

TUAC Discussion Paper for the Liaison Committee Meeting with the OECD

The OECD and the response to the crisis

Paris, 16 December 2020

The OECD's Ministerial Council Meeting (MCM) gathered virtually on 28-29 October. For the first time in three years, OECD members agreed on a joint statement recognising the importance of working in cooperation with social partners for the recovery. As many countries are now facing a second wave of the Covid-19 pandemic and the deepest economic and employment crisis since the Second World War, the OECD Statement is as a sign of collective responsibility and solidarity. It is also a sign that the OECD is indeed more than the sum of its 200 expert committees and gives hope for an integrated approach to the current challenges.

The OECD and Member Governments must now demonstrate their will to live up to their own commitments and develop policies in line with the MCM Statement. For the purpose of informing the discussions of the Liaison Committee Meeting of the TUAC on 16 December, this paper lays out the trade union views on the OECD response to the crisis, including the MCM Statement, and on the upcoming challenges for the OECD in 2021, including its new Vision Statement.

Table of contents

Round I. The OECD Response to the Crisis	2
Round I. The OECD Response to the Crisis	2
Inbox: Moving beyond GDP?	3
Strengthening labour market institutions	3
Strengthening labour market institutions Support to the economy Quality public services A new agenda on trade and investment	4
Quality public services	5
A new agenda on trade and investment	5
The regulatory challenge of digital transformation	6
Inbox: The OECD evidence on non-standard forms of work	6
Responsible Business Conduct and Corporate tax accountability	7
Responsibility vis à vis the developing world	8
Round II: The Future of the OECD	8
Remaining true to its values, including rule of law and democracy	9
Remaining true to its values, including rule of law and democracyEnsure policy coherence across the Organisation	9
Consolidate the recent "acquis" on inclusive labour markets	10
Inbox: Key recommendations of the OECD Jobs Strategy 2018	10
Ouestions for the Liaison Committee:	11
Round I. The OECD Response to the Crisis	11
Round II: The Future of the OECD	11

Round I. The OECD Response to the Crisis

Many of the challenges we face today are not new. Before the crisis, many OECD economies were already facing difficulties with a combination of slow economic and employment growth, widening inequalities in outcomes and access to opportunities, and serious climate and environmental emergencies. We cannot just "recover", we must commit to restructuring towards a model of growth that is once and for all inclusive, green and resilient.

Changing our model of growth

COVID-19 is hitting a feeble global economy that never really recovered from 2008, as seen in excessive corporate and household debt levels, low productivity, stagnating wages and rising inequalities. Last year, the OECD provided a picture of stagnating growth and wages, at their lowest since 2008, despite consistently low unemploymentⁱⁱⁱ. The same is true for real disposable income: inequalities in wealth and income that built up before the 2008 crisis have not been reducedⁱⁱⁱ. The OECD's policy recommendations were then to maintain monetary and fiscal support and to invest in infrastructure, especially digital, transport and green energy, people's skills, and "more generally implementing policies that favour equal opportunities" iv. They however did not sufficiently recognise the impact of subdued aggregate demand on economic growth, due to compressed household income and low wages. Obviously, the COVID-19 crisis buried all previous prospects for a normal economic scenario.

The global financial crisis of 2008 was more than a hiccup in a prolonged economic growth trajectory. It marked the breaking point of the neo-liberal economic regime that characterised OECD economies since the 1970s, with the opening of global capital markets, the progressive dismantling of the welfare state and, by opposition, greater flexibility on labour markets. Despite multilateral efforts, the imbalance remains between, on the one hand, the internationalisation of capital, goods and services and, on the other, labour market, environmental policy and taxation systems that most often operate within national settings. This systemic instability leads to a race that is synonymous with over-production (relative to the existing purchasing capacity and low wages), high private debt and speculative excess (residential property, tech bubbles, etc.). It is propelled by unstable and vague notions of global "competitiveness", rigged by financialisation, fragmented tax and investment systems and, not least, threatened by digitalisation and climate change.

Following the 2008 crisis, the OECD hosted a very welcome round of discussion on New Approaches to Economic Challenges, with – precisely – the intent to change or update the OECD's thinking on growth models. The NAEC project was informative, but its findings were not mainstreamed throughout the committees' work. The beliefs around supply-side structural reforms leading to individualisation of risks in the economy combining with further trade and investment liberalisation need to be challenged. For trade unions, the fundamental question remains around the unresolved imbalance between capital and labour incomes, between profits and wages and the need to elevate fiscal policy to ensure public investment and expenditure can effectively support growth and inflation rates – a target that monetary policy alone has proved unable to achieve in the permanent context of austerity and subdued economic activity.

Inbox: Moving beyond GDP?

The Gross Domestic Product (GDP) is a valuable economic indicator, though insufficient by itself. GDP does not capture important dimensions, such as living conditions, inequalities and distributional effects. As the OECD put it, "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". The MCM Statement confirms the need for another measurement agenda: "we invite the Secretariat to continue efforts, on the basis of Committee reviews, to develop an indicator dashboard that could potentially include both traditional economic factors such as GDP and employment, as well as environmental and social dimensions related to sustainability, inclusion and well-being, in line with the Sustainable Development Goals".

There have been several attempts by the OECD in the past to measure progress in well-being and reduction in inequalities. 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" vi. In 2018, the OECD in fact adopted an Inclusive Growth Framework which *already* contained a "dashboard" of indicators on inclusive growth vii.

The new MCM initiative for a dashboard of indicators is welcome. Lessons need to be learned from previous OECD initiatives. The dashboard of indicators needs to be relevant: supporting indeed the monitoring of the SDGs, but also helping track resilience of labour markets (through labour market institutions) and income inequalities. And it needs to be owned and mainstreamed within the OECD: it is clearly essential that, to be successful, such a dashboard must be owned by all relevant committees and directorates, including the ECO Dept and its EDRC.

Strengthening labour market institutions

Much of the "recovery" in employment levels over the past decade spurred from the degradation of labour rights (and ensuing labour market "flexibility") and the compression of wages. And these policies came with malevolent intent. Compared to the 2008 crisis, labour market institutions – collective bargaining and minimum wages – have lower coverage and are less protective, leaving gaps for many workers facing the crisis today. Job quality and adequate remuneration have been falling due to the weakening of employment protection and collective bargaining, leading to increasingly insecure labour markets with limited job security and the rise of non-standard forms of work. Many workers who were at the frontline of the pandemic are now praised by policy-makers for being "essential workers" for the economy. Looking at their paygrade, their pension and health entitlements, the global share of wealth and profits in the economy clearly does not reflect how "essential" they are.

Lessons need to be learned. The Jobs Strategy revision of 2018 centres around three overarching objectives (more quality jobs, less labour market exclusion and risks for individuals, and preparation for the future of work). While it does leave space for interpretation, the Strategy is explicitly clear on job quality. It confirms the positive role of labour market institutions: coordinated collective bargaining and minimum wages.

"Promoting a jobs-rich recovery, we will emphasise education and effective active labour market policies, including reskilling and upskilling of workers towards new and

sustainable activities in big firms and SMEs. We welcome the OECD updating its Youth Action Plan and continuing with the implementation of the OECD Jobs Strategy. We will make every effort to protect our workers with adequate social protection and to promote a recovery that does not leave the most vulnerable behind. We recognise the importance of working in cooperation with social partners in the recovery". "We will empower women as key drivers of our economic recovery by striving to remove the legal, regulatory, and cultural barriers to their full economic participation." (OECD MCM 2020)

Moving ahead, the OECD must tackle labour market segmentation and inequalities exante with the goals of achieving fair labour market outcomes and quality jobs. Building on the Jobs Strategy, the OECD and Members should commit to (i) strengthening labour market institutions, (ii) closing regulatory gaps allowing for precarious non-standard work and lowered job security, (iii) Streamlining the gender dimension (precarity, unpaid work, work-life balance) and (iv) Devising pathways into adult learning and training, and towards safeguarding learning and vocational education and training opportunities for young people.

Support to the economy

Most OECD countries reacted swiftly to deliver unprecedented public support to household income that has dampened the blow of the current crisis. This support came in the form of short-term work schemes, job retention schemes and supplementary unemployment benefits that underpinned a moderate consumption revival and economic activity in OECD countries.

It is currently unclear whether this support will be sufficient to bridge second and possibly third pandemic waves through the time when long-term structural recovery plans kick in, with job opportunities. This is not the time to repeat the mistakes of 2008-2010 by falling back into the austerity trap. To avoid a collapse of economic activities and permanent job losses, governments must provide massive, sustained support for the economy, including fiscal packages and support for wages and businesses. This is needed now more than ever as poverty is spreading fast across societies.

"Continued sustainable fiscal and monetary stimuli will be needed in the near term to underpin critical economic activity. (...) Ensuring debt sustainability should be taken into account at all times, but beginning fiscal consolidation too early could jeopardise the recovery". (...) "As we redesign our policies and implement our recovery plans, we acknowledge the determination of those signatories to the Paris Agreement who confirmed in Buenos Aires/Osaka, [...] to fully implement it". (OECD MCM 2020)

Support for businesses should go hand in hand with Just Transition policies towards low-carbon economies. The MCM pledge to implement the Paris Agreement, is timely and appropriate. It should also go hand in hand with progressivity in tax reforms by rebalancing tax revenues between wealth income and consumption taxation, and by recommencing a discussion on innovative forms, including the financial transaction tax.

However, as TUAC exposed recently, there should be strings attached to the massive tax and debt deferrals, state loan guarantees and equity support to businesses^{viii}. In return

for the much needed support from government, businesses should be required to (i) protect jobs and fair wages and work-site representation of workers and ensure restructuring are framed by collective agreements and adequate compensation for workers, (ii) meet strict corporate governance and tax standards, including a ban on the use of tax havens and suspension of dividend payments, (iii) comply with not only OECD Responsible Business Conduct instruments (including the Guidelines for Multinational Enterprises), but also the Common Approaches for Environmental and Social Due Diligence in export credits). Public accountability and transparency over government support measures are also essential. When public money is left in private hands, a lot of complications and conflicts of interests can happen. Parliamentary oversight of the implementation of support measures is warranted.

Quality public services

The austerity measures of the past decade have proven to be the principle cause for the public sector and public services being under pressure. The figures are there to provide the evidence – austerity measures have been choking public services little by little across OECD economies, and hence eroding people's right to fair and equal access to quality public services, thus failing to ensure an adequate level of preparation before the COVID-19 crisis. The OECD should move away from the "doing more with less" mantra and "government agility" and come to terms with the reality of under-funded public services. "Agility" in practice often becomes fragility. It is regrettable that Member Governments failed to use the opportunity of the MCM to change the narrative and show the political will to invest in a resilient public sector with quality public services and to recognise that social dialogue is a central condition for ensuring respectful treatment of public sector employees – including their fundamental right to collective bargaining, and living conditions for public employees with access to adequate resources.

A new agenda on trade and investment

Contrary to intended objectives of spreading market risks and promoting economic diversification, decades of trade liberalisation resulted in an unprecedented concentration of market power in a few hands, and promoted a system of unfair competition with a regulatory race to the bottom, on social, environmental and tax matters.

"Free, fair and predictable trade and investment are important elements of the recovery for many OECD Members. (...) We will redouble our efforts to bring greater transparency and discipline to market-distorting support measures in [steel and other industry sectors]. Regarding the supply of essential goods, we recognise the need to strengthen governments' capacity in planning and addressing possible shortages and the resilience of global value chains". (OECD MCM 2020)

What is missing, however, is a clear commitment to safeguard labour and environmental standards and fundamental rights but also to address the linkage between trade and competition. Corporate concentration comes at a heavy cost for income distribution and workers' bargaining power. The relationship between trade and competition needs rethinking, in particular industry concentration leads to "winner-takes-all" outcomes. In the same way, the relationship of tax competition and investment needs a thorough reassessment, not least in the context of the ongoing negotiations on tax and digitalisation^{ix}.

The labour movement stands for a new trade and investment agenda that shifts away from the old model of the late 1990s and the preferential treatment of foreign investors. This agenda would establish effective policy coherence with human rights and labour, environmental and integrity standards, while preserving the right to regulate, to implement proactive industrial policy and secure access to strategic assets and services and to defend against unfair competition.

The OECD has the potential to open the way for a progressive agenda, combining expertise on trade, investment, responsible business conduct, employment, competition and tax. The OECD has the instruments to shape such an agenda and, as part of recovery measures, should deepen the work on resilience and responsible business conduct in global value chains and in trade and investment agreement systems.

The regulatory challenge of digital transformation

As the current crisis shows, digitalisation has allowed many workers and businesses to continue operations despite strict lockdown measures. However, digitalisation does not come without substantial downside risks. For a first, it has contributed to greater inequality. Not all workers and businesses can shift to teleworking or take advantage of digital tools. That is particularly true for the most vulnerable in society, the low-paid workers. They also concern valid data privacy and protection, surveillance, data control and localisation. And they concern the uncontrolled and un-regulated rise in platform businesses.

"We commit to working together to harness the transformative potential of the digital economy by data free flow with trust and to address its challenges, including data protection and privacy, digital security, disinformation and the digital divides". (OECD MCM 2020)

TUAC welcomes the continuation of the OECD *Going Digital* project on data governance and the project on AI productivity, jobs and skills. Many regulatory gaps and imbalances remain however. This is obviously the case regarding the rise of non-standard forms of work and the risks for misclassification (see inbox). But it is also in the area of data privacy and portability, the digital divide (between households, between regions, between countries) and competition (excessive market concentration). Beyond regulatory gaps, governments need also to work with social partners, need to design just transition frameworks for workers, to expand social-protection systems, to secure quality jobs and training, to ensure the same rights for all forms of work, and to co-design and steer the use of digital systems.

Inbox: The OECD evidence on non-standard forms of work

A more decisive and straightforward approach is needed to address non-standard forms of work (not the creation of third categories as seen with the ballot vote on Proposition 22 in California, US). OECD positions of the last few years provided an overall balanced approach to the many underlying problems these workers are faced with. In its most recent account of 'distributional risks associated with non-standard work', the OECD estimates "around 40% of employment on average across OECD European countries" belonging to this group^{xi}. In the past, the Organisation recognised their lack of job security and access to social protection^{xii}, as well as their lower job quality^{xiii}.

Platform workers and many dependent self-employed find themselves in so-called grey zones. This puts workers at similar risks as genuinely self-employed workers, all while not being in control over working conditions and payments. The OECD Jobs Strategy (2018) calls on governments to "revisit each major labour law and policy individually (even those which, at first, seem more difficult to extend to non-standard workers) and carefully assess how it might be tailored to broaden coverage, where appropriate" xiv. The OECD further acknowledges misclassification and labour monopsony issues and recommends to clarify the workers' status, as well as expand the access to collective bargaining under competition law xv.

Building on these considerations, both the OECD's analysis and a collective OECD members' response are needed on the following:

Classify workers better and limit the grey zone by streamlining legal definitions and thresholds based on data on gross hourly income of non-standard workers, their working hours and working conditions (and the parameters of control governing it).

Review access parameters to social protection, short-time working schemes and training.

Address competition-law barriers to collective bargaining, irrespective of the workers' status, and pave the way to unrestricted worker representation and engagement.

Assess the way certain businesses operate against existing taxation, competition, data privacy and protection, and responsible business conduct frameworks.

Responsible Business Conduct and Corporate tax accountability

Mitigating risks of COVID-19 at company-level and in global supply chains requires credible due diligence. Credible mitigation strategies having trade union endorsements will be essential for governments to ensure MNEs are meeting their responsibilities. National Contact Points (NCPs) of the OECD Guidelines for MNEs should be empowered to demand proof that MNEs have credible systems in place to resolve issues raised in complaints. To that end, TUAC has proposed a policy tool when resolving specific instance complaints, one that can address deteriorating trust in trade union relations with the NCPs and the OECD Guidelines at large^{xvi}. Beyond the functioning of the NCPs, the OECD should also endorse regulatory and strategic frameworks for mandatory due diligence including verified outcomes.

Corporate governance also needs to adjust in order to counter short-termism and provide an enabling framework for sustainable recovery. The G20/OECD Principles on corporate governance should be reviewed to introduce more stakeholder-friendly understanding of a company's interests, and should pave the way for the active involvement of workers' representatives. The OECD should issue appropriate recommendations to ensure that company directors fully integrate due diligence and responsible business conduct into their corporate strategy.

The 2015 Agreement on Base Erosion and Profit Shifting helped improve international cooperation on corporate taxation. However, far more needs to be done in order to curb under-taxation of businesses, particularly digitalised businesses, to stop the tax race to

the bottom and to ensure fair taxation for all, including for developing countries. In this regard, the TUAC regrets the long delays in adopting a solution on the tax challenges, which is now postponed to mid- 2021^{xvii} .

"We remain committed to reach a solution on the tax challenges of the digitalisation of the economy, to overcome remaining differences and reach a global and consensus-based solution by mid-2021". (OECD MCM 2020)

In 2021 the OECD should aim to achieve a robust and wide reaching agreement on the immediate introduction of a global minimum tax rate within the 20-25% ("pillar 2" of the negotiations) and achieve strong deliverables on the taxation of digitalised businesses and "consumer-facing" businesses ("Pillar 1").

Responsibility vis à vis the developing world

The severity of the global crisis prompted by the COVID-19 pandemic calls for a strong and urgent response. In this regard, OECD Governments have a responsibility to support developing countries and avoid increasing poverty.

"We recognise the importance of international cooperation with developing countries including through official development assistance and further actions that may be needed to mitigate the impact of the pandemic". (OECD MCM 2020)

Yet, the MCM Statement misses clear commitments on increasing aid budgets and reinforcing crucial areas to build recovery and resilience from the COVID-19 crisis, such as social protection and decent work creation. Moving forward, Member Governments should step up Official Development Assistance, support a strong debt relief and suspension programme and the creation of a Global Social Protection Fund and work with non-OECD members, including China, to that endxviii. They should also ensure private sector investments in development cooperation are in line with development effectiveness principles and responsible business conduct standards.

Round II: The Future of the OECD

The OECD was created in 1961 both as an institutional follow-up to the post-World War II Marshall Plan and for the reconstruction of the European economies. Rebuilding our economies based on regulated markets, democracy and human rights is in the DNA of the Organisation. Through the TUAC, the labour movement has been a privileged observer of the OECD -- and a critical observer. For trade unions, much of the OECD's past concerns have been about unleashing market forces, product, labour and capital markets, with a single exclusive focus: boosting GDP growth at all cost, whomever would benefit from it. The trickle down effect, we were told, would do the rest.

Ten years ago, when the OECD reached "50", it engaged a strategy shift, at least in the narrative: better polities not for GDP growth, but "better policies for better lives". The Vision Statement adopted at the time states that the OECD's "essential mission is to promote stronger, cleaner, fairer economic growth and to raise employment and living standards". As we celebrate the 60th anniversary, it is a moment for questioning and reflecting on the Future of the OECD. The shift that was initiated at the OECD ten years ago must continue.

Remaining true to its values, including rule of law and democracy

There should be no compromise on democracy and the rule of law. The "end of history" view according to which democracy would naturally and inevitably triumph with economic development is clearly not reality. Authoritarian government policies, including more restriction on freedom of expression, have worryingly become common practices, including among the founding members of the OECD.

Not only should the OECD be vocal on the fundamental principles of the rule of law (independence of the judiciary from the executive branch, democratic parliamentary processes, including human rights and labour rights as defined by the ILO), it should also ensure effective mechanisms for member states to be held to account for OECD norms and values.

The fundamental conditions for membership have been addressed several times in the past. It is about a "readiness" and a "commitment" to adhere to essentially 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. This two-pillar approach can be found in several Ministerial declarations:

- Following the fall of the Berlin Wall, the OECD MCM asserted in 1990 "the basic values which are common to the OECD countries: pluralistic democracy, respect for human rights, and a competitive market economy".
- In 2004, a "Strategy for Enlargement and Outreach" (a.k.a the Noburu reportxix) sets out four criteria: like-mindedness (shared values), significant player (contributes to the advancement of the Organisation), mutual benefit (membership is mutually advantageous) and global considerations (regional balance of membership);
- In 2007, the OECD's mission was defined as "promoting peace, stability, prosperity and democratic values through sound economic policies and good governance" and the Ministerial "invited the Organisation to remain true to its founding vision and high standards".
- In 2011, for its 50th anniversary, "OECD Members form a community of nations committed to the values of democracy based on the rule of law and human rights, and adherence to open and transparent market economy principles". The "vision statement", as it is called, further specifies that the "Organisation's essential mission is to promote stronger, cleaner, fairer economic growth and to raise employment and living standards. We rely on it to do so by identifying key economic, social and environmental policy challenges and designing policies to improve the well-being of people around the world"xx.

Ensure policy coherence across the Organisation

The OECD is more than a big library or a catalogue of experts. The value of the OECD is more than the sum of its committees and working groups and lies in its capacity to address policy challenges horizontally from diverse fields of expertise. It also lies in its

convening power with national governments, regional organisations and institutional stakeholders and in its capacity to inform other international processes (G20, G7).

Horizontal projects (*Going Digital*, and thematic Centres such as on Skills, on Responsible Business Conduct or on Green Growth) can help strengthen coherence. This is not to say that such efforts should be duplicated endlessly. All of these structures have to be purposeful and aim for coherence between committee work-streams, have to remain accountable to OECD members and have to involve stakeholders – including TUAC and Business at OECD. Too many ad-hoc and informal groups on the other hand end up creating a lack of transparency and duplicated efforts.

The OECD should have a consistent policy for engaging with stakeholders, one that builds on, and does not substitute for the two official advisory bodies, the TUAC and the BIAC, and that has the flexibility needed at Committee level. The TUAC has consultation arrangements with over 60 OECD bodies and has access to all the committees that matter for the labour movement, with the notable exception of the Economic Development Review Committee and the Committee on Fiscal Affairs. As an overarching principle, there should be balanced representation of all relevant stakeholders, and there should not be preferential treatment for business leaders and business groups' access to the OECD – the OECD is and remains an intergovernmental forum.

Consolidate the recent "acquis" on inclusive labour markets

In the past 10 years, the OECD has embarked on a trajectory towards a more balanced approach on economic and employment market thinking. It delivered seminal work on income inequalities and inequalities of opportunities (on gender, migrants and vulnerable groups). It revised its Jobs Strategy in 2018 and acknowledged the positive role of sectorial collective bargaining and minimum wages in reducing inequalities. It also recognised the role of trade unions and of social dialogue to enhance productivity, workers' well-being and skills – all with a view to the future of work and technological change.

This is an acquis that needs to guide future OECD work in close cooperation with the ILO as the authoritative international organisation on labour and employment matters. It needs to be mainstreamed across the entire organisation. In particular the OECD should take the implementation of the OECD Jobs Strategy seriously and mandate the EDRC and the ELSAC to work jointly toward systematic use of the Strategy for the purpose of assessing labour market performance.

Inbox: Key recommendations of the OECD Jobs Strategy 2018

<u>Promoting the coverage of collective bargaining systems</u> through social partner organisations with a broad membership base to help achieving a broader share of productivity gains. The strategy recognises the benefits of <u>sector-level bargaining</u>. (Chapter 8, pp. 146-147, p. 300)

Applying sufficiently flexible fiscal policy rules in times of a downturn by allowing for <u>anti-cyclical monetary and fiscal policy responses</u>. Outside of a crisis context, fiscal sustainability is defined as one of the pillars of a sound macro-economic policy framework. (Key policy principles, Chapter 4.3, Chapter 13.2)

Achieving <u>balance in employment flexibility</u> and <u>job stability</u>. A certain degree of job protection is seen as improving the stability of the job relationship, thus fostering learning and innovation, and a better labour market allocation thanks to advance notifications and schemes supporting workers in transitions. (Key policy principles, Chapter 4.1, 4.3 (p. 80), pp. 127-128).

Establishing short-time work schemes that can be rapidly scaled up in a downturn is encouraged and is now proven quintessential. (Key policy principles, p. 85, Chapter 6 A.4, Chapter 13.2)

Considering using <u>minimum wages as a tool to increase wages at the bottom</u> of the wage ladder. (Chapter 4.1, Chapter 6 A6, Chapter 8.1)

Revisiting labour law and policies to <u>cover non-standard workers better</u>, <u>while restoring job quality and workers' rights</u> and more competition, while balancing innovation, entrepreneurship and flexibility goals. (Chapter 12)

Questions for the Liaison Committee:

Round I. The OECD Response to the Crisis

- What can we learn from the 2008-9 recovery set-backs? And is there a need to change our model of growth? What does "build back better" mean?
- Beyond better access to training, how can labour market institutions support a "jobs-rich" recovery and transitions? And should governments stand firm on strict conditions attached to support measures to businesses?
- Do "agile" governments risk becoming fragile governments? And is there a problem of funding of quality public services?
- Is trade and investment liberalisation an end in itself?
- Can regulatory gaps created by digital transformation including on employment, tax, competition be closed or do governments prefer soft law approaches? Do we need more international cooperation on data governance?
- How can we repair trust in the functioning of the OECD Guidelines for Multinational Enterprises and the National Contact Points?

Round II: The Future of the OECD

- What can be done better with current membership and future accession processes to safeguard OECD core values including rule of law and democracy?
- Is there enough policy coherence across the OECD?
- Are social partners sufficiently involved in all OECD bodies and initiatives? Would
 it be beneficial to invite TUAC (and Business at OECD) to selected Council
 sessions?
- How can the OECD consolidate the recent "acquis" on inclusive labour markets in future work?

https://doi.org/10.1787/9b89401b-en

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