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

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Paris, 18 September 2012

Mr. Ángel Gurría
Secretary-General
O E C D
2, rue André-Pascal
75775 Paris cedex 16

Dear Secretary-General Gurría:

OECD Recommendations on Labor Market Reform

I am writing to express my concern at recent statements attributed to you or the OECD on labor market reforms in individual countries that appear to be inconsistent with OECD findings. These come at a time of acute social tension when many proposed reforms are seen as weakening trade unions and exacerbating inequality, and yet are unlikely to have significant positive impacts on employment or socially sustainable growth.

A most recent case in point is Mexico. You were cited by *Reuters* on 12 September in an article "*OECD pushes Mexico's Peña Nieto to back labor bill.*" I was surprised to see these comments because in this year's "*Going for Growth,*" the priorities for reforms identified for Mexico were educational achievement, increased competition in network industries, reduced barriers to foreign ownership, improved rule of law, reform of PEMEX and tax reform; labor law reform was not referenced.

I and my union colleagues in Mexico have specific concerns with the proposed legislation. We fear that, if enacted, the legislation would weaken unions in three key ways: by creating additional impediments to the exercise of the right to strike; by perpetuating the system of employer-dominated "protection contracts" which has been denounced by the ITUC as a violation of ILO Conventions 87 and 98; and by interfering with union autonomy, thereby increasing the risk of infringing on freedom of association. A number of recent cases concerning Mexico under the OECD Guidelines on Multinational Enterprises are in these areas.

Moreover, we are concerned that the proposed reforms weaken or eliminate many basic worker protections that are essential for a decent work agenda. Subcontracting would be legalized without creating a regulatory mechanism to ensure that companies that subcontract work are held responsible for conditions in their production chains – a responsibility that is emphasized by the OECD Guidelines for MNEs. Further, according to the proposed reform, workers could be hired without job security on six-month probationary or training contracts or hired by the hour. The

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range of causes for termination of employment is expanded, and the requirement of written notice of cause for discharge is eliminated. Back pay in cases of illegal termination is capped at 12 months, despite evidence that employers often delay back pay cases for years to pressure employees to accept less than their legal entitlement.

On a more general point, you have been reported as saying at the Employment Policy Conference on 6 September in Brussels that there was massive evidence that minimum wages, if set too high, would destroy jobs. Minimum wages do need to be well set, but we would argue that minimum wages are a critical part of a policy to reduce inequality and avoid falling living standards especially in the current crisis and in several countries are too low at the moment. The restated OECD Jobs Study summarized what it called the "ambiguous evidence concerning the impact of minimum wages on employment." It went on to argue that "the fact that a considerable number of studies have concluded that the adverse impact of minimum wages on employment is modest or non-existent, also suggests that there may be scope to use minimum wages as one part of employment-centered social policy, intended to mitigate poverty while fostering high employment rates" (OECD Employment Outlook 2006, page 86).

Our concerns about the reforms advocated in Mexico are also substantiated by the OECD report "*Divided We Stand: Why Inequality Keeps Rising*" that we were pleased to launch in the U.S. at a conference at the AFL-CIO last December. As you certainly will remember, the report revealed that "regulatory reform," aiming at more flexible and competitive labor markets significantly increased wage inequality, in particular through a weakened role of protective labor market institutions.

These examples demonstrate that the impact of labor market institutions on economic outcomes is complex and that there is not a consensus among academic experts on many aspects of the role of these institutions. There is much evidence in OECD studies and ILO research to show that stronger labor market institutions can not only reduce inequalities; they have also proven to mitigate adverse employment and social effects of "economic shocks" as well as to facilitate a job-rich recovery. Even studies that have argued that specific reforms may have positive long-term employment impact, often predict that "reforms" will result in a temporary rise in unemployment, creating high social costs. That applies in particular to labor market reforms undertaken in conditions of weak labor demand, which can actually damage the long-run potential of economic output.

We are always ready to discuss labor market issues and are strongly committed to social dialogue and collective bargaining to ensure that wages, conditions and other labor market issues are appropriate to each country's economy. However, I am concerned that the OECD may be seen in the public eye as always promoting labor market "reforms" by governments in power irrespective of what the evidence may suggest regarding their economic and social impact.

I would welcome a deeper discussion with you on these issues as we feel that strengthening labor market institutions needs to form an important part of the work under the project of New Approaches to Economic Challenges that TUAC is strongly supporting.

Sincerely,

Richard L. Trumka
President of TUAC