

# How to transform EU trade policy to protect women's rights

## WIDE+ Gender and Trade 2017 Position Paper



This paper was written by the WIDE+ Trade and Gender Working Group, a group of trade and gender experts who conducts feminist analysis of external EU trade policies.

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## Synopsis

This paper critically examines contemporary European Union (EU) trade policy from a feminist perspective. It argues that current EU external trade policy is fundamentally harmful to the human rights of women, men and children and to the preservation of our planet. Its neoliberal core makes livelihoods more precarious, enhances inequalities, fosters financialisation of the economy, reduces access to medicines, undermines food sovereignty, and threatens environmental sustainability.

The paper aims to start uncovering how EU trade policy hinders the protection and promotion of women's human rights. After a brief analysis of the interrelationships between international trade and women as producers, labourers, consumers, citizens and as environmental managers, the paper makes the following recommendations:

1. EU Trade agreements should include binding clauses on women's rights with an appropriate body appointed or an explicit mechanism to monitor compliance.
2. Strengthen the protection of women's rights over the rights of companies and investors: a halt to investor-state dispute settlement and limiting Intellectual Property rights.
3. Adopt gender-sensitive binding human rights regulations on a international level to regulate Transnational Companies (TNCs) and other companies.
4. Women who are mostly responsible for food sovereignty and who are hugely affected by environmental disasters should be protected through putting a stop to (instead of pushing back) agricultural liberalization in trade agreements.
5. Do not increase the care burden, which disproportionably affects women, and stop with 'one-size-fits-all' privatization of social services and public goods policy in WTO and other trade negotiations.
6. Ensure transparent participation of Civil Society – including women's rights associations, groups and movements - in trade negotiations and monitoring of agreements
7. Sustainable Impact Assessments should have an encompassing gender human rights lens that is intersectional.

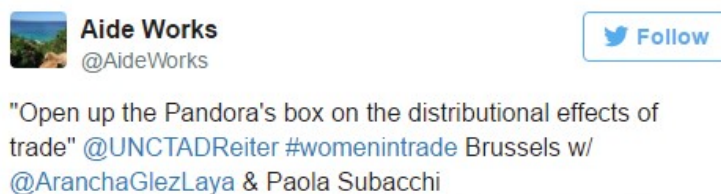
## Introduction: current EU trade policy lacks a gender perspective

The EU's primary goal in its trade policy is to bring more economic growth for EU member states, by means of a neoliberal trade policy with non-EU countries that should boost EU member states' GDP (Gross Domestic Product), create jobs for EU citizens and lower consumer prices. The core principles of this policy are laid out in the European Commission (EC) Communication, "*Trade for all. Towards a more responsible trade and investment policy*" (2015) <sup>1</sup> that aims to explain EU's trade policy for 2015-2020. The Communication also concludes that EU's trade policy can be rolled out in a way that makes it compatible with the protection of human rights in Europe and elsewhere.

At first glance it is clear that EU trade policy is gender-blind. Gender or women are not mentioned in the most recent Communication<sup>2</sup>, nor in the previous one<sup>3</sup> for 2010-2015. Indeed, not much has changed since the 2002 EC Communication on its trade policy in terms positions, however the arenas for implementing EU trade policy have changed greatly. The 2002 and 2016 communications embrace the same orthodox macroeconomic philosophy and remain equally gender-blind<sup>4</sup>.

Two recent studies commissioned by the European Parliament underscore the lack of a gender perspective in EU trade policy.<sup>56</sup> As one of the studies concludes: "[the] *European Commission has made considerable progress in mainstreaming gender equality in some of the EU policy areas. Trade policy, however, has been very much left aside in this policy process and gender equality issues are currently not dealt with in a systematic manner by DG Trade*"<sup>7</sup>. There is just one staff member of the EU Directorate General for Trade (DG Trade), the bureaucratic apparatus that manages EU trade policy, who has gender as part of its mandate<sup>8</sup>. One of the studies concludes that there is a limited willingness within DG Trade to include gender issues into EU's trade policy<sup>9</sup>.

The lack of a gender awareness into EU trade policy results in a vacuum where there are no concrete policy measures to address gender discriminations that follow from trade policy. The only area of the EU trade policy in which gender issues are relatively regularly included are Sustainable Impact Assessments (SIAs), though as one of the studies points out, the inclusion of gender aspect in impact studies also needs to be significantly



*One of the tweets from a breakfast event at the European Parliament discussing the impacts of trade policy on gender equality, 9 November 2016.*

improved if studies really aim to provide a sufficient and balanced analysis of the gendered impacts of upcoming EU trade agreements<sup>10</sup>.

The EU has firmly committed itself to promoting and ensuring gender equality<sup>11</sup>. To start, gender equality is an integral part of the Charter of Fundamental Rights of the European Union. The EU's firm engagement has led to European measures which seek to bring more economic equality between men and women, for example through aiming to increase women's participation in the labour market. Economic policies are much needed since there are striking economic differences between men and women worldwide, including in Europe, that prove resistant to a quick change. It is still the case, for example, that men earn significantly more compared to women and that specific economic sectors are feminized while others are dominated by men<sup>12</sup>. Another example, access to property such as land is not equal for men and women<sup>13</sup>.

While gender inequalities are prominent in our economies, gender issues are treated as exogenous to EU trade policy. Nevertheless, the call for a 'gendered' EU trade policy is not a new message from civil society and not even a new issue to the European Parliament (EP). Women's rights associations have been advocating for over a decade to transform EU's trade policy into one that acknowledges the interrelations between trade and social-economic gender injustices. And the EP has been concerned as well. In 2006, it adopted a resolution on women in international trade. Many of the issues raised more than ten years ago are still not realised in the EU trade policy and remain on the agenda of women's rights associations to advocate for. It shows how little has been accomplished. The resolution calls for:

- More data and research, including an annual progress report on trade and gender by the European Commission, systematic inclusion of gender issues in sustainability impact assessments as well as doing a gender impact assessment before concluding any trade agreements;
- The introduction of *"effective conditionality clauses with those countries in which violation of human rights, particularly women's rights, are wide-spread"*;
- A formal establishment of a trade and gender desk within its DG Trade *"the role of which would include monitoring whether countries with which the EU enjoys trade relations respect human rights, in particular women's rights, and actively to respond to cases of human rights violations"*;
- Companies that benefit from EU trade agreements should not exploit female employers inhumanely and the liberalisation of services in the frame of the General Agreement on Trade in Services (GATS) should not overrule national policy space to regulate essential services.
- *"...given the important role of women in family agricultural activities, the right of developing countries to develop and implement agricultural policies guaranteeing them food sovereignty...must be respected and strengthened, especially in regard to the WTO Agreement"*<sup>14</sup>.

There is a direct relation between the trade policy the EU implements and the increase or decrease of gendered inequalities. Trade policies do not only impact abstract figures such as GDP growth, but interact on the micro-level with people that are consumers, producers or citizens in economies. This is what the studies by the European Parliament also confirm. EU trading policies results in winners and losers: some may benefit from a new EU trade agreement, but past research have shown that there are also those that are impacted negatively, for example women farmers in Mexico were not able to recover economically from the negative effects from NAFTA, the American-Mexican Free trade agreement<sup>15</sup>.

The fact that EU trade policy is gender blind, while treating gender issues as an exogenous factor, is incoherent with EU's core values and overall policy goals. It calls for trade policies to engender,



but how can this be achieved? Currently the promotion of female entrepreneurship is an entry point suggested to repair discriminating trade policies. In the next chapter we conclude that the answer is not to add relatively minor ‘repair’ measures.

## **Promoting female entrepreneurship is not the way forward**

Recently, DG Trade and its Commissioner have been involved in two events focusing on empowering women through EU trade policies: a breakfast in the EP<sup>16</sup> was held last November and an international forum on women and trade was held in June 2017<sup>17</sup>. Both events focus on women entrepreneurs and leave aside the majority of women who work as labourers, in agriculture, in the informal sector, and as members of households doing mostly unpaid work. Engendering EU trade policy is in its beginning stages for DG Trade and its Commissioner, so far it seems as if promoting entrepreneurship is the only concrete policy action needed - alongside the commonly heard measure of improving data collection. While the EU joint staff working document *“Gender Equality and Women’s Empowerment in External Relations 2016-2020”*<sup>18</sup> provides a nuanced and broad scope of actions for EU departments to promote women’s rights in external policies, the only area for policy action DG trade and its Commissioner have so far demonstrated an interest in is around promoting female entrepreneurship. The introduction to *“International Forum on women and trade”* held on 20 June, 2017, states: *“Participants will take stock of current trade policy’s contribution to the economic empowerment of women, raise awareness of gender issues in trade, and consider how trade can promote the advancement of gender equality”*. DG trade is planning to do this with a programme fully dedicated to empowering female entrepreneurs<sup>19</sup> without any reference to addressing discriminations of other women workers.

When engendering EU trade policy becomes synonym to promoting trade for women entrepreneurs, a narrow approach will be created that can only partially contribute to women’s empowerment but at the same time can increase discriminations for other women. Female entrepreneurs represent a minority of the women in the formal and informal labour force. In OECD countries 1 in 10 women can be considered an ‘entrepreneur’<sup>20</sup>. According to another survey held in 67 countries, there are around 27 % entrepreneurs among the female population in Sub-Saharan Africa and in Latin America/Caribbean countries 15% of the female population is engaged in these kinds of self-employed activities. The MENA/Mid-Asia region reports around 4% female entrepreneurship while ‘developed Europe, Asia, and Israel’ come to 5%<sup>21</sup> of all women workers entrepreneuring. Men make up the majority of entrepreneurs in most countries<sup>22</sup> in a context in which all self-employed/people owning business (men and women together) represent a minority of the people working<sup>23</sup>.

If trade aims to benefit women, the needs and challenges of established business women are vastly different from poor indigenous women and what is economically beneficial for one category of women can be further damaging for another category.

In addition, the interests of female entrepreneurs can vastly differ among them. The available research suggests they are not a homogeneous category of people with similar motives or circumstances. One study found a U-curve in the prevalence of entrepreneurs with higher levels at both extremes: at the lower end there is the solo self-employed worker probably aiming to make ends meet, while at the other end of the spectrum one finds the highly skilled entrepreneurs that choose to entrepreneur out of ambition and will to innovate<sup>24</sup>. This outcome is supported by other research that concludes from reviewing countries across the globe that lower levels of per capita income combined with a greater income inequality correlate with a higher number of people pursuing entrepreneurial activities<sup>25</sup>. Entrepreneurship seem to be prevalent in countries with limited options for decent work and that is probably why there is a significant percentage of female entrepreneurs in developing countries in Africa and to a lesser extent in Latin American

and Caribbean countries. There will be many women driven to entrepreneur out of necessity, and there will be others that can pursue other options as well, but who prefer it above employment.

Thus, it is not possible to treat female entrepreneurs as a single interest group. One of the questions is then: 'is EU trade policy targeting also the poor female entrepreneurs that are the only employees of their business?'. This is in particular a relevant question to ask for countries where there is a lot of informal work. We think in such countries it is not possible to clearly separate entrepreneurs from forms of informal self-employment. Is a female farmer selling the surplus of her crops, while using the bulk for family consumption, an entrepreneur or an unpaid worker? Or a migrant that is working as a domestic worker without any form of contract or protection, is she an entrepreneur or informal worker?

Transnational companies make use of a discourse promoting female entrepreneurship as a way of promoting women's economic empowerment. For example, Kellogg's proudly implements a programme that realises "women's economic empowerment" by adding women farmers into their value-chain of production and re-labelling them as entrepreneurs. These farmers provide the company access to the raw materials they need for their products<sup>26</sup> and it is unclear if the farmers receive a fair price under decent work conditions. Promoting entrepreneurship can be a way for larger companies (and governments) to avoid ensuring decent work conditions, since the responsibility for labour conditions is shifted to the entrepreneurs while the balance of negotiation power over price for goods is not necessarily shifted. The relationship between a large global company and a small scale farming or servicing entrepreneurs is in essence an asymmetrical one, unless the small business owner or self-employed has multiple clients to choose from and thus has more influence in influencing the price, or if there is a strong government to ensure basic fair minimum prices that enable farmers to earn a decent living under reasonable conditions.



**Farmers. Workers. Entrepreneurs.  
Care-givers. Bread-winners. Bread-makers.  
Mothers. Wives. Daughters.**



Women are the backbone of the rural economy, especially in the developing world. Yet they receive only a fraction of the land, credit, inputs (such as improved seeds and fertilizers), agricultural training and information compared to men.

Empowering and investing in rural women has been shown to significantly increase productivity, reduce hunger and malnutrition and improve rural livelihoods. And not only for women, but for everyone.

Graphic taken from: [https://farmingfirst.org/women\\_infographic/](https://farmingfirst.org/women_infographic/), a website that explains through easy-to-grasp graphics the huge role women play in agriculture.



A policy geared to promote female entrepreneurship should ask itself which types of women will be reached or which women will be excluded (poor women, middle class women, migrant women, etc.) and what would the policy achieve. Policy makers can learn a lot from the lessons with micro-credit programmes that in many instances aim to transform women into self-sustained entrepreneurs (as individuals or through collectives). Tailored 'micro-level' credit programmes seem to create short term benefits for the women and families involved, but it is not certain they will end poverty for families or that they will result in women's empowerment<sup>27</sup>. Cash loans or payments in itself will not lead to long term effects; the context in which these loans or payments are made need to be conducive as well. That is why gender experts suggest to combine micro projects that target a specific group of women with macro-level economic policy<sup>28</sup>, such as making sure women's rights are clearly and strongly protected in trade agreements and there are large scale programmes to balance care work with paid work. A micro-level oriented programme, such as providing training to a group of women or providing money, will in itself not bring about sustained societal gender equality.

In conclusion, when engendering EU trade policy centres mainly around promoting trade for women entrepreneurs, a very narrow approach is taken that will benefit probably a small segment of women but can - and will - also increase discriminations for other women, including other kinds of female entrepreneurs. Female entrepreneurship is not a panacea to women's economic empowerment but when it is presented as such - as seem the case with the current EU trade policy - it masks the actual questions that need to be addressed to help EU trade policy achieve gender equality. And through proposing small policy adjustments, DG Trade and its Commissioner run the risk of suggesting that EU trade policy is not having significant large negative impacts on women's rights.

### **EU trade policy is not only gender blind, it is harmful to human rights**

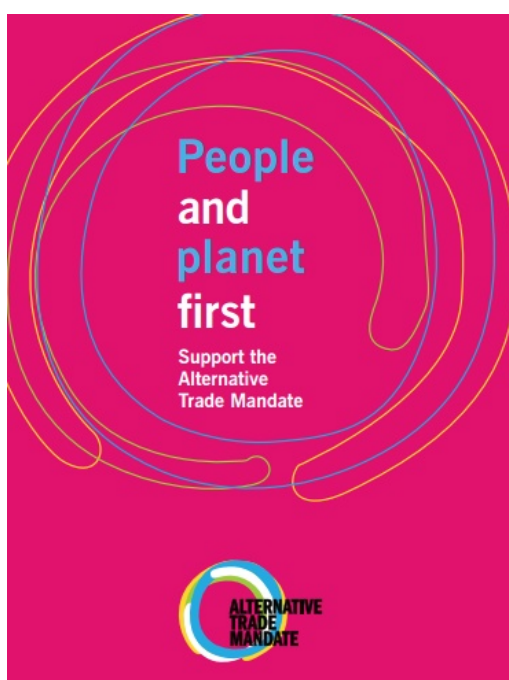
From a feminist perspective the overall goal of an economy, which includes trade and investment, should be to sustain its living foundations in terms of human, social and natural resources. This means economies should ensure a sustainable livelihood for everybody, recognise all forms of labour, including care and social reproduction, and to aim at a good life for everybody which goes beyond material and monetary wealth as measured in the GDP. We can call this a 'caring economy' which resists a model in which everything is governed by the market principles of commodification, financialisation, growth, competition and efficiency. Caring economies are at the same time rights-based societies in which everybody has the power to control (re-) productive assets and resources, and is able to influence the decisions affecting their lives and livelihoods.

We conclude that current EU trade policy will take us further away from our envisions of caring economies, either in the EU or elsewhere. EU trade policy follows neoliberal doctrine that promotes reducing transnational tariffs, combined with global deregulation of investment and services and in some instances protectionist policies for European producers -e.g. agriculture and through promoting intellectual property rights. The EU has been adhering to the same trade ideology for over a decade. So far it has not proven to strongly protect sustainable development and human rights. On the contrary, the risks of climate change disasters have increased with growing greenhouse gas emissions despite global policy commitments, and human rights abuses that result from global business ventures are abundant. Over the past decade livelihoods for the poor globally and in Europe have become more precarious and inequalities have been reinforced and enhanced. Laissez-faire policies have stimulated the financialisation of the economy with increased socio-economic insecurity.

It is difficult to prove that human rights abuses and a lack of sustainable development are ‘caused’ by European trade agreements and policies, since it is not possible to do a controlled experiment where only the factor trade agreement with the EU is differentiated from all other influencing factors. It is equally difficult to ascribe economic growth in a country to a free trade agreement. Macro-economic developments are the result of many factors and trade agreements are but one of them. Many countries have many different agreements and trade arrangements in addition to their internal market mechanisms. However hypotheses can be made about the impacts of EU trade policy that can be validated by data and argumentation.

The objectives of EU trade policies match the characteristics of what is described with the dominant neo-liberal paradigm of economic thinking. There has been much research showing how this set of economic policy preferences have contributed to and enhanced inequalities, human rights abuses and environmental damages<sup>29</sup>. Even among prominent and established economic theorists, serious reservations and concerns are placed around the effectiveness neo-liberal policies to reach optimal GDP growth<sup>30</sup>.

WIDE+’s critical analysis of EU trade policy is shared by many experts and civil society actors, as well as trade unions and smaller enterprises. The Seattle2Brussels network, a European network of associations on development, environment, human rights, women & farmers and trade unions, social movements and research institutes, conclude that EU trade policy favours corporate interests and establishes corporate rights over the rights of individual citizens<sup>31</sup>. UN Experts have voiced their concern that current European free trade agreements being concluded and negotiated will have adverse effects on human rights<sup>32</sup>.



One group of experts that has critically reflected on neo-liberal policies over decades are feminist economists. They have sought to redefine the economy, calling for a holistic analysis with new conceptions of labour, productive, reproductive and care work<sup>33</sup>.

There are two fundamental flaws in EU trade policy according to feminist economists:

1. The economy is narrowed to a conception of production, GDP (Gross Domestic Product) and money, failing to link it to the domain of care work and rendering reproductive labour (education, care, etc.) invisible and undervalued;
2. The desired economic model favours the growth of (big) companies over the protection of human rights and is undemocratic.

*WIDE+ has a long history of working on alternative trade proposals. Its predecessor, WIDE, worked together with Fair Trade activists, trade unions, migrant workers, environmentalists, development organizations, human rights and farmers’ groups in the Alternative Trade Mandate Alliance to outline an alternative model for EU trade policy.<sup>34</sup>*

In order to effectively deal with the current crises we face in Europe and globally, we need a very different European trade policy. Trump’s and other authoritarian regimes demand for a return to economic nationalism and protectionism. The alternative we are promoting is completely different from this populist protectionist agenda.

A feminist alternative economic model is also not the same as promoting gender equality and women’s empowerment. Feminism goes beyond gender equality

policies through promoting socially just societies with caring economies; it opposes all kinds of discriminations. There are associations and multilateral institutions that promote gender equality with neo-liberal economic policies and do not see any contradictions between those goals. For example, the World Bank undertakes several actions to gender mainstream its policy and promotes gender equality as smart economics: it is proven that promoting women's economic empowerment leads to economic growth. We do not want to argue for fewer gender equality programmes nor put into question that projects focusing on women will have economic benefits. But we want to stress that such programmes are not feminist if they do not aim to protect women's rights and human rights in general. And this is what the World Bank does not set out to do: it completely ignores a women's human rights framework<sup>35</sup>, which makes it possible for the Bank to combine gender equality with programmes and projects that cause harm to the environment and communities.

There are too few reflections on EU trade policy from a gender and/or feminist perspective and the dominant neo-liberal perspective ignores feminist contributions<sup>36</sup>. This gap in analysis contributes to keeping the interrelations between European policy and gender discriminations in labour and wealth hidden for policy makers and hinders the development of an economic alternative trade policy that does not continue to discriminate women's contributions to the economy. While much more research and analysis is needed to show how from a feminist economic perspective EU trade policy can be transformed, this paper aims to uncover ground for this undertaking. Here, we draw on some of our work and those of others to make key proposals around achieving a transformation of the current EU trade policy to impact positively on the protection of women's rights and gender equality. Before we provide our key recommendations, we very briefly sketch how neo-liberal trade policy interrelates with gender inequality and women's rights.

## **A brief analysis of external trade and gender interrelations**

The study commissioned by the EP FEMM committee in 2016 distinguishes three main relationships of how trade liberalisation affects women, through employment/production, through consumption and looking at public provision of goods and services: *"different groups of women and men are affected in their multiple roles as workers and producers, as consumers, and as citizens and taxpayers entitled to public services"*<sup>37</sup>. We would like to add a dimension of environmental management to the third category, since it is becoming more and more evident that the economic effects on our climate and planet earth will increasingly lead to more natural disasters while all kinds of deforestation, land grabbing and other visible interventions are taking place. In the next sub-chapters some key characteristics are formulated of the relationship between trade and gender discriminations according to these three dimensions.

## **The effects of neo-liberal trade on women as producers and labourers**

The feminization of export-oriented light or low value-added manufacturing is one of the most visible aspects of how gender relates with trade liberalisation. There are many cases of countries in which export-led growth has gone hand in hand with a feminization of this labour, not only resulting in a majority of women doing these jobs, but also under worse labour conditions with poor pay. The liberalization has pushed forward a global race to the bottom in search of the cheapest and least protected labour. Women are disadvantaged in national labour markets, having less access to higher quality jobs for a number of reasons and therefore it is mostly women ending up in types of low-value manufacturing jobs.

The current neo-liberal trade and investment system has encouraged this business model based on outsourcing low-value added segments of production, which has created jobs for women, especially in developing and emerging countries. In reality the jobs are characterised by decent work deficits, extremely low salaries and even worse working conditions and exploitation. Thus we conclude that the new job opportunities have not resulted in the systematic empowerment of women, particularly among the most marginalised. The current model's positive effects do not outweigh its negative impacts<sup>38</sup>.

It is far from ideal for a nation's economic development to depend on a narrow range of low-value added export products or to rely heavily on exporting raw resources like oil. A state has a more stable and sustainable level of growth if a diversified economy can be built and strengthened. This implies that countries with limited industrial development need economic policies that actively stimulate new industries to develop. Neo-liberal policy assumes that a free and unfettered international competition will create the conditions for such economic diversification, but these hypotheses cannot be proved in reality<sup>39</sup>. On the contrary, economic miracles in recent decades like in South Korea have greatly benefitted from ways of protecting their infant industries from competition<sup>40</sup>.

The neo-liberal arguments to oppose protective trade measures is not only that protectionism will promote more economic growth, but also lead to more jobs. According to a UN study<sup>41</sup>, the mainstream belief that regulation of economies hampers job creation has been widely refuted. And the question should be asked if nations gain a lot with more jobs in low-added manufacturing sectors. Making cheap and easy labour more accessibly to transnational companies –as stated these are the typical jobs for women created through opening trading barriers- will not guarantee long term job creation or the growth of industries: such work can easily be disposed of in a race to the bottom. A company can decide to relocate to a region more favourable to its needs for more cost efficient production processes, leaving behind labourers that have build up limited skills through the production process.

Our conclusion is that trade liberalisation, accompanied by privatization and a limited role for the state in ensuring public goods has not and does not lead to the creation of enough jobs for a growing population - especially in the South - and the new jobs created are more often than not precarious, low-paid instead of decent jobs, especially if states do not have strong regulations around work. A much more pro-active macro-economic policy<sup>42</sup> that includes actively promoting women's rights and gender equality should inform trade policy. A recent analysis done by ActionAid shows that countries with higher levels of gender equality have greater levels of export diversity and export quality<sup>43</sup>. It is in the interest of states to transform economies that depend greatly on feminized low-value industries into diversified sectors of exporting industries that enhance gender equality and that create more value to production processes: this will give states more stable and long term economic advantages.

One aspect not so visible in international economic policy reflections, including trade policies, is the significant role the informal sector plays in many developing and emerging economies. Current EU trade policies promote decent work clauses in trade agreements, based on International Labour Organization's Conventions. We welcome this policy, but it remains unclear how to enforce such conventions in economies where a large part of the productive labour force is doing informal work - and women are globally over-represented in informal work. It is imperative that social clauses in trade agreements apply to informal work.

It has been very difficult to collect a full picture on the total size of the informal sector globally. The information that is available seems to suggest that it is a main source of income for many, if not the majority of, people who work outside the agricultural sector in developing countries. In the 16 countries for which there is data for the Latin American and Caribbean region, the percentage of informal work of the total work –for men and women- outside agriculture is lowest



in Brazil with 42 %, followed by Uruguay and Panama. It is highest in Honduras and Bolivia with around 75 % of the total work outside the sector of agriculture. In populated countries of Asia the percentage are well beyond 50 %. In India, Philippines and Pakistan the percentages vary from 81 to 85 %<sup>44</sup>. Given that men's official labour participation rate is higher, it is telling that for 30 of the 41 countries for which data were available by sex, the percentage of women in informal work settings is higher than that of men<sup>45</sup>. Women are more often found in informal work settings. WIEGO found in their study that men are mainly found in the informal work with the highest pay among informal workers, while women take the majority of the least paid jobs<sup>46</sup>, as example, many women work as domestic workers<sup>47</sup>.

When arguing the benefits of international trade for women's employment, one of the first arguments given for new trade agreements is estimates of jobs created by a new trade agreement. While it is often unclear how valid and true such predictions are, it is equally if not more pertinent to ask the question if the trade agreement leads to more decent work, meaning enough pay and reasonable and protected working conditions. Growing employment in precarious jobs –be it as entrepreneurs or otherwise - that do not provide enough for decent living standards is not a sign of improving women's empowerment. That is why binding ILO labour standards in trade agreements are of utmost importance, instead of articles that promise to promote female entrepreneurship through collaborative programmes. The application of such labour standards should also extend to informal work, since this is a type of work often with more women than men involved.

### **The effects of neo-liberal trade on women as consumers and citizens**

EU trade policy was in the previous decades focused on opening markets of goods for international trade through lowering tariffs. After having made successful agreements into opening markets for European goods, the EU has in the past ten years started to promote a liberalisation of the market of services and investment, including opening up public procurement and liberalising social services like health care and increasing the rights of investors and companies<sup>48</sup>.

It is argued by EU trade officials that opening up markets of services and public procurement will 'automatically' lead to more efficient and cheaper services and goods, despite the lack of proof to back this up. Instead, we find many examples that illustrate the opposite: that basic services and goods for people in countries become less accessible after privatization and international competition. For example, a WIDE case study<sup>49</sup> on the impact of EU trade negotiations in India found that (among other public services and goods) privatized water services brought high prices to households and limits to access safe water. In India, as in many other countries, women are responsible for finding and fetching water for their families they need for drinking, washing, cooking, cleaning, etc. If they have to spend more time, instead of less time, to access safe water, women's opportunities to engage in paid work activities decrease. Another





example, there was a water revolt in Cochabamba<sup>50</sup> (see picture which is from: <http://www.thehealthculture.com/>), Bolivia, where water service privatisation led to uprisings led by women - who succeeded in reversing the process. Similarly, in Indonesia, the price of water increased four times following privatisation, and this led to a court annulling the privatisation contracts.<sup>51</sup> This is the example of water; in many other areas similar tendencies are visible.

A number of studies show that the privatisation of public services can lead to a lower level of access to those services by the most marginalised, including women, often because of the introduction of user fees<sup>52</sup>.

Women are disproportionately affected by liberalization of services and public procurement, and it is they who fill the gaps when services are cut. Women spend two and a half time more unpaid hours caring for their families and communities than men<sup>53</sup>. Various research<sup>54</sup> confirms the fact that unpaid care work is mostly done by women. This is an often overlooked contribution that women make to economies, but it is a huge one on which other economic sectors depend<sup>55</sup>. In a similar vein, paid care work is in many instances not properly recognised as valuable work, with lower salaries and status, while it is again a majority of women that do this work. When basic social services and goods for people in countries become less accessible through opening up markets of services and public procurement, there is not only a greater burden on informal care work that falls mostly on women, which includes the care to provide for food, water, sanitation, sometimes agriculture around the house, etc. The marketization of paid care work will lead to an informalisation, casualisation and precarisation that is affecting again mostly women labourers in these sectors.

The fact that women's huge contribution to the economy through care work is often forgotten in mainstream economic thinking might have contributed to the short-sighted perspective in EU trade policy promoting trade liberalization for services and in public procurement. For example, research on the impacts of the CARIFORUM-EU Economic Partnership Agreement shows that is the agreement is driven by private-sector-led and export-driven growth, and uses market-based criteria and mechanisms which basically exclude poor women, because most of their work is non-market work<sup>56</sup>. Trade policy lacks an understanding that governments as public institutions have a special responsibility to ensure people have access to health, water, education, clean air, and other daily necessities. These goods and services are a matter of life, love and death –they are part of human rights- and thus not similar to surplus goods and services that are consumed on the market based on scarcity, demand and supply. Providing basic needs and sustaining natural resources cannot be commodified, unless such policy has a disregard for people's human rights.

Trade liberalisation is increasing women's care burden also through reduced tax revenue. Reducing tariffs has led to sharp drops in government revenue,<sup>57</sup> which leads to cuts in government expenditure on public goods and services. This is particularly likely in developing countries, where trade taxes make up a significant proportion of government revenue, and where the collection rates of other taxes are lower<sup>58</sup>. For example, a 2011 UNCTAD study confirmed that, if Cabo Verde (situated near the North West coast of Africa) reduced its tariffs as stipulated in a trade agreement it was negotiating at that time with the EU, its government revenue would decrease by 16%<sup>59</sup>. Governments must also be wary of attempting to make up for lost revenue from tariffs through indirect taxes, such as value-added tax, as these also have gendered impacts - women shoulder a disproportionate burden of indirect taxes<sup>60</sup>.

Responsibilities for unpaid care and domestic work need to be more evenly distributed between women and men, and between households and society. A correct value of care work will also help economic growth. One of the major barriers to women's economic empowerment is the gendered roles in the care economy. A more balanced distribution of care work in which there are well-paid and professional care facilities accessible (and affordable) to society at large, will promote women's economic empowerment and gender equality. This in turn will increase economic

growth. Current gendered structures also prevent many men from taking a more active part in the care work (raising children, caring for elders, etc.). Changing the division of care labour will not only be good for economic development, it will also promote *buen vivir*<sup>61</sup>, enabling men to engage more with reproductive work.

Privatization and liberalisation is no solution to a structural re-adjustment of unpaid care work. If governments want to create more equal chances for women in the (paid) labour market, governments should address the huge unpaid care burden that mostly women fulfil. The care work should not remain a silent responsibility mostly women undertake, but states should take more responsibility for these 'services and goods'.

### **The effects of neo-liberal trade on women as environmental managers**

Humanity is at crossroads, facing possible irreversible and destructive consequences from its use of earth's natural resources, or making drastic changes to stop this development. Climate change is one key domain of how people manage the environment and actions of businesses and trade regulations play an important role in global warming. Agriculture is another key dimension. There are many injustices in how food is accessible worldwide and how it is produced. Accessing raw materials and land is a third very controversial way in which business, trade and local communities clash in terms of managing our natural resources, with many examples of land-grabbing, devastating effects of mining, and so on. These interrelations with our environment are all specifically gendered, creating inequalities, oppression and discriminations.

Without additional measures, the effects of *climate change* will directly and disastrously impact the possibility of many men and women to manage their food and water supplies, have access to sustainable housing, clean air and basic health –in several instances around the world the impacts are already very noticeable. The EU aims to manage climate change through the Paris COP 21 agreement. A lot of civil society, including women's rights networks, have pointed out that the agreement will not limit the rising temperatures enough<sup>62</sup>. Also, the agreement includes some gender-sensitive references, but much more needs to be done to make the international climate agenda gender-sensitive<sup>63</sup>. We are currently faced with a world in which natural disasters are on the increase and climate change is one of the main reasons for this. This development will hit women more than men. Women find themselves more often in precarious positions trying to earn a decent living while having to deal with a huge care burden and this serves as a major source of vulnerability and barrier to adapt to climate change effects<sup>64</sup>. Rural female farmers are among these women and their role is at the same time essential for enhancing agricultural productivity<sup>65</sup>.

Women are incredibly important to *agriculture*, especially in the Global South. A FAO study from 2011 concluded that 43% of the world's agricultural labour force in developing countries are women, which rises to 70% in some countries<sup>66</sup>. Small scale female farmers make up half or more of the agricultural production in Sub-Saharan Africa and South Asia<sup>67</sup>. The percentage of women in the agricultural labour force in developing countries may well have risen in the past years, since there is a general trend of feminization of agriculture<sup>68</sup>. Women make up the majority of some tasks in agriculture: an estimated two thirds of poor livestock keepers are women<sup>69</sup>. In many countries, women carry out most farm activities including cultivating crops, raising animals, sourcing water, storing food post-harvest, selling food in markets, value-adding to food products, ensuring food safety, and finding alternate nutrition during low seasons. This farm workload is on top of women's other duties such as child-rearing, housework, caring for elders, and community responsibilities. Women constitute also a very necessary source of knowledge about sustainable practices on land, seeds diversity, medicinal plants, food preparation and family care<sup>70</sup>.

However, the work women do in agriculture does not translate into gender equality. Women are among the more marginalized groups within agriculture. They do not have equal access to and control over land; they have less access to productive resources, such as bank loans and training and they are underrepresented in decision making roles<sup>71</sup>. Restrictive laws and cultural norms undermine the right of women to own or inherit land, which in turn limits their access to credit<sup>72</sup>.

EU Trade policy is promoting food security, which means that people have adequate access at all times to sufficient, safe, nutritious food to maintain a healthy and active life<sup>73</sup>. With this concept it is possible for the EU to promote international competition between farmers, since it doesn't require that food is also regionally or locally produced. Many human rights associations, movements and groups around the world promote food sovereignty, which is a more elaborated concept. The 2007 Declaration of Nyeleni<sup>74</sup> defines food sovereignty as the right of peoples, communities, and countries to define their own agricultural, labour, fishing, food and land policies which are ecologically, socially, economically and culturally appropriate to their unique circumstances. The concept not includes the right to food but also to produce food.

EU's trade policy in agriculture is threatening food sovereignty, and this means it is also threatening food security. The subsidised European agriculture lowers the prices of EU agricultural goods that in turn with liberalisation of markets has helped large scale agricultural production in overtaking small scale and family farming in the global South. Large agricultural corporations are able to acquire land and establish farming enterprises very cheaply in many areas of the world for intensive production of cash crops for export, and in doing so, push out local producers whose products are sold directly to their communities and traded within the immediate region. Such practices cause harm to local food sovereignty and food security by raising crops for profit rather than nutrition, and by bypassing regional markets in favour of international trade. Small scale farmers are not able to compete against multinationals due to smaller farming plots, lack of cash to be readily injected, etc.

Both men and women small farmers face significant challenges in international markets that through market liberalization are creating unfair competition. However, women farmers face greater risk than men of losing their livelihoods as a result of liberalisation as they are less able to compete as cheaper imports push down the prices of their produce<sup>75</sup>. Small-scale farmers, who are in many developing countries made up of a majority of women (in Sub-Saharan Africa and South Asia), lose out in this increased competition<sup>76</sup>. It is uncertain if small scale farmers can overcome these challenges. Research on NAFTA (the trade agreement between the US and Mexico) concluded that in Mexico the small-scale farmers, of which many were women, did not recover from the negative effects of NAFTA and remained at a 'loss' even after a few years of NAFTA<sup>77</sup>. It seems reasonable to conclude that without additional measures from governments small scale farmers face and unequal competition with big farms that pressures families leaving the land and abandoning farming, causing an enduring loss of localised food sovereignty and food security.

The EU's trade approach to natural resources is predominantly neo-liberal through promoting business rights over human and planetary rights when they conflict with each other. The EU is currently promoting **a green innovation** with the same neo-liberal trade approach. Within the WTO the EU is among the countries that launched the Green Goods Initiative, which aims primarily to eliminate tariffs on a broad list of green goods<sup>78</sup>. The EU considers it a win-win policy, combining the interest of industry with environmental goals<sup>79</sup>. In bilateral and multilateral trade agreements, its green commitments are expressed through promoting a Trade and Sustainable Development (TSD) chapter in each agreement. In a TSD chapter, states typically commit to collaborate to meet the targets set out by the Agenda 21 of the United Nations Conference on Environment and Development of 1992 -and its following environmental agendas- and conventions that are part of the International Labour Organisation's (ILO) Declaration on Fundamental Principles and Rights at Work. However, the commitments of the EU and its trading

partner(s) are not made binding, in contrast to the trading commitments in the same agreement. The EU trade policy lags behind in addressing land and water grabbing by Transnational Companies (TNCs) based in Europe. Current European policies allow for land and water grabbing as is shown in a 2016 study commissioned by the European Parliament<sup>80</sup>. It requires a much stronger regulatory framework at EU and member states' level (e.g. in the context of the extraterritorial human rights obligations). And it includes adjusting human rights clauses in trade and investment agreements, among others through excluding investor-state dispute (ISDS) mechanisms in trade agreements<sup>81</sup>. The EU is promoting ISDS mechanisms in its agreements, which have allowed companies that have destroyed natural resources like in mining companies to sue governments over loss of 'business rights' when states want to implement laws to protect people and the land from for example future mining.

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*In 2016, Berta Cáceres, indigenous leader for more than 20 years of the Civic Council of Popular and Indigenous Organizations of Honduras was murdered. Bertha Cáceres was a firm defender of small farmers and indigenous peoples' rights and an inspiring social activist, both at regional and continental level, particularly against mining megaprojects and hydropower plants. She had warned many times about Free Trade Agreements as part of the machinery of impunity of transnational corporations<sup>82</sup>. She is one of almost 200 environmental defenders being killed each year<sup>83</sup>*

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The EU trade policy commits to binding environmental regulations as long as it protects business rights, while favouring the rights of companies over environmental and human rights. This sets its conceptualisation of sustainable development apart from, for example, indigenous movements, with many strong women leaders<sup>84</sup>, that propose a holistic concept of nature in which protection of human life, including food sovereignty, goes together with a respect for and protection of land and its biodiversity.

## Policy recommendations

### 1. Binding women's rights articles in EU trade agreements

The EU has currently signed 32 trade agreements with non-European countries. Some of these agreements are signed with a few countries, like for example the one with Southern African Development Community (SADC) signed in 2016. 5 of the agreements are signed but not (yet) ratified, including the trade agreement with Canada that made headlines in 2016 across Europe.

Table 1 provides an overview of the inclusion of gender references in the current agreements and it confirms the conclusion from previous chapters that EU trade policy is gender blind. 41 % of the agreements does not have any reference to gender or women in any form, while 47 % has references in one or two articles (25 % have a reference in one article), given that a EU trade agreement generally has a few hundred articles. There are 4 trade agreements (12 %) that have gender references in more than 2 articles: 2 have them in 3 articles, 1 agreements has references in 5 articles and another in 8 articles. The 2 agreements with the most references both have a stand alone gender article (ANNEX 1 provides a full overview of all the references, with complete quotes).

TABLE 1: References to issues relating to gender and women in EU trade agreements	
<b>Group A: No reference* in 13 agreements (41 %)</b>	
<a href="#">Syria</a> (1977) <a href="#">Armenia</a> (1999) <a href="#">Azerbaijan</a> (1999) <a href="#">CARIFORUM States</a> (2008) <a href="#">Papua New Guinea and Fiji</a> (2011) ratified by Papua New Guinea <a href="#">Colombia and Peru</a> (2012) <a href="#">South Korea</a> (2015)	<a href="#">Ghana</a> (2016) <a href="#">Southern African Development Community (SADC)</a> (2016) <a href="#">Ivory Coast</a> (2016) <a href="#">Ecuador</a> (2017) FINALISED, NOT YET RATIFIED: <a href="#">West Africa</a> (2014) <a href="#">Canada</a> (2016)
<b>Group B: Reference to women as a target group found in 6 agreements (19 %)</b>	
Several agreements with Mediterranean countries list as part of their Social Cooperation Actions, 7 to 8 priorities for project and programmes that include 1 or 2 that relate to women: <b><i>“the promotion on the role of women in social and economic development, particularly through education and the media, in line with [the partner countries’] policy in this area”</i></b> and: <b><i>“the development and consolidation of [the partner countries’] family planning and mother and child protection programmes”</i></b> . Further details about difference from this formulation of the article, see Annex 1: <a href="#">Jordan</a> (2002), <a href="#">Tunisia</a> (1998), <a href="#">Morocco</a> (2000), <a href="#">Algeria</a> (2005), <a href="#">Egypt</a> (2004, which also has an article that includes a reference to promote the access of women to higher education and training). <a href="#">Cameroon</a> (2009) Annex 1 describes the EPA regional fund [for development]. <b><i>Promotion of entrepreneurship among women</i></b> is one of around 50 activities that are given as examples.	
<b>Group C: Reference to women and the promotion GENDER EQUALITY in 8 agreements (25 %)</b>	
<a href="#">Lebanon</a> (2003) The article for project and programmes in the social field states that parties will dialogue on issues: <b><i>“..such as...equal treatment for men and women”</i></b> [listed as 1 of 7 issues]. <a href="#">Palestinian Authority</a> (1997) Article on social development through projects and programmes, 2 of the 6 priorities state: <b><i>“the promotion of the equality of women and a balanced participation in the decision-making process in the economic and social sphere...”</i></b> , in addition to a reference around family planning. <a href="#">Israel</a> (2000). Article on social matters: <b><i>“The Parties shall conduct a dialogue... such as .....equal treatment for men and women,....etc.”</i></b> [seven issues are listed as examples]. <a href="#">Kazakhstan</a> (2016) In article 230 list 10 areas for cooperation to reach social policy goals,: <b><i>“(h) enhancing gender equality by promoting the participation of women in social and economic life and ensuring equal opportunities between men and women in employment, education, training, economy, society and decision making;”</i></b> . <a href="#">Madagascar, Mauritius, Zambia, the Seychelles, Comoros and Zimbabwe</a> (2009). In the section on ‘Inland fisheries and aquaculture development’, 6 areas of cooperation are listed, number 6 includes 3 measures of which 1:	



***“encouraging participation of disadvantaged groups in the fishing industry, for example, through the promotion of gender equality...”***. In the section around economic and development cooperation, 10 areas are listed, including: ***“(h) gender mainstreaming”***. There is a development matrix with around 30 issues of which 1 is ***female entrepreneurship***.

FINALISED, NOT YET RATIFIED:

***East African Countries (EAC)*** – (2014). In the section on agriculture, there are five issues addressed and one of them mentions gender biases. Article on “Inland Fisheries and Aquaculture Development”, states EU contributions to 7 areas, of which the last one includes: ***“...(ii) participation of marginal groups in the fishing industry for example, the promotion of gender equity...”***.

***Vietnam*** (2016) Article 14 lists 13 areas parties may cooperate on and 1 of them mentions women: ***“(e) Trade related aspects of the ILO Decent Work Agenda...for all, including youth, women and people with disabilities, [4 other issues], social protection for all (including for vulnerable and disadvantaged groups, such as migrant workers, women, youth and people with disabilities) and social inclusion, social dialogue and gender equality”***.

***Singapore*** (2014) Free Trade Agreements. Similar article as in the Vietnam agreement article 14, with the difference that its references to women and gender is only ***‘gender equality’*** at the end. Appendix 8-b-1 lists types of social services excluded from Singapore’s schedule of specific commitments, and this lists: ***“1. Statutory Supervision Services With Accommodation for the Following “Types of Clients (9331): a) women and girls detained in a place of safety under Section 160 of the Women’s Charter (Cap. 353) (93312);”***.

#### **Group D: Reference to women AND A RIGHTS FRAMEWORK in 2 agreements (6 %)**

***Mexico*** (2000) article 36 cooperation on social affairs and poverty refers, when committing to dialogue: ***“This should include topics related to vulnerable groups and regions such as: indigenous population, the rural poor, women on low incomes and other population groups living in poverty. 2. The Parties recognise the importance of harmonising economic and social development taking into account the need to respect the basic rights of the groups mentioned in the previous paragraph...”***. Article 37 on regional cooperation with other states also remarks special attention for the role of women.

***Iraq*** (2012) in the section areas of cooperation, the parties in article 86: ***“agree to cooperate in the promotion and effective protection of human rights, including with regard to the ratification and implementation of international human rights instruments.”***; gender is mentioned as one of the 7 areas of cooperation: ***“(b) provision of human rights promotion and education...with respect to the rights of women and children”***. Article 83 on education, training and youth states that the cooperation promoted should include the promotion of gender equality. Article 84 outlines the cooperation on employment and social development lists 7 areas and gender equality is one of them.

#### **Group E: More gender and women references in three agreements (9 %)**

***Chile*** (2005) article 44 calls for: ***“respect for fundamental social rights, notably by promoting the relevant conventions of the International Labour Organisation covering such topics as...equal treatment between men and women”***. In this article, ***“promoting the role of women in the economic and social development process and promoting specific programmes for youth”*** is identified as 1 of 10 priorities for the partners. The agreement includes one article on gender: ***“Article 45: Cooperation related to gender: 1. Cooperation shall contribute to strengthening policies and programmes that improve, guarantee and extend the equitable participation of men and women in all sectors of political, economic, social and cultural life. Cooperation shall contribute to easing women’s access to all necessary resources for the full exercise of their fundamental rights. 2. In particular, cooperation should promote the creation of an adequate framework to: (a) ensure that gender and gender-related issues can be taken into account at every level and in all areas of cooperation including macroeconomic policy, strategy and development operations; and (b) promote the adoption of positive measures in favour of women”***.

***South Africa*** (2000) the pre-ambles states: ***“UNDERLINING the importance which the Parties attach to the values and principles set out in the Final Declarations of the International Conference on Population and Development held in Cairo in 1994, of the World Summit for Social Development held in Copenhagen in March 1995 and of the Fourth World Conference on Women held in Beijing in 1995;”***. There are references to gender equality and historically disadvantaged groups in Article 50 on developing and promoting cooperation on economic and industrial matters, in article 54 on micro-enterprises and small and medium-sized enterprises, the article on development cooperation and Article 86 on social issues lists 10 issues that shall be included in dialogue; this last article also mentions violence against women.

***Central America*** (2012) ***There is one article on Gender: “1. The Parties agree that cooperation shall help to strengthen policies, programmes, and mechanisms aimed at ensuring, improving and expanding the equal participation and opportunities for men and women in all sectors of political, economic, social and cultural life, in particular in view of the effective implementation of the Convention on the Elimination of All Forms of***

**Discrimination against Women.** Where appropriate, affirmative actions in support of women shall be envisaged. 2. Cooperation shall promote the **integration of the gender perspective** in all the relevant fields of cooperation, including public policies, development strategies and actions as well as indicators to measure their impact. 3. **Cooperation shall also help to facilitate equal access of men and women to all services and resources allowing them to fully exercise their fundamental rights**, such as in respect of education, health, vocational training, employment opportunities, political decision making, governance structures and private undertakings. 4. Particular attention shall be given to programmes addressing violence against women, in particular through prevention”.

*There are references on Gender and Women in 7 articles, around political dialogue, conflict prevention and resolution, employment and social Protection, public health, vulnerable groups and Multilateral Labour Standards and Agreements that lists all kinds of agreements, among them ILO Conventions, including (e) **Convention 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value.***

All references to women and gender, except for one, are included in the sections or articles concerning development, dialogue or collaboration, or they are part of sustainable development chapters in trade agreements. This is not surprising, since a majority of the EU trade agreements are association, partnership and/or cooperation agreements, which are agreements that combine trade with other sorts of collaboration. In addition, almost 10 agreements are Economic Partnership Agreements with ACP countries (African, Caribbean and Pacific countries) that aim to replace the Cotonou collaboration and development agreement, by taking this accord into a trade agreement. Thus most agreements are not only agreements covering commitments to trade but they include sections on other sorts of collaboration, including on political dialogue, on science, tourism, energy, social matters, sustainable development, development cooperation, etc. It depends per agreement what exactly is covered, but most agreements offer opportunities to integrate gender issues into pledges of strengthened collaboration outside the agreed trade rules and this is the route taken in agreements.

The EU-Singapore agreement is the only agreement where there is a reference to women in the trade part. When the agreement outlines Singapore's exceptions to specific services that in public procurement will be opened up to European companies, it is postulated that among a list of exceptions, women and children's shelters are excluded from the liberalisation. This reference has not the objective to promote gender equality through trading, or advance women's empowerment through it. Thus the conclusion can be drawn that there is no reference on women or gender in any EU trade agreement with non-European states that imposes on international trading regulations to be explicitly supportive of gender equality, protect women's rights or advance the position of women.

From 2000 onwards, the EU is including in all its trade agreements an interstate dispute settlement mechanism<sup>85</sup> to redress 'unfair trade measures' through an arbitration panel or other mechanism that can enforce a verdict with economic sanctions. The IDS mechanism, which creates binding commitments for states, has been only applied to trade related issues. The sustainability and trade chapter –which is the current method for the EU to include rights and social concerns into trade agreements<sup>86</sup>- cannot be enforced by the other partner country. Its follow up mechanisms are limited to monitoring, dialogue, collaboration and similar mechanism without any possibility to come to financial sanctions through adjudication. In other words: sustainable and social commitments are non-binding, while the trading rules are binding in trade agreements. This also implies that **practically all references to women and gender issues in trade agreements are non-binding** (except for the one in the Singapore-EU agreement mentioned above).

The conclusion that gender and women references in trade agreements are non-binding is supported by the analysis done by the Central American Women's Network (CAWN) for the 2010 Association Agreement between the EU and Central America<sup>87</sup>. The analysis points out that particularly concerning is that the social and environmental clauses' enforcement is weaker than

in the previous generalised system of preferences (GSP+). And this Association Agreement is actually the most gender sensitive agreement, having the most references to gender and women issues, and it is one of five trade agreements that mention women's rights (16 % of all agreements do so). It is the only agreement that explicitly mentions a gender sensitive ILO Convention: Convention 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value.

What can be further concluded from table 1? As stated, a mere 19 % of the agreements include a reference to women's rights, but only 6 % (2 of the 5) mention a women's human rights instrument. The interim agreement with South Africa reaffirms states' commitment to the Beijing Platform for Action (though only in the pre-ambble) and the Association Agreements with Central America calls for an effective implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). It seems reasonable to conclude that promoting a women's rights perspective is not a high priority for EU trade policy, however it is possible to include it into a trade agreement as the Agreement with Central America and South Africa shows.

The main perspective on gender and women promoted in trade agreements is one of silence or women as a disadvantaged group that need specific action in the domain of development and collaboration (as opposed through trade regulations). 60 % of the current trade agreements either include no reference or a reference to women as a disadvantaged group. The other 40 % includes references that aim to promote gender equality and in almost 20 % of the agreements women's rights.

The table shows that it is very possible to include a strong gender commitment in trade agreements as the current agreements with Chile and Central America show. Both have a stand alone gender article. What is interesting about the gender article in the Chile agreement is that it clearly calls on the states to: *"ensure that gender and gender-related issues can be taken into account **at every level and in all areas of cooperation including macroeconomic policy, strategy and development operations**".* This article calls for gender mainstreaming with a very encompassing scope and explicitly mentioning macro-economic policy. The article also sets out to enhance positive measures for women. The agreement however lacks a mechanism on how this gender mainstreaming will be implemented and monitored and what is to be done if states fail to comply, especially in the economic sphere. Thus the article is toothless.

The gender article in the Central America is stronger in its wording compared to the one of the Chile agreement. This article not only stipulate gender mainstreaming but *"in particular in view of the effective implementation of the **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**...Cooperation shall also help to facilitate equal access of men and women to **all services and resources allowing them to fully exercise their fundamental rights**,..."*. It also stipulates affirmative actions and special programmes to tackle violence against women. This article is stronger, since a) 'gender issues' are reformulated into equality in access, opportunity and participation, b) access to services and resources such as health are reformulated as a fundamental right –and not as marketable commodities, and c) CEDAW is taken as a reference point. This article is a good template and standard for upcoming trade agreements the EU is negotiating. It has one major weakness. Similar to the Chile agreement monitoring mechanisms are lacking. That it is possible to include monitoring, is proven by the fact that they are in place for the trade clauses: *"Unlike the aspects of the Agreement relating to trade rules, there is no specific mechanism for monitoring the implementation of the human rights clause, nor a subcommittee dedicated to human rights and democracy issues"*<sup>88</sup>.

One could argue that if agreements have a clauses that ensure the protection of human rights, this would include women's rights, and these clauses could be used then to monitor women's rights. Actually 50 % of the agreements include human rights in its pre-ambble and as one of its guiding principles (article 1 or 2). There is some variation in how respect for human rights are

formulated. A common wording is as follows: “*Respect for democratic principles and fundamental human rights, as laid down in the Universal Declaration of Human Rights, and for the principle of the rule of law, underpins the internal and international policies of the Parties. Respect for these principles constitutes an essential element of this Agreement*” (from the Agreement with Colombia and Peru 2012). This suggests a strong commitment to human rights, one in which respect for human rights guides the trade agreements. However the majority of these agreements (34 %) only include a reference to human rights in this first or second article and the pre-ambles, meaning that there is no mechanism, concretization or elaboration included that would suggest how the states should protect human rights in the context of their trading relations. 16 % of all the EU trade agreements includes a few more references to human rights, by no means a detailed elaboration of how the treaty will implement protecting human rights. The agreement with Iraq (2012) entails the most references: in three articles and one human rights article. The fact that Iraq is a fragile state, still recovering from war, will probably have promoted the references to a human rights framework. Overall it seems that ***the commitment to human rights and the human rights declaration in trade agreement is more rhetorical than substantive.***



*EU Trade policy was one of the key topics for the international conference “[Movements, Borders, Rights? Feminist Perspectives on global issues in Europe](#)”, organised by WIDE+ and EWL, 24-25 October 2016.*

Many governments have reaffirmed their commitment to core human rights instruments in the adoption of the Sustainable Development Goals and other international declarations, agenda's and conventions, and many of the provisions of these instruments now form a part of customary international law. Moreover, under international law, governments must fulfil their human rights treaty obligations in good faith and should not enter agreements that would undermine their fulfilment of those obligations. Thus the inclusion of a human rights clause in trade agreement is not a real departure of existing commitments; however a mechanism included in trade agreements that would make the protection of human rights binding or enable for balancing trading rules with human rights in current economic arbitration panels, would be a new addition to current commitments. Such mechanism is very much needed to create coherence between trading rules and human rights commitments.

What is worrying is that of the 5 recently signed but not ratified agreements, none includes human rights as a guiding principle; three of them (with East African Countries, Singapore and Vietnam) do not include any reference to human rights, not even in their pre-ambles. There is one other agreement without a human rights framework reference in its text or pre-ambles and that is one of the oldest agreements signed in 1977 with Syria. The agreement with Canada includes a reference to human rights in the pre-ambles, but doesn't include a reference to these rights, poverty reduction, or sustainability as guiding principles anywhere in the text. It seems that the new and upcoming generation of trade agreements is moving away from mentioning human rights at all.



## ***Our recommendations***

We recommend a gender article that stipulates the protection and promotion of women's rights coupled with gender equality. Each agreement should reference the CEDAW and its Optional Protocol that is ratified by 188 states. It is very comprehensive in terms of women's human rights that are included; it is a Convention that is also often used by women's rights associations to assess the progress in their countries. As a gender article devoted to gender equality, gender mainstreaming and women's rights, the one in the agreement with Central America is a good model. One or more casual reference to women as disadvantaged group or promoting gender equality through collaboration and cooperation is too marginal to have a significant impact in relation to the whole agreement.

We call for binding mechanisms in terms of human rights, environmental protection, decent work and clauses that offers explicit protection to women's rights<sup>89</sup> as long as there are agreements with binding rules for trade. Trading commitments should not overrule the rights of women and men and of the environment, as they do now. While half of the current EU trade agreements include a reference to human rights as guiding principles, this seems to be more rhetorical, lacking a concrete mechanism to ensure the protection of human rights, while the protection of trading rights are elaborated in a very detailed manner.

The new generation of EU trade agreements includes social rights and environmental concerns in a separate Sustainable and Trade chapter. We welcome these chapters that include the ILO standards. Also research have shown that labour provisions in trade agreement to not hinder international trade flow or reduce its diversity, while it supports labour market access particularly for women<sup>90</sup>.

We propose additions to these sustainability and trade chapters. A key revision needed is to strengthen the monitoring and collaboration mechanisms in these chapters. In our vision these conventions and environmental agreements should be binding. To protect women rights, we advocate to make part of any EU trade agreement: Convention No. 189 on Domestic Workers<sup>91</sup> and No. 156 on Workers with Family Responsibilities<sup>92</sup>. The Convention No. 189 is important since the sector of domestic work is highly feminised and women are vulnerable as informal workers<sup>93</sup>, many of whom work without the proper contracts that ensure decent work. Some of these ILO Conventions are fairly new and might take some time to be ratified. We also welcome specific wording that promotes the protection of women's rights in Sustainable trade chapters, for example about the ILO guide on sexual harassment at workplace, upholding the rights of women to collectively defend their rights, protection against VAW and intimidation from and within companies, etc. Lastly, the references to decent work should also apply to all informal working conditions not covered by ILO conventions<sup>94</sup>.

### **Recommendation 1**

**EU Trade agreements should include binding clauses on women's rights coupled with gender equality and gender mainstreaming with an appropriate body appointed or an explicit mechanism to monitor compliance.**

*This can be done through including them as part of ILO standards, including Convention No. 189 on Domestic Workers and No. 156 on Workers with Family Responsibilities and through adding CEDAW as one of the human rights declarations to adhere to. We promote a gender article in agreements.*

*This recommendation also implies that decent work standards, human rights principles and environmental protection should be part and parcel of binding Interstate Dispute Settlement mechanisms.*



## **2. Strengthen the protection of women's rights over the rights of companies and investors: a halt to investor-state dispute settlement mechanisms and limiting Intellectual Property rights**

The rights of individuals need to be rebalanced vis-à-vis the rights of Transnational Companies (TNCs) and other companies. EU trade policy has embarked on an ongoing trajectory to increase the rights of companies and (foreign) investors. This is to the expense of human rights, including those of women and girls. There are two policy areas that urgently need to be addressed in order to better ensure women's human rights: a) the intellectual property rights of companies should be weakened, and b) the development of investor-state dispute settlement (ISDS) systems should be reversed.

### ***Intellectual Property Rights***

The legal basis of Intellectual Property Rights (IPR) at international level is laid down in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which is agreed and administrated through the World Trade Organization (WTO). 128 member states, including the EU, have ratified this agreement which came into force in 1995. Under TRIPS a patent for utility (for example medicines) can be granted for a period of maximum 20 years given the patent fees are periodically paid. A design patent (copyright, etc.) is generally granted protection for maximum 14 years. Since TRIPS, bilateral as well as multilateral trade agreements have expanded IPR.

The IPR law has not been without controversy. One common critique has been that it has made prices for specific utilities such as medicines more expensive. For example for the US, economist Dean Baker concluded that cutting out patent protection could amount to savings of more than \$140 billion a year, given 2005 spending levels, while the private industry used only \$ 20 billion for research on new drugs. Public spending surpassed the private spending on bio-medical research and many patents were granted not for new inventions, but for similar drugs produced by different companies<sup>95</sup>. In a global context, the role of patents leading to increased prices for drugs have been controversial; it has limited access to for example medicines against AIDS for poor people. Another common critique has been that IPR stifles innovation, instead of stimulating it, especially in upcoming technologies such as IT<sup>96</sup>.

Intellectual Property Rights have been weakened in some instances, when responding to the critiques as shown by the current ratified amendment within the WTO for Least Developed Countries (LDCs) for which IPRs for pharmaceutical products are waived<sup>97</sup>. The amendment intends to grant better access to people in LDCs to medicines. The amendment was accepted by WTO members, including the EU, following repeated calls to adapt the rules of the global trading system to the public health needs of people in poor countries from the United Nations<sup>98</sup>. Global citizens around the world have been concerned for years as well; WIDE+ joined around 200 other associations, including 50 international and regional networks, that requested the WTO to extend the waiver<sup>99</sup> some years ago.

The waiver addresses price issues for LDCs; it doesn't address the costs of IPRs to health care in other countries. It doesn't resolve the negative impact of IPRs that are further promoted in trade agreements and negatively affect women<sup>100</sup>. Affordable essential medicines are particularly important for women, not only because of women's particular health requirements (for example, related to reproduction) but also because women and girls' disproportionate experiences of poverty, violence and harmful traditional practices make them particularly vulnerable to ill health<sup>101</sup>.

While the EU accepted the waiver, its overall approach to IPR is to: *“to enhance respect for IPR standards at an international level...in the context of WIPO, WTO and UPOV aimed at improving protection and enforcement of IPR at global level....[and] continue to negotiate IPR provisions in its free trade agreements (FTAs) with third countries”*<sup>102</sup>. In short, the EU aims to strengthen IPR rights beyond TRIPS and one way is through its trade agreements. For example, in the EU-Canada Comprehensive Economic and Trade Agreement (CETA), the bank accounts and other assets of a person merely alleged to have infringed an intellectual property right may be seized as a precautionary measure<sup>103</sup>. CETA broadens the scope and measures for sanctions to uphold IPR and strengthen the role of patent trolls –companies that use patents beyond their actual contribution in order to gain income through legal tactics<sup>104</sup>.

The promotion of the 1991 International Convention for the Protection of New Plant Varieties (UPOV) convention is another way the EU is negatively impacting women’s rights. IPR policy pose a risk to food sovereignty and the seed-sharing practices of farming communities<sup>105</sup>. IPR in preferential trade agreements, such as with the US, have been used to erode the right of countries to regulate plant and seed varieties. In regard to the agreements the EU has recently negotiated, in particular the Economic Partnership Agreements (EPA)<sup>106</sup>, The EU is committing partnering states to take further steps in protecting IPR and come to common intellectual property standards equal to those of the EU. This pushes states to sign on to UPOV, which provides patent-like rights over crop varieties, expands the rights of the patent-holder and limits uses of derivative varieties. Recently Ghana undersigned the UPOV protocol<sup>107</sup>, just before its signing of its EPA with the EU in 2016. The UPOV Convention threatens the conservation and redistribution of seeds practiced by farming communities over generations, forcing them to buy seeds for each crop cycle and undermining rural food security and agricultural biodiversity. Research by UNDP has confirmed that informal exchange of knowledge and seed-sharing is central to sustainable farming practices in the developing world (UNDP, 2010). UPOV is not necessary; there are other ways to protect IPRs of seeds. The threat UPOV poses to small scale farmers have been addressed by for example India that adopted the Protection of Plant Varieties and Farmers’ Rights Act in 2001 that upholds the rights of farmers to save, use and exchange seeds and give them ways to register IPR<sup>108</sup>; the act also protects IPR of companies developing seeds, but in a more balanced way than the UPOV – giving more space to farmer’s traditions. However the act is considered not in compliance with UPOV.

IPR as protected through UPOV and similar provisions concerning seeds, have huge impacts on women. The privatisation of seeds and other biodiversity resources force women to rely on diminishing and increasingly degraded communal resources. This has implications beyond the livelihoods and food security of individual women farmers: women grow or raise most of the world’s food and are considered ‘guardians of food security’ in light of their role as custodians and users of traditional knowledge in land management, including in the management of seeds<sup>109</sup>.

The EU is on a track to keep strengthening IPR. In our view this policy has gone too far in favour of companies and it is (further) damaging the rights of women to access affordable food, produce food and access affordable medicine. We believe IPRs should be limited:

- through revising the original TRIPS –meaning that the duration of a valid IPR shall be limited, and exemptions further regulated, e.g. for essential goods such as seeds and medicine.
- UPOV should be revised to protect the rights of farmers and indigenous communities.
- The EU should immediately stop with promoting additional IPRs in upcoming planned bilateral and multilateral trade agreements.

## Recommendation 2a

**In order to ensure women have improved access to essential medicines and resources for food sovereignty, the EU should weaken Intellectual Property Rights in WTO TRIPS and in UPOV and stop promoting them in bi- and multilateral agreements.**

### *Investor-State Dispute Settlement Mechanism*

Another way that the EU is increasing the rights of TNCs is through promoting a binding investor-state dispute settlement mechanism (ISDS mechanism). The ISDS provisions in trade agreements enable investors to bring a claim in a private international tribunal against a government for breach of a provision of the agreement or treaty. CETA is the first bilateral EU trade agreement in which a fully fledged ISDS mechanism is included; the EU has recently added the EU-Vietnam agreement (also waiting to be ratified) to this mechanism. As part of the CETA ratification, the current structure of this mechanism is still being developed –whether it will be a permanent court or other structure. What is clear so far is that the ISDS is planned to take place outside regular courts.

A system in which an ISDS is separated from regular law and legal procedures has proven deeply problematic on several grounds. First, investors have the power to sue governments if they *anticipate* reductions in profit from their investments due to planned government regulation or licensing.<sup>110</sup>

Second, investors can challenge government policies that have been introduced to protect human rights or equitable development if their profits are threatened, such as laws to close gender wage gaps. Various ISDS claims have already been brought to challenge progressive laws - and there is no reason to think that government measures to promote women's rights would be excluded from this<sup>112</sup>. Thirdly, specialised courts tend to become biased and most importantly democracies need a legislative feedback loop. People have to be able to change laws that do not work well. But changing an international treaty is much harder than changing national or EU legislation; there is no workable legislative feedback loop at the supranational level.

Investor state dispute settlements have become popular since the 1990s and are included in many bilateral investment agreements (BITs). There has been already an extensive experience with claims; in 2015 there were over 600 claims brought by companies in specialized arbitration systems to over 100 states; close to 80 % of these claims have been against less developed countries<sup>113</sup>. Initially ISDS mechanisms were embraced by many developing countries as a means



to attract Foreign Direct Investment. Currently enthusiasm is decreasing and some countries are pulling out of BITs. Recently Ecuador terminated all their BITs as fifth country to do so, after having paid 1,5 billion US dollars in settlement payments<sup>114</sup>.

Investor-state dispute settlements take protecting business interest to a new level by giving companies a direct leverage to sue states in case they consider their economic interests ‘unfairly’ treated. This will probably also impact states’ policy to promote gender equality. CETA and the Vietnam-EU trade agreement, both recently signed and part of the newly established “Multilateral Investment Court Project”<sup>115</sup> include one reference to protecting gender equality and it is in the context of investor rights<sup>116</sup>.

Article 8 outlines the ISDS mechanism in CETA: *“the Parties reaffirm their right to regulate within their territories to achieve legitimate policy objectives, such as the protection of public health, safety, the environment or public morals, social or or consumer protection or the promotion and protection of cultural diversity” (article 8.9). On the other hand gender is one of the grounds on which investors can put forward a claim. Article 8.10, Treatment of investors and of covered investments: “2. A Party breaches the obligation of fair and equitable treatment referenced in paragraph 1 if a measure or series of measures constitutes: ... (d) targeted discrimination on manifestly wrongful grounds, such as **gender**, race or religious belief”.*

Thus the article stipulates that investors can sue states if they consider being discriminated on the basis of gender. While the chapter also includes an article that should protect and allow governments to undertake ‘legitimate policy objectives, such as the protection of public health...’, it is unclear how these two articles relate to each other. However according to a study done by over 20 NGOs and institutions on what current ISDS law entails, it can mean that investor rights are considered as creating a right to a stable regulatory context<sup>117</sup>. This would imply that governments can not change their laws to include stronger measures to promote gender equality. The EU should ensure a better protection of public policy space to protect human rights.

#### **Recommendation 2b**

**Halt the development that the EU is promoting in bi- and multilateral trade agreements and in the WTO to push further with investor-state dispute settlements.**

*Investor-State settlements should be part of regular courts and be weighed equally with the rights of individuals and of future generations. The EU should ensure a better protection of public policy space vis-à-vis ISDS mechanism. It should clarify how government’s changing policy to promote gender equality for women and men is impacted by investor’s grounds for claims that protects them from discrimination based on gender equality (as stipulated in CETA and Vietnam-EU agreement).*

### **3. Gender-sensitive binding regulations for Transnational Companies**

Companies play a huge role in international and national trade. Research shows that 63% of the top 175 global economic entities are transnational corporations, not countries<sup>118</sup>. When it comes to setting international regulations for companies, in particular transnational companies, the EU has indicated in its new EU trade communication that it wants to support the implementation of non-binding, voluntary declarations, such as the UN’s Guiding Principles for Business and Human Rights, the UN Global Compact and the ILO Tripartite Declaration on Multinational Enterprises and Social Policy and it wants to: *“encourage the EU’s trading partners to comply with these international principles and in particular the OECD Guidelines for Multinational Enterprises”* <sup>119</sup>. The EU has also promoted Corporate Social Responsibility practices (for example in the trade



agreements with the Southern African Development Community and with Peru, Colombia and Ecuador), which are voluntary commitments that companies can take onwards.

We welcome any effort of the EU and its member states to promote international rights based principles for (transnational) companies, however we are very concerned that too much focus on voluntary measures will hinder the development of binding regulations. Binding regulations is the only way to structurally and sufficiently ensure that companies protect human rights and will use properly natural resources –without externalising the environmental costs on communities and planet earth. A binding regulation will prevent companies to play off states in finding places where they have more freedom with natural resources, have possibilities to ‘land grabbing’ from local communities and can demand lower labour standards.

“We’ve seen corporate abuse of human rights for decades. We’ve seen how they operate and how States are not capable of doing their job right and regulate them. They have captured several public decision-making spheres. A treaty is very important to have a legally binding instrument that really allows for corporations to be

accountable, including not only transnational corporations, but also those with participation from States and those that contribute with financing for projects on the ground. It’s essential to think of the impacts that these corporations are having on the lives of women, for example on labor rights, the gender pay gap, the impact on women in local communities when there are human rights violations - especially economic, social and cultural rights-, capture of land, territories, and natural resources that have an impact on rural and indigenous communities”.

*Fernanda Hopenhaym, Poder, México.*



*From AWID on why a binding treaty is so important<sup>120</sup>*

The effective way to ‘encourage’ companies to take on what are essential and not ‘additional’ responsibilities is to agree to legally binding human rights regulations for companies, in particular Transnational Companies (TNCs)<sup>121</sup>. There should be a clear minimum floor of rights to be respected and enforced. The EU should play a strong supportive role in Intergovernmental Working Group of the United Nations Human Rights Council mandated to elaborate a binding treaty on transnational corporations and human rights. It is a promising signal that the EU has started to constructively take part in this Working Group since this year<sup>122</sup>; we call on the EU to continue and strongly support this process and push for a final binding resolution. The EU can also suggest stronger human rights protection from TNCs in their bilateral and multilateral trade agreements.

A worldwide coalition of Civil Society united through the global campaign to ‘dismantle corporate power and stop impunity’ has developed a list of six key proposals to ensure that such treaty will respect human rights<sup>123</sup>. We fully endorse these proposals that will also provide a good starting point for the protection of women’s rights.



### **Recommendation 3**

**Adopt gender-sensitive binding human rights regulations on an international level to regulate Transnational Companies (TNCs) and other companies.**

*We consider the EU's discourse on promoting voluntary regulations of TNCs and other companies is a strategy to keep the EU from committing to binding regulations, although genuine protection of women's rights lies in binding regulations.*

## **4. Women should be protected through putting a stop to agricultural liberalization in trade agreements**

It is imperative that EU trade policies recognise the role of women in agricultural labour, and the negative effects of its policy on food insecurity (such as malnutrition) and food sovereignty (such as economic disempowerment) for women, their children and communities. Promoting food security and sovereignty by supporting the production of small scale farmers in the Global south is an excellent medium to help women's empowerment. We are sceptical about fixing negative trade impacts through development programmes for women supported by the EU and its member states, for example through mainstreaming women in aid for trade programmes. The only way we see the negative impacts can be properly countered is through changing EU's trade position on agriculture.

Countries, especially in the global South, should be able to determine their own agricultural policies. This means that global, bi- and multilateral trade agreements currently in place should push back the liberalisation of agricultural markets to allow for this flexibility, while increasing regulations on food speculation (which leads to volatile pricing of agricultural goods) and ending subsidies for agro-fuels (as they have diverted land away from food production and aggravated ecological degradation). WIDE+ joins many other civil society in these recommendations<sup>124</sup>.

In terms of increasing nation's flexibilities, all countries should have the right to subsidize food for the poor, including doing direct payments to poor farmers; they should have the right to raise tariffs and use other measures to protect farmers' livelihoods, rural development, and food security. This ability, called the Special Safeguard Mechanism (SSM) in the WTO, must be far more flexible than is reflected in current WTO proposals if it aims to be useful in achieving food security and sovereignty. A similar set of actions should be taken with regard to bilateral and multilateral agreements with the EU.

EU trade agreements should also do more to protect the climate and the environment, through making the protection of the environment binding in trade agreements and making companies responsible for the external environmental costs of their production. It's worth noting that a quarter of all of the arbitrations globally under ISDS up to 2014, for example, were challenges to regulations regarding oil, gas and mining<sup>125</sup>. It should be the other way around: practices that cause huge pollution should be called legally into question, not the regulations that aim to reduce for example mining and promote more sustainable production methods. Trade agreements and WTO policy should include binding regulations to regulate water and land grabbing by Transnational Companies<sup>126</sup>.

### **Recommendation 4**

**Global, bi- and multilateral trade agreements currently in place and negotiated**

**should put a stop to the liberalisation of agricultural markets to allow for nation's flexibility in safeguarding mechanisms and subsidies, while increasing regulations for food speculation and ending subsidies for agro-fuels.**

**The EU should also make its commitments to international environmental agreements binding in trade agreements and put in place better human rights and environmental clauses to regulate land grabbing.**

*Women are hugely affected by EU's agricultural policies and lack of environmental protection in trade policies. Women make up a majority of small scale farmers in many developing countries in Sub-Saharan Africa and South Asia and due to the structural discrimination they face combined with an increased care burden, they are especially affected by natural disasters.*

## **5. Do not increase the care burden: stop with 'one-size-fits-all' privatization of social services and public goods policy in WTO and other trade negotiations**

WIDE+ proposes halting the global privatization of public services: opening services to the global market does not render the most efficient and effective outcome and has proven to actually increase prices, reduce accessibility and discriminate against poor women in the formal labour market. Public procurement and privatisation policies should be tailor-made to each specific context and region. For example, opening up public procurement in countries where the governance structure is not strong enough to enforce transparent processes that provide fair services to their people will lead to more corruption and erosion of services<sup>127</sup>.

State intervention and regulation is vital to guarantee fair, accessible and universal provision of public services. Social Protection Floors (ILO Recommendation 202)<sup>128</sup> are important, as is ensuring room for states to develop their own best policies on providing public goods.

Several care services are most probably going to be included in the Trade in Services Agreement (TISA)<sup>129</sup> for opening within the context of WTO negotiation. TISA is an ongoing trade negotiation among 23 states including the EU (that negotiates on behalf of its member states) with the aim to come to an agreement which takes further steps towards liberalising services that were agreed under the WTO GATS agreement. When TISA would be concluded, it would cover two-thirds of global trade in services, opening up an unprecedented range of services to foreign competition<sup>130</sup>.

TISA would go beyond the existing WTO rules on trade in services, moving to a system whereby all services are liberalised unless specifically excluded by the country in question<sup>131</sup>. The agreement also threatens to bind future governments through so-called 'stand-still' and 'ratchet' provisions, which prohibit reversion to State-based provision of public services.

TISA covers four 'kinds' -called modes of supply- of service delivery in cross-border trade; these service providers will not be protected under national labour laws of receiving countries, but their status will be defined under the agreement as the person employed is legally a 'contractor' and not a worker. In particular mode 4 will be relevant for women since it covers services around health and can include professional care providers. It might be that TISA will create job opportunities for women, but overall we expect that women will be exploited in such sectors as health and care because mode 4 provisions will most probably deprive migrants of their full status as workers.

Job creation is important, but trade policies should ensure these are decent jobs under reasonable and secure conditions. At the end of 2016, the EU position and the current state of negotiations entailed that workers would be employed with terms laid out in private contracts between the employer and the 'service supplier'. Such contracts do not offer job security and most often they offer lesser benefits than those stipulated by national labour laws.



From: <https://popularresistance.org/there-is-still-one-big-corporate-trade-deal-that-must-be-stopped/>

### Recommendation 5

**Stop further liberalisation of public services and public procurement in the WTO and trade agreements.**

*This entails:*

- *EU Trade agreements should facilitate states to regulate and provide for social protection, and by no means promote further liberalization and privatization of public services.*
- *EU and its Member States should severely limit the commitments undertaken in TiSA only to cover high-skilled professions and service providers, and do not list in the schedules of commitments categories of workers that must be protected under national labour law, for instance services provided by midwives, nurses and para-medical personnel.*

## 6. Ensure a transparent participation of -women's rights- Civil Society in trade negotiations and monitoring of agreements

A first prerequisite to meaningful participation in trade negotiations by a society at large, is timely and accurate information about the negotiations and the positions of each negotiation partner. For many years, the EU lacked transparency in its negotiations. As it acknowledges in its own 2013 transparency factsheet, information is shared through different channels but: "*the negotiations and their texts are not themselves public*"<sup>132</sup>. The secrecy surrounding draft texts or initial positions hampers a full and thoughtful public debate and scrutiny. It is a positive development that the EU started to publish documents on its positions and negotiations meetings<sup>133</sup>, though not all negotiations are documented. As the trade and gender Working Group we have been trying to monitor the modernisation of the trade part of the EU-Chile Association Agreement in terms of its gender equality commitments, but we are unable to find updated public information on the texts being considered. This makes it very hard to hold EU trade officials

accountable for ensuring gender equality as is laid down in the EU Charter of Fundamental rights is protected or strengthened in the revision of the agreement.

While the EU has improved its sharing of information on its positions and the negotiations, it still lacks in transparency on how it is treating feedback from civil society and other actors into negotiations. The formal spaces that the EC has facilitated for public involvement such as online consultations and civil society dialogue create opportunities for exchange of information, knowledge, concerns and advice, but it doesn't meet our standards for a meaningful participation, since any feedback from the public can easily be discarded by trade officials without further argumentation. There should be a transparent mechanism that shows how the EU deals with the views shared by different stakeholders and why they consider some feedback as relevant and why they ignore the input of others. For example, several of our working group members seriously doubt whether the EU trade officials take on board divergent opinions and feedback from public online consultations. As with the TTIP online consultation, one could fill it in but afterwards no response was given by the EU to those that took part in the consultation. It was unclear if the EU considered the feedback or if all contributions were read.

We believe that a genuine involvement of a diversity of stakeholders, including civil society, in trade negotiations will improve the final result of the trade agreement, since a diversity of experiences, knowledge and interest can be weighed in. Women's rights movements, groups and associations should be included among the involved stakeholders, since women participate in the economy as producers, workers, taxpayers and consumers<sup>134</sup>.

Civil society should also be part of monitoring concluded trade agreements. While some agreements have mechanisms in place for monitoring specific parts of an agreement, all agreements should build in monitoring mechanisms that create formal space for the public to monitor the whole agreement.

We want to suggest some concrete proposals that can improve the involvement of women's rights civil society and other actors in trade negotiations and its monitoring:

- Increase transparency in how provided feedback in online consultations and public meetings is considered by EU trade officials and why some advice is taken on board and other's is left aside.
- Make sure positions and texts of meetings from all EU negotiations, including revisions, are made public.
- Make sure all trade agreements have mechanism for a monitoring of the whole agreement by the public (meaning that it is done through a transparent process without a pre-selection of who is allowed to monitor).
- A trade and gender desk within its DG Trade *"the role of which would include monitoring whether countries with which the EU enjoys trade relations respect human rights, in particular women's rights, and actively to respond to cases of human rights violations"* as recommended by the EP resolution in 2006<sup>135</sup>.
- DG trade should publish an annual progress report on trade and gender, and organize annual consultations with Civil Society on gender in EU trade policy, that includes a diversity of women's rights perspectives on trade, thus relying on an intersectional analysis.
- There should be resources made available within DG trade or the EU aid for trade programme to allow for civil society in the EU and in negotiating countries to build capacity on trade agreements and to allow for participation in negotiations and monitoring, for example funds for organizing public information campaigns or meetings.



## Recommendation 6

**Ensure a transparent participation of –women’s rights- Civil Society in trade negotiations and monitoring of agreements**

### **7. Sustainable Impact Assessments should have an encompassing gender human rights perspective that is intersectional**

The EU has conducted Sustainable Impact Assessments on trade policies since 2002, whereby it purports to examine the potential impact of proposed agreements. However, the key shortcomings of the current SIA methodology is that its analysis of gendered impacts is too narrow and superficial<sup>136</sup>. In addition to the conclusion of others, including conclusions in the commissioned EP study on gender in EU trade, we concluded for the EU-Mexico SIA that it comes to conclusions that can be regarded as ‘wishful thinking, more than reality’, that it is extremely shallow and that the used concept of women’s empowerment is very unclear and doubtful. WIDE found that with the SIA for the planned EU-India agreement: *“the definition of indicators reflects thus a notion of sustainability integrated into SIAs that fails to capture the importance of social justice, gender equality and women’s empowerment as key elements of sustainable development...The use of the UNDP human development reports and more specifically, their gender development index (Karadenizli 2001, p. 4) would improve the deficiencies at least to a certain extend”*<sup>137</sup>.

A SIA assessment of how the expected trade agreement would impact societies and economies should include its impact on the protection of human rights, the distribution of wealth, gender and other inequalities -an intersectional analysis is needed- and the environment. For example, one question should be if the proposals under the trade agreement would increase the possibilities for TNC based in Europe to violate human rights. SIAs should also question whether gains in employment means gains in decent work or work under poor conditions and if direct impacts on job creation have indirect impacts such as increase of violence against women.

In order to come to an assessment that includes a gender analysis from a broad and meaningful perspective, we propose that Sustainable Impact Assessments (SIAs) include the perspectives and development priorities of heterogeneous women and men from the ground. Because of their closeness to the territories, grassroots men and women possess valuable empirical knowledge on strategies to ensure equitable and sustainable livelihoods, for their respective communities, and for society in general. Concretely, their proposals should be part and parcel of a stakeholders’ analysis to be conducted before the Council gives the Commission a mandate to negotiate.

A SIA should incorporate an intersectional analysis. Since women take on many different positions in economies, depending also on other factors, we promote an economic policy, including international trade policy, based on an intersectional approach to the gender and trade nexus. This implies that the effects of policies are studied and addressed not through general categories as ‘the population’ or ‘women’ versus ‘men’, but that effects are viewed for different classes and groups intersecting: migrant women, educated white men, indigenous men, poor LGBTQI women, etc. For example in Chile, the material realities of business women who expect to benefit from further liberalisation, is completely different from groups of indigenous and migrant women. A majority of the latter are working under highly precarious conditions, denied their right to social protection, enduring long working hours (up to 18 hours per day in the case of migrant seasonal workers). In the case of Mapuche women, indigenous women living in south-central Chile and south-western Argentina, they are denied their right to land.

It relevant to improve the gender analysis in the SIAs, but in order to be able to have a meaningful role in the negotiations, SIAs should be concluded at an early stage in order to inform EU negotiating positions and play a role in the negotiations, which is currently not the case<sup>138</sup>. Secondly, it has remained unclear to WIDE+ and its predecessor WIDE while monitoring EU trade policies since 2000, how SIAs have in any way altered the negotiations and EU positions. SIAs are mainly useful if they actually are able to influence European trade positions.

There is to date also only one post-impact evaluation done that includes gender aspects. Post-impact evaluations should be carried out at regular intervals following the implementation of a policy.

#### **Recommendation 7**

**In order to come to an assessment that includes a gender analysis from a broad and meaningful perspective, we propose that Sustainable Impact Assessments (SIAs) include the perspectives and development priorities of heterogeneous women and men at grassroots level.**

*We also propose that the EU clarifies the role of SIAs in EU trade negotiations, improving the way they can impact negotiations as well as including a diversity of perspectives in the assessment: they should be based on the protection of human rights.*

## ANNEX: Table with all reference to Gender issues and Women in current EU bilateral and multilateral Trade Agreements

### References to issues relating to gender and women in EU trade agreements

#### Group A: No reference\* in 13 agreements (41 %)

[Syria](#) (1977) Co-operation Agreement  
[Armenia](#) (1999) Partnership and Cooperation Agreement  
[Azerbaijan](#) (1999) Partnership and Cooperation Agreement  
[CARIFORUM States](#) (2008) Provisionally applied Economic Partnership Agreement\*\*  
[Papua New Guinea and Fiji](#) (2011) Interim Partnership Agreement ratified by Papua New Guinea  
[Colombia and Peru](#) (2012) Trade Agreement  
[South Korea](#) (2015) Free Trade Agreement\*\*  
[Ghana](#) (2016) the provisionally applied Stepping Stone Economic Partnership Agreement  
[Southern African Development Community \(SADC\)](#) (2016) Economic Partnership Agreement  
[Ivory Coast](#) (2016) Economic Partnership Agreement provisionally applied  
[Ecuador](#) (2017) Trade agreement provisionally applied.  
 FINALISED, NOT YET RATIFIED:  
[West Africa](#) (2014) Economic Partnership Agreement, initialling, 10 July 2014  
[Canada](#) (2016) Comprehensive and Economic Trade Agreement (CETA)\*\*\*

\*Excluded in this analysis tariff prices for specific products like women shoes, which are included in some (annexes of) agreements; our focus is on people.

\*\*Article 5 and article 191 of the CARIFORUM States Provisionally applied Economic Partnership Agreement do reference women, but in combination with 'men, children and youth', thus having mentioned all categories of people, without saying something in particular on women or gender issues, see for example article 5: *"The Parties undertake to monitor continuously...in order to ensure that the objectives of the Agreement are realised...and the benefits for men, women, young people and children deriving from their Partnership are maximised."*. It is therefore included in the group of agreements without a specific reference. A similar reference is to be found in the South Korea Free Trade agreement, where article 13.4 reaffirm the parties' commitment as a *"...to full and productive employment and decent work for all, including men, women and young people"*.

\*\*\*The CETA, Article 8 outlines the ISDS mechanism in which gender discrimination towards a company or investor is one of the grounds on which investors can put forward a claim to a state. Since this reference is focused on the rights of non-human entities it is not taken as a reference to women.

#### Group B: Reference to women as a target group to support through development actions and/or dialogue and exchange, found in 6 agreements (19 %): 5 have a reference in one article, 1 has a reference in 2 articles of its agreement

Several agreements with Mediterranean countries list as part of their Social Cooperation Actions, 7 to 8 priorities for project and programmes that the parties aim to address with measures. The priorities include one or two that relate to women, formulated in the following way: *"the promotion on the role of women in social and economic development, particularly through education and the media, in line with [the partner countries'] policy in this area"* and: *"the development and consolidation of [the partner countries'] family planning and mother and child protection programmes"*. The specific agreements are listed throughout the table, with further details about difference from this formulation of the article:

[Jordan](#) (2002) Association Agreement. Article 82.

[Tunisia](#) (1998) Association Agreement. Article 71 outlines only: *"(c) promoting the role of women in the economic and social development..."* and no mention of family planning.

[Morocco](#) (2000) Association Agreement, Article 71.

[Algeria](#) (2005) Association Agreement. Article 74 lists 13 priority measures and 1 of them refers to women: *"(d) promoting the role of women in the economic and social development..."*.

[Egypt](#) (2004) Association Agreement. Article 65. In addition, article 42 on 'Education and Training' which is part of promoting economic cooperation through training, dialogue and technical assistance: *"The Parties shall cooperate...to improve significantly education and vocational training, in particular with regard to public and private enterprises.... In this context, the access of women to higher education and training will receive special attention"*.

[Cameroon](#) (2009) Interim Economic Partnership Agreement. Annex 1 describes in article B the EPA regional fund [for development]. *Promotion of entrepreneurship among women* is one of around 50 activities that are given as examples to implement in key areas through support of the fund.

**Group C: Reference to women as targeted group and the promotion GENDER EQUALITY to support through development actions and/or dialogue and exchange in 8 agreements (25 %): 3 agreements have a reference in 1 article, 3 agreements have a reference in 2 articles, 2 articles have a reference in three articles/chapters.**

[Lebanon](#) (2003) Interim Agreement. Article 65 outlines six priority areas for project and programmes to consolidating cooperation between the Parties in the social field similarly to the standard reference outlined for agreements with Mediterranean countries (see group B). Additionally, Article 65 states that *“the Parties shall engage in a dialogue on all aspects of mutual interest...such as...equal treatment for men and women”* [listed as 1 of 7 issues].

[Palestinian Authority](#) (1997) Association Agreement. Article 45, on social development, shares similar wording the standard reference outlined for agreements with Mediterranean countries. 2 of the 6 priorities state: *“the promotion of the equality of women and a balanced participation in the decision-making process in the economic and social sphere, notably through education and the media”*, and: *“the development of family planning and the protection of mothers and children”*.

[Israel](#) (2000) Association Agreement. There is one reference to women in the chapter on social matters, in article 63: *“The Parties shall conduct a dialogue covering all aspects of mutual interest... such as .....equal treatment for men and women,....etc.”* [seven issues are listed as examples].

[Kazakhstan](#) (2016) Enhanced Partnership and Cooperation Agreement. Chapter 16 is devoted to outlining the cooperation on employment, labour relations, social policy and equal opportunities. In article 230, 10 areas are identified for cooperation to reach these goals, of which 1 of them is focus on gender: *“(h) enhancing gender equality by promoting the participation of women in social and economic life and ensuring equal opportunities between men and women in employment, education, training, economy, society and decision making;”*.

[Madagascar, Mauritius, Zambia, the Seychelles, Comoros and Zimbabwe](#) (2009) Economic Partnership Agreement In the section on ‘Inland fisheries and aquaculture development’, article 33 outlines 6 areas of cooperation. The last area ‘socio-economic and poverty alleviation measures’, includes 3 measures of which 1 references women: *“encouraging participation of disadvantaged groups in the fishing industry, for example, through the promotion of gender equality in fisheries by developing the capacity of women engaged in fisheries, as well as other disadvantaged groups with the potential to engage”*. In the section around economic and development cooperation, article 38 lists 10 areas, including: *“(h) gender mainstreaming”*. There is a development matrix included in the annex with around 30 issues of which gender is 1: *“Gender Promotion of female entrepreneurship through targeted interventions Activities could be: (i) Support Programmes that help women improve access to all resources in particular those for trade and development. (ii) Promote female entrepreneurship to facilitate participation in regional and global markets”*.

FINALISED, NOT YET RATIFIED:

[East African Countries \(EAC\)](#) – (2014) Interim Economic Partnership Agreement. In the section on agriculture, outlining the areas of cooperation (article 83), there are five issues addressed to bring about rural development and one of them mentions gender: *“iii. addressing socio-cultural barriers such as language differences, literacy levels, gender biases, community health that influence the nature of farming systems;”*. Article 89, on “Inland Fisheries and Aquaculture Development”, states EU contributions to 7 areas, of which the last one ‘Socioeconomic and poverty alleviation measures’ includes: *“...(ii) participation of marginal groups in the fishing industry for example, the promotion of gender equity in fisheries, and particularly developing capacity of women traders involved and intending to engage in fisheries. Other disadvantaged groups with the potential to engage in fisheries for sustainable social economic development will also be involved in such processes”*.

[Vietnam](#) (2016) Free Trade Agreement. Firstly, as with the CETA, there is an article to protect the rights of investors to targeted gender discrimination in the same words as with the CETA (there is one ground added to 5 grounds to sue states). Secondly, in chapter 15 ‘Trade and Sustainable development’ the parties *“... reaffirm their commitment to promote the development...and decent work for all, including for women and young people....”*, which is similar to the reference on women in the South Korea Free trade agreement, only men are not mentioned and instead of international trade, the article talks about bilateral trade. Article 14 lists 13 areas parties may cooperate on and 1 of them mentions women: *“(e) Trade related aspects of the ILO Decent Work Agenda, in particular on the interlinkages between trade and full and productive employment for all, including youth, women and people with disabilities, [4 other issues], social protection for all (including for vulnerable and disadvantaged groups, such as migrant workers, women, youth and people with disabilities) and social inclusion, social dialogue and gender equality”*.

[Singapore](#) (2014) Free Trade Agreements. Article 13.4 lists 6 trade-related aspects of labour policies and aspect (e) is similarly worded to point (e) in the Vietnam agreement above, with the difference that it does not elaborate who is meant with productive employment for all or social protection for all, leaving this article with one reference to women with *‘gender equality’* at the end. Other references: the agreement lists all the central bodies to which the regulations of opening up public procurement as laid out in the agreement apply, including women and .... ministries or authorities in



the EU (annex 10-a). Appendix 8-b-1 lists types of social services excluded from Singapore's schedule of specific commitments, and this lists: "1. Statutory Supervision Services With Accommodation for the Following "Types of Clients (9331): a) **women and girls detained in a place of safety** under Section 160 of the Women's Charter (Cap. 353) (93312);". THUS, this agreement (for Singapore, not EU).

**This is the only agreement in which there is a reference to women in the trade section;** in other agreements it is the cooperation section for example, or trade and sustainable development chapters.

**Group D: Reference to women as targeted group, possibly gender equality AND A RIGHTS FRAMEWORK to support through development or dialogue and exchange in 2 agreements (6 %), both have references in two articles.**

[Mexico](#) (2000) Economic Partnership, Political Coordination and Cooperation Agreement. Article 36 cooperation on social affairs and poverty refers to women when committing to dialogue: *"This should include topics related to vulnerable groups and regions such as: indigenous population, the rural poor, **women on low incomes** and other population groups living in poverty. 2. The Parties recognise the importance of harmonising economic and social development **taking into account the need to respect the basic rights of the groups mentioned in the previous paragraph**. The new basis for growth should create employment and ensure a better standard of living for the least favoured sections of the population".* Part 3 of this article commits to: *"periodic consultations regarding cooperation activities involving civil society".* Article 37 on "Regional cooperation" with other states remarks that *"3. Special attention shall be given to developing **the role of women**, particularly in the production process".*

[Iraq](#) (2012) Partnership and Cooperation Agreement. In the section "areas of cooperation", the parties in article 86 *"agree to cooperate in the promotion and effective protection of human rights, including with regard to the ratification and implementation of international human rights instruments..";* gender is mentioned as one of the 7 areas of cooperation: *"(b) provision of human rights promotion and education at national and local level, especially among public administration, judiciary and law enforcement bodies, with respect to the **rights of women and children**".* Article 83 on "Education, training and youth" starts with: *"The Parties shall endeavour to promote cooperation in education, training and youth towards mutual benefit, taking into account the availability of resources **and promoting gender equality**".* Article 84 outlines the cooperation on "employment and social development" lists 7 areas that are 'included' in order to enhance cooperation and **gender equality** is one of them.

**Group E: Agreements that have a more elaborated integration of gender and women, like a separate gender article, a reference to CEDAW and references throughout the agreements, in three agreements (9 %): 1 agreement has references in 2 articles, 1 agreements has those in 5 articles and 1 agreements has references in 8 articles.**

[Chile](#) (2005) Association Agreement and Additional Protocol. The association Agreement includes one full article to gender in its chapter on Social Cooperation, which includes the recognition of *"the complementary role and potential contribution of civil society (social interlocutors and Non-Governmental Organisations) in the cooperation process"* (article 48). In article 44 calls for priority to employment creation and *"respect for fundamental social rights, notably by promoting the relevant conventions of the International Labour Organisation covering such topics as the freedom of association, the right to collective bargaining and non-discrimination, the abolition of forced and child labour **and equal treatment between men and women**".* In this article, *"**promoting the role of women in the economic and social development process and promoting specific programmes for youth**"* is identified as 1 of 10 priorities for the partners.

The agreement includes one article on gender: **"Article 45: Cooperation related to gender**

**1. Cooperation shall contribute to strengthening policies and programmes that improve, guarantee and extend the equitable participation of men and women in all sectors of political, economic, social and cultural life. Cooperation shall contribute to easing women's access to all necessary resources for the full exercise of their fundamental rights.**

**2. In particular, cooperation should promote the creation of an adequate framework to:**

**(a) ensure that gender and gender-related issues can be taken into account at every level and in all areas of cooperation including macroeconomic policy, strategy and development operations; and**

**(b) promote the adoption of positive measures in favour of women".**

[South Africa](#) (2000) Interim Trade, Development and Co-operation Agreement. **As one of the very few agreements, it refers to a women's rights framework.** The pre-ambles states: *"**UNDERLINING the importance which the Parties attach to the values and principles set out in the Final Declarations of the International Conference on Population and Development held in Cairo in 1994, of the World Summit for Social Development held in Copenhagen in March 1995 and of the Fourth World Conference on Women held in Beijing in 1995;**"*

Article 50, the introduction states that: "The Parties agree to develop and promote cooperation on economic and industrial matters...by...[listing several means including] **promoting the economic empowerment of historically**

**disadvantaged groups, including women**, protecting and promoting worker and trade union rights". Article 54 on "micro-enterprises and small and medium-sized enterprises" states the aim to strengthen MEs and SMEs in South Africa, **...in a manner that is sensitive to gender equality...**". In the next section on development cooperation, article 66, states priorities and one of the additions is that "....3. Programmes shall be focused on the basic needs of the previously disadvantaged communities and **reflect the gender and environmental dimensions of development**". Article 86 on social issues lists 10 issues that shall be included in dialogue, 'but not necessarily be limited to'; two of them related to gender: gender equality and violence against women. This article also states that "...2. *The Parties consider that economic development must be accompanied by social progress. They recognise the responsibility to guarantee basic social rights.... The pertinent standards of the ILO shall be the point of reference for the development of these rights*".

**Central America** (2012) Association Agreement with a strong trade component. **There is one article on Gender:**

"1. The Parties agree that cooperation shall help to strengthen policies, programmes, and mechanisms aimed at ensuring, improving and expanding the **equal participation and opportunities for men and women in all sectors** of political, economic, social and cultural life, in particular in view of the effective implementation of the **Convention on the Elimination of All Forms of Discrimination against Women**. Where appropriate, affirmative actions in support of women shall be envisaged.

2. Cooperation shall promote the **integration of the gender perspective** in all the relevant fields of cooperation, including public policies, development strategies and actions as well as indicators to measure their impact.

3. **Cooperation shall also help to facilitate equal access of men and women to all services and resources allowing them to fully exercise their fundamental rights**, such as in respect of education, health, vocational training, employment opportunities, political decision making, governance structures and private undertakings.

4. Particular attention shall be given to programmes addressing violence against women, in particular through prevention".

#### References on Gender and Women in 7 articles:

Chapter 'Political Dialogue', article 13, lists among others: "*promotion and protection of the rights and fundamental freedoms of indigenous peoples and individuals, as recognised by the United Nations Declaration on the Rights of Indigenous Peoples; **equal opportunities and gender equality**...* 3. *Dialogue under Part II shall also cover the international conventions on human rights, good governance, core labour standards and the environment, in accordance with the Parties' international commitments and raise, in particular, the issue of their effective implementation*". Article 32 'Conflict Prevention and Resolution' lists among others: "*...efforts developed to help children, women and elderly people and to actions in the fight against anti-personnel mines*". Article 42 'Employment and Social Protection lists ten objectives are listed, including the (f) International Labour Organization's Conventions, the so-called Core Labour Standards, which includes: "*...and equal treatment between men and women*" Article 43 'Education and Training': "The Parties agree that cooperation shall aim to: (a) promote equitable **access to education for all, including young people, women, senior citizens, indigenous peoples and minority groups**, paying special attention to the most vulnerable and marginalised segments of society [first of seven measures]".

Article 44 'Public Health': "*...Special attention shall be given to sectoral reforms and to ensure an equitable access to quality health services, food and nutritional security **in particular for vulnerable groups such as the disabled, elderly people, women, children, and indigenous peoples***". Article 46 'Vulnerable Groups': "Cooperation shall include the protection of human rights and the equal opportunities of vulnerable groups, the creation of economic opportunities for the poorest, as well as *....with a particular focus on the disabled and their families, children, women and the elderly, among others*". In the trade section there is article 286 on Multilateral Labour Standards and Agreements that lists all kinds of agreements to which their parties reaffirm their commitment to. This paragraph is concluded with: "*In this context, the Parties reaffirm their will to promote the development of macroeconomic policies in a way that is conducive to full and productive employment and decent work for all, **including men, women and young people, with full respect for fundamental principles and rights at work under conditions of equity, equality, security and dignity***".

The following fundamental ILO Conventions in the ILO Declaration of Fundamental Principles and Rights at Work of 1998 are listed: (a) Convention 138 concerning Minimum Age for Admission to Employment; (b) Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; (c) Convention 105 concerning the Abolition of Forced Labour; (d) Convention 29 concerning Forced or Compulsory Labour; (e) **Convention 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value**; (f) Convention 111 concerning Discrimination in Respect of Employment and Occupation; (g) Convention 87 concerning Freedom of Association and Protection of the Right to Organise; and (h) Convention 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively.

- 1 [http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc\\_153846.pdf](http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf), EC Communication, “Trade for all. Towards a more responsible trade and investment policy”, 2015, p8.
- 2 Idem.
- 3 [http://trade.ec.europa.eu/doclib/docs/2012/january/tradoc\\_148992.EN.pdf](http://trade.ec.europa.eu/doclib/docs/2012/january/tradoc_148992.EN.pdf), EC Communication, “Trade, growth and development: tailoring trade and investment policies for those countries most in need”, 2012. There is only one reference to gender in this EC Communication on trade and development when talking about the Aid for Trade budget: “Policies in relation to skills and education, labour rights and social protection are particularly relevant for the poorest and most vulnerable segments of the population, including women and children, in particular in relation to trade reforms. This dimension must therefore be fully integrated in the EU’s development cooperation, in line with its continuing support for decent work, human rights and social protection” (EC, 2012, page 11). In other words: the policies most relevant for poor women and children should be fully integrated in EU’s development policy, not its trade policy.
- 4 For analysis of the 2002 EC Communication on trade policy, see WIDE, “Trade liberalisation as a tool for sustainable development?” A comment on the EC Communication ‘Trade and Development: Assisting developing countries benefit from trade’, published November 2002, available at WIDE+ archived intranet ([info@wide-network.org](mailto:info@wide-network.org)). In 2002 WIDE wrote: “[the communication] fails to clarify ... concepts from a gender perspective and to integrate a ‘genuine’ gender analysis. The reference to gender in the document is very weak and is not accompanied with specific proposals on policy level”.
- 5 [http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/549058/EXPO\\_IDA\(2015\)549058\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/549058/EXPO_IDA(2015)549058_EN.pdf), Study commissioned by the EP: “the EU’s Trade Policy: from gender blind to gender sensitive?”, 2015.
- 6 [http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL\\_STU\(2016\)571388](http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU(2016)571388), Study for the EP FEMM Committee, “Gender in EU trade policy”, 2016.
- 7 See reference 5, p. 20.
- 8 See reference 5
- 9 See reference 6
- 10 See reference 6
- 11 [http://europa.eu/rapid/press-release\\_MEMO-15-4563\\_en.htm](http://europa.eu/rapid/press-release_MEMO-15-4563_en.htm), EC factsheet, “Questions and Answers: What is the EU doing for women’s rights and gender equality?”, 2015. This provides a brief overview of references to promoting gender equality in EU treaties.
- 12 [http://progress.unwomen.org/en/2015/pdf/unw\\_progressreport.pdf](http://progress.unwomen.org/en/2015/pdf/unw_progressreport.pdf), UN Women report, “Progress of world’s women 2015-2016. Transforming economies, realizing rights”, 2015.
- 13 <https://www.land-links.org/issue-brief/fact-sheet-land-tenure-womens-empowerment/>, USAID factsheet, “Land Tenure Women’s Empowerment”, 2016.
- 14 <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P6-TA-2006-389>, European Parliament resolution on perspectives of women in international trade (2006/2009(INI)).
- 15 See reference 6, page 7 for the example of NAFTA.
- 16 <https://storify.com/alessiamosca/how-does-trade-policy-impact-gender-equality-ideas>, overview of tweets and other messages on breakfast meeting at the EP, 9 November 2016, “How does trade impact Gender Equality?”.
- 17 <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1632>, Announcement International Forum on women and trade, 20 June, 2017.
- 18 [https://ec.europa.eu/europeaid/sites/devco/files/staff-working-document-gender-2016-2020-20150922\\_en.pdf](https://ec.europa.eu/europeaid/sites/devco/files/staff-working-document-gender-2016-2020-20150922_en.pdf), Joint Staff Working Document “Gender Equality and Women’s Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016-2020”, 2016.
- 19 Same reference as 17.
- 20 [http://www.oecd-ilibrary.org/industry-and-services/entrepreneurship-at-a-glance-2016\\_entrepreneur\\_aag-2016-en](http://www.oecd-ilibrary.org/industry-and-services/entrepreneurship-at-a-glance-2016_entrepreneur_aag-2016-en), ILO paper “Entrepreneurship at a Glance 2016”. The study counts ‘self-employed’ women -meaning women owning a business and working in it-, which is the closest concept the ILO measures for women entrepreneurs.
- 21 <http://www.babson.edu/Academics/centers/blank-center/global-research/gem/Documents/GEM%202012%20Womens%20Report.pdf>, Global Entrepreneurship Monitor “2012 Women’s Report”, 2013.
- 22 <http://www.gemconsortium.org/report/49812>, 2016/17 Global Report, page 10: of the 65 polled countries, which includes many big economies, 3 have a higher percentage of female entrepreneurs compared to men (in Indonesia, Malaysia and Brazil).
- 23 <http://www.gemconsortium.org/report>, 2015/16 Global Report, 2016, page 18.
- 24 Wennekers, S.: “The Relationship between Entrepreneurship and Economic Development: Is It U-Shaped?”, NOW publishers 2010.
- 25 Amorós, J. E. and Cristi, O. “Poverty and Entrepreneurship in Developing Countries”, in “The Dynamics of Entrepreneurship: Evidence from Global Entrepreneurship Monitor Data”, published to Oxford Scholarship Online, 2011.
- 26 <http://newsroom.kelloggcompany.com/2017-03-08-Kellogg-Supports-10-000-Women-Farmers-to-Reach-their-Full-Potential>
- 27 [https://wideplusnetwork.files.wordpress.com/2012/10/microcredit\\_report\\_eng20097.pdf](https://wideplusnetwork.files.wordpress.com/2012/10/microcredit_report_eng20097.pdf), WIDE’s study day on ‘Micro-credit: an alternative to women’s empowerment?’, 2009.
- 28 See the final session on this EU-CELAC seminar held in 2016, <https://wideplus.org/wide-participated-in-eu-celac-seminar-on-gender-equality-and-womens-economic-empowerment-7-8-march-2016/>
- 29 See for example, Sassen S., “Expulsions. Brutality and Complexity in the Global Economy”, 2014, Belknap Press.
- 30 See for example: Stiglitz, J., “Globalization and its discontents”, 2003, W. W. Norton & Company.
- 31 <http://www.s2bnetwork.org/new-ec-trade-strategy-reinforces-corporate-bias/>, Press release November 2015.
- 32 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16031>, Press release June 2015. And, see also: UN Committee on Economic, Social and Cultural Rights have been urging countries for several years to apply a human-rights based approach to international trade policies in line with their human rights obligations (see, the UN Committee on Economic, Social and Cultural Rights (CESCR), Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant: Concluding observations of the Committee on Economic, Social and Cultural Rights : Germany, 12 July 2011, E/C.12/DEU/CO/5, para. 9.)

33 Heterodox feminist conceptions of the economy provide an encompassing view on economy. In such perspectives, economic progress is not limited to only the work that is valued in monetary terms. Feminist economics seeks to make visible care work and other unpaid work within economies. For example, in WIDE+ a group of member associations across Europe is working with “The 5-Sector Model of the Economy” that opens a broader view of the economy (Gubitzer, 2012). In this model, economic activities take place in the household sector, the for-profit sector, the public sector, the non-profit sector, and the illegal-criminal sector. Each sector has its own conception of the human being, of the rationalities that shape economic decision-making and its own concept of gender roles and gender relations. Using this model, WIDE+ members have compiled a diverse set of examples of their work on how to raise awareness on women’s roles and their discrimination in the economy in the toolkit “Economy Literacy. Tools to empower women” (2015): <http://www.wide-netzwerk.at/index.php/publikationen/173-the-5-sector-model-of-the-economy>. Another recent pack of resources for an alternative feminist economic practice is published by WIDE+ member, the Gender & Development Network, available at: <http://gadnetwork.org/development-alternatives/>. And a publication from WIDE that is useful in this regard is: ‘Economic Alternatives for Gender and Social Justice: Voices and Visions from Latin America’, published in 2011, introduction chapter by P. Muñoz Cabrera and available at: <https://wideplus.org/resources/economic-alternatives-labour-migration/>.

34 <http://www.s2bnetwork.org/trade-time-new-vision/>, Alternative Trade Mandate Alliance “Towards an alternative trade mandate for the EU”, 2014.

35 [https://wideplusnetwork.files.wordpress.com/2015/08/wide\\_wbgstrategy\\_2015.pdf](https://wideplusnetwork.files.wordpress.com/2015/08/wide_wbgstrategy_2015.pdf), WIDE+ Briefing Paper “Critical reflections and key recommendations for the World Bank Group’s new Gender Equality strategy”, July 2015.

36 [https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/bp-an-economy-that-works-for-women-020317-en-summ.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp-an-economy-that-works-for-women-020317-en-summ.pdf), Oxfam “An Economy that works for women”, 2017.

37 [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/571388/IPOL\\_STU\(2016\)571388\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/571388/IPOL_STU(2016)571388_EN.pdf), Study for the EP FEMM Committee, “Gender in EU trade policy”, 2016, p. 18.

38 Dominguez R Edme, Rosalba Icaza, Cirila Quintero, Silvia Lopez, and Åsa Stenman, “Women workers in the Maquilas and the debate on global labour standards”, in *Feminist Economics* Oct. 2010. Vol 16 nr 4. pp 185-209. This global trend has been visible for over a decade, see Harcourt, W. *Gender and Economic Justice: trends, contradictions and dilemmas*, 2005, available through writing to [info@wide-network.org](mailto:info@wide-network.org) (part of WIDE archive).

39 Chang, H.-J. “Bad Samaritans: the myth of free trade and the secret history of capitalism”, 2008, Bloomsbury Press.

40 Idem.

41 [http://progress.unwomen.org/en/2015/pdf/unw\\_progressreport.pdf](http://progress.unwomen.org/en/2015/pdf/unw_progressreport.pdf), UN Women report, “Progress of world’s women 2015-2016. Transforming economies, realizing rights”, 2015.

42 idem, page 121.

43 [https://www.actionaid.org.uk/sites/default/files/publications/actionaiduk\\_briefing\\_traded\\_up\\_crowded\\_out.pdf](https://www.actionaid.org.uk/sites/default/files/publications/actionaiduk_briefing_traded_up_crowded_out.pdf), Action aid briefing paper ‘trading up crowding out? Ensuring economic diversification works for women’, 2016.

44 [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/publication/wcms\\_234413.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/publication/wcms_234413.pdf), ILO “Women and Men in the informal Economy: a statistical picture”, second edition, 2013.

45 Idem.

46 <http://wiego.org/informal-economy/statistical-picture>

47 Research shows there is widespread exploitation of domestic workers including low wages, long working hours, exclusion from different social benefits and social security system such as pension rights, unemployment benefits and health care (Frank, ‘Key Feminist Concerns regarding core labour standards, decent work and corporate social responsibility 2008, <http://wideplus.org/resources>).

48 We note EU’s official stance has suggested to exclude some essential social services from trade liberalisation negotiations, however we have not heard of concrete binding proposals that would ensure all basic services are excluded trade agreements .

49 WIDE ‘In Search of Economic Alternatives for Gender and Social Justice: Voices from India’, published in 2009, edited by C. Wichterich, <http://wideplus.org/resources>.

50 <http://www.asc-hsa.org/node/133>, HSA, Women’s Committee: ‘Las mujeres en la defensa del agua como derecho humano fundamental’ from, Bilingual Bulletin by Women for Women in the Americas. HSA,1(1), July, 2014.

51 Public Services International. 2015b. ‘Jakarta court cancels world’s biggest water privatisation after 18-year failure’, 25 Mar. <http://world-psi.org/en/jakarta-court-cancels-worlds-biggest-water-privatisation-after-18-year-failure>

52 And European Parliament study ‘Gender equality in trade agreements: study for the FEMM committee’, page 24-26, 2016. See also Ortiz, I., M. Cummins, J. Capaldo, and K. Karanunethy. 2015. ‘The decade of adjustment: a review of austerity trends 2010-2020 in 187 countries’, ESS working paper no. 53, 2015: <http://www.socialprotection.org/gimi/gess/RessourcePDF.action?ressource.ressourceId=53192/>

53 See reference 40.

54 <http://www.idrc.ca/EN/Documents/Care-Economy.pdf>, is but one example of such research.

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- 57 <https://www.imf.org/external/pubs/ft/wp/2005/wp05112.pdf>, Baunsgaard, T. and M. Keen. 2005. 'Tax revenue and (or?) trade liberalization', IMF working paper WP/05/112. Discussed in Making trade work for gender equality, GADN trade briefing, forthcoming July 2017. <http://gadnetwork.org/gadn-publications/#Briefings>
- 58 *idem*.
- 59 UNCTAD, "Who is benefiting from trade liberalization in Cape Verde? A gender perspective". Geneva: United Nations, 2011.
- 60 Capraro, C. "Taxing men and women: why gender is crucial for a fair tax system", 2014. Discussed in Making trade work for gender equality, GADN trade briefing, forthcoming July 2017. <http://gadnetwork.org/gadn-publications/#Briefings>. VAT is a regressive tax that thus impact more heavily poorer people, which are more often women.
- 61 <https://wideplusnetwork.files.wordpress.com/2012/10/ec-alt-eng2012thirdenglish.pdf>, for more on this concept 'buen vivir' in the context of alternative feminist economic visions.
- 62 For one of these voices: <http://womengenderclimate.org/a-reality-check-on-the-paris-agreement-women-demand-climate-justice/>, A Reality Check on the Paris Agreement from the Women and Gender Constituency (WGC), 2015.
- 63 <http://www.ipsnews.net/2015/12/paris-delivers-historic-climate-treaty-but-leaves-gender-untouched/>.
- 64 <http://wedo.org/wp-content/uploads/2016/11/GGCA-RP-FINAL.pdf>, Global Gender Climate Alliance, "Gender and Climate Change: a closer look at Existing Evidence", 2016.
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