Transforming EU Trade Policy to protect Women’s Rights

Briefing Paper 2018
WIDE+ Gender and Trade Working Group

WIDE+ Feminists transforming Economic Development
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 the financialisation of the economy, reduces access to medicines, undermines food sovereignty, and threatens environmental sustainability.

This briefing paper gives an overview of the ways in which EU trade policy hinders the protection and promotion of women’s human rights, and makes several recommendations to EU policymakers to change this.

Current EU trade policy lacks a gender perspective

Through its trade policy, the EU seeks to increase economic growth for EU member states, create jobs for EU citizens, and lower consumer prices. The principles driving EU trade policy are outlined in European Commission Communications, published every few years, and these have been overwhelmingly gender-blind, failing to integrating any sort of gendered analysis or perspective. This reflects the lack of mainstreaming gender equality in EU trade policy, as reported by two recent reports commissioned by the European Parliament that mention the presence of just one staff member in the EU’s Directorate-General for Trade (DG Trade) whose mandate includes gender. Ignoring or marginalising gender means that the gendered impacts of EU trade policy can be neither avoided nor addressed.

Advocates for a transformed, gender-aware EU trade policy have been making proposals for over a decade, with very little having been taken on board by policymakers. These advocates include civil society, as well as the European Parliament, who adopted a resolution on the topic in 2006, but very few of the elements of the resolution have been taken up by the Commission thus far. This might change in 2018, as the European Parliament -having gained the right with the Lisbon Treaty to approve or reject a trade agreement- adopted with great majority a motion to include gender equality in EU trade agreements. The European Commission has so far promised to include gender provisions in the updated agreement being negotiated with Chile, as an example for other trade agreements and the EU endorsed the women’s economic empowerment declaration with the World Trade Organization in December, 2017.

The nature of EU trade policy of being gender-blind is incoherent with the EU’s core values of gender equality, and falls far short when compared with other EU policy areas, where the mainstreaming of gender equality has seen ‘considerable progress’. Current policy proposals can overcome this huge gap, given they are fully implemented and considered as first steps towards a European trade policy that commits itself to protect women’s rights.

Promoting female entrepreneurship is not the way forward

DG Trade and the trade Commissioner of the European Commission started to engage with gender issues in 2017 and it seems so far that their focus is on women’s economic empowerment. However, while an end to gender-blindness is welcome, there are serious concerns to be raised about the focus thus far on (only) women’s entrepreneurship.

Focusing on a minority of all the women active in the formal and informal labour forces across the world means that the needs, concerns and priorities of the majority of women workers are ignored. Further, there is great variety within the category ‘entrepreneurs’, ranging from solo, self-employed workers seeking to make ends meet, to highly-skilled, capital-rich entrepreneurs. How will an EU focus on entrepreneurs ensure that the varied needs of these different groups of women workers will be met? An EU engagement with ‘entrepreneurs’ only might support a narrow, and already rather privileged, group of women.

Focusing on micro-level interventions such as training or support for individual entrepreneurs or small groups of entrepreneurs, mean that broader, structural inequalities which are or may be fostered by EU trade policy go unexamined. That is why gender experts emphasise the importance of combined micro-level projects that target a specific group of women with macro-level economic policy. The European Commission must broaden their focus from a small subset of women workers to examining the impact of EU trade policy on all women.
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 policy, 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 aim at a good life for everybody which goes beyond material and monetary wealth as measured in GDP.

Current EU trade policy takes us further away from this vision 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. There has been much research showing how this set of economic policy preferences have contributed to and enhanced inequalities, human rights abuses and environmental damages9.

WIDE+’s critical analysis of EU trade policy is shared by many experts and civil society actors, for example CONCORD, 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 citizens10. UN Experts have voiced their concern that current European free trade agreements being concluded and negotiated will have adverse effects on human rights11.

While much more research and analysis is needed to show how from a feminist economist perspective EU trade policy can be transformed, this paper aims to uncover ground for this undertaking.

A brief analysis of external trade and gender interrelations

Before we provide our key recommendations, we very briefly sketch how neo-liberal trade policy interrelates with gender inequality and women’s rights, looking at women as producers and labourers, consumers and citizens, and environmental managers12.

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

The current neo-liberal trade and investment system has encouraged a 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. This is why binding International Labour Organisation Conventions and 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 current model’s positive effects on women workers do not outweigh its negative impacts13.

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

Over the last ten years, the EU has begun to promote liberalisation of services and investment, including the opening up of public procurement and liberalising social services like health care14. Despite claims that privatisation leads to cheaper and more efficient service provision, we find several examples that illustrate the opposite - that basic services and goods for people in countries become less accessible after privatisation and international competition.

One such example is detailed in a WIDE case study15 on the impact of EU trade negotiations in India, which found that privatised water services brought high prices to households and limited access to safe water. In India, as in many other countries, women are primarily responsible for finding and fetching water, and if they have to spend more time, instead of less time, accessing safe water, women’s opportunities to engage in other activities decrease. This is just one example of how it is women who disproportionately fill gaps in service provision when services are cut or becomes patchy. Women spend two and a half time more unpaid hours caring for their families and communities than men16. This unpaid care
work, which is vital to other elements of the economy, is often hugely overlooked\textsuperscript{17}.

Further, trade liberalisation has a disproportionate impact on women as citizens, as reducing trade tariffs has led to sharp drops in government revenue in many less developed countries, which often leads to cuts in government expenditure on public goods and services\textsuperscript{18}. 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\%\textsuperscript{19}. Not only are women more likely to be negatively affected by public expenditure cuts as they rely more heavily on public services, but the indirect taxes which governments often impose in order to make up for lost revenue through cut tariffs also exert a disproportionate burden on women\textsuperscript{20}.

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

Natural disasters are on the increase, due partly to climate change, and these affect 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, which serves as a major source of vulnerability and barrier to adapt to climate change effects\textsuperscript{21}. Rural female farmers are among these women and their role is at the same time essential for enhancing agricultural productivity\textsuperscript{22}. 43\% of the world’s agricultural labour force in developing countries are women, which rises to 70\% in some countries, and an estimated two-thirds of poor livestock keepers are women\textsuperscript{23}.

However, women 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\textsuperscript{24}. Restrictive laws and cultural norms undermine the right of women to own or inherit land, which in turn limits their access to credit\textsuperscript{25}.

EU agricultural trade policy threatens food sovereignty through fostering large-scale agricultural producers that overtake small-scale and family farms in the global South through EU subsidies, low prices of European goods and the liberalisation of markets. 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.

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\textsuperscript{26}. Small-scale farmers, who are in many developing countries made up of a majority of women, lose out in this increased competition\textsuperscript{27}. Research on NAFTA (the trade agreement between the US and Mexico) concluded that in Mexico the small-scale farmers, of whom many were women, did not recover from the negative effects of NAFTA and remained at a ‘loss’ even after several years of NAFTA\textsuperscript{28}. It seems reasonable to conclude that without additional measures from governments, small-scale farmers face and unequal competition with big farms that pressures families to leave the land and abandon farming, causing an enduring loss of localised food sovereignty and food security.

In bilateral and multilateral trade agreements, the EU’s 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. Environmental commitments, which have a disproportionate impact on women, are therefore seen as optional and subordinate to the interests of companies.

Policy recommendations

1. EU Trade agreements should include binding clauses on women’s rights with an appropriate body appointed or an explicit mechanism to enforce and monitor compliance.

Currently, there is no reference to women’s rights or gender equality in any EU trade agreement with non-European states that enforces international trading regulations to be explicitly supportive of gender equality, protect women’s rights or advance the position of women. Further, almost all references to women’s rights or gender equality are non-binding, in contrast to the rigorous binding mechanisms which protect investor rights, for example\(^\text{29}\).

We call for binding mechanisms which stipulate the protection and promotion of women’s rights and gender equality, referencing CEDAW and its Optional Protocol, as well as ILO conventions on domestic workers and workers with family responsibilities (No. 189 and No. 156).

2. The EU must 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.

EU trade policy has embarked on an ongoing trajectory to increase the rights of companies and foreign investors, to the expense of human rights, including those of women and girls. In order to ensure women have improved access to essential medicines and resources for food sovereignty, the EU should weaken Intellectual Property Rights in the World Trade Organisation’s Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and stop promoting additional measures in bi- and multilateral agreements, such as demanding the inclusion of the International Union for the Protection of New Varieties of Plants (UPOV).

The investor-state dispute mechanism (ISDS) provisions in trade agreements such as CETA will enable investors to bring a claim in a private international tribunal against a government for breach of a provision of the agreement or treaty. 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\(^\text{30}\). 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\(^\text{31}\).

Investor-State settlements should be part of regular courts and be weighed equally with the rights of individuals and of future generations.

3. The EU must adopt gender sensitive binding human rights regulations on a international level to regulate Transnational Companies (TNCs) and other 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\(^\text{32}\). 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.”\(^\text{33}\)
We welcome any effort of the EU and its member states to promote international rights-based principles for transnational companies, but we remain 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 sustainably use natural resources.

A worldwide coalition of civil society united through the global ‘Treaty Alliance’ to dismantle corporate power and stop impunity has developed a list of six key proposals to ensure that treaties and agreements respect human rights. We fully endorse these proposals.

4. The EU must put a stop to agricultural liberalisation in trade agreements, in order to protect women who are mostly responsible for food sovereignty and who are hugely affected by environmental disasters.

Global, bi- and multilateral trade agreements currently in place and in the negotiation process should put a stop to the liberalisation of agricultural markets in order to allow for national flexibility in safeguarding mechanisms and subsidies, as well as 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 binding environmental clauses to regulate land grabbing.

5. The EU must not increase the care burden, which disproportionately affects women, and stop with 'one size fits all' privatisation of social services and public goods policy in WTO and other trade negotiations.

EU trade agreements should facilitate state regulation and provision for social protection, and by no means promote further liberalisation and privatisation of public services. The EU and its Member States should severely limit the positions undertaken in the TiSA negotiations only to cover high-skilled professions and service providers, and should not list in the schedules categories of workers that must be protected under national labour law, for instance services provided by midwives, nurses and paramedical personnel.

6. The EU must ensure transparent participation of civil society – including women’s rights associations, groups and movements in trade negotiations and monitoring of agreements

Civil society should also be part of trade negotiation processes as well as monitoring of concluded trade agreements. 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
- Make sure positions and texts of meetings from all EU negotiations, including revisions, are made public.
- Make sure all trade agreements have transparent, accountable mechanisms for monitoring of the whole agreement by the public
- A trade and gender desk within 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.
- DG Trade should publish an annual progress report on trade and gender, and organise annual consultations with civil society on gender in EU trade policy
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 organising public information campaigns or meetings.

7. Sustainable Impact Assessments must have an encompassing, intersectional gender human rights lens.

The EU has conducted Sustainable Impact Assessments (SIAs) on trade policies since 2002, whereby it purports to examine the potential impact of proposed agreements. However, the key shortcoming of the current SIA methodology is that its analysis of gendered impacts is too narrow and superficial.

A SIA should incorporate an intersectional analysis. Since women take on many different positions in economies, the effects of policies must be 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 who will be harmed by such measures.

The data collection should be improved to allow for better ex-ante and ex-post Impact Assessments, since there are significant gaps in tracking the socio-economic contributions of women in the formal and informal productive sector as well as the reproductive domain.

SIAs should be held at an early stage in order to inform EU negotiating positions and play a role in the negotiations, which is currently not the case. 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.

---

5. Reference 2, p.20.
11. [http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16031](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.)
14. 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.
This summary briefing is based on the full position paper 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 written by: Georgios Altintzis, Edm Dominguez, Marion Sharples, Patricia Muñoz Cabrera, Christa Wichterich, Sarah Burr, Tessa Khan and Gea Meijers (chief editor).

Chief editor briefing paper: Marion Sharples.

This briefing paper is available in English, Spanish, French and German at: www.wideplus.org

Copyright © 2018 WIDE+

Any parts of this publication may be reproduced without permission for educational and non-profit purposes if the source is acknowledged. WIDE+ will appreciate a copy of the text in which the document is used or cited. Please send this to info@wide-network.org.

Transforming EU Trade Policy to protect Women Rights, WIDE+ Briefing