TRADE INTEGRATION AND FOREIGN DIRECT INVESTMENT FROM A GENDER PERSPECTIVE

INCLUDING RECOMMENDATIONS FOR THE EU-AFRICA STRATEGIC PARTNERSHIP FOR AFRICA'S DEVELOPMENT

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Introduction

Evidence of trade liberalisation in many countries and regions of the world shows that free trade mechanisms are not the promised win-win-game; on the contrary they create more gaps, contradictions and **splits within and among societies**. Big corporate firms benefit while – contrary to sweeping statements made by trade policy-makers – a large section of the poor are either left behind or adversely affected. While **economic growth** rates are increasing, the gap in **social growth** in terms of human development, social equality, gender justice as well as resource protection is widening.

Small and medium enterprises, small farmers and producers, craft people, petty traders and street vendors – many of them women – are displaced by export production, out-competed by cheap imports and suffer most from the rising prices for inputs and essential services.

While concerns about poverty, social equality, environment and gender feature prominently in many African *Country Strategy Papers* and development programmes, in trade negotiations they are marginalised and are not considered as determining factors for liberalisation and trade regulations**. Social, environmental, human development and gender issues are considered to be development issues while trade and investment policies are disconnected from social concerns, and seem to be socially and gender-neutral**. So social and environmental costs are supposed to be cushioned by development programmes but not included in economic calculations.

Consequently, with regard to sustainable and human development goals there is still **no coherence** between development and trade policies. However there is a tendency towards coherence with regard to trade objectives because EU development programmes increasingly are geared towards creating a favourable business and trade environment.

Beyond the problem of balancing social and environmental costs and economic benefits, the general assumption that trade liberalisation and related investment policies are a means to poverty elimination and a more equal distribution of resources in society has to be questioned.

This questioning is what our presentation is pursuing. This presentation will do this by:

- outlining the current context around Foreign Direct Investment (FDI) in the trade liberalisation negotiations between the EU and Africa,
- identifying limitations and challenges posed to sustainable development,
- focusing on the specific ways in which current trade liberalisation policy affects host countries and analysing how it affects women and men differently.
- The paper concludes with a set of key recommendations addressed to both EU decision-makers and civil society organisations in the EU and Africa as well as some issues for consideration for the Europe Africa joint partnership for Africa's development.

Foreign Direct Investment and trade negotiations between the EU and Africa: context

The system of production has changed dramatically in the recent decades as firms continually learn to break up the production process and distribute production blocks outside of their home economies. Much of trade today is a trade of intermediate products; where components produced in one country are traded with another for further processing or assembly, for example car assembly. With such products, intra-firm trade, as this is called, is made possible by the location choices made by foreign direct investment (FDI) whereby corporations decide on an investment location according to their perception of the country's ability to meet their production requirements.

In practice, FDI decisions are founded upon the actual and perceived competitive advantages of potential host countries that include:

— the availability of low-cost raw materials, natural resources, low-cost labour (low real wages);
— high quality human capital;
— a large domestic market requiring proximity of production;
— good quality infrastructure;
— favourable government policies, including political stability; and
— a favourable ”business culture”.

In this new economy, ownership and control over the vast global production chains and access to the world's fastest growing markets determines who is rich and who is poor. The EU and others are using trade and investment agreements to extend the influence of their leading companies, and reduce the ability of developing countries to gain a beneficial foothold in the global economy.

Furthermore, rich countries, using bilateral and regional trade and investment agreements extract concessions that they are unable to obtain at the multilateral level, where developing countries can band together and hold out for more favourable rules. In practice, they are a means to undermine the resolve of developing countries to take advantage of collective bargaining.

Seeing FDI as essential for economic growth and development has led to growing competition to attract FDI and to provide conditions regarded as necessary to make countries attractive for foreign investment. It has led to the unrestrained proliferation of **bilateral investment treaties (BITs)**. And this has led to a “spaghetti bowl” of rules, and responsibilities causing many developing countries to be overburdened and stretched to the limit. The EPA investment talks do not take place in a vacuum – most ACP countries already have BITs: over 540 have been signed, over half of them with EU member states.

The costs of FDI

Generally, economists conclude that direct investment benefits both the home and the host country and that the benefits of such investment outweigh the costs.

In fact the effects of direct investment such as regulated in BITs can vary widely across countries and are partly but less conditioned by national policies and environment and in general terms. And as said earlier, foreign direct investment has not managed to fulfil its promises of mythical panacea to economic growth.

Quite the contrary has actually happened and we would like to briefly mention a few general observations of main consequences:

- FDI has largely been about **acquiring existing assets** rather than creating new ones;
- FDI usually follows **after** economic growth but does not lead to it;
- FDI has led to **greater wage inequalities**, and becomes an unstable source of capital;
- FDI has **unclear effects on the balance of payments** because export revenue generation is offset by the imported contents as well as the repatriation of profits, interest, dividends, royalties and management fees;
- Incentive competition among countries to attract FDI has only led to a **deterioration of social and environmental standards.**

Other adverse effects that follow from FDI include:

- Unrestricted influx of foreign goods into the already flooded African market.
- Serious de-industrialisation and collapse of already fledging local industries.
- Eventual loss of government control of the economy.
- Threat to food security; expansion at the cost of local food production.
- Undermining the development of local enterprises.

Tying the hands of governments: challenges for African governments

Most **national investment laws** traditionally achieve a balance between corporate and citizens' rights by agreeing that the government will compensate investors in situations of "direct expropriation" – any act whereby the government seizes their assets or otherwise completely destroys the value of their investment. BITs have upset this balance by radically extending the rights of foreign investors and severely undermining the rights of governments and their citizens.

The sole focus of BITs is on **investor protection** and they have led to a rise in investor-state arbitration claims for many developing country governments. Investors' automatic

recourse to international arbitration, enshrined in BITs and Free Trade Agreements (FTAs) threatens to undermine the rule of law in developing countries by circumventing the national legal system. It also presents an evident **double standard**, as national investors have no such recourse.

More than 170 countries have now signed international investment agreements that provide foreign investors with the right **to turn immediately to international investor–state arbitration to settle disputes**, without first trying to resolve the matter in national courts. Such arbitration fails to consider the public interest, basing decisions exclusively on commercial law. Under this arrangement foreign investors can sue the government even if their claim is against public interest. And taxpayers must foot the bill for damages to investors' profits, including anticipated future profits.

The overall effect of these BITs and likewise trade processes around FDI is to **undermine economic governance, transferring power from governments to largely unaccountable multinational firms, and robbing developing countries** of the ability to gain a favourable foothold in the global economy. Under such conditions, **investment fails to build national linkages, create decent employment, or increase wages, and instead exacerbates inequality.**

Trade liberalisation, FDI and their impact from a gender perspective

Practice has shown that liberalisation does not mean better living standards nor does it refer to the promotion of gender equity. In many developing countries that have implemented structural adjustment programmes (SAPs), women have borne the brunt of adjustment. Often small projects or programmes aimed at gender mainstreaming and improving the livelihood of a group of women have proved unable to address the fundamental challenges underlining the exclusion of women in national and international socio-economic policies.

Few public impact assessment studies have been conducted on the impact of EPAs on ACP countries' economies, and even less has been done to analyse the differentiated impact of these free trade areas on women and men. **There is a missing link between trade, development and gender equality, based on the assumption that trade and investment policies in Africa will automatically lead to trickle-down effects equitably between men and women**.

Indeed many trade theories presume that women benefit quite substantially from trade through employment creation and increased incomes. There seems to be a greater concentration of female workers in industrial and service sectors that are engaged in trade. However, of significance is the poor quality of employment: the fact that women face highly volatile, hazardous, unregulated, and exploitative working conditions.

Also of significance are the other inequities that characterize women's involvement in the trading sector, which include, but are not limited to women's lack of access and ownership of production resources (namely land and capital), gender-based segregation, educational disparities between men and women, the existing male/female wage differential, and the traditional division of labour in the household and other multifaceted and adverse effects of patriarchy.

One of the main issues of concern is the consequence of cuts in the provision of social services resulting from cuts in government revenue. **Since women are seen as the custodians of social service provision, any resultant cuts in allocations to supportive social sectors inevitably mean the worsening of the burden carried by women.** It is obvious therefore that **women end up being the net losers from trade and investment agreements that do not take into account their responsibilities and constraints.**

Based on this analysis FEMNET and WIDE feel that there should be serious commitments from the EU and African countries to effectively address gender blindness in trade and investment issues.

Finally, it should be noted that the problem with trade liberalisation [KL1]is not just that it is gender blind and that it lacks substantial resource allocation to promote gender equity, but **it is the paradigm which it promotes that is wrong and unworkable, a paradigm that is centred on neoliberalism.**

Case study: Ghana- production of non-traditional agricultural exports[1]

Agriculture is the predominant economic activity in Ghana, employing 55 per cent of the workforce. Smallholder farmers on family operated farms, the majority of whom are women, account for 80 per cent of the country's total agricultural production.

During the last decade, Ghana implemented a structural adjustment programme, with trade liberalisation as a major component.

The majority of women are food producers working in joint family farms and tending their own land for household food production; only a small percentage are independent farmers.

In periods of labour shortage, women are often engaged in post-harvesting activities on cocoa plantations, without any remuneration. Societal and cultural restrictions have limited women farmers' potential for expansion of their activities. Uncertain access to land and a history of losing land rights have discouraged women's long-term investments in or improvements of their own land, even though they are responsible for household food security as they are allowed access mainly to less fertile land, women are often able

[1] Source: C.Atthill, S;Ganju Thakuy, M. Carr, M.Williams "***Gender and Trade Action Guide***", Commonwealth Secretariat, 2007

to cultivate only cassava and other food crops, while men cultivate the more fertile land with cash crops.[KL2]

By and large, economic reforms have largely benefited medium and large farmers in the cocoa sector, where few women are employed. Women's ability to participate in paid labour activities, particularly in the export-oriented sector, is constrained by their role as the primary providers of food for their households. Moreover, on family farms, while women can influence decisions, the male head of household has final decision-making power and often controls household capital and labour. If women farmers and workers were to be provided with the right incentives, such as access to credit, to increase their productivity and skills, this could contribute to poverty alleviation and foster higher growth rates in Ghana's agriculture sector.

What positive agenda on trade & investment SHOULD the EU and Africa adopt?

1. The logic of signing BITs and attracting FDI is flawed. **The EU EC** [KL3]**needs to rethink its focus on liberalisation and rules deals, and pursue other options including**:

- Investment promotion assistance,
- Cooperation on policing investor behaviour,
- Allowing space for regional and national policies that ensure maximum benefits for the local economy.

2. Trade and investment policies should revalue the **grassroots of the economy**, giving support to local and regional production.

What we are saying here is that we call for fair trade rules that are based on principles that include:

- Human rights and social justice,
- Rights to protect industries regarding food sovereignty,
- Decent work, with policies targeting the informal sectors and most vulnerable ones, among other things

3. The EU and African countries should formulate and **support strategic actions for women in productive sectors such as trade, entrepreneurship, management** and local product processing and provide tools for a better mastery of legal provisions and mechanisms facilitating access to financial resources and factors of production within Africa in order to increase women's economic power in the fight against poverty.

Priority should also be given to the establishment of mechanisms **to maximise the impact of policies and programmes on women**. (The activities generally consist in developing specific tools, sensitising the various stakeholders and providing them with

training in the promotion and protection of the rights of women and girls in all sectors, promoting women's access to decision-making bodies.)

4. The EU and civil society should address the **contradictions** between the EU trade negotiating positions and the development objectives set in EU legal and policy documents and in co-operation agreements with partner countries by:

- Analysing the gender impacts of trade liberalisation in the areas of agriculture, services and investment through the development of country-specific studies.
- Examining the gender impact of the increased use of EU (European Commission as well as Member States') development financing in support of regional integration and trade-related assistance, as well as the level of integration of gender equality concerns in existing trade-related assistance programmes (Aid for Trade, mainstreaming trade into development co-operation).

***5.* Civil society organisations in the EU and Africa** have to deepen their networking in order to exchange information and views on progressive trade liberalisation on both sides and their opposition against the corporate-driven free trade agenda. WIDE, FEMNET and other EU and Africa based networks want to halt the EU's new trade policies' focus on competitiveness and on corporate rights contributing to unequal, unsustainable and unjust growth and development dynamics in Africa. In its transcontinental networking WIDE and FEMNET want to carve out global strategies – meaning from the local to the global – for awareness raising on trade negotiations and their impact, and open spaces for reflection and resistance linking concerns about gender justice and global economic justice.

WIDE and FEMNET recommendations for the political deceleration that will come out of this event are as follows:

• Recognise the ***special and differential treatment*** that developing countries require in order to move up the development ladder.

• ***Exclude essential public services*** such as education, health, water and sanitation from liberalisation commitments, and allow governments to regulate effectively foreign investment in service sectors in order to promote the public interest. Indeed, **women's double burden** is worsened by the privatisation of essential public services that are important for their social reproductive work. Energy, water and other basic utilities that the EU is targeting for private investment by European corporations are crucial public goods that should not be subject to the vagaries of the market nor to the profit-making motives of private capital.

• Recognise the **right of governments to impose capital controls** on foreign investment and performance requirements that encourage joint ventures, technology transfer, and local sourcing, as well as incentives to improve labour practices.

• Recognise ***the right of governments*** to regulate the entry of foreign investors ***to promote development and the creation of decent employment***, and include commitments to enforce core labour standards for all workers, particularly women in precarious employment.

• ***Exclude agricultural tariff lines*** from negotiations when liberalisation threatens to undermine food security and rural livelihoods, and recognise the right of developing countries to use permanent safeguards that are triggered on the basis of both price and volume.

• Ensure ***mechanisms for extensive participation of all stakeholders*** in the negotiating process, with full disclosure of information to the public, including the findings of independent impact assessments. Particular attention should be paid to facilitate women's participation in those processes, the reality being that otherwise they are vastly absent from those spaces.