**Follow up to the European Parliament non-legislative resolution of 13 March 2018
on gender equality in EU trade agreements**

**2017/2015 (INI)**

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**2. EP reference number**: A8-0023/2018 / P8\_TA-PROV(2018)0066

**3. Date of adoption of the resolution:** 13 March 2018

**4. Subject:** Gender equality in EU trade agreements

**5. Competent Parliamentary Committee:** Committee on International Trade (INTA); Committee on Women's Rights and Gender Equality (FEMM)

**6. Brief analysis/ assessment of the resolution and requests made in it:**

The resolution addresses gender equality in EU trade agreements and covers a wide range of issues regarding the integration of the gender perspective into trade policy instruments and related policy areas. The resolution calls to ensure that the gender perspective is included and mainstreamed in the EU’s trade and investment policy as it would maximise the overall gains from trade opportunities for all. The resolution adds that trade policy should be used as a tool to improve the living and working conditions of women, to bring them on equal terms with men, for instance by supporting the reduction of gender pay gaps by promoting the creation of better quality jobs for women.

The resolution calls for further actions in a broad spectrum of areas, e.g. issues to be included in EU trade agreements; the EU's Generalised Scheme of Preferences (GSP) and GSP+, labour standards and International Labour Organisation (ILO) Conventions, support of micro, small and medium-sized enterprises (MSMEs), in particular those led by women, the World Trade Organisation (WTO) and its instruments, corporate social responsibility and responsible business conduct, human rights, development cooperation, and promotion of greater gender equality in the distribution of employment opportunities offered by exports. The resolution also recognises the lack of data on the impact of trade on gender equality, and calls for a collection of gender disaggregated data, in particular on labour evolution, ownership of assets and financial inclusion in sectors that have been impacted by trade.

The Commission shares the Parliament's view on the importance of integrating the gender perspective in trade policy instruments. It also shares the view that one of the main challenges of doing so is the lack of adequate data on the impact of trade on gender equality. The Commission concurs that there are limits to the global issues that can be solved through trade policy and through trade agreements. Nevertheless, the Commission will continue to make the EU's trade policy more inclusive, so that it contributes to women's economic empowerment. The Commission will continue to work closely with the European Parliament and all relevant stakeholders in this regard.

Some of the proposals put forward in the resolution concern issues that the EU already pursues in trade negotiations. On some other topics, there is an on-going reflection process in the Commission on how best to approach these issues in trade negotiations. The opinion of the European Parliament in this regard is both very topical and welcome.

**7. Reply to these requests and outlook regarding the action that the Commission has taken or intends to take:**

The Commission considers the resolution by the European Parliament an important contribution to the discussion on how to better integrate gender perspective in EU trade agreements.

The Commission is committed to gender equality. EU trade policy already contributes to this goal through some of its instruments, for example its sustainability impact assessments, the Generalised System of Preferences Plus (GSP+) and Trade and Sustainable Development (TSD) chapters of EU free trade agreements.

The Commission organised together with the International Trade Centre (ITC) an International Forum on Women and Trade in Brussels in June 2017. The Forum was widely attended and has helped catalyse further reflection and work on this topic, including on follow up by the EU. For example, both the recent progress report on the EU Trade Policy Strategy "Trade for All" (COM(2017) 491) and the renewed EU Aid for Trade Strategy (COM(2017) 667) include gender-related aspects.

Additionally, the Commission is preparing specific provisions on trade and gender in the context of the ongoing modernisation of the EU-Chile Association Agreement. This is a pilot project that the Commission announced at the above mentioned Forum. In the international arena, the EU actively supported the adoption of the Joint Declaration on Trade and Women’s Economic Empowerment published on 12 December 2017[[1]](#footnote-1). Furthermore, the EU commitment towards gender equality and women's empowerment has been expanded by the EU Gender Action Plan II (SWD(2015) 182), ensuring that the gender perspective is fully integrated in the EU's actions and external relations ranging from international relations to EU trade agreements.

All recent trade agreements include an ambitious and enforceable chapter on Trade and Sustainable Development (TSD) (**paragraph 1**). The Commission is continuously improving the effective implementation and enforcement of these Chapters.

The Commission ensures the policy coherence between different policies (**paragraph 2**), such as trade and gender equality, through a collegial decision-making supported by various inter-service mechanisms, including the Inter-Service Group on equality between women and men. The Commission services together with the EEAS and the EU Member States have engaged actively in the UN's open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights aimed at elaborating a legally binding instrument on business and human rights (**paragraph 6**). The EU has insisted that discussions should not be limited only to transnational corporations, which is the case now, as many abuses are committed by enterprises at the domestic level. As for future discussions, the Commission calls for wide informal consultations to be undertaken on the way forward in accordance with the conclusions of the working group.

The EU believes it is important to preserve a strong focus on the implementation of existing obligations under international human rights law. The EU will continue to focus on the implementation of the UN Guiding Principles on Business and Human Rights, to engage with the UN core group on Business and Human Rights and contribute in substance to the work of the UN Working Group on the issue of human rights and transnational corporations and other business enterprises (also referred to as the Working Group on Business and Human Rights, established by the Human Rights Council in 2011, resolution 17/4) and the Accountability and Remedy project led by the Office of the United Nations High Commissioner for Human Rights (OHCHR).

Trade agreements are linked to political framework agreements with third countries. The essential elements laid down for the relationship include all internationally agreed human rights, including Articles 16 and 17 of the Universal Declaration of Human Rights (**paragraph 7**). The essential elements clause is tied to a suspension clause in case of serious abuses or breaches of human rights whereby the trade relations may be partly or fully suspended.

Concerning the reform of the investor-state dispute settlement (ISDS) system (**paragraph 10**), the Commission is committed to replacing the old ISDS with the modern Investment Court System (ICS) in its bilateral trade and/ or investment agreements. This new approach fosters transparency, consistency and neutrality. This reaffirms investors' obligation to comply with environmental and social obligations – including obligations on gender equality – which are applicable in the host country. In parallel, the Commission is working with other countries at the United Nations Commission on International Trade Law (UNCITRAL) for the establishment of a permanent Multilateral Investment Court that is based on the same principles as the ICS and that will eventually replace bilateral ICSs as well as old ISDS mechanisms. In the same vein, in its bilateral trade and investment agreements, the Commission is also committed to ensuring protection for investments while enshrining the right of governments to regulate in the public interest, including when such regulations affect a foreign investment.

Concerning the provisions on the protection of intellectual property rights (**paragraph 11**), the EU trade agreements include provisions to protect agricultural and foodstuff geographical indications (GIs). However, the Commission notes that in the absence of a harmonised system for the protection of non-agricultural GIs at EU level, no bilateral or regional EU free trade agreement includes the protection of non-agricultural GIs through the agreement.

The Commission shares the view of the European Parliament that there is no adequate data available on the impact of trade on gender equality (**paragraph 12**).The Commission has published a study on women's participation in EU exports[[2]](#footnote-2) and is working to update this study with the latest data. The Commission is also launching a project with the International Trade Centre to collect firm level data on women entrepreneurship and female employment in exporting and importing firms in the EU, as suggested by the European Parliament. This will allow for more detailed insights on women's role in international trade, the trade barriers women face and the most relevant areas that should subsequently be addressed by trade policy instruments. Furthermore, in cooperation with other international organisations, such as the World Trade Organisation (WTO), the Organisation for Economic Co-operation and Development (OECD), the World Bank, or the European Institute for Gender Equality, the Commission is exploring how to better collect and use the data on the impact of trade policy instruments on women.

Gender-specific analysis takes place in the Commission's ex-ante and ex-post impact assessments (**paragraph 12**). Ex-ante assessments are carried out early in the process before requesting a negotiating mandate and are limited in terms of length. They include an initial analysis of both baseline conditions and the expected impact in respect of the potential social and human rights impacts, including on gender-related issues. The ex-post evaluation of trade agreements also includes gender-disaggregated description and analysis. In addition to impact assessments, the Commission conducts Sustainability Impact Assessments (SIAs) during the negotiations. The SIA Handbook[[3]](#footnote-3) requires that gender impacts be considered under social and human rights aspects. The guidelines on the analysis of human rights impacts[[4]](#footnote-4) list the Convention on the Elimination of All Forms of Discrimination against Women among the key human rights instruments to be used in the analysis.

The EU Treaty recognises the special nature of public services (Article 14 TFEU and Protocol n° 26 on Services of General Economic Interest), and the EU must ensure that public service objectives can be fulfilled (**paragraph 13**). These objectives of universality, equal access, affordability, continuity, and non-discrimination may not always be guaranteed where public services are open to international competition. Since the EU began to negotiate agreements on international trade in services, with the General Agreement on Trade in Services (GATS) of 1994, the EU has always protected public services in its Free Trade Agreements (FTAs) and will continue to do so in the future: no existing or future EU trade agreement obliges or will oblige governments to privatise or deregulate any public service at any level of government.

The Commission promotes through various actions internationally recognised principles and guidelines on Corporate Social Responsibility (**paragraphs 6, 15 and 36**), be it in general terms or for specific business sectors.

Recent trade and investment agreements contain specific provisions committing the parties to promote Corporate Social Responsibility (CSR)/ Responsible Business Conduct (RBC) consistent with internationally agreed instruments, namely the OECD Guidelines for Multinational Enterprises, the UN Global Compact, the UN Guiding Principles on Business and Human Rights and the International Labour Organisation (ILO) Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. The Commission aims at giving more prominence to such provisions and to the relevant sectorial guidelines. For example, the Commission has introduced more elaborate CSR/ RBC provisions in its proposals for the EU-Mexico and EU-Mercosur trade negotiations. The civil society structures set up under Trade and Sustainable Development chapters, which include private sector representatives, are useful partners for promoting CSR/ RBC, including in specific sectors of relevance in the trade and/ or investment relations with each partner country. For instance, seminars have been organised which included discussions on the uptake and implementation of international instruments and the role of public authorities in ensuring a supportive environment for CSR/ RBC.

The adoption in 2017 of the OECD guidance for responsible supply chains in the garment and footwear sector has been fully supported by the EU. A dedicated project was set up with the OECD to support the elaboration of this guidance. Another follow-up project of the European Commission and the OECD has been recently launched to support the implementation of this guidance through a set of concrete activities and tools.

The Commission also promotes these CSR/ RBC provisions through projects and initiatives, like the one on responsible business conduct in Asia, or support for the development of national action plans.

Data show that women's entrepreneurial potential (**paragraph 21**) is unfortunately still under-exploited in Europe, and that little progress has been achieved over the last decade. Entrepreneurship is a powerful driver of economic growth and job creation. The Commission will therefore continue to encourage women to start a business or to scale-up existing businesses. Current and planned initiatives specifically designed to support women entrepreneurs and their support organisations aim to: (1) support networking and the exchange of good practices between stakeholders supporting women on the ground (for example through the platform "WEgate"), (2) promote role models, and (3) provide specific training to women entrepreneurs, for example to help them access funding.

The EU recognises the role of trade in the implementation of the Sustainable Development Goals (SDGs) (**paragraph 23**), as established by the Addis Ababa Action Agenda and SDG 17. This implies helping countries to grow economically and to raise own resources in order to fund SDG commitments. Furthermore, the EU's 2015 Trade for All Communication, adopted in the context of the UN 2030 Agenda, describes how EU trade policy supports and reinforces sustainable development directly, for example, via the Trade and Sustainable Development (TSD) in EU trade agreements or via the Generalised Scheme of Preferences Plus (GSP+) tool. Support to the CSR agenda and to small and medium-sized enterprises (SMEs) through provisions and specific chapters, respectively, in EU trade agreements can contribute to gender equality under SDG5. Furthermore, the 2018 Report on equality between women and men in the EU (SWD(2018) 65) also includes actions on promoting gender equality through trade policy.

Regarding the public procurement provisions (**paragraph 25**), the Commission believes that women-owned small and medium-sized enterprises (SMEs) and micro, small and medium-sized enterprises (MSMEs) are key for job creation, growth and innovation, but that they encounter difficulties in accessing public procurement in international markets. For this reason, the Commission fosters the access of SMEs to international procurement markets by ensuring enhanced transparency and predictability of public procurement processes in its trade agreements, and by promoting the digitalisation of procurement processes and a single procurement website for publishing all procurement opportunities. In addition, the Commission promotes the inclusion in trade agreements of public procurement provisions that take into account environmental and social considerations provided they are non-discriminatory and they are linked to the subject-matter of the contract.

The Commission is preparing specific provisions on trade and gender (**paragraphs 26, 27, 30, 39 and 45**) for the modernisation of the EU-Chile Association Agreement. They will help to get a better understanding of the constraints and opportunities faced by women in the trade arena and to share best practices on facilitating women’s participation in international trade. These provisions will include a structured framework for cooperation. They are also intended to promote the use of relevant international legal instruments on gender equality, such as the Convention on the Elimination of All Forms of Discrimination against Women. The Commission will keep the European Parliament informed about the development of the EU proposal for these provisions on trade and gender.

All of the EU's recently negotiated trade agreements contain, in a specific chapter on Trade and Sustainable Development, commitments related to the ratification and implementation of fundamental International Labour Organisation (ILO) conventions (**paragraph 31**).

On the application of labour and environmental standards in Export Processing Zones (EPZs), the Commission includes in its trade agreements mutual commitments to respect ILO core labour standards and multilateral environmental agreements. These international commitments then apply throughout the territory of the Parties (**paragraph 32**).

The Commission notes that Generalised Scheme of Preferences Plus (GSP+) beneficiary countries are obliged to effectively implement the UN Convention on the Elimination of all Forms of Discrimination Against Women, as well as ILO Convention N° 100 on equal remuneration and ILO Convention N° 111 concerning non-discrimination in the respect of employment among other core human and labour rights conventions. Moreover, standard Generalised Scheme of Preferences (GSP) and Everything-But-Arms (EBA) beneficiary countries preferences can be withdrawn in case of serious and systematic violation of those conventions (**paragraph 33**).

Commission services and the EEAS continuously and systematically monitor the compliance of beneficiaries with their obligations under GSP+, which include the effective implementation of the GSP+ relevant human rights conventions, labour rights conventions and conventions on environmental protection and good governance. Based on available reports from international monitoring bodies, such as the UN and the ILO, and other reliable and accurate information, the Commission raises the most salient shortcomings with GSP+ beneficiaries. Non-compliance with GSP+ conditions is thus addressed via various channels, including bilateral dialogues, scorecard exercises (lists of issues) and monitoring visits. For all GSP arrangements, the GSP Regulation (N° 978/2012) foresees procedures in case of a serious and systematic violation of the fundamental human rights and labour rights conventions.

In January 2018, the Commission published the Report on the Generalised Scheme of Preferences covering the period 2016-2017 (COM(2018) 36). The GSP mid-term review is currently on-going and will present an in-depth quantitative and qualitative assessment of the economic, social, environmental and human rights impact in order to assess whether the 2012 reformed GSP Regulation is on track to achieve its objectives. It would therefore be premature at this stage to refer to possible changes to the GSP Regulation. The Commission takes the view that any potential new GSP Regulation should not backtrack on the current standards as covered by the conventions in Annex VIII of the GSP Regulation.

The EU actively supported the adoption of the Joint Declaration on Trade and Women's Economic Empowerment on the occasion of the WTO Ministerial Conference in Buenos Aires in December 2017 (**paragraphs 34 and 35**). The Declaration seeks to remove barriers to, and foster, women’s economic empowerment. The Commission will contribute to the follow-up to the Declaration through several actions, such as organising workshops, collecting data on women's participation in international trade and applying a gender perspective to trade-related technical assistance. The Commission is keen to cooperate with the European Parliament and Member States on organising follow-up activities to the Declaration. Furthermore, the Commission started raising gender equality issues more systematically both on the occasion of its own WTO Trade Policy Review, presented in July 2017, and in the recent Trade Policy Reviews of WTO Members.

The Commission agrees with the European Parliament that transparency in trade negotiations is essential to ensure the legitimacy of EU trade policy and public trust (**paragraph 40**). This Commission has taken big leaps forward to make trade policy more transparent and inclusive since taking office in November 2014. As part of the commitments taken in the "Trade for All" strategy, the Commission is informing the public about the progress of ongoing negotiations by publishing initial EU proposals for legal texts, detailed reports of the negotiating rounds, and other information material.

Since September 2017, the Commission publishes in full all draft negotiating Directives for trade agreements that it proposes to the Council. In parallel, they are sent also to the European Parliament and to the national Parliaments of the Member States in order to ensure a much wider and more inclusive debate from the start. Making these draft negotiating Directives public facilitates the exchange of views, from a very early stage, between the national governments and the parliaments, stakeholders and citizens they represent in discussions in the Council. Once the Council has adopted the final negotiating Directives, the Commission also encourages it to make them public. So far this was done for the Transatlantic Trade and Investment Partnership (TTIP), the Comprehensive Economic and Trade Agreement (CETA), the Trade in Services Agreement (TiSA), the EU-Japan Free Trade Agreement (FTA), and most recently the EU-Chile Association Agreement and the Multilateral Investment Court. The Commission hopes that this will become a systematic practice of the Council.

All Commission impact assessments, sustainability impact assessments and evaluations include a stakeholder consultation, and the Commission organises regular meetings with civil society groups during the negotiations and the implementation of the agreements.

The EU's recently reviewed Aid for Trade Strategy recognises that gender equality is not only a fundamental human right, it is also crucial for economic development (**paragraphs 41 and 42**). The strategy introduces the requirement of a systematic gender analysis for all aid-for-trade projects. Also, the Commission is increasingly promoting female entrepreneurship in developing countries through its projects and approaches.

The Commission will continue to put the issue of women's economic empowerment high on the political agenda both at international level and within the European Union. This will include adapting EU policies and developing support measures as appropriate, supporting stakeholders' efforts to connect and cooperate internationally, or identify and disseminate good practices from both public authorities and private stakeholders.

1. <https://www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf> [↑](#footnote-ref-1)
2. http://trade.ec.europa.eu/doclib/docs/2017/june/tradoc\_155632.pdf [↑](#footnote-ref-2)
3. http://trade.ec.europa.eu/doclib/docs/2016/april/tradoc\_154464.PDF [↑](#footnote-ref-3)
4. http://trade.ec.europa.eu/doclib/docs/2015/july/tradoc\_153591.pdf [↑](#footnote-ref-4)