Non-paper by 10 EU member states around promoting gender equality through trade policy: a step back for women’s rights

Response of WIDE+ Gender and Trade working group, 11 November 2020

On 9 November 2020 10 EU member states published a non-paper to encourage the European Commission to include gender equality and women’s economic empowerment in Trade Policy. The paper was proposed by the Netherlands, Belgium, France, Ireland, Italy, Luxemburg, Finland, Denmark, Spain and Sweden (link to document).

The non-paper gives a very important signal to the EU commission to prioritize gender in its trade policy. In this regards it sets an example for other countries to follow suit. In terms of its narrative this non-paper is a step backwards from the recommendations put forward by the European Parliament in 2018 in ensuring women’s rights are respected in trade policy.

The WIDE+ European working group on gender and trade has been analysing and monitoring the gendered impacts of trade policy for over 20 years (in the past through WIDE). Given our experience, we are concerned about the narrative in which a lot of the recommendations that could be very beneficial to women are framed in this non-paper. And we are pessimistic that through the exclusion of necessary recommendations to protect women’s rights, the non-paper will do little to counter harmful impacts of trade agreements on women and in regards to promoting gender equality.

Given the current pandemic it is even more relevant to make sure women are not left behind, as a lot of data points to a regression of achievements in gender equality, also when it comes to trade policy. On 27 October the INTA committee of the European Parliament held a debate on ‘the impact of COVID-19 on women and trade’. Anoush Der Boghossian, WTO Trade and Gender Focal Point, addressed how in particular women are hit by the pandemic when it comes to trade effects. COVID19 exacerbates the barriers which women already face.

Trade as only beneficial, or also with ‘harmful’ and ‘negative’ impacts?

The following key points need to be addressed in future formulations of gender in trade policy in order to ensure that its policy does not promote further harm or negative impacts to women’s rights.

- Trade policy should not ignore the overwhelming pool of research, case studies and testimonies of women that trade policy as promoted by the EU is also harmful to women and contributing to gender inequality. The current narrative in the non-paper presents a narrative that only acknowledging that women could benefit more from trade, without any reference to harmful impacts of trade

- The non-paper aims to ‘promote decent and gender equal working conditions’, without any enforceable mechanism to ensure (women’s) human rights are respected. Without any enforceable mechanism to ensure compliance, trade policy will keep promoting abuse and exploitation facilitated by European companies to women working in exporting sectors such as textiles, but also for mining companies that can operate with impunity from for example violence against women and girls.
A lack of proposed action in the non-paper to address unfair competition in agriculture will continue to further increase poverty and displacement of women small-scale farmers, as well as promote environmental degradation. 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. Opening up agricultural markets through free trade agreements has led to the destruction of local markets for small-scale farming, for example in Ghana, as a result of dumping of highly subsidized agricultural products (illustration by Tetkoren).

The non-paper does not address how global trade policy will most likely hamper the protection of many women in low-income countries against COVID19, if the EU would resist a waiver for patents and other intellectual property (IP) related to COVID-19 drugs, vaccines, diagnostics and other technologies for the duration of the pandemic, until global herd immunity is achieved. For the coming months, many countries rely on the generosity of some countries and agencies to share available vaccines and medicines, but there are no guarantees for the years to come as to what will be available and affordable. Many low income countries might not be able to pay for the vaccines and other medicines needed if pharmaceutical companies through the IPR and a fairly monopolized market with a limited amount of vaccines can set commercial prices for the products. It will be an excellent opportunity for EU member states to promote women’s empowerment by supporting the proposed waiver. It would be really beneficial for women and girls if the non-paper included such recommendation.

Recommendations for more dialogue, but who defines the agenda?

The non-paper offers many recommendations for further research, dialogue and reflection, which are in itself very valuable suggestions. Some of the proposals are more ‘deepened studies and more cross-cutting analyses’ with multilateral institutions, the inclusion of participation of women’s rights organisations in monitoring agreements, further systematic research into the intersectional gender impact of future trade agreements and more data collection, awareness-raising and sharing of best practices. Such recommendations are for any policy domain very necessary steps to start reducing the gaps between men and women. They are especially relevant for trade policy that has for many decades ignored a gender perspective in its measures.

The recommendations leave the main political questions untouched: will this engendered trade policy make space for other interests than those of EU businesses to set the agenda? Can all the diverse perspectives and constituencies be included in the negotiation and monitoring of trade policies, and will they all be equally considered?
Will the suggested policy spaces for increased dialogue and reflection be used to legitimize current trade policy with ‘women empowerment’ narratives?

Is it realistic to promote further protection of interests of companies (including investment) while expecting this will help grassroots women in the informal sector or as small scale farmers? (picture by Anastasiia New).

Recommendations and the WTO process

The non-paper could be possibly a prelude to upcoming negotiations for a: “reinforced commitment on trade and women’s economic empowerment in a declaration of the twelfth WTO Ministerial Conference to be held in Kazakhstan in 2021”, which the paper mentions as an objective for EU trade policy.

Many of the paper’s recommendations are in line with the current WTO declaration on women’s economic empowerment in trade, which was adopted at the end of 2017. This declaration set in motion informal reflections among member states within the space of the WTO. It was also very critically received by over by over 160 civil society organisations and trade unions. They described this a declaration as a “‘pink herring’, an attempt to obscure the harm WTO provisions have on women while ensuring the WTO can bring in ‘new issues’, likely to deepen inequality”

As a European gender and trade working group, we would like to urge EU member states to make sure the negotiations for a new WTO declaration do not reproduce similar shortcomings, but instead lead to a declaration that forms a basis of inclusive and more equal collaboration between civil society, different levels of government and businesses.

European demands for gender equality in EU trade policy in 2018

There is a lot of parliamentarian work member states could make use of to improve the framework and recommendations for a gender inclusive trade policy. We would like recall the motion adopted by the European Parliament in 2018 -with an overwhelming majority- that is still very current (see “Parliament resolution of 13 March 2018 on gender equality in EU trade agreements (2017/2015(INI)). Without reflecting on all the many excellent recommendations that form a comprehensive framework for the inclusion of women’s rights and gender equality in trade policy, we would like to recall some of its recommendations:

1. the EU is obliged to conduct a value-based trade policy, which includes ensuring a high level of protection of labour and environmental rights as well as the respect of fundamental freedoms and human rights, including gender equality; recalls that all EU trade agreements must include an ambitious and enforceable chapter on trade and sustainable development (TSD); stresses that trading commitments in EU agreements should never overrule human rights, women’s rights or environmental protection, and should take into account the local, social and economic environment;

6. ...welcomes the UN Guiding Principles on Business and Human Rights, and calls on the Member States to adopt and elaborate national action plans in accordance with the UN Guiding Principles, taking into account women’s rights and the need to combat gender-based violence.
11. ...calls on the Commission and the Council to ensure that IPR provisions in trade agreements take due account of women’s rights, particularly with regard to their impact on women’s health, including access to affordable healthcare and medicines.

13. Underlines that services of general interest and services of general economic interest – including, but not limited to, water, social services, social security systems, education, waste management, public transport and healthcare – must remain exempted from the scope of trade negotiations and fall under the competence of Member State governments; urges the EU to ensure that trade and investment treaties do not lead to the privatisation of public services that could impact women, both as service providers and service users, and increase gender inequality; stresses that the issue of public provision of social services is especially salient for gender equality, given that changes in access to, and user fees of, such services and their quality can lead to uneven gender distribution in unpaid care work.

14. Stresses that trade policy can have an impact on access to essential health services, and can therefore influence access to, and the advancement of, reproductive and sexual health and rights objectives in policies, programmes and services; emphasises, therefore, that basic healthcare – in particular access to sexual and reproductive health and rights services – are exempted from trade negotiations and notes that they fall under the competence of the Member States.

20. Underlines that EU agricultural imports may undercut traditional small-scale farms and thereby endanger women’s livelihoods;

**What do we need: “Do-no-harm trade policy”**

All the recommendations adopted by the European Parliament can also be summarized in one key principle that was suggested by the Dutch minister of Foreign Affairs Sigrid Kaag. This could also be a very useful and easy to understand entry point into engendering trade policy. She said during a conference organized by the Dutch Ministry of Foreign Affairs, the WTO and the WorldBank end of 2018 that trade policy should include a 'do no harm" principle for trade on its impact on women.

It is unclear to us why this principle not included in this non-paper, as this offer the opportunity to delineate measures trade policy should take from measures that need to be taken by other policy domains. We hope that future recommendations from the Netherlands as well as other governments will (again) reflect this important principle.