



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

Executive Summary	1
Introduction	2
Systemic issues for the membership negotiations	3
Applicant country specific issues of immediate concern to TUAC	4
Chile	4
Estonia	5
Israel	5
Russian Federation	6
Slovenia	6
Enhanced engagement countries	6
China	7
Interface with the Heiligendamm Process	8

OECD ENLARGEMENT OF MEMBERSHIP AND ENHANCED ENGAGEMENT WITH NON MEMBERS

TUAC POSITION PAPER

MAI 2008

Executive Summary

In TUAC's view the decision to enter into a new period of membership expansion is the correct one. §1

Enlargement has to increase OECD effectiveness and not undermine it. This requires monitoring the "like-mindedness" of its members in particular the respect for "basic values of pluralistic democracy, respect for human rights and a competitive market economy". §3

Applying the common values, together with the "acquis" must be a condition for membership of the Organisation and must be a central element of the enhanced engagement with selected non-member. §4

An important element of human rights is the respect of fundamental workers' rights as defined in the 1998 ILO Declaration on Fundamental Principles and Rights at Work and the associated ILO Conventions. §5

Applicant countries should be required to commit to the respect for the Fundamental Human Rights Conventions of the ILO as part of their OECD membership. §7

The OECD Employment, Labour and Social Affairs Committee of the OECD should be mandated to conduct an examination of the applicant countries' observance of core labour standards as part of the "acquis" of the accession process in cooperation with the ILO. §8

The five applicant countries have ratified all eight ILO Human Rights Conventions. However, some specific labour issues of concern in applicant countries are set out in this TUAC note. §10 §21

Applicant countries should commit to implementing the OECD Guidelines for Multinational Enterprises and establishing effective National Contact Points. §9

Countries should commit to establishing capacity to consult with stakeholders on the enforcement of the OECD Anti-Bribery Convention. §9

Countries should recognise stakeholders' rights in corporate governance as outlined in the OECD Principles of Corporate Governance and the Guidelines on State-Owned Assets. §9

Countries should commit to OECD Guidelines for the Protection of Members of Pension Funds. §9

With the exception of Indonesia and South Africa, the five "enhanced engagement" countries have yet to ratify all eight ILO Human Rights Conventions. §22

TUAC wishes to ensure that workers in the enhanced engagement countries have a voice in the process and that fundamental workers' rights and social issues are part of the engagement. §24

In particular the enhanced engagement strategy with the People's Republic of China should include major elements of work dealing with the social dimension of China's development and how to bring labour standards into line with internationally recognised standards. §25

OECD activities in China to promote the OECD Guidelines on Multinational Enterprises and in particular the planned seminar are particularly important. §27

TUAC will be seeking to ensure that the G8 Heiligendamm Process for which the OECD is providing the platform, ensures the effective involvement and voice of trade unions. §34

A Labour/Management Programme meeting should be held to bring trade unions from the countries concerned into the process. §34

The ILO and OECD should develop a memorandum of understanding as a framework for future cooperation. §8 §32

Introduction

1 The 2007 OECD Ministerial Council invited five countries: Chile, Estonia, Israel, Russia and Slovenia to open negotiations to become full OECD members and decided to strengthen cooperation with Brazil, China, India, Indonesia and South Africa through enhanced engagement programmes with a view to possible membership. This note by the TUAC Secretariat sets out initial issues of concern to TUAC that should be raised in the enlargement and enhanced engagement processes.

2 In our opinion the decision to enter into a new period of membership expansion is the correct one. The emerging economies are responsible for a rapidly increasing share of world economic output. The world labour force has more than doubled over the past fifteen years and the bulk of this lies outside OECD countries. For the OECD to be a focal point for managing the challenges and shaping globalisation, particularly social and labour issues, there needs to be expanded membership and engagement. Moreover, the "North" and "South" are no longer homogenous groups of countries with separate interests. TUAC is part of the network of Global Unions which together represent some 180 million workers across the globe. Trade Union statements drawn up by TUAC for the OECD Ministerial meetings and G8 summits also represent the views of workers organisations at the global level. These workers often have the same employers either directly through multinational enterprises or indirectly through global supply chains. The global economy requires engagement of "major players" to produce a more equitable and sustainable globalisation.

3 However, enlargement has to increase OECD effectiveness and not undermine it. The strengths of the OECD include its ability to conduct evidence-based policy analysis, encourage change through peer group pressures and develop soft law and on occasion binding regulation, as well as its convening ability for dialogue with

businesses, labour and civil society. These depend upon the “like-mindedness” of its countries. This was already stated in 1990 when the OECD Ministerial Council communiqué set out “the basic values which are common to the OECD countries: pluralistic democracy, respect for human rights, and a competitive market economy”. The 1992 Ministerial Council restated these basic principles as the common ground of “like-minded” member countries. The relevance of like-mindedness was restated in the Noboru report¹ in 2004. Ministers again referred to them in 2007 when they defined the Organisation’s mission as “promoting peace, stability, prosperity and democratic values through sound economic policies and good governance” and “invited the Organisation to remain true to its founding vision and high standards”.

Systemic issues for the membership negotiations

4 Applying the common values, together with the “acquis” must be a condition for membership of the Organisation and must be a central element of the enhanced engagement with selected non-members.

5 An important element of human rights of particular concern to TUAC is the respect of fundamental workers’ rights. These are defined in the 1998 ILO Declaration on Fundamental Principles and Rights at Work. The Declaration covers four fundamental rights:

- Freedom of association and collective bargaining;
- Elimination of forced and compulsory labour;
- Elimination of discrimination in respect of employment and occupation; and,
- Abolition of child labour.

These are codified in eight ILO Conventions:-

- CONVENTION 29 Forced Labour (1930)
- CONVENTION 87 Freedom of Association and Protection of the Right to Organise (1948)
- CONVENTION 98 Right to Organise and Collective Bargaining (1949)
- CONVENTION 100 Equal Remuneration for Work of Equal Value (1951)
- CONVENTION 105 Abolition of Forced Labour (1957)
- CONVENTION 111 Discrimination in Employment and Occupation (1958)
- CONVENTION 138 Minimum Age for Employment (1973)
- CONVENTION 182 Worst Forms of Child Labour (1999).

6 In addition to being part of the core values of the OECD countries’ respect for these rights is a requirement for TUAC’s relationship with the OECD to be able to function. For TUAC, to have a constructive dialogue with OECD and be representative of workers’ interests, these workers must be free to organise and bargain collectively and have all their fundamental rights respected. This was shown during the membership negotiations of the Republic of Korea in 1996 and in the subsequent special monitoring process conducted by ELSAC. Above and beyond being a gateway condition for membership, respect for core workers’ rights is also a requirement for market economies to function properly. Where workers have the right to join and form unions and bargain, there is less low pay, more secure work, more workers’ training, less corruption. Above all, these are more just societies. All European OECD Members have ratified all eight core Conventions, and most of them are ratified by others. In some countries, the

“For TUAC, to have a constructive dialogue with the OECD and be representative of workers’ interests, these workers must be free to organise and bargain collectively

1 A Strategy for enlargement and outreach : report by the chair of the heads of delegation working group, May 2004

problems arising out of inadequate respect for, and non-ratification of, Convention N 87 are well known.

7 TUAC would therefore propose that the applicant countries be required to commit to the respect for the Fundamental Human Rights Conventions of the ILO as part of their membership. The Table annexed to this note shows that the five current applicants have ratified all eight conventions and therefore this should not pose major difficulties for the countries concerned. Moreover Chile, Estonia, Israel and Slovenia have already adopted the OECD MNE Guidelines of which respect for fundamental rights are a component part.

8 There remain, however, issues concerning enforcement and capacity building. ELSAC should therefore be mandated to make an examination of the applicant countries' observance of core labour standards as part of the "acquis" of the accession process in cooperation with the ILO. A Memorandum of Understanding between the OECD and the ILO as called for in TUAC's statement to the 2007 OECD Council meeting at Ministerial level could serve as a basis for this. Some of the specific labour issues of concern in applicant countries are set out in the country specific comments later in this note.

9 TUAC is also ready to follow closely the examination of applicant countries by a number of Committees examining the Acquis. Priorities would include:

- *The Investment Committee*, where the commitment to core principles in this area should include capacity to implement the OECD Guidelines for Multinational Enterprises and establish effective National Contact Points;
- *The Working Group on Bribery in International Business Transactions*, where commitments should include capacity to consult with stakeholders on the enforcement of the OECD Anti-Bribery Convention;
- *The Steering Group on Corporate Governance*, where it should include the recognition of stakeholders' rights in corporate governance, whether established by law or through mutual agreements, as outlined in the stakeholder chapters of the OECD Principles of Corporate Governance, and the OECD Guidelines on corporate governance of state-owned enterprises;
- *The Insurance and Private Pensions Committee*, where it should include commitment to the OECD Guidelines for the Protection of Rights of Members and Beneficiaries in Occupational Pension Plans and to the OECD Recommendation on Core Principles of Occupational Pension Regulation.

We would propose that each of the above committees and groups be asked to consult with TUAC on these issues at the earliest opportunity.

Applicant country specific issues of immediate concern to TUAC

10 The following notes are far from comprehensive but sketch out some of the most important aspects of labour rights, union and other issues that may arise in the membership discussions from the side of TUAC affiliates. Information on labour rights is that supplied in the International Trade Union Confederation's (ITUC) Annual Survey of Violations of Trade Union Rights and the ILO's standards supervisory mechanism.

Chile

11 Chile has ratified all eight core ILO Conventions. However, the ITUC notes that there is insufficient protection against anti-union discrimination. The right to strike and the right to collective bargaining are excluded in particular for public

“The five OECD applicant countries have ratified all ILO core Conventions. This is not the case with the enhanced engagement countries.”

sector workers. More generally, the highly decentralised collective bargaining system has shown it difficult to counter the growth in inequality. Concerns at inequality spilled over into nationwide protests organised by trade unions in August 2007. The protesters called for social security, decent wages and respect for collective bargaining rights. In some cases the demonstrators were repressed violently with over 260 arrests.

12 TUAC took part in a mission to Chile in October 2006 and met with the board of the major labour confederation, the CUT, as well as holding a number of seminars on the OECD MNEs Guidelines, both in Santiago and in Chiloé. We are cooperating with the Chilean unions and NGOs such as Oxfam to use the Guidelines to improve the working conditions and sustainability of employment in the Salmon farming industry – the second largest sector for Chilean exports. The Chilean National Contact Point has been one of the more active of the signatories to the OECD Investment Declaration. A number of cases have been dealt with effectively since 2000. TUAC participated in the OECD anti-bribery Conference in Santiago in 2006 and articles were subsequently written on this in the union press.

13 Many other aspects of OECD work are highly relevant to Chilean workers notably reform of the social security system. To engage effectively however will require resources in order to provide more materials in Spanish, the capacity to organise workshops in Chile and the resources to facilitate participation of Chilean trade union representatives in OECD and TUAC meetings. This will require capacity building.

Estonia

14 Estonia has ratified all eight core ILO Conventions and the trade union law adopted in 2000 guarantees the right to organise and the right to bargain collectively. In 2006, the ILO assisted Estonia on its legislation regarding workers' representation so it would meet international standards. The ITUC and the Confederation of Estonian Trade Unions (EAKL) however report that harassment and intimidation of union members is rife in the private sector and not effectively challenged by labour inspectorates. There is also no right to strike in the public sector despite a government commitment to bring this about.

15 In conjunction with our Nordic affiliates, TUAC has run seminars and workshops in Tallinn on the OECD MNEs Guidelines and Estonian trade unionists have taken part in seminars held elsewhere. It would seem however that for Estonian trade unions to effectively participate in OECD discussions will require capacity building and resources.

Israel

16 Israel has ratified all eight ILO core Conventions. Israeli workers are free to join and establish trade unions and have the right to organise and bargain collectively. A law specifically prohibits anti-union discrimination. The Israeli National Trade Union Centre, HISTADRUT, has traditionally been a strong and active union both nationally and internationally. Following Israel's adoption of the Investment Declaration, TUAC has had discussions with HISTADRUT on the application of the OECD MNEs Guidelines and activities are planned.

17 However, the issue of the occupied territories spills over into questions concerning the rights and treatment of Palestinian workers. The ITUC notes that Palestinian workers in Israel face serious daily problems and that at times the authorities have prevented the General Secretary of the Palestinian General Federation of Trade Unions (PGFTU) from carrying out trade union activities. The resolution of these issues will require broader progress to end violence and establish a just and lasting peace between Israel and Palestine.

Russian Federation

18 The Russian Federation has ratified all eight core ILO Conventions. Workers have the right to form and join trade unions. However, the ITUC notes that there are legal restrictions on the structure of unions and that Labour Code amendments have restricted collective bargaining rights and risk undermining the representative role of unions. The ITUC also notes cases of independent trade union leaders and members facing harassment and intimidation. There are particular concerns in the case of journalists' trade unions and their safety.

19 TUAC has very active relations with the Russian trade union centres and in particular with the largest trade union centre, the FNPR, which has a "partnership" status within TUAC and with whom we cooperated closely on G8 issues since the enlargement of the G7 and particular in preparing the trade union leaders' meeting with President Putin in 2006 and Moscow G8 Labour Ministers' meeting. We have cooperated in a number of specific workshops with the FNPR who translated the TUAC User's Guide on the MNEs Guidelines into Russian already in 2002.

20 In view of the general questions about the role of civil society in Russia and at times risks of centralisation of power and nationalism it is important that membership negotiations help strengthen effective democratic and representative trade unions also at a decentralised level. TUAC plans to work with Russian unions and in particular the FNPR to this end. Exploratory discussions have taken place under the auspices of LEED on a capacity building programme of seminars with the Russian unions in LUKOIL and other parts of the energy sector. This would include the International Federation of Chemical Energy, Mine and General Workers' Unions (ICEM). The investment area remains a critical one where activities around and application of the OECD MNEs Guidelines need to be stepped up.

Slovenia

21 Slovenia has ratified all eight ILO core Conventions. The law allows workers to form and join unions of their choice without previous authorisation or excessive requirements and workers do so in practice. The law also provides for the right to bargain collectively and it is freely practiced. ILO reports have commented that in Slovenia the social partnership system has been an important factor in confronting difficult economic situations and the social impact of economic transition. TUAC to-date has not had direct working relations with the Slovenian trade unions. The Central Confederation are members of our partner organisations, the European trade Union Confederation (ETUC). It will be necessary to organise occasions for briefing and information in the process of membership negotiations.

Enhanced engagement countries

22 As is shown in the Annexed Table whereas the five OECD applicant countries have ratified all ILO core Conventions this is not the case with the enhanced engagement countries, with the exception of Indonesia and South Africa. In particular Brazil, China and India have for different reasons not ratified Convention 87 on Freedom of Association.

23 TUAC has constructive working relations with trade union centres in Brazil and South Africa and has organised or taken part in several seminars on the MNEs Guidelines in these countries. We organised with the OECD a major Labour/Management Programme Meeting on NEPAD in 2002 in which the South African unions played an active role. We have also organised seminars on the Guidelines in Indonesia and held a briefing meeting on the OECD with the six Indian national trade union centres in New Delhi.

24 TUAC is ready to work with our partners and with the OECD to ensure that workers have a voice in discussions over enhanced engagement. We also look forward

to discussing with the OECD how enhanced engagement will differ from past country programme. As indicated in the issues of membership the respect of fundamental workers rights and social issues more generally have to be part of this engagement.

China

25 However, the most potentially significant area of work will be the development of the OECD's enhanced engagement with China. TUAC's view is that the OECD's enhanced engagement strategy with the People's Republic of China should include major elements of work dealing with the social dimension of China's development and in particular how to bring labour standards into line with internationally recognised standards.

26 Externally China is seen to be undercutting internationally recognised core labour standards – this is leading to increasing trade tension and pressure to close markets to Chinese exports. China is the most significant emerging economy where workers' rights to organise independently are denied and hence collective bargaining cannot function as a mechanism for bringing real wages into line with productivity growth. Given the central role of foreign investment in China, where 60% of Chinese exports are from non-Chinese firms from foreign owned plants or supply chains in China, the labour standards issue has become a central public concern against the backdrop of increased outsourcing of production from OECD countries. Parallel to this, the growth of Chinese outward investment, particularly in Africa has raised serious concerns about its linkage to foreign aid and non-respect of a range of international standards.

27 As part of enhanced engagement the OECD Trade and ELSA Committees should update their 1996 and 2000 reports on trade and labour standards to take into account the impact of China's greatly increased role in world trade. The OECD Guidelines on Multinational Enterprises can help ensure that FDI contributes to a more sustainable development improving labour conditions along the supply chain within China as well as outside. TUAC has produced a User's Guide to the OECD Guidelines – available in Mandarin and is ready to take an active part in the OECD Investment Committee project on CSR in China. We remain deeply concerned that the multi-stakeholder workshop planned for 5-6 December 2007 in Beijing has been postponed by the Chinese Ministry of Commerce (MOFCOM). This follows the cancellation at short notice of a similar event under the OECD Labour/Management Programme in December 2004. We issued a joint statement with BIAC in December 2006 that called on OECD members to give priority to this work. The OECD must identify the causes of the further postponement and take the necessary steps to ensure that it takes place early in 2008.

28 Encouraging respect for international labour standards, including freedom of association, is also essential for reasons of domestic development. The 11th Five Year Plan stated that the priority is to shift to more balanced and qualitative growth that is sustainable both socially and environmentally. It argued that there is a need to encourage balanced regional development both in terms of rural employment and in restructuring and diversifying mono-industrial regions. This is also essential for reducing pressures of internal migration and the growth of informal and unprotected employment.

29 OECD countries' own history shows the economic dangers of a "no-rules" labour market – excessive hours, low pay, low productivity, low quality production, industrial accidents, no security or confidence in handling technological change. Social costs and risks to political stability are obvious. In China, particularly with the growth of the private sector, state authorities need to strengthen their capacity to introduce and enforce adequate labour market regulation to protect workers against the excesses of the market system and to manage change in a socially sustainable way. Without this the growth of disputes (group actions) – 87,000 in 2005 will only increase further.

TUAC has produced a User's Guide to the OECD Guidelines - available in Mandarin and is ready to take an active part in the OECD Investment Committee project on CSR in China.

TABLE **Ratifications of the Fundamental Human Rights Conventions of the ILO (Year of ratification)**

	Freedom of association and collective bargaining		Elimination of forced and compulsory labour		Elimination of discrimination in respect of employment and occupation		Abolition of child labour	
	Conv. 87	Conv. 98	Conv. 29	Conv. 105	Conv. 100	Conv. 111	Conv. 138	Conv. 182
OECD applicant countries								
Chile	1999	1999	1933	1999	1971	1971	1999	2000
Estonia	1994	1994	1996	1996	1996	2005	2007	2001
Israel	1957	1957	1955	1958	1965	1959	1979	2005
Russian Federation	1956	1956	1956	1998	1956	1961	1979	2003
Slovenia	1992	1992	1992	1997	1992	1992	1992	2001
Enhanced engagement countries								
Brazil	NR	1952	1957	1965	1957	1965	2001	2000
China	NR	NR	NR	NR	1990	2006	1999	2002
India	NR	NR	1954	2000	1958	1960	NR	NR
Indonesia	1998	1957	1950	1999	1958	1999	1999	2000
South Africa	1996	1996	1997	1997	2000	1997	2000	2000

Source: ILO database; NR: not ratified

CONVENTION 29: Forced Labour (1930); CONVENTION 87: Freedom of Association and Protection of the Right to Organise (1948); CONVENTION 98: Right to Organise and Collective Bargaining (1949); CONVENTION 100: Equal Remuneration for Work of Equal Value (1951); CONVENTION 105: Abolition of Forced Labour (1957); CONVENTION 111: Discrimination in Employment and Occupation (1958); CONVENTION 138: Minimum Age for Employment (1973); CONVENTION 182: Worst Forms of Child Labour Convention (1999).

³⁰ The adoption of the Labour Contract Law on 29th June 2007, by the Standing Committee of the National People Congress which will come into effect on 1st January 2008 produces a new situation as this is China's first national law specifically governing labour contracts. However the key issue is enforcement of both existing and new labour legislation. This can't be managed from the "top down" – it needs vibrant civil society and strong and effective workers' representation and unions based on ILO standards of freedom of association.

³¹ Worker's "voice" through genuine workers' representation and trade unions at the plant and company level also has economic value. OECD work has shown that firms with unions are more likely to innovate, more likely to train, more likely to have higher productivity. Effective social safety nets that cover all workers are essential in managing industrial restructuring – and the danger of informal and unprotected work growing due to lack of unemployment benefits and social protection cover. The ELSAC-Chinese Ministry of Labour and Social Security (MOLSS) seminar on Rural-Urban Labour Migration in October 2006 now needs to be followed up with an active work programme.

³² Again this also shows the need to develop a Work Programme jointly with the ILO – and the need for a Memorandum of Understanding between the ILO and OECD as called for in TUAC's statement to the 2007 OECD Council Meeting at Ministerial Level.

Interface with the Heiligendamm Process

³³ As a new form of a topic-driven High Level Dialogue, the G8 agreed the *Heiligendamm Process* to provide a Forum for more substantive dialogue between major emerging and developing countries and the G8 leading to regular meetings between ministers from the 13 countries with various portfolios. During the initial period of the dialogue a particular focus will be on four issues:

- Promoting and protecting innovation,
- Enhancing freedom of investment through an open investment environment including strengthening corporate social responsibility principles,
- Defining common responsibilities for development with special regard to Africa,
- Sharing knowledge for improving energy efficiency and technology cooperation with the aim to contribute to reducing CO₂-emissions.

³⁴ The OECD has been asked to provide a platform for the proposed new dialogue process, assisted by the IEA as the relevant organisation in the field of energy efficiency. We understand that the process is starting September 2007 with the aim to submit a first interim report to the G8 Summit in Japan in 2008 and to provide a final report on the outcomes of the Dialogue Process at the G8 Summit in Italy in 2009. The above issue are all ones of keen concern to unions. TUAC will be seeking to ensure that the Heiligendamm process will ensure the effective involvement and voice of trade unions. We would propose the holding of a Labour Management Programme meeting to initiate this early in the Process.