risks and opportunities, including for workers and in global supply chains. On responsible business conduct and tax accountability, the overarching principle should be fairly simple: MNEs should be treated for what they truly are, single entities. Authorities should not fall in the trap of perceiving aggregated yet artificially separate units as separate economic activities. But far more should be done to align competition rules in light of the digitalisation process.

Reviewing competition rules

23. Competition rules need a fix if we are to effectively address corporate concentration. A first challenge is to adapt the notions of 'market concentration' and 'dominant positon' to new economic realities. MNEs should be treated for what they truly are, single entities and authorities should not fall in the trap of perceiving aggregated yet artificially separate units as separate economic entities. Importantly, competition laws are one-dimensionally focussed on consumer prices and do not sufficiently account for long-term social welfare and the distribution of rents and profits[37].

24. Beyond competition-enforcement issues, a better understanding of the drivers of industry concentration is crucial to adjust policy responses to new challenges. The OECD is uniquely placed to develop such analysis, having regard in particular to market power obtained by legal means. A fresh look at the complex relations between trade and industrial policies is warranted. Today, little is done to understand the ways in which trade agreements may contribute to wealth capture by a limited number of firms, mostly situated in developed countries.

Asserting business responsibility in global trade and investment

25. The leadership role that the OECD has acquired on Responsible Business Conduct owes much to the relentless efforts by trade unions to make good use of the OECD Guidelines for MNEs and hold National Contact

Points to account. The 2018 Due Diligence Standard is another milestone in that direction[38]. More work remains to be done to ensure the effectiveness of these instruments. The proposition for the OECD to develop a model clause for investment and trade treaties should also be actively pursued.

26. In parallel, OECD-hosted business-responsibility initiatives are being launched with the Trust in Business network[39] and 'Business for Inclusive Growth'[40]. The Global Deal Initiative also offers new ways to engage in these topics across different groups. Going forward, mitigating risks of widespread disruptions will require due diligence and labour clauses as preconditions for trade and investment treaties[41], and FDI associated with amongst other the digital transition. Trade unions are in a position to verify positive MNE contributions that would effectively lead to "trust" in reported corporate outcomes.[42]

The corporate governance and tax challenge

27. The vitality of OECD initiatives on business responsibility and integrity contrasts with the low-key discussion on corporate governance. The revision of the OECD/G20 Principles on corporate governance in 2016 was a missed opportunity to depart at last, from blind faith in the short-termist shareholder-value model. A new round of revisions is needed to equip OECD members with an updated guidance that can foster long-term investment, business accountability and fair wealth-sharing. Particular attention should be paid to directors' duties and responsibilities in company groups, including due diligence – where the OECD is clearly in a unique position to deliver guidance - as well as promoting workers' participation in the decision-making of companies, which is a fundamental element of trust.

28. The effective average tax rate of digital businesses is within 8.5-10.1% in the EU, compared to 20.9-23.2% for "traditional" businesses[43]. The proposed OECD reforms on tax and the digital economy head in the right direction as far as the conceptual approach to taxation of MNEs is concerned. Here, the OECD proposes to depart from the failed arm's length principle in pricing intra-group transactions by introducing elements of unitary taxation in an increasingly digitalised economy. However, the foreseen changes fall short of what is required to achieve fair and sustainable taxation. Unitary taxation rules would apply to a tiny proportion of profits and would introduce unclear and untested concepts ("non-routine profits", "consumer-facing business") that may increase, not reduce, self-serving business arbitrage[44]. The separate proposal to introduce a *de facto* minimum tax rate is promising to effectively reduce tax competition and the ongoing race to the bottom in combination with more unitary taxation – to bear results, it must be global.

Building trust in collective action

29. Ensuring meaningful consultations and collective negotiations with representatives of civil-society institutions are prerequisites for successful reforms. Regrettably, past labour-market reforms have weakened the very same institutions that guarantee representative stakeholder engagement and social dialogue. Trust in collective action also requires a meaningful indicator to help measure progress, growth and well-being. The on-going digitalisation process also calls upon a change in policy to ensure public control and oversight. Finally, and now more than ever, the OECD must stand firm on the universality of pluralism and democracy *vis-à-vis* both current members and accession countries.

Stakeholder dialogue that has substance

30. Despite a positive change in rhetoric on collective bargaining, the OECD often remains closely aligned with a narrowly defined agenda – a business-competitiveness agenda coupled with competition and trade liberalisation seen as an end in itself – leaving a residual role for social dialogue. The 2019 Going for Growth report calls to "accelerate" the pace of reforms[45]. Reforms however need to be owned, discussed and negotiated with democratically elected representatives of society and the workforce. An accelerating pace should not come at the cost of stakeholder-ownership[46]. They require meaningful consultations and negotiations with social partners, which in turn require strong labour-market institutions. Arm-twisting labour-market reforms weaken and dismantle labour-market institutions and

collective bargaining, which in turn leaves government with fewer options for stakeholder engagement and institutional dialogue. Recent OECD recommendations and the OECD-ILO supported Global Deal Initiative can help promote social dialogue and collective bargaining as the most effective tools to help labour markets adapt in a secure and inclusive way, as well as ensuring that productivity gains are more broadly shared.

Better measuring growth and well-being

31. "If we measure the wrong thing, we will do the wrong thing. If we don't measure something, it becomes neglected, as if the problem didn't exist"[47]. Policy-makers require credible data- and measurement-frameworks to be able to devise tailored and long-term oriented policies. It is now commonly accepted that the Gross Domestic Product indicator (GDP) does not capture a sufficiently detailed picture of growth, living conditions, underlying inequalities, and distributional policy effects. Alternatives exist such as the UNDP's Human Development Index[48]. The importance to go beyond GDP shows in post-crisis outcomes with household disposable-income lagging behind GDP growth in an overwhelming majority of OECD countries[49].

32. The OECD has developed its own **Framework for measuring well-being and progress, recognising that** GDP is ill-suited to measure "inequality in income and wealth [which] has today a central role in policy discussions in ways it did not in 2009"[50]. Yet, in practice, the OECD recommendations still benchmark the state of the economy against GDP, nothing more. New avenues would include (i) moving away from only measuring capital flows, (ii) not solely focusing on ex-post income inequality but also ex-ante inequalities of opportunities and (iii) taking into account the aspects of economic vulnerability and trust.

Public oversight over digitalisation process

33. The OECD is well placed to provide guidance on artificial intelligence (AI) and on blockchain technology. The G20-supported OECD Recommendation on AI adopted this year calls for a "fair transition" for workers and responsible use of AI at work[51]. The upcoming work of the AI Observatory and informal expert group should start to provide policy guidance and should profit from multi-stakeholder inputs, including organised labour on organisational change, skills needs, transitions, RBC and industrial policy. It will also be important to ensure multilateral coherence between several initiatives including at the EU and G7 levels. Similarly, the OECD's work on access and sharing of data, and data portability, is important. If transparency and privacy standards are set by business groups, workers are in a weaker bargaining position and lack ownership. Proprietary data held by a few companies and / or by those in control of technical processes result in a race to the bottom when it comes to standards over proprietary data, including citizens' and public-interest, as well as the diffusion and design of AI. In the meantime, blockchain offers opportunities that should be explored further, including "smart" contracts that can deliver better wage or working-time security, better social and environmental traceability of global supply chains. However, –the governance and the need to maintain public oversight are crucial for all of these processes.

Upholding democracy and rule of law

34. OECD membership rests upon two fundamental requirements: (i) democratic societies committed to the rule of law and protection of human rights; and (ii) open, transparent and free-market economies. Democratic principles are challenged by the rise of xenophobic movements and of authoritarian governments. Last year, the TUAC concluded that, if basic indicators on human rights and the rule of law would apply to the OECD 2017 *Framework for Consideration of Prospective Members*, a number of potential accession countries and current Members would perform poorly[52]. The International Trade Union Confederation's annual list of the "*world's ten worst countries for workers*" shows that much remain to be done for OECD and accession countries[53]. Now more than ever the OECD must stand firm on the universality of pluralism and democracy, for both current Members and accession countries.

35. If Colombia becomes an OECD member, the agreed post-accession monitoring framework must be fully implemented, including with respect to the integrity and effectiveness of the judiciary, labour standards and

enforcement, constructive social dialogue and the right to collective bargaining (including elimination of "collective pacts").

Questions for the Liaison Committee:

Round 1: Ensuring Fair Labour Market Outcomes - Building Trust in Collective Action

In light of rising inequalities, should we focus on fair labour-market outcomes before safety nets and redistributions kick in? If so, how?

How do we transform OECD affirmative "words" on the value added through collective bargaining into "actions" ? In this regard, is the weakening of labour market institutions an impediment to effective political economy of reform?

Should the OECD embrace the concept of Just Transition and the need to adapt it to the digital transformation?

In addressing the massive skills challenges, who should pay and who should be in the driver's seat?

Should the OECD stand firm on the universality of democracy and human rights and be vocal about it? (incl. for its current and future members)

Round 2: Accounting for corporate wealth creation - Building trust in new technologies

Are competition laws fit for purpose in the context of increasing corporate concentration and the rise of Big Tech companies?

Should the OECD develop a model social clause for investment and trade treaties based on the OECD Guidelines on MNEs & the Due Diligence standard?

Are National Contact Points fulfilling their job?

Should the prevalence of a short-termist shareholder-value model finally be addressed by the OECD?

Should the review of corporate tax rules aim to "increase the pie" (ie. address undertaxation) or review how "the pie is divided" (re-allocation of taxing rights) ? Or both?

How can emerging principles on AI, data and potentially on the blockchain be aligned with future-of-work and inclusive-growth objectives, as well as with concerns over data ownership and market concentration?

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