

# Union Brief

## G7 Digital Policy Priorities 2022

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## Introduction

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This brief is concerned with the digital policy priorities (item 5) in the German G7 programme (their text highlighted in yellow). The brief starts with a critical reading of the proposed policy priorities. It ends with recommendations to union responses that will fill the most important gaps, uncertainties and inconsistencies in the digital policy priorities.

## Critical Reading of the Digital Policy Priorities

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Under the heading **Advancing Digital Progress in an Inclusive Global Order** (p 11), the Presidency sets out its digital priorities. These includes:

“The promotion of the free flow of data with trust across borders, counter digital inequality, strengthen security on the internet, advocate good governance in cyberspace, facilitate fair competition and improve connectivity. In doing so, we also want to work to harness the potential of the digital transformation for a sustainable way of life and economy even more effectively while making digital progress itself more sustainable and inclusive”

They continue:

“Together with our G7 partners, we want to work towards an open, reliable and secure internet that does not restrict, but rather strengthens democratic principles and universal human rights. Furthermore, we want to develop a common understanding as the G7 with respect to the areas of the global digital order in which we must strengthen international cooperation with like-minded partners. In this context, we are, together with our G7 partners, seeking to achieve stronger international coordination with respect to setting standards and norms that are embedded in an open, democratic and rules-based order.”

The above reads as declarations of intent that at first glance are hard to disagree with. They say, though, very little about *what* the Presidency concretely means by these intentions, nor about *how* the Presidency aims to fulfil them. However, there are two intentions that stand out. These are:

1. The promotion of the free flow of data with trust
2. Strong international coordination with respect to setting standards and norms that are embedded in an open, democratic and rules-based order.

The first is intrinsically linked to the policy priorities on page 6 with regards to a “rules-based free trade that takes into account fair social, environmental and human rights standards” and the interconnected support for a “reform of the World Trade Organization (WTO)”.

The second stands out in two ways. *Firstly*, it feeds into the ongoing digital regulation discussions in the EU and elsewhere which emphasise standards and certifications. *Secondly*, it repeats the demand for a “rules-based order” which is something that appears throughout the document in various forms: “rules-based free trade” (p 6 & 7), “multilateral rules-based order” (p 9 & 10), “global digital order” (p 11) “digital order” (p 3).



The following sections will look at this Digital (rules-based) Order, the free flow of data, and the push for standards and norms. More in depth discussions of each, including further reading sources, is provided in the annexes.

## 1. The Digital Order

The programme mentions the promotion of a digital order and digital progress (p. 3) but doesn't define what this Digital Order is, nor whether it actually exists or is in the making. On page 10, it is slightly expanded and is called “**an inclusive global digital order**”. Later on page 11:

“Furthermore, we want to develop a common understanding as the G7 with respect to the areas of the **global digital order** in which we must strengthen international cooperation with like-minded partners. In this context, we are, together with our G7 partners, **seeking to achieve stronger international coordination with respect to setting standards and norms that are embedded in an open, democratic and rules-based order,**”

On the basis of the above, we can somewhat deduce that the Digital Order *most likely* means:

International cooperation around digital standards and norms [meaning rules] that ensure an open internet [p 11] and democratic values [including human rights?]

This plausible definition of the Digital Order fits well into current political debates around digital technologies held inside the United Nations, the Global Partnership on AI ([GPAI](#)) as well as the OECD. Whilst all have adopted *principles* for the ethics of artificial intelligence, none of these principles are enforceable. Nor do they include mechanisms of accountability. In other words, unless civil society and trade unions hold the governments accountable to their signatures, these principles remain rather lukewarm. In the below we will discuss in more detail why.

### The Digital Order and Human Rights

One thing is for sure, this definition of a new Digital Order is very hands-off. It doesn't commit the governments of the G7 to anything but standards and norms that again mean little if not enacted. Nor do they truly commit to human rights but settle with a reference to a democratic rules-based order.

This is striking as Human Rights are actually mentioned six times throughout the paper in a. Multilateralism (p. 3), b. rules-based free trade rules (p. 6), c. Peace and security (p.10), d. Liberal democracy (p. 10), and e. Open internet (p. 11).

However, and interestingly, they are never directly mentioned in connection with the Digital Order this despite that on page 9 and 10 it is expressed that

With a preventive and transformative agenda in mind, we therefore want to work to protect and strengthen democratic institutions and human rights worldwide, in addition to promoting accountability for human rights violations.



The question is therefore whether this Digital Order and its standards and norms will truly protect human rights? Much hints to the fact that it won't (see [Section 3](#) below Why is this a problem? Digital technologies and the data collected is used to classify, compare, analyse, select workers. The data and algorithmic profiles (otherwise known as inferences) are used to put workers in particular categories. Who is productive, trustworthy, healthy? Who is not? What candidates should be called for an interview, who shouldn't? The result of the use of digital technologies in human resources is very much linked to our human rights and the fundamental freedoms and autonomy enshrined in these rights. If you don't even see a job announcement because you *a priori* have been deemed unsuitable for the job, your autonomy to create and seek your own career path has been removed. If you are discriminated against due to algorithmic profiling, you are no longer being treated as an equal to other humans. If certain messages or news feeds, job profiles or job invitations are only sent to people with such and such a profile, you are being subject to manipulation. The violation of our rights, freedoms and autonomy are embedded in digital technologies.

In the union responses below, we will redefine the Digital Order, so it truly puts the enforcement of Human Rights centre stage.

## 2. The free flow of data - digital trade

The very fact that the free flow of data is mentioned in the same sentence and on a par with issues such as digital inequality, good cyberspace governance and the improvement of connectivity is cause of concern (p 11).

The call for the 'free flow of data' mirrors digital trade demands some countries are advocating for in free trade agreements across the world as well as within a reformed World Trade Organisation (WTO). Given that the G7 countries are all part of the group that [initiated](#) these discussions, we can assume a strong degree of coherence.

### What is the Digital Trade agenda?

Whilst the policy programme (p.6) calls for free trade that takes in account fair social, environmental and human rights standards as the foundation for prosperity, the Presidency also states that they will....

“...work to strengthen multilateralism with a global trade policy and to tackle protectionism and unfair trade practices. To this end, we want to support the reform and further development of the World Trade Organization (WTO) [...]”

If there is a connection between the Presidency's Policy Priorities and the wider Digital Trade demands that want to mandate the WTO to begin digital trade negotiations, it is important to dwell a little on these demands to understand their impact on workers and also the human rights that the G7 Presidency otherwise stresses throughout the document.

The following, drawn from [James \(2020\)](#), lists the demands put forward by proponents (including the G7 countries) of new digital trade rules. Comments by James and myself are in brackets:

- That corporations have the right to transfer data across borders, and store such information wherever they want (including in data havens, where we can expect that data and privacy protections or other rules safeguarding the rights of workers and citizens are weak);



- That governments are banned from being able to require local/national storage of data, including just copies of said data (The ability to store data within national jurisdictions, especially [highly sensitive personal data](#), is otherwise a means through which to protect the integrity of workers and citizens and to ensure that foreign interests – corporate as public – cannot misuse the data);
- That governments are banned from being able to require corporations that are operating in their countries to have a local presence (Without which they cannot be taxed or held accountable to consumer claims of fraud or violations of workers' rights);
- That governments are banned from being able to require that corporations operating in their countries also benefit the local economy (For example by mandating the use of local technology, local workforce and/or the use of local goods and services);
- That governments are banned from being able to require disclosure of source codes and algorithms, even in cases in which it may be necessary for security reasons or to guard against discrimination (This implies that a private company can sell services or digital systems in a country without 1. Being legally present in that country, 2. Being obliged to disclose and/or remedy harms to workers and/or citizens);
- That governments are banned from being able to require technology transfer (Technology transfer is a requirement in many existing trade agreements that entails that the host country can benefit from the generation, transfer and diffusion of the best available technology in order to bridge the gap between the technology developed and owned by firms in developed countries and that which can be obtained and utilised by developing countries. Removing technology transfer obligations will deepen digital divides)
- That governments are banned from taxing digital trade (This implies a de facto defunding of the state and an increased tax burden on the worker as multinational corporations go free).

It is baffling that now 84 governments are prepared to diminish their regulatory rights and duties as they are. All of the above demands will significantly impact workers' and citizens' rights. They too will deepen digital divides.

Specifically with regards to the free flow of data, it is important to realise that the free flow of data does not mean the *free and equal access* to said data. Without regulatory requirements to ensure that data is regarded as a public good rather than a private asset, the free flow of data as such will lead to the further consolidation of power into the hands of Big Tech, the continued commodification of workers and violations of the autonomy, rights and freedoms enshrined in Human Rights law.

**Whilst this policy priority does not contradict the weak Digital Order it is at odds with the Presidency's wish to ensure that free trade takes into "account fair social, environmental and human rights standards"**

### 3. Standards and Norms

The third digital policy priority of interest has to do with establishing 'standards and norms' for digital systems.

Stronger international coordination with respect to setting standards and norms that are embedded in an open, democratic and rules-based order (page 11)



Whilst the policy priority quoted above is actually hard to understand, as it somehow separates rules from standards and norms, leaving the meaning of “rules” unclear, the call for standards reflects the push within GPAI as well as in the draft EU AI Act for the certification of AI systems.

Learning from the situation with certifications and standards in the EU, what could be problematic from a worker’s perspective?

- Certification/standard bodies include very few worker representatives/unions. ETUI The European Trade Union Institute is currently mandated and paid to be involved in European standards. However, in February 2022, the EU Commission proposed a new [Standardisation Strategy](#) that would push out the limited formal influence of European consumer, social/trade union, and environmental bodies in standards making leaving the decision-making power to national standardisation bodies, many of whom are heavily influenced by corporate interests.
- Standard bodies are private entities. Although the EU Commission acknowledges that standards are increasingly touching not on technical issues but on European fundamental rights, they maintain that it is the standard bodies alone who should form the criteria on which AI systems are evaluated. This has long been an elephant in the room: accused delegation of rulemaking by the EC to private entities.
- Standards-setting bodies have traditionally outright rejected integrating human rights impact assessment into their standards. We can assume the same goes for workers’ rights.
- The chosen criteria on which a system is certified will also define the parameters on which *re-certification* is required. In the EU AI Act it is directly stated that recertification will only be triggered if there is a “substantial modification” to the system. However, what constitutes “substantial modification” of an AI system is a hotly debated topic.
- Also in the EU AI Act, recertification is more or less pointless as in workplace contexts this is a “self-assessment” procedure with no enforcement mechanisms.
- This de facto means that if an AI system is proven to be harmful to certain groups of workers, there is no legal obligation to 1. Modify the system, 2. Re-certify that system, 3. Ensure legal compliance with for example Anti-Discrimination laws, and 4. Put mechanisms in place through which unions can take action to ensure harms are identified, rectified and AI systems changed.
- Lastly, the accountability of these standard bodies (i.e. who is involved, who introduced which text, the text of the standards themselves, what group there are) is either not publicly available, or not available in a structured format.

Whilst this policy priority does not explain what “an open and democratic order” actually entails, the very fact that the Presidency requires openness and democracy does address some of the problems with certification and standards bodies identified above.

Of all the critiques of standards and certifications one of the most important is that in the context of algorithmic technologies, they are actually fundamentally flawed. Certifying something that by nature is fluid, adaptive, sometimes self-learning and changeable as if it is a fixed object such as a car engine, is illogical and could even lead to greater human rights abuses and harms

Given the fluid nature of algorithmic systems, certifications or standards simply must include, or be supplemented by, inclusive multi-stakeholder governance procedures that ensure that incremental or radical changes to the systems are constantly monitored, assessed and harms



rectified. In lieu of the critique of standards and certification bodies above, an ultimate consequence of not including stringent governance demands, could well be that governance is forever precluded from what many governments bucket under the heading of AI regulation.

Therefore:

**Without substantiation, this policy priority does not sufficiently ensure democratic values (and human rights). Standards and certifications must as a minimum include inclusive governance mechanisms.**

### **In summary**

Whilst the section on advancing digital progress in an inclusive global order is full of good declarations of intent, very little is said about *how* these intentions can be realised. The two more concrete proposals offer little solace. As they are formulated and given what they allude to do, they both risk harming human rights and inclusivity rather than promoting them.



## Trade Union Responses

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Whilst the Presidency's policy priorities cover a vast number of digital policy issues, very little concerning the digitalisation of work and workers is directly mentioned. The following lists key topics that trade unions beneficially could be pushing to ensure that digital systems, understood as all technologies that are based on algorithms that are trained on, extract and/or generate data, at all times respect human autonomy, rights and freedoms. We end this section defining on the basis of the below a rights-based digital order.

### 1. Standards and Norms

Across the world, politicians are reluctant to regulate digital systems so they truly protect human rights, freedoms and autonomy.

Whilst standards and certifications in principle could be a way forward, additional demands must be made. As such, all standards and certifications must:

- Be balanced in their membership, including trade union representatives and other civil society organisations with no group more strongly represented than others
- Be transparent and accountable to the public
- Include mandatory human rights and workers rights assessments
- Include enforcement mechanisms
- Include models/templates for the inclusive, periodic and ongoing **governance** of AI systems. This includes that AI systems deployed for workforce management must include the representative voice of the workers in said governance ([see point 2](#) below).

### 2. The Co-Governance of Algorithmic (Digital) Systems - a guide

Across the world, workers are subject to a range of harms caused by digital systems and models. These include:

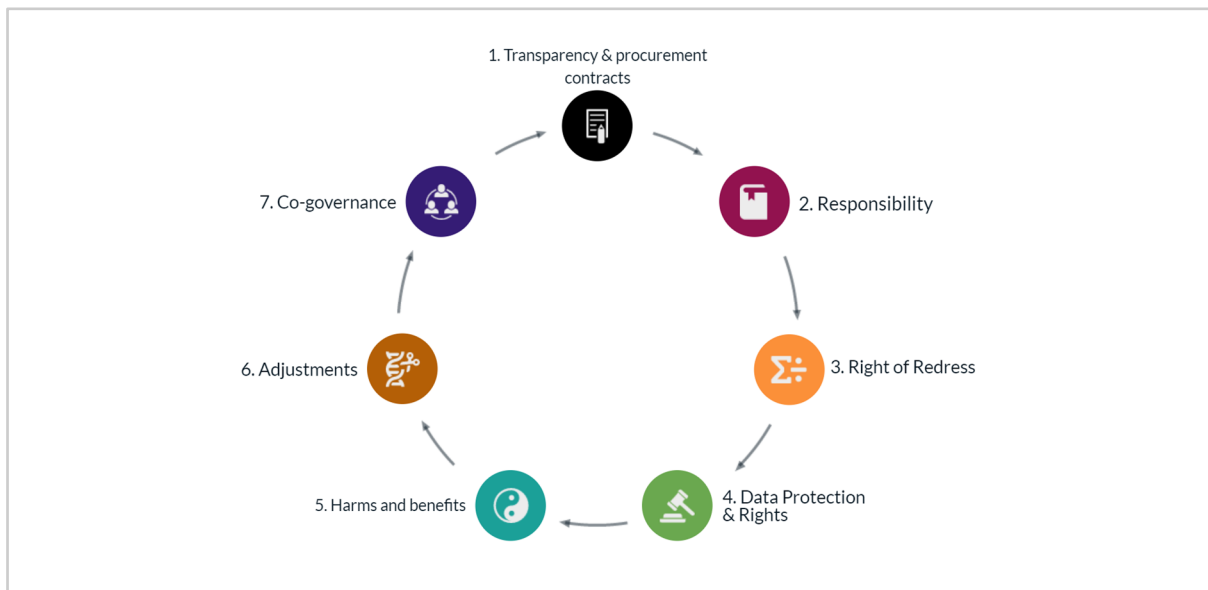
- Work intensification - increased working time and pace of work
- Discrimination/bias in who gets an opportunity, who is denied
- Mental health, physical health pressures
- Deskilling and job loss - contingent work forms on the rise
- Lower wages, economic insecurity, less mobility
- Suppression of organising
- Loss of autonomy and dignity
- Loss of privacy

Many of these harms are a direct result of the design of the algorithmic (digital) systems, but just as importantly by the lack of governance over the systems' performance. Ensuring workers' rights and human rights requires that multiple voices are party to the governance of these systems.

In workplaces, the push for the co-governance of algorithmic (digital) systems that includes the workers and that clearly stipulates managements' responsibilities and obligations as well as the workers' rights must therefore come from the unions.



To support unions in their unravelling of algorithmic (digital) systems, the [Co-Governance of Algorithmic Systems Guide designed exclusively for workers](#), lists 19 questions bucketed into 7 distinct themes. The themes are:



These 7 themes are key for ensuring that management is held responsible, liable and in control of procured or in-house designed digital systems.

### Why these themes?

Whereas these themes and questions in no way are exhaustive, and demand some practice, not least in relation to how to react to managers' responses, they are the most important questions to be asked. Here's why.

### Transparency and Procurement Contracts

- To address the fact that many workers/shop stewards express that they do not know what algorithmic systems are in their workplaces, these first questions are key to ensuring transparency.
- Many of these systems are third party systems that the deploying organisation either licenses or buys the rights to use. Depending on the contract between developer/vendor and deployer, the rights to adjust the algorithm(s) can vary. Also, it is pertinent for workers to know who (developer/vendor and/or deployer) has access and control over the data extracted.

### Responsibility

- It is clear that the introduction of algorithmic systems in workplaces is influencing managerial responsibilities. Many shop stewards report that it is unclear who they should turn to for answers and responses. Is it the local/central human resources department, or the IT department? Who is doing the impact assessments and governing the effects of the technologies. Workers have a right to know.



### **Right of redress**

- Given the real and potential impacts of algorithmic systems on workers, workers must have the right to challenge actions and decisions based solely or partially on these systems.
- In line with Data Lifecycle at Work, workers should as a minimum have certain rights to know what data is collected, for what reasons and what happens to the data post extraction. However, workers must also have the right to co-determine and edit these data.

### **Harms and Benefits**

- These questions relate very much to probing management for what assessments or audits they have conducted on these algorithmic systems. What remedies management have in place if unintentional or intentional harms are identified?

### **Adjustments**

- This theme relates to theme 1 on transparency and procurement. It asks what rights management and workers have to amend the algorithms if harms or other adversarial impacts have been identified. This is pertinent in the cases where the deploying public service is using 3rd party systems.

### **Co-governance**

- The last theme builds on the others by asking what mechanisms can be put in place so workers and management can co-govern algorithmic systems. Given that the managerial lines of responsibility can be far-removed from the affected workers, it is pertinent that those who have the closest contact to workers are party to the governance of these systems.
- This theme also addresses the question of whether management and workers have the necessary skills and knowledge to successfully co-govern algorithmic systems. There is a dangerous assumption in many governance models that management actually understands the potential impacts of the algorithmic systems they are deploying. Additional training for workers and managers will be needed.

These 7 themes and 19 top level questions can be used to inspire collective bargaining and/or national law on the co-governance of algorithmic systems. They thus offer guidance on how standards and certifications can be modelled to protect and enforce workers' rights, freedoms and autonomy.

## **3. Workers Data Rights - a Guide**

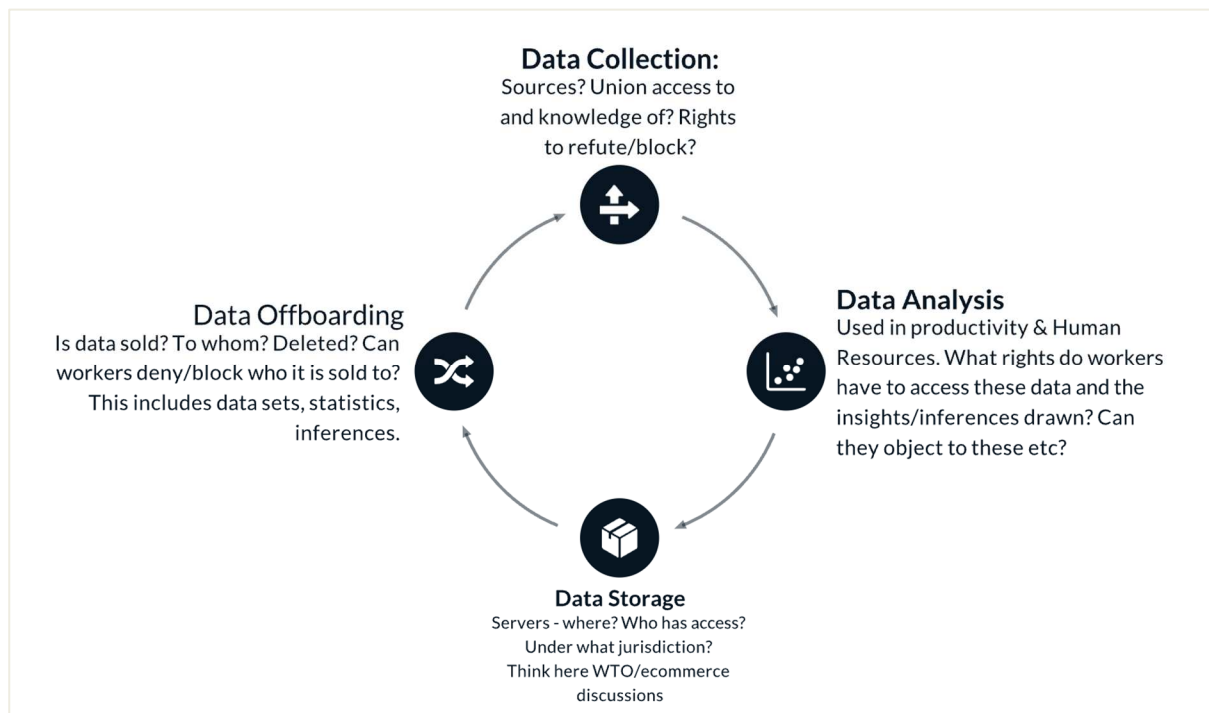
Exacerbated by the COVID19 pandemic, and the extensive growth in worker monitoring and surveillance software tools, the shift towards data-driven workplaces is occurring at great speed. However, workers' rights to control the data used by management and collected on them are poorly defined in data protection regulations across the world. This includes workers inside the General Data Protection Regulation, although these workers' do have stronger rights than any other worker in the world.

[The Data Lifecycle at Work](#) is a guide aimed at supporting unions in their political advocacy and collective bargaining on workers' data rights. It includes relevant GDPR articles that unions should be using inside the GDPR zone and that workers outside could be inspired by.



The data lifecycle consists of four phases of data handling in workplaces: from data collection, to analysis, to storage and onwards to data offboarding.

Establishing strong data rights is key to prevent the commodification of workers that is the



direct consequence of turning workers' actions and non-actions into endless data points.

#### 4. The Free Flow of Data - Digital Trade

As stated in the above there is an urgent need to substantiate the discussions over whether data should be allowed to flow freely across the world. Workers' hard won data rights that are aimed at protecting them against the commodification of work and workers would be threatened by the unfettered flow of data. The extraction of data and the resulting profiling of citizens and workers are a fundamental attack on our rights, freedoms and autonomy.

Therefore unions could beneficially push back on this demand by:

- Making the point that the free flow of data does not equal the free and equal access to data.
- Asking what additional regulatory requirements are needed to ensure that data is regarded as a public good rather than a private asset?
- Underlining that regarding data as a commodity that can be bought and sold rather than viewing data in a human rights perspective is leading to an attack on workers' and citizens rights, freedoms and autonomy - otherwise protected in Human Rights laws.

#### 5. A Rights-Based Digital Order

Given our critique of the Policy Priorities and the above necessary union responses, we can now define what the Digital Order *should* be about.



We have determined that workers' rights and human rights are violated by ungoverned digital technologies. We established that standards and certifications that do not include stringent demands to inclusive and ongoing governance mechanisms are fundamentally flawed and will not ensure that rights are respected. We have noted that workers' data rights are poorly defined in many countries and regions and that without these rights, workers are being turned into tradeable commodities – against the 1919 Treaty of Versailles and the 1944 Declaration of Philadelphia which both established that labour is not a commodity.

The Digital Order should take all of the above into account. It could, even should, read:

The Digital Order is an international binding commitment to enforcing workers' and citizens' fundamental rights, freedoms and autonomy through the inclusive and ongoing governance of digital technologies within and across national boundaries.

### **Union Responses in Summary**

These 5 union initiatives are important as work becomes increasingly digitalised. The current digital trajectory is commodifying workers through data extraction, analysis and trade and is subjecting them to the unfettered harms of algorithmic management systems. As a result, the balance of power is tipping into the hands of tech system vendors and developers at the expense of workers' rights, fundamental freedoms and autonomy.

The Presidency's digital policy priorities fail to address this. By tabling the 5 issues above, unions will be laying the foundation for a new digital ethos that is characterised by governance, dialogue and responsibility where human rights and fundamental freedoms are safeguarded.



## Annex 1: Further Reading

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### Digitalisation and Human Rights

1. <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25158&LangID=E>
2. <https://www.un.org/techenvoy/content/digital-human-rights#:~:text=Human%20rights%20apply%20online%20just.harassment%2C%20are%20of%20particular%20concern>
3. <https://www.cam.ac.uk/cammagazine/humanrightsinadigitalage>
4. <https://www.humanrights.dk/technology>
5. <https://www.hrw.org/news/2014/12/23/human-rights-digital-age>
6. <https://www.coe.int/en/web/artificial-intelligence/home>
7. <https://en.unesco.org/artificial-intelligence/ethics>

### Digital trade – rules and demands

1. <http://www.world-psi.org/en/psi-special-report-really-good-friends-transnational-corporations-agreement>
2. <https://cepr.net/wp-content/uploads/2020/07/digital-trade-2020-07.pdf>
3. Government proposals can be found on the WTO website [here](#) by entering INF/ECOM\* in the ‘Document symbol’ field. Recent proposals by Australia; Canada; Chile, Colombia, Mexico and Peru; China; Hong Kong; Japan; South Korea; Taiwan; Ukraine; and the United States are inaccessible to the public as a result of decisions made by the proposing member. Other participating members have not yet circulated proposals at the time of writing.
4. <https://www.twn.my/title2/wto.info/2019/ti190501.htm>
5. <https://cepr.net/an-overview-of-the-11th-ministerial-conference-of-the-wto/>
6. <http://www.thefutureworldofwork.org/media/35390/tisa-foul-play-uni-global-union.pdf>

### Certifications and Standards

1. [New approach to enable global leadership of EU standards](#)
2. [Standards development – a flashpoint of technical expertise and conflicting interests | etui](#)
3. <https://www.etui.org/topics/health-safety-working-conditions/hesamag/standardization-what-roles-for-the-unions/trade-union-involvement-in-non-technical-standardization>
4. <https://twitter.com/mikarv/status/1489500000795123715?s=20&t=RV0TzOoPRIIArSezcCSZ1w>
5. <https://twitter.com/nielstenoever/status/1494358745786331138?s=20&t=RV0TzOoPRIIArSezcCSZ1w>