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Unpacking the impact: setting UK trade policy on a gender-just track



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Top view of woman sailing a wooden boat containing colourful vegetables, spices and herbs at Damnoen Saduak floating market in Ratchaburi, Thailand.

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Executive summary

Trade has been an important driver of job creation around the world, as well as a key factor in supporting the development of economic strategies and domestic markets. However the rise of trade liberalisation globally has created winners and losers. A wealth of research, including by ActionAid, has demonstrated that free trade impacts different sections of the population, including women and men, differently, due to entrenched social and economic inequalities that affect human rights and the lives of women around the world.

This is because trade liberalisation leads to major shifts that have multiple economic and social impacts on populations, particularly the most marginalised communities. These shifts have the potential to both destroy and reformulate existing livelihoods, market patterns and access to basic services such as health and education. Structural inequalities, power relationships and the different roles played by women and men also lead to significantly different gendered impacts at various levels of the economy.

Because of unequal trading relationships between the Global North and the Global South, women in the Global South are more likely to bear the brunt of the negative impacts of free trade. For example, Southern countries often lack access to patents, technology and general support to build domestic economies on the basis of high value-added activities. Instead, they must join global trade at the bottom of supply chains, competing against each other by offering the lowest production price possible. This can only be possible by reducing labour costs, and as such, at the bottom of global supply chains are insecure, low-wage jobs – predominantly held by women – far from what the International Labour Organization (ILO) defines as “decent work”.

The gendered impacts need to be fully understood if the effects of trade on women’s lives and human rights are to be adequately addressed by policymakers. The best way of understanding these impacts is by the creation and implementation of robust, women’s-rights-focused Sustainability Impact Assessments (SIAs), to be conducted before and after the conclusion of a free trade agreement (FTA). Drawing on international best practice of SIAs, this report presents a set of guiding principles towards a gender-just SIA framework, a series of recommendations for a UK gender-just trade policy, and a step-by-step model SIA to help illustrate the approach being proposed.

The UK’s approach to free trade

Since its departure from the European Union (EU), the UK has become a champion for free trade, striking new agreements with countries such as Japan, and pursuing (at the time of writing) further agreements with the US, Canada, Mexico and India – with prospective deals with Mercosur (South America’s trade bloc) and the Gulf States in the pipeline. The UK has also sought to present itself as a moral leader on issues such as human rights and gender equality, including in the context of free trade – with the Conservative Party manifesto indicating that the UK’s future trading arrangements would align with its international commitment to gender equality.

However, UK efforts on gender and trade are currently focused almost exclusively on increasing opportunities for women to *enter into* trade, rather than addressing the human rights impacts of existing trading policies and practices. Although useful in spotlighting gender and trade more broadly, this narrow economic definition is fundamentally at odds with the approach that feminists and women’s rights movements have taken to trade justice.

The UK is not alone in its narrow focus on women’s economic empowerment. Mainstream policy by governments and multilateral organisations still primarily focuses on supporting women to simply engage with free trade, and often overlooks the complex impacts that trade can have on women in their multiple roles in societies. Women participate across the economy as workers, producers, traders, consumers, users of public services, unpaid carers and as taxpayers – and free trade can have impacts across all these areas, often with inequitable consequences. For example, even if new jobs are created through free trade, evidence shows that women are more likely to be found in precarious and lower paid jobs than men.

Impact assessments as a key tool for gender-just trade

SIAs, performed effectively and with women’s human rights at their core, are a critical first step towards ensuring that the full impacts of trade liberalisation are captured and addressed, providing a roadmap for preventing any potentially negative consequences of free trade agreements. Ensuring that SIAs are supported by robust gender-based analysis is essential if the impacts of trade are to be fully addressed.

In light of the UK's departure from the EU, the UK now urgently needs to develop its own approach to SIAs that ensures its trade ambitions do not undermine its international development priorities and existing obligations and commitments. Currently, the UK Government is under no legal obligation to assess the impacts of its trading arrangements on human rights in the UK, or around the world.

This report proposes that the UK adopts an ambitious, mandatory and human-rights-based approach to SIAs. Impact assessments should be underpinned by the objectives of a clearly articulated trade policy; be part of a wider process of ongoing trade policy monitoring; and look at the cumulative effect of FTAs and other trade policy instruments as a whole. SIAs have been used around the world by both state and non-state actors, including the EU, Canada, the US, New Zealand and the UN Conference on Trade and Development (UNCTAD). Drawing on the lessons of the strengths and weaknesses of these, this report presents nine guiding principles as the UK considers a women's-rights-focused approach to SIAs, which can be summarised as follows:

1. Grounded in human rights
2. Comprehensive
3. Effective and embedded in democratic process
4. Binding and specific
5. Independent
6. Based on women's genuine and democratic participation
7. Transparent
8. Informed by gender-based methodology
9. On-going

Towards a gender-just trade outcome: policy recommendations and model SIA

Building on the above guiding principles, this report offers seven recommendations that propose actions for the UK Government to take as part of its overall trade policy:

- 1. The UK Government should develop a pro-women, pro-human rights trade policy which puts sustainability and respect for human rights as a primary objective;**
- 2. The UK should improve the trade policy scrutiny process by mandating a 'mid-point review' in negotiations;**
- 3. The UK Government should develop its current scoping assessments into mandatory human rights impact assessments;**
- 4. Impact assessments should be conducted by an independent statutory body;**
- 5. Transparency of all impact assessment documents should be mandatory at all stages;**
- 6. The Government should take active steps to ensure meaningful participation of women and marginalised groups in assessment exercises and ongoing dialogue;**
- 7. The UK should consider providing resources for conducting independent impact assessments in agreements with countries in the Global South.**

To illustrate how the guiding principles and policy recommendations outlined above could be applied to an agreement the UK Government may choose to pursue in the future (a UK and Mercosur FTA), a step-by-step model for carrying out an effective and gender-just SIA is offered in chapter 3 of this report.

Introduction

Trade policies and trade liberalisation have rarely been understood as having a gendered dimension or impact, with governments' and multilateral approaches to trade and women's rights primarily focused on supporting women to engage with free trade.¹ As such, the effects of trade on women's lives and rights have been largely overlooked by mainstream policymakers all over the world. While there has been increasing recognition in recent years by governments, the World Trade Organization (WTO) and the UN of the importance of incorporating gender perspective and analysis in both the formulation and impacts of trade policies, more efforts are needed.

A longstanding body of evidence shows how trade policies can support or hinder women's economic rights. For example, trade policies tend to still disregard the contribution of unpaid care – delivered predominantly by women – towards the wider economy. In most parts of the world, women and men have different access to and control over resources, employment, wages and opportunities, and they experience different gender biases and discrimination, often preventing women from accessing the same kind of economic, social, political and decision-making opportunities as men. Women (along with many grassroots communities) are often excluded from the formulation of trade policies and trade negotiations.

ActionAid has sought to contribute to the above body of evidence in recent years, setting out principled approaches to gender-just trade.² This report is a continuation of that work. Intended to help shape the UK Government's approach to trade and women's rights as it develops its independent trade policy in a Covid-19 recovery context, this report sets out a 'model' for an effective, women's-rights-focused impact assessment.

Trade and gender: the UK context

The UK's position on trade and women's rights is yet to be set out through a clear, comprehensive UK trade strategy. So far, since the UK left the EU, its trade policy has prioritised trade agreements with key Northern and Southern partners – having rolled over more than 40 continuity deals, applying to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and pursuing FTAs with Japan, Canada, Mexico, the US, Australia and New Zealand.³ Yet the connection between UK trade policy and the Government's broader foreign policy agenda and sustainable development commitments remains unclear. This absence of a clearly articulated strategy raises questions about how the UK will

prioritise human rights – and women's rights specifically – and develop an effective monitoring and evaluation framework, and how it will balance the potential 'trade-offs' between its economic interests and international obligations.

Analysis of ministerial speeches and government documents shows a seemingly gendered rhetoric on trade, where the UK intends to empower women entrepreneurs through a "value-generating, values-driven" trade policy "to support freedom, human rights and the environment".⁴ The 2019 Conservative manifesto indicated that UK trade would align with the UK's commitment to human rights, and women's rights in particular – and the 2018 Commonwealth Summit saw UK leadership on gender-responsive trade practices. More recently, the standalone chapter on women's economic empowerment in the UK-Japan Comprehensive Economic Partnership Agreement (CEPA) points to a UK that wants to be seen to be recognising the need for a gender lens. The recent Integrated Review also contains an explicit commitment to "promote women's economic empowerment at the WTO, G7, OECD, the UN and World Bank, and in free trade agreements (FTAs)".⁵

We also know that the UK's trade policy must align with its international obligations. Internationally, the UK is bound by treaties on human rights and environmental and labour standards, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), ILO conventions, the Sustainable Development Goals (which include goals on gender equality, decent work and economic growth), the Paris Agreement and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). At the national level, the UK must comply with the Human Rights Act of 1998 and the Equalities Act of 2010.

In reality, the UK seems to be taking a 'quick delivery' approach to securing free trade agreements. This is paired with a tendency for the UK (in line with other multilateral institutions such as the WTO and World Bank) to define women's economic empowerment as when women have the agency to compete and produce in the market.⁶ This narrow approach, however, will not lead to transformative change. Efforts should be strengthened by accounting for activities that take place outside of the market or which are considered non-productive, such as care and community work, subsistence farming, maintaining seeds and other forms of local and indigenous knowledge, conserving land, rivers, the environmental commons and so on. It should also seek to address the discriminatory consequences of global trade rules on women's human rights.

The UK is at a watershed moment, with a responsibility to set trade policy down a truly transformative path. The Covid-19 pandemic and the UK's departure from the EU have highlighted the deep interconnectedness – and insecurity – of the global economy, forcing UK supply chains to be rapidly re-drawn and leading UK exporters to seek new export markets. This, combined with the current crisis facing the WTO as a venue for multilateral trade policy decision-making; the global challenges of climate emergency; the growing debt crisis and need for a just transition – all of which have gendered impacts – creates additional incentive to rethink the traditional free trade model and its role within the broader global system of economic governance.

The UK is in a position to develop its own Sustainability Impact Assessment (SIA) framework, that ensures its trade ambitions do not undermine its international development priorities and existing obligations/commitments, and that it can speak with a single – and legitimate – voice on the global stage. The report lays out evidence and examples

of the impacts that trade has on women and girls, particularly the most economically and socially marginalised in Southern countries, and also draws on international examples of effective impact assessments.

The report then presents a **three-stage approach to assessing the impacts of trade on women's rights**:

- 1)** a set of nine principles that underpin the approach to impact assessments with a gender lens;
- 2)** a series of recommendations that flow from those principles towards an agenda for a progressive, gender-just and pro-human-rights UK trade strategy for the future;
- 3)** based on the previous two tiers, a proposed SIA (using a possible agreement with Mercosur as a model) illustrates the steps to be taken forward in future UK impact assessments.

Three-stage approach



1. The unequal impacts of trade

The impacts of trade liberalisation on women and men

Trade liberalisation leads to significant shifts within national economies as markets are opened-up to free trade (framed as periods of “transition” or “adjustment”) and this impacts the lives of both women and men in multiple and sometimes different ways. Overall, the economic shifts that occur following liberalisation often have significant impacts across the population, particularly on the lives of the most marginalised within society, with those huge shifts both destroying and reformulating existing livelihoods, market patterns and access to societal institutions such as health, education and infrastructure.

However, structural inequalities and social norms found within societies and between nations also lead to unequal power relations and differing roles played by women and men within the economy, creating significantly different gendered impacts. Therefore only by first understanding the economy as an unequal gendered structure can trade policy explicitly acknowledge, identify and remedy the inequalities that underpin these institutions, transactions, behaviours and relationships, and avoid entrenching them further.⁷

At a *macro* level, trade agreements can impact women based on where their livelihoods are located within the economy, as sectors either expand or contract following liberalisation. The removal of tariffs and non-tariff barriers along with wider market deregulation and macroeconomic policies around international capital flows, fiscal austerity, privatisation and monetary policy all play a role in this, while the provision and quality of gender-responsive public services such as healthcare, water and education can also be affected.

At a *meso* level, women and men’s lives are decided by trade-impacted institutions such as professional organisations, business groups, and policy-making bodies (parliamentarians, sector ministries, women’s machineries); all of these are altered following liberalisation.

At a *micro* level, trade policies can also increase or reduce women’s decision-making and control over household incomes and spending, depending on whether they create or destroy sources of independent income for women. This impacts on

gendered power dynamics at the household and community level, as well as having wider nutrition, health and education implications within societies.

Unpacking the gendered impacts of trade on women

Women have always participated across the economy as workers, producers, traders, consumers, users of public services and taxpayers. When trade liberalisation occurs, the structures of production, consumption, employment patterns, incomes, prices of goods and services are all altered. The trade rules that govern these therefore have significant gendered impacts on women that can often be deeper and more detrimental than those experienced by men.

Women as waged workers

Although women’s formal labour force participation around the world has increased over the past three to four decades, it remains lower than that of men.⁸ More critically, women still face hurdles to access jobs in certain sectors, as well as types of jobs within sectors and roles that come with more decision-making power. Women are more likely to be found in precarious forms of work and in lower paid jobs than men.⁹ They also continue to deliver a disproportionate amount of unpaid care work and this contributes to the over-representation of women in part-time jobs and the gender pay gap more broadly.¹⁰

Manufacturing

Within this sector women workers are often concentrated in labour-intensive jobs due to the exploitation of their cheaper labour. This is used as a source of *competitive advantage/ comparative advantage* by corporations and states within global value chains during liberalisation. This has demonstrated that more jobs do not automatically equal decent jobs. The precarity and insecurity of contract terms often remain, leaving women vulnerable to job losses when wages become too high to sustain competition within international markets, or when the country moves into higher value production and men are more likely to be hired. Such trends have been seen in many Southern countries such as Taiwan, South Korea, Malaysia, Mauritius, Madagascar and Lesotho.¹² These patterns are a result of a “race to the bottom” on labour laws that often follows trade liberalisation, which, coupled with the exploitation of weak minimum wage guarantees in many countries by corporations (aided by “doing business” ratings that are set by international finance institutions that place a higher value on such environments) have come to govern labour markets more generally.¹³

Services

Although women continue to be found in fewer numbers than men within services globally, the expansion of exportable services has also become another recent source for women's employment, particularly in the information and technology sector (IT) in countries such as India,¹⁴ the Philippines, Jamaica and Mexico. However, similar to the pattern present in the manufacturing sector, women workers are mostly concentrated in data processing or other similar lower paying jobs and continue to be subjected to poor contract terms and precarious types of work, as well as often being denied the right to unionize.¹⁵

Agriculture

Women workers within agriculture tend to engage with international trade through wage employment on estate farms or packing houses. They are also disproportionately employed in part-time, seasonal and low-paid occupations both in export-oriented industries and in local and regional agri-food value chains.¹⁶ Women are often preferred for these occupations because they are perceived as secondary workers with lower bargaining power than men and thus easier to be laid off.¹⁷ It's notable that there is a lot of overlap between women's roles as food producers (explored further below) and as waged workers in agriculture value chains. Despite recent contractions within the sector, agriculture remains a major source of employment for women in both South Asia and sub-Saharan Africa (about 55 to 60 per cent of total female employment, respectively). It also remains important in the Arab region (30 per cent) and East Asia and the Pacific (24 per cent).¹⁸

Women as producers

In many countries women are still the main producers of food for household consumption and also for domestic, often very localised markets. This includes both local staple crops (such as legumes and tubers) and smaller household livestock. As such they play a critical role in both food security and food sovereignty (where control over food choices remains with individuals, families, and within communities). However, when trade liberalisation hits, cheap

food imports following the removal of tariff barriers have been found to reduce the domestic prices of agricultural produce, and this then lowers women's agricultural earnings, while also compromising the availability of fresher, local produce. For example, in the Philippines where over a third of women in agriculture were engaged in rice farming, the liberalisation of the rice market between 2001 and 2005 led to a reduction of domestic prices and incomes for both women and men small farmers in the rice value chain.¹⁹ Other examples can be found in Ghana and South Africa, where the dumping of EU poultry products following the EU Economic Partnership Agreements (EPAs) left many of the local farmers unable to compete with the tonnes of frozen chicken dumped on African markets annually.²⁰

More commercialised or industrialised produce such as cotton or sugar, cultivated on a much larger scale for direct export or further processing (usually known as export cash crops), are more frequently within men's economic domain.²¹ There is also evidence that when a traditionally female-intensive crop becomes commercially viable, men will take over the production and marketing. Examples of this include bananas in Kenya,²² groundnuts in Zambia, rice in Gambia and leafy vegetables in Uganda.²³

The role of women in maintaining, exchanging and sharing seeds and as keepers of traditional knowledge linked to natural resource management and food sovereignty is well documented.²⁴ These roles have been increasingly undermined by the introduction of intellectual property laws around seeds and biodiversity through free trade agreements and those agreements tend to benefit large scale food producers over small farms. This also undermines agroecological practices that offer greater climate resilience and the potential for mitigation and adaptation strategies that reduce the levels of emissions currently being generated by large scale industrial agriculture.²⁵

The impact of NAFTA on women in Mexico

The North American Free Trade Agreement (NAFTA) was historic in terms of both magnitude and scope. The enormous restructuring of the Mexican economy had unbalanced outcomes for Mexicans, and particularly for Mexican women.

For example, in preparation for NAFTA's new investment rules in 1992, the Mexican Government amended an article in its constitution that previously guaranteed farmers' and community access to communal lands. By establishing individual rights, the automatic rights of wives and partners to inherit land was eliminated while women lost what rights they had over land transactions as part of familial or community structures.²⁷

Additionally, although NAFTA removed tariffs, it did not remove subsidies, consequently forcing Mexican agriculture producers, many of whom are small, family-run or subsistence farmers, to compete with the large and often highly subsidised agribusinesses from Canada and the US. This led to a price depression in Mexican agricultural produce and the loss of 4.9 million jobs, many of which were held by

women. Where NAFTA did contribute to the creation of jobs, such as in the *maquila* industry of foreign-owned assembly plants for the export of finished products, the jobs remained short-term, insecure and low-paid with long hours and harsh working conditions and were known to put women at risk of violence on the way to and from work.²⁸

What could this mean for the UK's trade and international development approach?

Any future trade agreement between the UK and Mexico will potentially see a lot more of Mexican agricultural produce (such as fruits) as well as gemstones and minerals (such as pearls and metals) entering the UK, with more UK automotive, pharmaceutical, textiles, agriculture, food and drink industries products entering Mexico.²⁹ This would maintain the low value/primary commodity versus high value/finished goods relationship that is extractive and imbalanced. A UK-Mexico agreement should avoid new Mexican jobs replicating the same precarious, low paid and poorly provisioned characteristics that NAFTA created.

Women as consumers and traders of goods

Women in general are poorer than men and – due to their roles as unpaid care workers and givers – generally spend a larger part of their income on basic consumption goods and on their families.³⁰ However, trade liberalisation and the introduction of imported goods do not necessarily lead to affordable goods for women. In one study on EPAs, it was found that cheaper imports were not likely to benefit marginalised low-income women, as they mainly included items such as washing machines and gas cookers only affordable to households with high incomes and easy access to energy sources.³¹

The higher availability of cheaper imported goods can adversely impact female traders. This happens because while most trade agreements focus on the removal of tariffs, they do not necessarily touch on the removal of domestic subsidies. NAFTA for example did not remove domestic subsidies, which led to cheap US-produced corn (made cheaper by the US Government's high subsidies to its farmers), which eventually displaced many Mexican corn producers.

Proponents of free trade have assumed that the emergence of e-commerce and digital platforms will help women easily access global and cross-border trade and have better outcomes for their micro, small and medium enterprises. But the majority of women-owned enterprises cannot even guarantee access to mobile phones to unlock said potential. In many countries, women's enterprises are often small (many are considered "survivalist"), with low output levels, thin price margins and very little capacity to bear overheads.^{32 33} Although most e-commerce transactions are carried out by phone in countries in the Global South, over 1.7 billion women still do not own mobile phones.³⁴ Women are therefore at a disadvantage in the platform marketplace and are unlikely to meaningfully benefit from the introduction of trade rules around e-commerce and digital trade.

Women as users of public services

Women are the primary users of public services and infrastructure and also comprise the majority of workers in the public sector and the main providers of unpaid care work when public services are cut.³⁵

While trade liberalisation in services in most trade agreements does not explicitly stipulate privatisation, the process of liberalisation itself makes it implicit and therefore hard to avoid. Many countries have embarked on their privatisation processes due to the advice or pressure from institutions such as the World Bank and the International Monetary Fund (IMF), or as part of the wider adoption of neoliberal economic frameworks.³⁶

This has implications on the accessibility of public services, those it employs and those that rely on it the most – women and girls especially. For example, the privatisation of water in Senegal by a French company included a cost-recovery scheme to recoup investments and make profits, which led to price hikes and the unaffordability in poor households.³⁷ Reduced access to privatised public services such as water and healthcare greatly affect women. When privatised services come at a fee, this places an additional burden on women's incomes. When healthcare is no longer available, women and girls have to care for the sick, often at the cost of pursuing paid employment or education and their mental and physical wellbeing. When education becomes more expensive, girls are the ones who are usually forced out of school.³⁸

There is also no evidence of the private sector and businesses being more efficient and effective in the delivery of public services.³⁹ Even staunch proponents of privatisation such as the IMF have highlighted and warned of the fiscal risks and lack of proven efficiency gains (even as they continue to prescribe this economic policy to countries).^{40 41}

Governments' sources of revenue are also negatively affected by the elimination of tariffs and reduction of trade taxes, which can have a negative impact on the provision of the public services women need. Reductions in government revenue are often either replaced by regressive taxes, such as those on goods and services, or value added taxes (VAT) and these have a disproportionate impact on women and the poor, who by necessity spend a greater proportion of their income on consumable goods than the wealthy.⁴² But even with regressive taxation low-income countries largely fail to recover revenue lost through trade liberalisation.

Unequal power relations between countries determine how trade impacts women

While today's industrialised countries used a range of policies to protect and promote emerging industries, including a combination of import substitution

and export orientation, many of these policies are now unavailable to governments in the Global South. In some cases they are prohibited under trade and investment rules, in other cases, use of these policies puts aid receipts at threat.^{44 45} For example, intellectual property rules found in many trade agreements today prevent technology transfer with middle-income countries and countries in the Global South.⁴⁶ Although global trade rules and commitments are viewed as providing a level playing field for all parties, the constraints they impose over national policies are much tighter for Southern than for Northern countries. This has created significant power imbalances between the Global North and Global South, which have consequently led to negative impacts of trade liberalisation on Southern countries.

The domestic policy space needed to advance women's rights

For women to overcome the gendered inequalities they face, governments need to intervene with supportive fiscal, wage and industrial policies to address them, as underpinned by the gendered affirmative action approach prescribed by CEDAW.

But current global trade rules have diminished much of the national policy autonomy that many Southern countries require to achieve sustainable development objectives. By locking in the liberalisation of markets and dismantling restrictions over cross-border movements of goods and services, unregulated money and capital flows also expose countries to global economic shocks and loan conditionalities that weaken the impact of national policies and macroeconomic development policy objectives. International trade rules and obligations further diminish sovereign control over those policies.⁴⁷

The recent prevalence of Investor-State Dispute Settlement (ISDS) provisions in investment treaties is an example of this. A number of UN human rights experts have warned of the "chilling effect" that intrusive ISDS awards have had,⁴⁸ when governments have been penalised for adopting regulations including affirmative action;⁴⁹ protection of the environment/tackling climate change;⁵⁰ health; food security; access to generic and essential medicines;⁵¹ raising the minimum wage;⁵² and even policies intended to tackle Covid-19.⁵³ For women, whether as producers and workers, as consumers or as users of public services, it is essential that countries have the autonomy to properly protect the sensitive industries within which women are found and the regulations needed to ensure their social and environmental security.

India post-WTO

India became a member of the WTO in 1995 and is currently party to almost 100 other bilateral, regional and plurilateral trade and investment agreements outside of the WTO. Over the last two decades, India has followed a consistent trade liberalisation policy. But an analysis of the tariff removals that took place between 1989 and 1998 suggests that larger tariff declines have reduced the relative hiring of women and that liberalisation policies may have increased, rather than decreased, gender inequality.⁵⁴

Agriculture employs 80% of all the economically active women in India; 33% of those women are employed in the agriculture labor force and 48% of the women are self-employed farmers.⁵⁵ This is even though women hardly own land in India (only 13% do) and women spend nine times more than men on unpaid care work.⁵⁶ It is estimated that around 296,438 farmers committed suicide in India between 1995 and 2014 following liberalisation of the sector.^{57 58} Although rates for women are lower than men (with expected underreporting), the economic impacts of widowhood also cannot be ignored.

In the milk sector, after the process of liberalisation under the WTO's Agreement on Agriculture, India's local milk producers began facing competition from imported skimmed milk and experienced a decline in the real price of milk. This had led to the opposition of many milk farmers in India to any opening of its milk sectors to highly subsidised milk imports, especially from developed countries.⁵⁹ However, while India still maintains protections for its dairy industry, the pressure to continue removing these remain. It is also a sector that largely consists of women, with about 190,000 smaller cooperatives in villages across the country, with 5.06 million women making up the membership of these cooperatives.⁶⁰

Over the last 25 years India has also become the major generic medication producer of the world, playing a critical role in increased access to

pharmaceutical drugs for other Southern countries in particular. This has resulted in attempts by developed countries to impose tighter rules on the Agreement on Trade-Related Aspects of Intellectual Property Rights as seen in the negotiation of the EU-India Free Trade Agreement (which remains ongoing) and the Regional Comprehensive Economic Partnership (which India withdrew from).^{61 62}

What does this mean for the UK's trade and development approach?

Despite the country's GDP growth in recent decades and strength within service sector industries, India is still classified as a 'developing' economy, and any FTA with the UK needs to be mindful of the country's need to continue protecting its industries so as to mitigate against harmful social impacts on a still highly economically vulnerable population. Opening India's dairy market to imports for example could have a negative impact on India's domestic milk producers, many of whom are women.

A further challenge given India's position as an emerging economy is the fact that the country has been sued through ISDS at least six times by either UK companies or companies utilising the 1994 UK-India Bilateral Investment Treaty (the most from any one country). At least of the two of these ISDS cases were known to be tax-related, with British companies suing the Indian Government for imposing tax on them.⁶³ This undermines the importance of tax for Southern countries and especially for women, who – as indicated in the sections above – are the primary users of essential services that tax revenues provide. Despite the high levels of foreign direct investment (FDI) in India by the UK, the use of ISDS provisions must be addressed as there is no way of calculating whether the losses borne by India as a result of ISDS lawsuits is sufficiently compensated by the increase in FDI and further market access of an FTA.

Trade impacts on women in the Global South vs Global North

Trade agreements are more likely to negatively impact women in the Global South than women in the Global North, even when the trade policies written are identical. This is because of the vast differences of standards of living, culture, market and production activities and the capacities of the state. Related to this is also the issue of domestic policy

space (as discussed in the previous section) and the historical underpinnings of structural imbalances between countries. All of which ultimately leads to more detrimental impacts of trade liberalisation for women in the Global South than for women living in the Global North.⁶⁴ Therefore a fairer balance between governments in terms of constraints and autonomy is needed, along with a recognition of the global geopolitical inequalities at play.

CASE STUDY

Possible impact of Mercosur trade deals on women

After 20 years of negotiations, the EU and Mercosur member countries concluded the negotiations for the EU-Mercosur free trade agreement in 2019. With ratification and possible implementation still to come, this case study offers an analysis of the possible gendered consequences of the agreement.

Mercosur countries have agreed to liberalise 93% of tariff lines for agri-food imports from the EU, while the EU in return will liberalise 82% of agricultural imports. There will be tariff quotas for the most sensitive products, including beef. This is assumed to be a win for Mercosur countries as four of its main members export more beef than any other country in the world.⁶⁵ But meat production has contributed to significant loss of forest and biodiversity in South America, and the continued drive for increased meat production could lead to even more deforestation, loss of ecosystems and harm to communities and Indigenous Peoples.⁶⁶ On the other side of the equation, sanitary and phytosanitary measures will still limit the entry of goods to the EU by the least adapted Mercosur producers, exposing local industries to competition with larger transnational European corporations. This will impact women significantly. For example, most women in rural parts of Brazil and Paraguay are employed in the agriculture sector (68% and 55% respectively) and are also largely engaged in agroecological family farming of diversified crops that contribute to household and community consumption as well as localised markets.⁶⁷

The agreement will also require parties to join either UPOV78 or UPOV91 Conventions, a set of plant variety protection patent-like rules that promote

the privatisation of seeds and prevent farmers from saving seeds.⁶⁸ The role of Latin American women as seed guardians in the community will be threatened by this introduction, which in turn threatens seed sovereignty and farming autonomy more broadly by leaving communities vulnerable to the incursion of commercialised seeds (as well as inputs) and the market dependency this brings. This will further undermine the right to food sovereignty and the more climate resilient biodiversity that underpins agroecological farming.

It is also estimated that the deal will also lead to the loss of 186,000 industrial jobs in Argentina alone such as textile, footwear, toys, leather goods and furniture. The textile industry in Mercosur countries mostly employs women (with the textile industry in Argentina mostly taking place in small and informal workshops).⁷⁰

What does this mean for the UK's trade and development approach?

A UK-Mercosur FTA would need to take these and other issues into account, interrogating a series of gender questions across each of the Mercosur countries. These include how the FTA will impact environmental and social standards, women's right to decent work within value chains and the impacts on women as agricultural producers, as well as women's affordable access to gender-responsive public services. A more comprehensive series of starter questions for a possible UK-Mercosur FTA can be found in Chapter 3 of this report as part of the contextual framing for a proposed model SIA.

2. Impact assessments as a key tool for gender-just trade

Impact assessments are a vital mechanism for parties in a trade agreement to understand and try to redress some of the multi-faceted issues that trade deals can pose for women and girls, in their multiple roles in society – some of which have been explored in Chapter 1. Appropriate impact assessments can be an important first step in helping to improve policy-making and help negotiators to reach a better outcome, but they are also a key democratic tool to inform the public (and parliament) about the trade deal under negotiation. A well-conducted, transparent and timely impact assessment can also alert civil society groups and women's rights organisations to possible concerns with an agreement and equip them to push back on certain provisions or propose mitigating measures.

To be effective, assessments should relate to the objectives of a clearly articulated trade policy and be part of a wider, ongoing process of monitoring the impact of a country's trade policy. This process should also look at the cumulative effect of FTAs as a whole, as well as other trade policy instruments such as Bilateral Investment Treaties (BITs), building up a picture of impacts over time and allowing for comparison between different agreements. Trade agreements are living entities and always evolving – so to be effective, impact assessment exercises have to be part of an ongoing programme of work rather than 'one-offs'.

“Better engagement with stakeholders leading to better information; better information leading to better analysis; better analysis leading both to better policy and a firmer basis for future communication and engagement with stakeholders, and better overall outcomes.”⁷¹

Table 1: SIAs around the world: useful lessons for the UK

SIAs have been used across the world by both state and non-state actors. As the UK considers a new approach to SIAs, it is useful to draw lessons from the strengths and weaknesses of others' approaches. This table summarises the most relevant elements from the EU, Canada, the US and New Zealand's SIA frameworks.⁷²

Strengths to draw from	Weaknesses to avoid
<p>The EU's framework and methodology are perhaps the most comprehensive, looking at impacts both in the EU and partner countries and following a four-stage approach including ex-ante and ex-post. Similarly, the US conducts a range of different impact assessments through a comprehensive system of advisory committees, established by legislation to assess and determine negotiating objectives and bargaining positions before entering into trade agreements.</p> <p>The EU's and Canada's SIA's parameters support sustainable development objectives that are at the heart of the EU's trade and development policies and Canada's gender sensitive trade and foreign policy.</p>	<p>While comprehensive, the EU's approach has failed to meaningfully impact the shape of the final trade deals and has generally only set mitigation strategies for risks and negative impacts instead of preventing them altogether.</p> <p>While Canada applies an intersectional gender impact analysis to every trade deal as standard, it is only to determine impacts on its own people – not on women in partner countries.</p> <p>One drawback of Canada's approach is its inability to force implementation by the other party in the trade agreement.</p>

The EU's SIA framework recognises the need to **assess more dimensions** and **maintain close dialogue with all stakeholders**. Further, **its use of quantitative and consultation-based qualitative assessments** enables the gathering of lived experiences from women, and values them as important data to collect and analyse.

Canada's SIAs go a step further: Gender-Based Analysis Plus (GBA+) must be conducted on all trade policies and proposals before any preliminary trade negotiations can commence. In-depth chapter-by-chapter GBA+ follow once negotiations are underway. To deliver on this, the Canadian Government has **invested in gender expertise within its trade negotiations team**.

Although it did not play an official role in the negotiating process of the African Continental Free Trade Agreement (AfCFTA), the multi-party 2015-2017 independent human rights impact assessment raised awareness about the possible gender impacts of the deal and led to follow-up programmes.⁷³ It **recognised the impact of structural discrimination on women's rights** and includes a number of **practical recommendations** including being able to report sexual harassment at the border as a Non-Tariff Barrier; extension of social protection measures to women in the informal sector; free movement provisions; and a simplified trade regime for small-scale traders that can help prevent sexual harassment.

UNCTAD's 2017 Gender and Trade toolbox was a "first attempt to provide a **systematic framework to evaluate the impact of trade reforms on women and gender inequalities prior to their implementation**." The four-stage methodology has so far only been applied to the EU-East African Community Economic Partnership Agreement which has not as yet been ratified by all parties.

New Zealand's main tool for assessing trade agreements is a '**National Interest Analysis**'. **This has been criticised for being too narrow in focus**, for example, by using GDP rather than social, gender, cultural or environmental considerations, and **coming too late in the process (at the conclusion of the negotiations)**.

New Zealand's approach to **stakeholder engagement has also been criticised as being too extractive**, rather than listening and conducting genuine dialogue. There is also a notable **lack of transparency**, as negotiating mandates are not published.

An analysis of the strengths and weaknesses of SIA set out above helps to distil a number of guiding principles for impact assessment frameworks that are grounded in human rights and responsive to the lived experiences of women in their various roles in society. These principles, below, are a useful starting point to the UK as it seeks to define its own, independent approach to trade impact assessments that is aligned with its broader foreign policy priorities and international obligations. More specific recommendations for the UK's trade policy under each of these principles follows in Chapter 3.

Nine principles for a gender-just approach to impact assessments:

1. Grounded in human rights

To ensure that human rights do not become an afterthought in trade negotiations, governments should have a clearly documented trade policy, articulating how it fits into its foreign policy, as well as within the broader architecture of international human rights law and standards. As set out by ActionAid UK in its 10 Principles for Gender-Just Trade, UK trade policies should “promote and protect human rights, women's rights, labour rights and the environment, over and above the rights of investors and free market expansion”.⁷⁴ The UK is party to seven core international human rights treaties (including CEDAW), with recent developments in international law also recognising the responsibility of states to respect human rights outside of their own territories (extraterritorial obligations of state, or ETO). The importance of governments complying with ETO has become urgent in an era of globalisation, as human rights violations in one country can have knock-on effects on the realisation of rights in another, through trade, finance, taxation and environmental policies. Articulating a comprehensive approach to trade – and prioritising human rights – from the start presents governments with the opportunity to drive transformative change of the economic system to a more just, sustainable model which puts human rights and wellbeing at its core. It also helps mitigate the risk of SIAs becoming a ‘tick box exercise’, whereby governments can pick and choose the human rights impacts that are most convenient in order to push through the deal in question.

2. Comprehensive

If insufficiently comprehensive, there is a danger that SIAs can create the facade that a trade agreement's adverse impacts have been ‘dealt with’. The practice of ring-fencing women's human rights and gender issues into non-binding “Gender and trade” chapters as practised by Chile and in the UK-Japan FTA misunderstands the systemic and differential impacts of all aspects of trade on marginalised groups in society. Similarly, most recommendations regarding gender and trade – including what we know about the UK's own trade policy – focus on ‘unleashing’ women's potential as workers, entrepreneurs or business owners, rather than on assessing the potentially negative impacts of trade on women in their multiple roles including as providers of cheap labour or users of services. If a government decides to undertake a separate SIA related to gender impacts (like Canada) and append a chapter specifically addressing women's rights, it must not

be at the detriment of undertaking gender-based analysis of the wider impacts of the deal, such as environment, sustainability, investment and intellectual property rights issues, all of which have differential impacts on women.

3. Effective and embedded in democratic process

Perhaps the most significant criticism of most state-led impact assessments to date has been their negligible impact on trade negotiations. A particularly egregious example is the recent EU-Mercosur assessment where the draft interim report was published three months after the political conclusion of the agreement.⁷⁵ The EU and Canada have taken some steps to address this; the ‘threat’ that the European Parliament will withhold its support for an agreement if the SIA process has not been conducted properly and its findings taken on board to some extent creates a ‘check’ on the process. In Canada's GBA+ system, negotiators must incorporate the impact assessment findings ahead of each negotiating round. However, timing is also important; EU SIAs come too late in the process to act as a real ‘brake’ as there is no formal requirement for negotiators to respond to findings until the very end of the process. In the UK, there are a number of broken links: scoping assessments are conducted prior to the launch of the formal talks and there is no structural bearing on the negotiations. Parliament also has no official role in approving trade deals. The Government has offered to hold debates and give the International Trade Select Committee early sight of final texts, but impact assessments are not legislated and there is no stage at which their findings are required to be considered.

4. Binding and specific

EU SIA recommendations are often weak, using language such as ‘encourage’ or ‘consider’, partly because there is pressure on consultants to moderate language with a view to ensuring a smooth passage through the European Parliamentary scrutiny process. Even when SIAs make strong and public recommendations, these tend to be non-binding.⁷⁶ The usefulness of impact assessments is further constrained by the target of their recommendations. In the EU case many of the recommendations in an SIA are actually directed towards the negotiating partner rather than the EU,⁷⁷ for example, “Paraguay should implement land reforms”. It is often unclear who will take responsibility for initiating (and funding) mitigation measures in partner countries, and there is also a question as to whether the recommendation is ‘desirable’ or ‘essential’. For example, if the land reform process does not proceed, the severity of the

subsequent human rights impacts might mean that the relevant provisions of the trade agreement need to be reviewed.

5. Independent

The body designated to carry out the impact assessment should be independent from the executive of the government which is negotiating the agreement. Most countries conduct their trade impact assessments ‘in-house’, which poses a risk that trade agreements become a vehicle for individual political ambitions. The US system is slightly different in that the Office of the US Trade Representative can commission the International Trade Commission to conduct assessments on its behalf, for example on sectoral impacts of a particular agreement. Similarly Australia’s FTAs are assessed by the ‘productivity commission’. The EU’s SIAs are conducted by independent consultants, but there is a question over the extent to which the firms chosen are able to sufficiently exert their independence, as EU SIA contracts go to a handful of largely Northern-based consulting firms, some of whom partner with groups in the negotiating partner countries. Of the EU’s 40 SIAs, only eight lead firms have been commissioned.⁷⁸ There is limited display of critical thinking contained within some of the EU SIAs (although practice varies and is improving over time) which suggests that the consultants may be chosen because they share a particular economic ideology.⁷⁹

6. Based on women’s genuine and democratic participation

All people have the right to participate in and access information relating to the decision-making processes that affect their lives, as outlined by numerous international conventions. An assessment of genuine participation should include: 1) whether or not the trade policy-making process (beyond SIAs) has a meaningful and inclusive public participation mechanism, particularly for women; 2) whether the SIA process itself adopts such a mechanism; and 3) whether there is transparency in the terms and text of the negotiations (see Principle 7). More broadly, ensuring positive participation will require recognising that women’s disproportionate burden of unpaid care and domestic responsibilities will limit the time they have to participate in such consultations, and ensuring sufficient flexibility (and reimbursement) to accommodate this. The EU ‘civil society dialogue’ is a good process on paper, but civil society groups have become increasingly distrustful about the extent to which their contributions are actually influencing policy. The New Zealand process has also been criticised for coming too late and for resembling ‘outreach’ rather than genuine dialogue. In July 2020,

the UK adjusted its approach, setting up a series of more sectoral and business-focused Trade Advisory Groups alongside ‘thematic working groups’ covering issues such as sustainability and development. The US also has sectoral and thematic stakeholders groups and it has the useful practice of a mandatory 90-day timeline for consultation exercises.

Within its SIA process, the EU has clear guidelines for engaging stakeholders, but the reality is mixed. The SIA team must publish all documents online and workshops, interviews and roundtables are conducted in partner countries to investigate sustainability concerns. The views of local groups such as indigenous communities, small-scale farmers, local governments and women’s groups must be included. Such consultations should engage with specific trade-related topics, and should involve in-depth discussions based on relevant data. However, a review of the workshops in the EU-Mercosur SIA process shows there were indigenous groups but no women’s groups, showing that consistent effort to include those normally excluded is critical. To facilitate this, the time given by stakeholders must be valued and financially compensated, while participants must be supported to understand technical aspects of the trade deals – including through training so they can participate effectively. Practical details like notice periods, support for attendance (for example for working women), translation, accessibility, costs and location must all be considered.

7. Transparent

A number of countries argue that their initial scoping assessments and the terms and text of trade negotiations must be kept secret to avoid compromising their negotiating position. The tide is turning against this approach, partly due to the fact that the broad nature of today’s trade agreements comes with significant impacts on people’s everyday lives, and relatedly, a realisation from governments that if they want to avoid meeting resistance further down the line, it is in their interests to be open about what they are trying to achieve. The EU now shares its negotiating directive and initial legal text as well as providing regular updates throughout the negotiations. To support an effective impact assessment, it is critical that information sharing is timely (giving stakeholders sufficient time to input) and accessible (not relying purely on online platforms and providing documents understandable by non-trade experts). While many governments may insist against disclosing documents concerning FTA negotiations, they often share them with business entities. According to one study, negotiators at the EU Directorate General for Trade, in the run up to the Transatlantic Trade and Investment Partnership

(TTIP) discussions, held 597 closed-door meetings with various interest groups: 88 per cent of these meetings were with business lobbyists in different forms, shapes and sizes; while only 9 per cent of the meetings were with public interest groups.⁸⁰

8. Informed by gender-based methodology

Most impact assessments start from the ‘evidence’ of economic benefits – often the result of generalised modelling. These usually predict (modest) GDP growth, trade growth, income and job increases. All economic modelling exercises are constrained by their generalised nature; they rarely disaggregate data by marginalised populations, leading to an underestimation of potential impacts. This problem is exacerbated by the lack of availability of data, for example, on the informal sector, presenting a missed opportunity to design more targeted and responsive policies. The Computable General Equilibrium (CGE) modelling most commonly used also does not allow for in-depth sectoral analysis. More detailed sectoral analyses can be done qualitatively, but these should be supplemented where relevant with additional methodologies such as partial equilibrium modelling, which has fewer data requirements and can permit sectoral analysis at a much more detailed level. Modelling also often assumes a level of ‘efficiency’ that does not exist in the real world, for example assuming that GDP growth will flow into improved human rights, or that jobs lost in one sector can be offset by gains in another with some ‘re-skilling’. Here is a typical example from the World Bank’s 2020 analysis of the AfCFTA: *“In the few sectors where AfCFTA’s implementation results in job losses, governments will need to be ready to support workers with adequate safety nets and policies to retrain them.”*⁸¹ Numerous studies have questioned these linear assumptions citing for example the jobless growth experienced by many countries in Africa.⁸²

There is a growing recognition that most economic models do not recognise the unpaid services mainly provided by women that are vital for economic stability and social wellbeing and take up much of women’s time.⁸³ There is clearly a need for better gendered economic modelling and some progress has been made in developing this. Feminist economists utilise Social Accountability Matrices (SAMs) which capture all transactions between sectors and institutions in the economy, including market-based activity; household-based activities, such as those involved in care work; and leisure activity. Once a country-specific gendered-SAM has been generated, CGE modelling can be used to predict the effects of a proposed trade agreement on women and men in their various roles.⁸⁴ Some of the weaknesses of CGE can also be offset by using

sectoral studies and the deeper qualitative studies, but it is also advisable to conduct issue human rights or social impact screening and scoping alongside or in advance of economic modelling to ensure sound issue identification from the start.

9. Ongoing

There is consistently far too much emphasis on ex-ante impact assessments and too little attention paid to designing, resourcing and participating in ex-post assessments of particular agreements, as well as broader analysis of the trade policy regime as a whole and its cumulative effects. Ex-ante studies, while useful for identifying issues to monitor and for setting baselines, are only ever going to be hypothetical and are extremely limited in terms of data availability and assumptions. As such, ex-ante impact assessments need to be part of an ongoing process given the length of many trade negotiations and constant changes to the terms of the agreements. Ex-post assessments have the benefit of evidence of real-world impacts and thus policy proposals are meaningful. In the UK context, this is particularly important for two reasons: the UK has just regained independence of its trade policy so has an opportunity to develop a new (and better) system from scratch; and over 40 continuity agreements have been signed with very limited scrutiny. It will be vital to set in place systems to monitor these agreements now, so their impacts can be reviewed periodically. To adequately assess the gendered impacts of trade agreements in the long-term, countries also need to collect data on gender-specific metrics such as access to social protection floors; secure access to tenure rights to land; food insecurity; women’s household decision-making power; decision-making power with regards to sexual relations, contraceptive use, and reproductive health care; violence against women and girls (at home and in the workplace); and time use (unpaid care and domestic work). It is also useful to be able to compare impacts across different agreements and over time and to use this information in designing better future policies and trade arrangements.

3. Towards a gender-just outcome: UK policy recommendations and model SIA

The UK's current SIA practice

UK efforts on trade and gender, while welcome, are almost exclusively focused on increasing opportunities for women to *enter into* trade, rather than addressing the human rights impacts of existing trading policies and practices. While the Government-funded SheTrades initiative shows the UK Government's interest in embedding gender equality across its trade and economic policy work, it is not sufficiently comprehensive or aligned with the Sustainable Development Agenda. By focusing solely on helping women entrepreneurs access markets, it encounters three problems. Firstly, it reaches only the small minority of women who already own businesses, leaving behind the poorest and most marginalised, who form the vast majority of informal sector workers – those engaged in agriculture and in the myriad other sectors where women are overworked and underpaid. Secondly, in helping women to access markets without recognising or seeking to reduce the unpaid care burden that falls disproportionately on women, this policy will fall short of truly advancing women's economic rights. Finally, and most importantly, this approach does not challenge the unequal terms in which women engage with trade, and fails to recognise the UK's contribution to this structural inequality as a free trading nation and a key player in the international architecture.

The UK's approach also contributes to the idea that the impact of trade on women's rights can be confined to a 'gender and trade' chapter in agreements. Such a chapter, whilst useful in spotlighting the important impacts trade agreements can have on women, is rarely binding and can lead to the false assumption that gender impacts have been addressed (UNCTAD has found the use of Gender Chapter to be ineffectual without an ex-ante gender-related assessments of trade measures).⁸⁵ This narrow economic definition is also fundamentally at odds with the approach that feminists and women's rights movements have taken to trade justice, which seeks above all to promote human rights and sustainable development.⁸⁶

The UK is publicly committed to three main elements as part of its trade impact assessments: **public consultations, scoping assessments** and **final assessments**. It has, however, not conducted any new impact assessments for the 40+ continuity agreements, arguing that these have already been assessed at the EU level. This is problematic, not least because the impact of an agreement with the UK alone will clearly be different from an agreement with a 27-member-strong trading bloc.

The UK has run public consultations for its priority FTAs (including New Zealand, Canada, Australia and the US) and also for its application to join the CPTPP. These are run prior to the launch of the negotiations and are designed to feed into the Government's negotiating priorities. The Government's response to consultations is then published alongside the negotiating objectives and scoping assessment, with the caveat that *"points that might reveal the Government's negotiating position are not responded to in the Government's response."*⁸⁷ There is little information provided about the likely scope and priorities for the FTA and currently, submissions are collected through a publicly available online form, which may be accessed by anyone who chooses to respond.

For new FTAs, the UK Government has committed to publishing 'scoping assessments' before entering into negotiations with partner countries, and to publishing fuller impact assessment prior to implementation. The purpose of these assessments is described as "to provide Parliament and the public with a preliminary assessment of the broad scale of the potential long run impacts of an eventual FTA between the UK and [other party] prior to the launch of negotiations." Impacts are disaggregated for UK businesses and small and medium-sized enterprises (SMEs), consumers, UK workers, wages and sectoral employment, labour market impacts by protected groups (gender, ethnicity, age, disability). The environmental impact assessment looks at emissions-intensive sectors, transport emissions, pollution, biodiversity, water and land use. They are routinely conducted by Department for International Trade (DIT) officials and focus almost exclusively on UK impacts with brief analysis of the likely macroeconomic impacts on the partner country and on countries in the Global South (using CGE modeling).

Only one 'final' impact assessment has been conducted and that is for the UK-Japan CEPA.⁸⁸ It follows the same format and methodology as the scoping assessments, essentially updating that study based on the provisions of the final deal. The final assessment is based on the UK Global Tariff and includes additional sensitivity modelling which considers alternative projections for global GDP growth. It also goes into greater depth in some areas – for instance, on the regional impacts and business administrative costs – and includes an improved methodology on assessing environmental impacts. The final impact assessment for the UK-Japan CEPA also includes a commitment by the UK Government to monitor and evaluate the implementation of the agreement every two years, and carry out a comprehensive ex-post evaluation of the CEPA within five years of entry into force. This is the first indication of how the UK will approach the monitoring and evaluation of trade agreements going forward. DIT's evaluations will answer three overarching evaluation questions, all of which are heavily focused on UK impacts (including on "UK businesses, workers and consumers") and include no explicit requirement to evaluate impacts in partner countries.

Recommendations

Recognising that the UK has some way to go to ensure a gender-just trade policy is in place, this section offers seven recommendations, building on the broader principles outlined in Chapter 2, proposing actions that the UK Government can undertake as part of its overall systemic trade policy. These recommendations are interrelated; rather than being regarded as a 'menu' of positive actions to take in relation to trade and women's rights, they should be considered as a single agenda for a progressive gender-just and pro-human-rights UK trade strategy for the future.

1. Develop a gender-just, pro-human-rights trade policy which puts sustainability and respect for human rights as a primary objective, and which references international obligations on human rights, gender, the climate and sustainable development.

Under a gender-just and pro-human-rights trade policy, a primary goal should be the promotion and protection of human rights and in particular, women's human rights and gender equality. Any provisions of UK trade agreements that run counter to these goals would therefore need to be revised or removed. A UK trade policy should clearly articulate the UK's international obligations on human rights, gender equality, climate and the environment, and sustainable development.

The details of a gender-just and pro-human-rights trade policy should be developed through a participatory process involving multiple and diverse stakeholders, including women's rights organisations, trade unions, civil society organisations and community groups. A number of countries that have developed their own feminist foreign policies (often looking at trade in the context of interrelated foreign policies, including international development, multilateral engagement and diplomatic relations, for example) such as Sweden and Canada have done so through consultations with women's rights organisations (by carrying out consultations, calling for feedback and submissions) not only within their borders but with groups around the world, given the extraterritorial nature of any government's state obligation in today's world.

While some of these consultative processes still leave much to be desired, they are valuable first steps and provide fertile ground for the UK Government to build on in developing its trade policy. The UK

Government's existing network of advisory groups and thematic working groups could provide a useful starting point for this work, but should be more inclusive and accessible to women's rights organisations and movements, for example, which are Southern-based or do not have technical expertise on trade. This could be achieved by providing explanatory notes to members, providing translation support where needed and capitalising on DIT's presence in diplomatic missions globally to convene 'satellite' stakeholder groups with grassroots organisations and women's rights organisations, which are not contingent on access to digital platforms.

2. Improve the trade policy scrutiny process by mandating a 'mid-point review' in negotiations where impact assessment findings have to be considered and taken on board and by ensuring parliament can act as a final brake on any deal.

A meaningful and mandatory link should be created between the impact assessment and the negotiation process, as part of the wider checks and balances of a robust scrutiny process. This could take the form of a mid-point review, or 'break clause' in the negotiations where each party assesses progress in the light of the SIA and can either pull out, redraw the scope of the agreement, or proceed. This would compel negotiators to take note of the SIA findings before it is too late for meaningful action.

As mentioned in Section 2, the process of providing parliament with oversight or veto powers over trade agreements is not uncommon and has been practiced both within the European Parliament and US Congress. However at present, the UK parliament has no meaningful role in approving trade deals and no final say over whether a deal should proceed or not. In order for the UK parliament to be able to exercise proper parliamentary oversight, members of parliament should have:

- access to the terms, texts and objective of the trade negotiation including any classified documents
- access to the outcomes of any preliminary scoping and periodic impact assessments
- regular updates on ongoing negotiations
- a useful role in ensuring the independence of any SIAs that are carried out for the trade agreement, either through commissioning their own study or conducting evidence sessions on the SIA itself

- access to the agreed text at least 60 days before signature and access to the final text for 30 days before it is laid before for its approval to allow adequate time for scrutiny (replicating the US system)
- a guaranteed vote on whether a deal proceeds or not.

3. Develop the current scoping assessments into mandatory women's-rights-focused impact assessments, drawing on best practice and gender-just methodologies, embedded into a wider impact assessment programme.

Impact assessment should recognise the assumptions and limitations of the economic modelling approach from the outset and take steps to counter these, including by: working with feminist economists to develop gendered economic modelling tools; consider incorporating SAMs; and conducting deeper assessments, for example, on health impacts. Gender and human rights screening and scoping exercises should be included at the pre-negotiation (scoping assessment) stage that enable assessment of impacts of women in their diversity of roles, including impacts on access to public services, unpaid care and quality as well as availability of work.

More broadly, the Government should develop a rolling programme for when different agreements will be reviewed (including continuity agreements) and when the overall trade policy programme (including multilateral commitments, BITS and preference programmes) will be reviewed. It should also ensure an ongoing process of learning from reviews that are conducted, including by collating best practice in other countries, particularly Canada. Data has to be collected that is gender disaggregated and factors in women's unpaid work and care contributions. This is an ambitious but important undertaking as part of a wider impact assessment process, and Canada's data sources provide a strong starting point.

Regardless of whether the UK Government chooses to conduct standalone Human Rights Impact Assessments (HRIA) with a gender lens, versus a more comprehensive approach (which includes economic factors alongside human rights) – both of which carry benefits and drawbacks – women's rights should not be isolated from other trade impacts. Currently the UK's practice, when assessing the impact on women as workers, does

not look at the impact on women as service users or consumers. The UK Government needs to recall that women occupy both of these roles and far more: from workers and producers to users, consumers and taxpayers. Any assessment of the impact of women workers should also not be separated from the assessment of the impacts of domestic policy space or on domestic resource mobilisation, which are also relevant to gender equality (see Chapter 1).

4. Commission an independent statutory body to conduct gender-just impact assessments.

There is a tendency in most countries (including the UK) to conduct trade impact assessments 'in-house' (within the trade department itself) or for the trade department to hand it to consultants who are inclined to pursue the same economic ideological perspective as the trade negotiators themselves. However, impact assessments should not be the preserve domain of the trade department. They should be commissioned and overseen by a cross-departmental team, for example through the Cabinet Office, reflecting that modern trade agreements affect every aspect of life and policy making. It should ensure people with relevant expertise are actively included in assessment teams – including civil society organisations, unions, experts on human rights and gender equality – and take steps to build capacity and buy-in on women's rights and trade within trade negotiations teams (for example, by requiring trade negotiators to complete the UNCTAD Gender and Trade online course).

In the UK's case, consideration should be given to using a permanent independent statutory body to conduct the assessments to ensure independence and retention of learning. A statutory body which can exercise real independence can be, for example, the National Audit Office, the Office for Budget Responsibility or the Equality and Human Rights Commission.

5. Ensure transparency of all impact assessment documents at all stages.

Impact assessments are a vital tool within the overall trade policy scrutiny process. Their expert and independent findings can inform relevant stakeholders including businesses, women's groups and workers organisations of likely impacts which they can then mobilise around or take steps to mitigate. This can only happen if the draft and final assessments are required to be published in a timely fashion, if they are accessible in terms of language

and length, if they are publicised and promoted and if there is proactive work to build the capacity of stakeholders, including parliamentarians and the public, to understand and use their findings.

6. Take active steps to ensure meaningful participation of women and marginalised groups in assessment exercises and ongoing dialogue, including representation on, or expert advice to the STAG (and possible trade training for certain groups).

For assessments to explore impacts on marginalised populations in a meaningful way, those populations need to be involved in both individual assessment exercises and in ongoing dialogue structures.

At present the UK has committed to public consultation exercises prior to launching negotiations and these consultations are designed to inform the negotiating priorities. This is good practice and can be built on. As well as online public consultation, there needs to be active human rights screening and scoping exercise that identifies the groups likely to be impacted by a trade agreement, followed by more targeted interaction with those groups – including workshops, roundtables and interviews – as the negotiations progress and the agreement takes shape. Stakeholder engagement processes must be held in a timely fashion with sufficient notice periods and mitigation of any practical constraints such as cost, location and timing.

The UK's ongoing trade stakeholder dialogue mechanisms are not sufficiently inclusive at present. Women's rights organisations are not represented on the Strategic Trade Advisory Group (STAG) and no gender expert advises this group.⁸⁹ The UK needs to ensure regular meetings and high-level information sharing with its thematic working groups and should review the membership of these groups to ensure adequate representation from women's rights organisations. In addition, the UK could consider providing resources so that stakeholders who are affected by trade agreements (but who are not trade experts such as some women's rights organisations and parliamentarians) can access training on trade agreements/gender and trade to allow for more effective participation. The UK should also consider inviting representatives from women's rights organisations and networks, as well as feminist economists from non-trade ministries in their negotiating teams.

7. In agreements with countries in the Global South, consider providing resources for conducting independent impact assessments in these countries using their own expertise and methodology.

In negotiations with Southern countries, the UK should make funds available for the other party (or parties) in a prospective trade agreement to commission their own independent impact assessments, or both parties could come together and jointly commission an independent body to conduct the assessment. Presuming the UK Government is not entering into trade negotiations with authoritarian or military regimes and taking into account the context of the partner countries, these funds could be channelled to partner countries via international institutions or bodies such as UNCTAD or South Center.

The process of discussions with partner countries on carrying out their own independent assessment should not be pursued by the DIT who may be at risk of imposing disproportionate influence and power over the process, rather than providing support and resources to partner countries. Even from its inception stage, this process should include the participation of civil society, particularly women's rights organisations in both the UK and the partner country. This fund could also be used to develop a rolling programme to monitor and evaluate implemented agreements, together with partner countries, setting out data types, indicators (structural, process and outcomes), uptake of recommendations and flanking measures and specifying timescales.

A practical example: Model for a women's rights-focused impact assessment of a UK-Mercosur FTA

While the nine principles provide important considerations for the UK in conducting SIAs, this section will now seek to put these principles into practice by setting out a step-by-step model for carrying out an effective, comprehensive and women's rights-focused impact assessment. A possible FTA between the UK and Mercosur has been used as an example. While at the time of writing the UK has not commenced trade negotiations with Mercosur, a deal may be pursued as part of the UK's 'second wave' of trade priorities, alongside the Gulf states. Regardless of whether a deal is ultimately pursued, the main elements of the model should be applicable for impact assessments in relation to prospective FTAs with other countries.

This model SIA assumes that the UK has already developed and embedded a gender-just, pro-human-rights trade policy. This would mean that the UK will need to consider the implication of every chapter and every provision of its trade agreements and trade policies on gender and women's human rights, not only in the UK but also in each of the Mercosur countries.

As mentioned in Chapter 1, though the Mercosur countries have been entering the process of regional integration for several decades, the four members continue to maintain remarkable differences across the socio-economic and development dimensions. As such the UK trade deal with Mercosur countries must take into account how it would affect all four countries differently given each country's own specific context. In taking into account the social, political, environmental and economic context of the Mercosur countries, the UK Government should establish thresholds for the human rights and environmental rights that it expects its trade partners to uphold. It should not sign agreements with countries that do not meet this threshold.

Step 1: Conduct a thorough pre-negotiation assessment.

The UK Government's 'scoping assessments' (see Section 4) should be broadened to look equally into the economic, social, environmental and human rights implications of a UK-Mercosur FTA. These should also include the participation of the general public, include screening for human rights and women's rights issues and take into account the likely social, economic and environmental impact in the UK and on the Mercosur countries. This preliminary assessments/scoping should be conducted by an independent statutory body and in both the UK and the Mercosur countries (see Step 5). This process would also require ensuring that the right data is being collected both in the UK and in Mercosur – specifically gender disaggregated data or information collected as a baseline prior to the start of trade negotiations, so that it can also be used for future subsequent and periodic assessment process should the negotiation deal go ahead and after the deal has been signed. The outcome of the pre-negotiation assessment should be firstly made publicly available. Secondly, it should be used by the UK Government to determine whether to continue pursuing the FTA with Mercosur countries on the basis of the FTA's impact on all of the countries.

Step 2: Commission an independent (statutory) body to conduct a deeper, women's-rights-focused HRIA in the UK.

The UK Government should, for its own HRIA, consider giving the responsibility of commissioning and overseeing the SIAs to a cross-departmental team or body, for example, led by the Cabinet Office (which hosts the Equalities Commission). To carry out the assessments, an independent statutory body needs to be selected and would need to be given full access to all the terms and texts of the negotiations. Given the complexity of trade terms and provisions, it would be important to ensure that analysts have the necessary skills and capacity, and are also diverse in terms of their gender, race, class and social and political backgrounds. By maintaining consistency with which statutory bodies will be charged with delivering impact assessments (both of an UK-Mercosur FTA and other FTAs), the UK Government has the opportunity to also develop and build capacities around trade issues amongst a broad range of its own departments and bodies – ensuring that trade issues and expertise are not the sole domain of the DIT.

Step 3: Provide support to Mercosur countries to carry out its own independent assessment.

In line with Recommendation 7, the UK should consider making funds available for Mercosur countries to commission their own independent impact assessments, or the parties could come together and jointly commission an independent body to conduct the assessment. It is also common for the negotiating countries to impose some conditions upon each other – the UK could make explicit that it will only enter into trade negotiations (or sign trade agreements) with partner countries if they carry out their own human rights and social impact assessment. As mentioned in Section 3, the process of providing support and discussions with partner countries on carrying out their own independent assessment should not be pursued by the DIT where there would be a clear conflict of interest. Even from its inception stage, this process should include the participation of civil society, particularly women’s rights organisations and women-led movements in both the UK and the partner country.

Step 4: Use diversified quantitative analysis including Social Accountability Matrix, CGE, WITS-SMART simulations and sectoral analysis, while recognising where there are limitations to quantitative modelling.

Every model and theory that is used to investigate the problems and the outcomes in the economy has its own strengths and weaknesses. Diversification of modelling is therefore of the utmost importance. The UK Government should avoid overly relying on CGE modelling, which has been questioned given that it often assumes full employment of labour and capital and aggregate sector-level data – often unrealistic assumptions of the real world. The UK Government can also consider some alternative quantitative analysis such as World Integrated Trade Solutions (WITS)-SMART simulations, which can be used to estimate the impact of tariff liberalisation under specific trade agreements on exports and imports of the agreements member countries and the resulting net gain or net loss it has on a country’s balance of trade. Though such an analysis might not be as much use for markets that are already fairly open, such as the UK’s, they are useful for the Mercosur countries where tariffs are still quite high and where tariffs remain an important tool for Mercosur countries’ domestic policies and resource mobilisation. There are also, as mentioned earlier in Chapter 3,

Social Accountability Matrices, which capture all transactions between sectors and institutions in the economy, including market-based activity; household-based activities, such as those involved in care work; and leisure activity.

Step 5: Prioritise issues to investigate in more depth that are relevant and specific to Mercosur countries’ context.

Given the unique context of Mercosur both as a regional integration project and as a group of individual countries each with its own specific context, a UK-Mercosur FTA would need to give special attention to a number of questions, such as (but not limited to):

- How will the different gender and development conditions in the four Mercosur countries be impacted differently by an UK-Mercosur FTA?
- What are the implications of a UK-Mercosur FTA on countries’ efforts to implement regional development policies and trade rules that include stronger environmental and social standards?
- How will a UK-Mercosur FTA impact Mercosur’s regional value chains, such as automotives, which have been carefully established over the three decades of the regional grouping’s existence?
- How will potential intellectual property provisions in a UK-Mercosur FTA impact access to medicines and access to seeds?
- How will government procurement provisions affect access to healthcare and support for SMEs?
- What impact will reduced tariff revenue have on social investment?
- What impact would increased export of agricultural commodities have on the right to an adequate standard of living and cultural rights of small-scale farmers and others whose livelihoods depend on the land?
- What impact would an increase in the export of raw materials and import of processed materials have on Mercosur countries’ right to development?
- How would a UK-Mercosur FTA differentially impact the rights of indigenous peoples, particularly women, in terms of their rights to land, to culture and to health?⁹⁰

Step 6: Conduct meaningful stakeholder engagement.

There already exists a range of stakeholder engagement mechanisms or modality in numerous intergovernmental spaces or negotiations, with much improvement to be desired. Firstly, the UK would need to recognise that not all stakeholders have an equal amount of power. Power imbalances would obviously exist between, for example, a large multinational corporation and a women-led community organisation, leaving the relevant stakeholder space to be disproportionately influenced by the former. The same consideration must be applied in Mercosur countries as well, where an indigenous women's organisation would not have the same amount of influence as a large, urban women's rights organisation. The UK should be proactive in reaching out to stakeholder groups identified as likely to be affected in Step 1, including those who do not usually participate in such processes. Their time and expertise should be valued and their participation facilitated by providing timely information; if necessary providing translation support and technical training; ensuring opportunities for offline and face-to-face interaction; providing adequate notice of meetings for written submissions and reassurance that their views will be listened to and incorporated.

Step 7: Build in a review point as part of democratic scrutiny process.

Any assessment carried out at the end of the trade negotiation (when the terms of the agreement are already concluded) would usually require governments to either accept or reject the entirety of the trade agreement as a whole, with the latter often being politically unrealistic for any governments. The findings of the assessment should therefore be reviewed by negotiators and the parliament/the International Trade Select Committee and lead to decision points about whether to proceed or amend parameters of negotiations. Practically there should be a mandated mid-point review or break clause as well as a final parliamentary vote.

Step 8: Set timeline for ex-post review, data and indicators.

The in-depth ex-ante impact assessment will flag issues that need to be monitored on an ongoing basis, as well as data collection needs. The parties will need to agree when and how they will conduct an ex-post review, what data they need to be collecting to ensure it is meaningful and they will also need to commit to taking necessary action should negative impacts be severe – such as potentially suspending provisions or chapters of the agreement. The type of indicators and data that might be relevant include international human rights treaties protecting women's rights that the country has ratified; coverage of domestic laws and policies relevant for women's rights; the level of autonomy and capacity of the country's national human rights institution; existence of mechanisms for redress available to women; overall gender wage gap; women's labour force participation; and number of public or affordable child care facilities available per 1,000 children, among numerous other factors.⁹¹ The findings of both the ex-ante and the ex-post assessments should feed into improving practice for assessments of other FTAs, as well as to an overall cumulative assessment of the impact of the UK's trade policy on women's rights.

Conclusion

The expansion of the free trade model over the last few decades – a model that continues to be pioneered by the UK Government since its departure from the EU – may support growth, but it is also contributing to an exponential rise in economic inequality both within and between countries, particularly in countries in the Global South. Women and girls, especially those living in marginalised communities, are being disproportionately affected by these impacts. They comprise the vast majority of unpaid carers and domestic workers globally, and provide the lion's share of cheap labour – for example as garment workers producing affordable clothing for the UK market. Covid-19-related lockdowns and the strain placed on public services have exacerbated the existing economic pressures that women face, adding increased urgency for governments in the Global North, including the UK, to ensure that their approaches to trade are fair.

The UK's existing approach to trade and women's rights, including through the creation of 'gender chapters' and a focus on empowering female entrepreneurs has provided important visibility to this issue, but falls far short of the structural changes needed to ensure that trade serves to protect and promote women's rights, human rights and the environment, while helping to shift prevailing structures of power. Assessing the lived impacts that trade has on women in their multiple roles in society – as small-scale farmers, workers, producers, consumers and unpaid carers – is a vital first step in building a truly gender-just approach to trade.

This report has offered analysis, principles and recommendations to support the UK Government to create a progressive SIA framework and gender-just trade policy, in keeping with the UK's commitment and historic leadership on gender equality. Underscoring this report is the urgent need for decision-makers, including in the UK, to value, listen and learn from the knowledge of women's rights organisations and feminist economists as part of its approach to impact assessment and trade negotiation, to ensure that the lived experiences of women, including in the Global South, can meaningfully inform the deals that will affect the realisation of their human rights.

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ActionAid works with women and girls living in poverty. Our dedicated local staff are helping end violence against women and girls and changing lives, for good. We won't stop until women and girls are out of danger, out of poverty and on track to create the future they want.

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