



Reimagining Trade and Investment through a **Feminist Lens**



Fair, Green and
Global Alliance



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and Investment
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ABBREVIATIONS

BIT	Bilateral Investment Treaty
CEDAW	Convention on the Elimination of Discrimination Against Women
DTA	Double Taxation Agreement
DTT	Double Taxation Treaty
EU	European Union
FAO	Food and Agriculture Organization
FFP	Feminist Foreign Policy
FGG Alliance	Fair, Green and Global Alliance
FTA	Free Trade Agreement
GDP	Gross Domestic Product
IIA	International Investment Agreement
ISDS	Investor-State Dispute Settlement
LGBTIQ+	Lesbian, Gay, Bisexual, Trans, Intersex and Queer
REBRIP	Brazilian Network for the Integration of Peoples
SDG	Sustainable Development Goal
SP	Solidaritas Perempuan
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UAE	United Arab Emirates
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDESA	United Nations Department of Economic and Social Affairs
UNDROP	United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas
UPOV	International Union for the Protection of New Varieties of Plants
WTO	World Trade Organization

INTRODUCTION

Last year, the Netherlands announced that it would join a growing number of pioneering countries that are proposing their own Feminist Foreign Policy (FFP). Going forward, the Netherlands will focus increasing attention on inclusive processes of policy development and financing within the country's foreign policy. This bold development will help to ensure respect for women's and human rights, and to increase gender equality in Dutch foreign policy, including Lesbian, Gay, Bisexual, Trans, Intersex and Queer (LGBTIQ+) rights.

The Dutch commitment to FFP promises to turn a feminist lens on all aspects of foreign policy: security, trade and investment, tax, diplomacy, and international cooperation.¹ This welcome announcement has re-ignited conversations around dreams of a feminist future, especially within social and environmental justice movements in the Netherlands and beyond.

Within the pages of this report, we – as members of the Fair, Green & Global (FGG) Alliance – want to inspire policy-makers and other stakeholders by sharing our **visions** of what a feminist future might look like in practice. Our proposals are developed in close collaboration with FGG partner organisations in the global South, who stressed the importance of jointly approaching Dutch policy-makers. The proposals are offered in the spirit of constructive collaboration as Dutch policy-makers create the building blocks for a forward-looking FFP on trade, investment, and tax for the Netherlands – a policy that prioritises women's human rights, care, and the planet above profit.

We want to make sure we are working together to seize this key opportunity to create feminist trade and investment alternatives. With this in mind, we are pleased to share our **key messages and proposals**:



Setting the Agenda

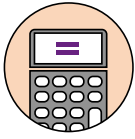
Making the commitment to an FFP provides the forward momentum to make sure that the full scope of Dutch foreign policy delivers on gender equality and human rights – an ambition that is reflected in the FFP handbook.² When it comes to trade and investment policies, this means addressing areas that go well beyond women's entrepreneurship³ to include addressing power imbalances that underlie gender inequality. Moreover, the Netherlands can demonstrate leadership in setting a strong international agenda for advancing universal human rights, equality, and gender justice for women, members of the LGBTIQ+ community, and other marginalised people when making policies in international trade and investment. The specific opportunities we have identified include: developing a feminist gender trade diplomacy; ensuring clear goals and commitments are in place; and supporting calls from civil society, feminist groups, and voices from the global South at international fora such as the World Trade Organization (WTO).



Measuring impact

A key starting point for an FFP is understanding and anticipating the intersectional gendered consequences of trade and investment policies and agreements. There are well-documented ways of carrying out thorough human rights, gendered, environmental and sustainability impact assessments that prioritise women's human rights. The opportunities we identified include developing and implementing a gendered and human

rights impact assessment model that is linked with international human rights laws. Mandatory gendered assessments need to be carried out before and after a period of implementation of any trade agreement, of which the findings inform the outcomes of the trade negotiations.



Gender budgeting

Those who do not have a seat at the decision-making table are easily overlooked in budgeting and policy-making processes. Gender budgeting means having the necessary budgets and revenues available to finance public services. It also means developing trade and investment programmes that promote gender equality and human rights, as well as promoting inclusive and sustainable growth. The opportunities we identified include: allocating specific budgets for gender equality and strengthened positions for women; ensuring monitoring beyond ‘the number of women reached’; and providing space through tax and trade tariff agreements for the global South to have the necessary revenues to finance public services.



Addressing the root causes of inequality

Another key element of FFP is acknowledging the history of colonisation, as well as its role and contribution to the wealth of many countries in the global North. An important role for FFP is to address these root causes of inequality. It is important to strike a balance between respect for national sovereignty and domestic policy space in (i) trade negotiations and (ii) alongside state obligations under multilateral human rights norms. Dialogue and dissent with global civil society and experts is a crucial mirror to reflect the – often invisible – inequalities in Dutch trade and investment policies. The opportunities we identified include ensuring governments have sufficient domestic policy spaces to introduce protections and incentives for female-led businesses; and carving out spaces for countries to introduce climate measures, while upholding international human rights and gender equality in trade and investment policies.



Engaging in meaningful participation and consultation

The Dutch government is aware that meaningful participation comes hand in hand with a successful Dutch FFP. This follows examples of past and present state-to-state negotiations of human rights treaties or conventions, as well as policy-making, that have been carried out in a fairly open, democratic and transparent manner. The opportunities we identified include ways to ensure participation is meaningful, addressing the power imbalances, and ensuring diversity and inclusion in trade missions and corporate activities.



Ensuring policy coherence

Ensuring that one harmful policy does not undermine the good of all other policies is key to any effective FFP. There is a key role for Dutch civil society and experts to play here, in collaboration with their global networks. The Netherlands is the only country developing and applying a Policy Coherence for Development Action Plan. There are plenty of opportunities for this and the FFP to reinforce each other – ranging from alignment of trade with FFP values at embassies, to ensuring the upholding of human rights, women’s rights, and environmental concerns in trade negotiations and tax treaties.

The full set of [proposals](#) can be found at the end of this paper.

BACKGROUND

Key to the collective vision of the FGG Alliance members' feminist future is the dream of systemic and structural transformation of the current system of oppressions. Our vision is a future where there is substantive equality between men, women, and people of diverse gender identities, between countries, and between rich and poor. We envisage a future where people and a caring economy, rather than profit and growth, are at the heart of all policies and decision-making.

This dream of a feminist future has provided inspiration for our work at the Fair, Green & Global (FGG) Alliance for more than a decade. Energised by the idea of creating a Feminist Foreign Policy (FFP), FGG members started to dream out loud – to articulate our ideas about what this policy means in practice for the Netherlands. Reflecting on the broad depth of knowledge and vast experience on trade and investment of the eight FGG Alliance members and our diverse network of more than 1,000 partner organisations around the world, it felt like the right moment to articulate our thoughts about the ambitions for an FFP and, specifically, what this could look like for Dutch trade and investment policies.

Over the course of two online workshops, members and partners of the FGG Alliance from both the global South and the North went through a collective envisioning exercise of what a feminist future could look like. Collectively, we discussed and built on existing FGG Alliance members' work and publications, along with thought leadership from many other feminist activists, thinkers, and social movements. Collectively, FGG Alliance members shared their own grassroots' and community experiences of the impact of trade and investment policies on their lives, and translated those experiences into a vision and a set of principles, as well as evidence-based proposals and recommendations for policy-making.

This report outlines the broad vision and principles developed in these workshops, as well as outlining alliance members' proposals and recommendations. The goal of these proposals is to help and support the Netherlands as it embarks on creating an FFP.

From ensuring transparent and democratic negotiation processes to restoring domestic policy space, particularly for countries in the global South; from upholding the primacy of human rights, climate, and sustainable development commitments to ensuring policy coherence and ensuring a holistic and intersectional approach towards gender equality and human rights – many of these issues are already being considered by those who are tasked with developing the new policy, including Dutch policy-makers focusing on trade.

However, we believe this is also a moment and an opportunity for the Netherlands to go further – a chance to be brave, to take risks, to set precedence, and to do something truly transformational. The Netherlands also has the opportunity to take steps towards repairing its colonial past and to reflect on its role and power in its relationship with other states and within the broader multilateral system.

The principles and recommendations articulated in this report touch on the broad trade and investment policies in the Netherlands, including its actual free trade and investment negotiations and agreements, its policies and practices around corporate taxation, and its

policies and due diligence practices around the actions of Dutch multinational corporations operating abroad. These form just a small part of any countries' foreign policies, all of which are interconnected and all of which have gendered implications.

While this report does not touch on the full breadth of the Dutch FFP, it should be viewed within the context of many other existing proposals and recommendations by feminist organisations, social movements, and thinkers on Dutch foreign policies.⁴

The vision, principles, policy proposals, and recommendations that are outlined in more detail below are all interconnected. They should not be viewed as a selection of positive steps towards a feminist future.. Rather they should be seen as a unified transformational approach for a progressive and forward-looking FFP on trade, investment, and tax for the Netherlands – a policy that prioritises women's human rights, care, and the planet above profit.

WHY TRADE AND INVESTMENT IS A FEMINIST ISSUE

Combined, trade and investment agreements and policies go “behind-the-border”⁵ to encompass a wide range of issues. This includes the specific sectors they cover and their potential impact on various aspects of domestic and international economies, on countries, people and communities, as well as on women and people from LGBTIQ+ communities Trade policies are a set of policy measures affecting international trade and can take the form of unilateral, bilateral, regional, and multilateral rules and agreements between countries. Trade agreements are largely focused on free trade or trade liberalisation, which involve the removal of trade barriers, whether tariffs or non-tariffs, to create a situation where there are no longer any barriers to trade.⁶

Recent developments in international law have also seen the exponential growth of International Investment Agreements (IIAs).⁷ An IIA is a treaty between countries to deal with issues concerning the protection, promotion, and liberalisation of cross-border investments. The most common types of IIAs are standalone Bilateral Investment Treaties (BITs), Free Trade Agreements (FTAs) that contain investment chapters, and Double Taxation Treaties (DTTs) between countries due to strong linkages between taxation and foreign investment.⁸

There are approximately 3,000 trade and investment agreements in force globally, with each new agreement broadening the scope of the previous one. The Netherlands itself is currently party to 135 investment treaties or treaties containing investment provisions,⁹ along with hosts of other multilateral trade rules at the WTO.

Feminist activists and movements have long criticised the way productive economy and market activities have disregarded the significant contribution of the unpaid care economy that is primarily performed and undertaken by women.¹⁰ Work that is considered “women's work” is not given the economic value it deserves, even though economies could not function without it.¹¹ This includes activities such as care work, community work, voluntary work, subsistence farming, food production for the family, maintaining seeds and other forms of local and indigenous knowledge, looking after land, rivers, other natural resources and so on.

Often, the only way in which women's roles within the informal economy are acknowledged in trade and investment negotiations and agreements is when they are seen as labour that can be taken out of the so-called "unproductive" informal economy and included in the "productive" formal economy. The problem is that these formal economies are often exploitative towards women, causing more poverty, while failing to reduce any of the burden of unpaid care work on women.

Consequently, trade and investment policies – which are largely concerned with productive economy and market activities – tend to ignore the contribution of unpaid care work, and the gender-specific impact of trade policies of liberalisation, deregulation, and privatisation.¹² These policies also fail to address the gender discrimination arising from entrenched patriarchal beliefs, which limit women's economic, social, and political rights as well as decision-making rights and subsequently, the unequal access to and control over resources experienced by men and women in various parts of the world.¹³ Trade negotiators often assume that these policies and liberalisation measures are gender-neutral in both their formulation and consequences. Meanwhile, trade negotiations are happening behind closed doors without the participation of citizens, civil society, or social movements, including feminist activists and organisations. This makes it difficult to challenge the status quo.

Differential impacts between developed and developing countries

Although trade and investment agreements claim to level the playing field for all countries, the constraints these agreements impose upon countries in the global South are more severe than the impacts felt in the global North.¹⁴ Many of today's developed and wealthy countries had promoted their national industries through tariffs, subsidies, import substitutions and other measures.¹⁵ For example, in the aftermath of World War II and until 1963, the Netherlands introduced many interventionist and industrial policies. These included financial support for

two major companies (one in steel and the other in soft drinks), subsidies to promote industrialisation in the global South, promoting technical education, supporting the growth of the aluminium industry through subsidised gas, and developing essential infrastructure.¹⁶

Many of the same industrial policies and trade measures are no longer available to countries in the global South through prohibitions under trade and investment rules. This has led to the analogy of the

WTO as kicking away the ladder to prevent countries in the global South from reaching the same level of development of countries in the global North.^{17,18}

For these reasons, even if the trade policies themselves are identical, they are more likely to have a negative impact on women in the global South compared to women in the global North. This discrepancy arises from significant variations in living standards, cultural factors, market dynamics, production activities, and governmental capabilities and the related issue of domestic policy space, discussed below.

“Countries in the global south are locked in an economic system. The promise that free trade would be good with more trade and jobs did not materialise, instead there was more inequality.”

• Arieska Kurniawaty, Solidaritas Perempuan (SP - Indonesia)

Domestic policy space for women's rights

The broad scope of today's trade and investment agreements has created considerable constraint on the domestic policy spaces of governments, particularly from countries in the global South. This has prevented them from implementing policies to promote women's human rights and to achieve just and sustainable development.

Achieving gender equality requires supportive policies regarding taxes, wages and employment, as well as in the agricultural and industrial sectors. This is underpinned by the gender-affirmative action approach prescribed by the Convention on the Elimination of Discrimination Against Women (CEDAW). Many of these policy spaces are no longer available to governments, especially those in the global South. Trade rules are either explicitly or implicitly preventing these kinds of policies, or Investor-State Dispute Settlements (ISDS) are being used to both attack the policies or prevent them through "chilling effects".¹⁹

Women and food sovereignty

According to the UN's Food and Agriculture Organization (FAO), women are food providers for at least 60-80 per cent of the population for most countries in the global South as small-scale farmers, artisanal fishers, pastoralists, hunters and gatherers, and urban food producers. Women are responsible for half of the world's food production.²⁰ And yet, despite this pivotal role when it comes to putting food on the table, women face a greater level of hunger than their male counterparts, often due to systemic patriarchal barriers. Women's role as food producers and providers – often performed as part of unpaid care work – and their critical contribution to household food security often goes unrecognised.²¹

By reducing and eliminating tariffs, trade agreements often lead to local markets being flooded by cheaper imports. This lowers women's agricultural earnings while also compromising the availability of local produce. Women also struggle to benefit from commercial and industrial agriculture such as cotton or sugar, which are cultivated on a much larger scale for direct export or further processing (usually known as export cash crops) because these are usually dominated by men.²²

To make matters worse, women's role as the keepers of seeds and traditional knowledge is being undermined in many countries by intellectual property rules found in trade and investment agreements that are frequently in favour of corporations and encourage biopiracy (see Box 1).²³

Box 1: Valuing women's expertise

With the recent revitalisation of the Free Trade Agreement (FTA) between the European Union (EU) and Indonesia, Indonesia may be subjected to the International Union for the Protection of New Varieties of Plants 1991 Convention (UPOV 1991). The UPOV 1991 contains intellectual property rules on seeds and plant varieties that go beyond the requirement of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement under the WTO.

Under UPOV 1991, farmers' rights to save, use, exchange, and sell seeds and other propagating material will be further limited. In a country like Indonesia, where the seed system is informal and characterised by practices of saving, exchanging, and selling farm-saved seeds, such restrictions will affect the livelihoods of farmers and the food sovereignty of people across the country.

Women also contribute to biodiversity conservation and sustainable agriculture through their traditional knowledge and practices such as seed preservation, storage, and propagation. Their expertise in seed selection, which helps to maintain diverse and locally adapted crop varieties, would be undermined by UPOV 1991.²⁴

Women and public services

Women perform 75 per cent of global unpaid care work.²⁵ These are activities that are vital to society and the economy. In their caring role, women depend heavily on public services, especially as users and providers of care. The availability of gender-responsive and quality public services is key to achieving gender equality.

"We believe that it is the colonial logic, which is still in place, of a trade system based on natural resource exploration and cheap labour that sustains the growth and development model of the global North. This model of trade has generated many losers, especially women, in the global South."

• Graciela Rodriguez, Brazilian Network for the Integration of Peoples (REBRIP - Brazil)

Lack of funding for the public sector and the privatisation of public services – such as water, healthcare and electricity – therefore disproportionately affects women. Expensive medicines also have an adverse impact on women. As the providers of care to their family, they will either be responsible for paying more for the increased prices or they will have to sacrifice their own healthcare to prioritise their family's health.²⁶

Today's trade and investment rules have gone beyond the trade in goods and have extended into many other areas, including trade in services. These trade and investment rules deliberately promote commercialisation and define goods and services in terms of their ability to be exploited for profit by global corporations and international service providers.²⁷

As a result of the way tax policies and trade rules both affect the global movement of goods, services, and capital, they are interconnected in various ways:

- **Trade liberalisation**, which often attracts foreign companies to invest in a country's economy via increased market access, apart from lowering tariffs, is often accompanied by lower or weaker corporate taxation that can further incentivise foreign direct investment.
- **Trade tariffs**, for instance, contributed significantly to the revenues of countries in the global South. In Africa, trade tariffs accounted for 28 per cent of the region's total revenue in the 1990s.²⁸ Trade liberalisation resulted in significant fiscal challenges for the region, which coincided with a decline in public investment that began in the 1980s and continued into the 2000s.²⁹
- **Corporate tax evasion**, on the other hand, is causing losses between US\$ 500 billion and US\$ 600 billion a year in the global South as a result of tax avoidance practices.³⁰

Any reduction of state revenues or income – through lowering of tariffs, tax rules, through expensive and costly ISDS cases – has detrimental implications on governments' revenue sources, particularly in the global South. This seriously undermines the government's ability to finance its public services (see Box 2).

Box 2: **Lost tax revenues in Mozambique**

There are more than 3,000 bilateral tax treaties, also known as Double Taxation Agreements (DTAs) currently in existence. These treaties are often used by multinational companies to avoid taxes. This is the case in Mozambique, which has seen a huge influx of foreign investment in the last 10 years because of its natural resources. Many of the foreign investors in Mozambique use letterbox companies in tax havens such as Mauritius and the United Arab Emirates (UAE) to take advantage of their tax treaties with Mozambique. In 2021, the Mozambican government is estimated to have lost US\$ 315 million as a result of the reduced withholding tax rates on interest and dividend payments in the treaties with Mauritius and the UAE alone. This represents more than 7 per cent of the country's total tax revenue, which is desperately needed to support crucial public services.³¹

Decent work for women

Proponents of trade liberalisation assert that it will create job opportunities, including for women. While this is true in some countries, closer examination reveals a concerning pattern. Jobs for women in export-oriented industries, fostered by trade openness, are often concentrated in low-wage, low-value, labour-intensive sectors. Several studies have documented the patterns of feminisation (the increase of female shares of employment) and defeminisation (the decrease of the female shares of employment) within the manufacturing sector through different levels of manufacturing and its correlation to import and export brought about by trade policies between the 1980s-1990s.³²

Corporations operating within the global value chain exploit women's lower pay, casualisation, and informality as a competitive advantage, leading to a "race to the bottom" with women's labour wages and rights at the bottom of the pile.³³ Consequently, a gender wage gap

has persisted in many countries, even with trade liberalisation. In some cases, the trade liberalisation has led to deindustrialisation, which has then led to a loss of women's jobs.³⁴ In order for the expanded job opportunities that may come with trade liberalisation to translate into decent work for women, governments need to intervene with supportive fiscal, wage, and industrial policies. However, as discussed above, much of the fiscal and policy space for governments to do this is constrained by current trade and investment agreements.

Box 3: Binding rules for business and human rights

Women around the world continue to experience business-related human rights abuses and violations differently and disproportionately – including significant barriers to accessing justice, discrimination in the labour market, gender-based violence, uneven domestic workloads, and unpaid care duties. These systemic gender impacts are particularly felt by women in the global South:

- For example, in Uganda, following evictions involving large-scale agriculture, women have experienced violence, loss of livelihoods, and restricted access to water and firewood.
- In Zimbabwe, women face an increase in gender-based violence in the male-dominated mining sector.³⁵
- In the garment industry, women workers regularly experience gender-based violence and sexual harassment. Such violence comes in addition to the discrimination they already face regarding lower wage levels and more precarious employment terms.³⁶

To end these injustices, binding rules for business and human rights are urgently needed to help prevent harm to people and the planet, to provide reparations, and to introduce policies through a feminist lens. As a step in the right direction, we support the creation of a Feminist UN Treaty on Business and Human Rights and ambitious national mandatory human rights due diligence at a national and EU levels.

NEXT STEPS

While there has been growing awareness among governments and institutions that trade and investment rules have gendered outcomes, the prevailing policy reactions so far are merely aimed towards enhancing women's participation in capital, resource, labour and market.³⁷ This approach positions women and gender as tools for trade expansion, which overlooks the negative, discriminatory, and exploitative effects of the global neoliberal trade and investment regime on women's rights. This position persists despite women's multiple and intersecting rights and roles as producers, consumers, traders, workers, farmers, and primary contributors to unpaid care work.

For these reasons, trade and investment policies are key feminist issues that cannot continue to be overlooked by governments working towards FFPs. In order to have a genuine and effective FFP, a feminist vision of trade, investment, and fiscal policies is vital. With this in mind, as a key pillar of the Dutch FPP, we believe it is crucial that the Dutch government continues to address the adverse discriminatory and exploitative consequences of the trade and investment rules-based neoliberal order on women's human rights.

OUR VISION, PRINCIPLES AND POLICIES FOR A FEMINIST FOREIGN POLICY ON TRADE AND INVESTMENT

VISION

As members of the Fair, Green & Global (FGG) Alliance, we welcome the increasing awareness among governments when it comes to acknowledging and attempting to address the gender-specific outcomes of their foreign policies by introducing Feminist Foreign Policies. We also welcome and celebrate the increasing recognition from governments and institutions that trade and investment rules have a very particular and specific impact on women and people from LGBTIQ+ communities. We value this increasing interest as an opportunity to address the adverse, discriminatory, and exploitative consequences of global trade and investment rules on the lives of women and marginalised communities around the world.

We are looking forward to the opportunity to work together with the Dutch government and policy-makers to make sure that policy responses around gender, trade, and investment are not simply focused on increasing the numbers and roles of women involved in the free flow of capital, resources, labour, and productive market.

We welcome FFPs as an opportunity for governments to be brave, to do things differently, to take risks, and to move away from “business-as-usual”. We regard the Dutch decision to develop an FFP as an opportunity to present genuine leadership and commitment on gender equality, as well as delivering politically on obligations under the UN Charter, international human rights treaties and conventions, and climate and sustainable development obligations. This is a key moment for governments in the global North to make sure their policies across the board do good rather than causing harm.

We want to work together with policy-makers to make sure that the Dutch FFP process and outcomes do not become pink-washing exercises. We want to make sure this does not become an opportunity to conceal the negative impact of trade, investment, taxations, and corporate power on women and members of LGBTIQ+ and other marginalised communities – by simply adding feminism, gender equality, women, and LGBTIQ+ communities into the mix.

We see a first step is the acknowledgement that any FFP should aim to transform and change the current system and structure we currently live in. An effective FFP needs to carry within it a vision and agenda for deep systemic and structural transformation, which is something that the feminist movement has been long calling for – even before the first notion of FFP was brought forth by any government.

To be effective, an FFP should address the historical demands of the feminist movement, which has been arguing for transformative feminist policies for decades. The movement has been calling for guarantees that women and communities should have real agency and power over their own lives, as well as control over the terms on which they engage with social, political, and economic structures. This includes real capacity and powers to determine their macroeconomic policies – whether trade, taxation, investment, and so forth. It also involves

decision-making over natural resources – land, waters, seeds, and traditional knowledge, as well as decisions around the kind of systems of production and consumption – from what food to grow and eat to what development actually means to them.

This is a momentous opportunity for governments. It is a chance to deliver foreign policy that makes sure that any engagement with multilateral processes is driven by a spirit of mutual cooperation, common but differentiated responsibilities, international solidarity, and human rights for all – rather than by narrow national, domestic, and corporate interests.

“Gender can be a trojan horse, an excuse to not get to the root of the issues.”

• Graciela Rodriguez, REBRIP (Brazil)

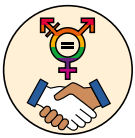
“Feminism means more than just equality within the existing system; it is really about transforming the system.”

• Anonymous

A truly FFP prioritises solidarity over competition, sustainable development over economic growth, the planet and the environment over consumption, public goods over individualism, and participatory democracy over market governance. At the same time, it strikes a balance between respect for

national sovereignty and domestic policy space alongside state obligations under multilateral human rights norms. All of this forms the foundation for the feminist future that we envision as members of the FGG Alliance.

PRINCIPLES



i. GENUINE, MEANINGFUL AND SUBSTANTIVE EQUALITY

A feminist vision of the future consists of a world where there is genuine, meaningful, and substantive equality that goes beyond formal equality and equity. The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) describes substantive equality as consisting of two central approaches:

- Equality of opportunity in terms and access to the resources of a country, to be secured by a framework of laws and policies, and supported by institutions and mechanisms for their operation.
- Equality of results upon access and opportunity towards achieving real change for women and LGBTIQ+ communities.

The concept of substantive equality arose out of recognition that formal equality may not be sufficient to ensure that women and people with diverse gender identities enjoy the same rights as men. Treating men and women in exactly the same ways does not necessarily translate into equality.³⁸ An FFP therefore needs to approach the principles of equality in a substantive way.

An ostensibly formal equality approach towards trade and investment policies, such as seeking to provide women with the same market access as men, or ensuring that women are able to participate in the labour market, will not address inequalities. Similarly, the introduction of gender, labour, or sustainability chapters within a trade and investment

agreement that also contains harmful ISDS provisions, trade liberalisations, privatisations, and further deregulations will not achieve substantive equality.

In formulating an FFP, it is essential that governments take into account the differences between diverse gender identities, class, caste, social roles, and economic statuses, as well as the multiple roles that women play in the economy, often in parallel.

Governments that are genuinely interested in advancing women's human rights through just trade and investment arrangements should allow for pro-poor public stockholding of food; provide domestic policy spaces necessary to advance women's human rights and the public interest; allow for full use of intellectual property flexibilities to provide access to medicines, seeds, technologies that advance women's human rights; and refrain from entering into any bilateral or multilateral agreements that further restrict the capacity to use domestic regulations in the interests of the public in any way that is deemed necessary.³⁹

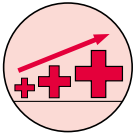


ii. CENTERING PEOPLE, LIFE AND PLANET

Governments at various stages of development have an opportunity to move away from the emphasis on Gross Domestic Product (GDP), economic growth, and profit as the central objective of their economic and development strategies. Instead of prioritising GDP, governments have the chance to shift towards a more equitable and sustainable economic model that prioritises people – particularly women and marginalised communities – as well as life and the planet. This shift – which should be central to any FFP – would embrace a just and sustainable economic system that centres human rights as its foundation and prioritises the care, well-being and welfare of people and the planet.

“The Netherlands is a trading country. Roughly, one third of our welfare is generated through trade, oftentimes in stuff that flows through the country. Dutch foreign policies have always aimed at increasing trade flows, irrespective of its environmental, climate or human rights impacts. It is time to turn the scales. To assure that trade increases well-being for people everywhere and for future generations.” • Danielle Hirsch, Both ENDS (Netherlands)

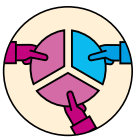
A shift towards centering people, life, and planet would also mean moving away from the economic models of growth and scale. This model sees corporations making profits through increased productions, and not actually in response to peoples' – especially women's – needs or demands. This shift in focus envisions a world where women, communities, and countries have their own localised and domestic capacities to produce their own food and products, instead of being forced to liberalise their markets and remove tariffs to receive the same goods being produced by multinational corporations in another country. It envisions shorter and more localised value chains, and less reliance on the global value chains. The former are more beneficial and, in some cases, preferable to women and can help to improve women's social and economic capacities.⁴⁰



iii. CREATING A CARE ECONOMY

For decades, feminists have called for care and care work to be made central to the economy and for governments to shift towards a care-based economy. Care work is often underpaid, undervalued, and largely performed by women. It is often ignored by the economic system served by today's trade and investment agreements, even though the economy of scale, mass production, and profit could not exist without it.

FFPs therefore entail a comprehensive rethink of care within the development and economic paradigm. An effective FFP advocates for trade and investment policies that value, support, and redistribute care work through the provision of public services and infrastructures, and the re-valuation of the informal sector. This also means governments being able to carry out progressive trade and tax reforms to generate necessary state revenues, without being subjected to a "race to the bottom" for liberalisation, privatisation, and deregulation of market, public services, tariffs and taxes.



iv. A FEMINIST APPROACH TO SHARING AND TRANSFORMING POWER

Feminist and social movements have long advocated for principles and models of decision-making and leadership that are inclusive, collaborative, accountable, and democratic. This is linked to the feminist analysis of power – how power is understood, challenged, built, and transformed.⁴¹ This feminist approach towards sharing and transforming power, when viewed within the context of FFP, can be applied to different

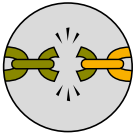
actors and for policies and decision-making at multiple levels – from the home to the community, to local governance, to national governance, between states and institutions, and at the multilateral/global level.

"It has to do with power (and what it means). And realising that we cannot use what we don't have, that we cannot claim what is not ours, that we cannot decide what isn't ours to decide." • Anonymous

With this in mind, trade and investment policies should be created in a democratic manner. This includes informed involvement and consent

from groups that would be most affected by these policies – including women farmers, women workers, rural and Indigenous women.

In the context of FFP, this means a fundamental re-think of how all policies are made and negotiated – why, where, how, by whom and for whom. First, this means re-thinking and challenging the notions that negotiations on trade and investment policies have to be carried out in a secretive manner, even when these negotiations impact almost every aspect of women's daily lives. Second, it emphasises the notions that understanding and formulating trade and investment policies should go beyond economists and/or trade negotiators. Third, it recognises and recalls that women, members of LGBTIQ+ and Indigenous and local communities, farmers, fisherfolks, grassroots and rural communities, are actually the real "experts" of their own lives and of the policies that they need. Finally, it challenges the notion that somehow all parties – whether states, civil societies, or multinational corporations – are equal, although differences resulting from colonisation and asymmetrical power relations persist in these policy spaces.



v. DECOLONISATION

Historically, trade was a tool used by colonial powers for colonisation, economic exploitation, and cultural domination.⁴² While colonialism may no longer exist today in the same way as it did in the past, some forms of colonialism have persisted. The use of economic, political, cultural, or other pressures to control or influence other countries – especially former dependencies, former colonies, and countries in the global South – is part and parcel of today’s global trade and investment negotiations. Pursuing FFP therefore also means ensuring that FFP does not become a tool for neo-colonialism – a guise to introduce new and potentially harmful rules under trade and investment policies without remedying any of the existing harms.

“We should make sure that FFP doesn’t become another type of colonialism, of imposing values on others through ‘you’re not feminist enough’. It really should be about doing things in a different way with different people.” • Anonymous

This was one of the feminist movement’s key criticisms of the gender and trade agenda within the WTO and its instrumentalisation of gender to make way for the introduction of new trade rules in areas such as services, e-commerce, government procurement, and foreign investment.⁴³

As illustrated by the current public debate, many countries still owe a duty and obligation towards their former colonies to address and redress the impacts of past colonisation. One step is to acknowledge – within FFPs – the history of colonisation and its role and contribution to the wealth and development of many countries in the global North. Building upon that, it also involves working towards addressing the historical responsibilities through reparations, debt cancellation, and principles of common but differentiated responsibilities. Part of this includes reforms within multilateral institutions – such as the WTO – to ensure greater representation and democratic decision-making power for formerly colonised nations and countries in the global South.



vi. PROMOTING INTERNATIONAL SOLIDARITY

International solidarity refers to collective actions and cooperation between states and movements and to the promotion of fair and equitable trade practices. It also refers to collective actions and cooperation to address the global inequalities that are produced and reproduced by our current trade and investment regimes. Promoting solidarity in FFP entails promoting the sharing of seeds, resources, knowledge, and technologies; promoting agroecology and cooperatives; and ensuring that such practices are not penalised by trade and investment agreements. At the global level, this can mean promoting international trade and exchange that stimulates these practices, based on solidarity, complementarity, and actual transfers of technology.

An effective FFP would therefore support and promote technological transfers of energy and medicines, for example, from countries and corporations based in the global North to governments and communities in the global South. An effective policy would also ensure that these transfers would also not be impeding patents and other intellectual property rights provisions found in trade and investment agreements. Finally, an effective

FFP would support and encourage developing countries to engage in South-South cooperation, where they exchange knowledge, expertise, and resources to promote economic development and address common challenges.

WHAT DOES THIS MEAN FOR THE FEMINIST FOREIGN POLICY ON TRADE AND INVESTMENT IN THE NETHERLANDS?

Adopting a Feminist Foreign Policy in the Netherlands is a brave and bold step. This illustrates the country's progressive leadership role in addressing and promoting women's and LGBTIQ+ rights internationally. It also complements existing efforts to resource and support feminist movements globally, including in the global South. The Dutch approach of a broad-based consultation process leading up to the FFP illustrates the aim to include voices that are often not heard.

The Netherlands has made a strong commitment to ensure that its FFP contains a broad commitment to look into all areas of its foreign policies and at all policies affecting other countries. The attempts to address the issue of power dynamics proactively in the country's own way of operating are innovative. The policy emphasis on the 4Rs – rights, representation, resources, and reality check – shows that the Netherlands is working towards realising its FFP by reflecting what it means in practice and thinking about how to apply it.

TOWARDS GENDER-JUST OUTCOMES: PROPOSALS AND RECOMMENDATIONS FOR THE NETHERLANDS' FEMINIST FOREIGN TRADE & INVESTMENT POLICY

At the FGG Alliance, it is our goal to help and support the Dutch government and policy-makers by offering constructive advice and recommendations as the FFP is being developed.

Acknowledging that the Dutch government is in a process of learning and implementing its FFP, this part of the report presents several proposals and recommendations specific to the Netherlands' FFP trade and investment policies.

Some of the proposals below are more broad-based, while others suggest specific actions and measures that the Dutch government could implement within its comprehensive FFP on trade and investment. These proposals, designed with constructive collaboration in mind, build upon the elaborations in the FFP handbook.⁴⁴

All of these proposals evolved from the overarching vision and principles outlined earlier in this report. They form a unified, broad, and systematic approach designed to help break away from the current power imbalances in the trade and investment agenda and towards realising gender equality, and fulfilling the rights of women in all their diversity.



Setting the agenda

Gender issues are integral to every policy in the Netherlands. Making the commitment to an FFP provides the forward momentum to make sure that the full scope of Dutch foreign policy delivers on gender equality and human rights – an ambition that is reiterated in the FFP handbook. When it comes to trade and investment policies, this means addressing areas that go well beyond women’s entrepreneurship⁴⁵ to include addressing power imbalances that underlie gender inequality. Moreover, the Netherlands can demonstrate leadership in setting a strong international agenda for advancing universal human rights, equality, and gender justice for women, members of the LGBTIQ+ community and other marginalised people when making policies in international trade and investment.

WE IDENTIFIED THE FOLLOWING OPPORTUNITIES:

- Develop a feminist trade diplomacy approach based on consultations and conversations involving and listening to women, men, and gender non-conforming people from the global South who are currently excluded from discussions, even though they are adversely impacted by the current trade system.
- Ensure clear goals and commitments are put into in practice by embedding binding elements in the FFP. This includes the Ministry of Foreign Affairs itself and extends to all actors receiving funding and support from government ministries. Consider appointing a Dutch envoy or “Ombudsvrouw”⁴⁶ to promote FFP and provide an “open counter” for anyone to report inconsistencies or share ways to improve the FFP.
- Support calls by civil society, feminist groups, and countries in the global South at WTO that are calling for change in trade and investment negotiation issues, such as those on fisheries subsidies and agrarian reform.⁴⁷
- At the international level, actively support the UN as the organisation that is best suited for global economic governance, including fiscal policy revisions, debt mechanisms, corporate accountability, digital governance, and climate actions, through supporting the gender-responsive UN Binding Treaty on Business and Human Rights and the creation of a UN convention on tax.



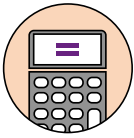
Measuring impact

A key starting point for an FFP is understanding and anticipating the intersectional gendered consequences of trade and investment policies and agreements. There are well-documented ways of carrying out a thorough human rights, gendered, environmental, and sustainability impact assessment that prioritise women’s human rights.

WE IDENTIFIED THE FOLLOWING OPPORTUNITIES:

- Develop and implement an impact assessment model that is drawn and framed in accordance with international human rights laws that are universal and comprehensive and that includes all rights – civil, political, economic, social, and cultural – as interdependent and interrelated. This principle “recognises the difficulty (and, in many cases, the impossibility) of realising any one human right in isolation”.⁴⁸
- Commit to mandatory gendered Human Rights Impact Assessments (HRIAs) to be carried out as an ex ante assessment (undertaken before or during the negotiation of trade agreement, or prior to implementation), and ex post assessments (undertaken on a trade agreement after a period of implementation).

- Ensure an essential and obligatory connection between the findings of impact assessments and the outcome of the trade negotiation process. This includes the possibility for parliaments and government officials to avoid causing harm to women and members of Indigenous and LGBTIQ+ communities by stopping or pausing negotiations in cases of negative impact assessments.
- Ensure businesses are actively and continuously identifying and preventing adverse human rights and environmental impacts throughout their value chains, applying a gender lens to their risk identification processes.



Gender budgeting

Those who do not have a seat at the decision-making table are easily overlooked in budgeting and policy-making processes. Gender budgeting means having the necessary budgets and revenues available to finance public services. It also means developing trade and investment programmes that promote gender equality and human rights, as well as promoting inclusive and sustainable growth.

WE IDENTIFIED THE FOLLOWING OPPORTUNITIES:

- Allocate specific budgets for gender components and a ‘feminist way of working’ on trade and investment, ensure programmes on trade facilitation clearly contribute to gender equality, and ensure funds directly end up in the hands of these groups in the global South – as this is a direct way of strengthening their position. Small grant funds are an effective model.⁴⁹
- Ensure financing programmes directed at trade facilitation or support for Dutch companies have a clear contribution to help strengthen the human rights of women, and members of Indigenous and LGBTIQ+ communities in the global South.
- Adopt a UN model tax treaty as a minimum standard in negotiating bilateral tax treaties with countries in the global South to ensure a better distribution of taxation rights, fostering fair domestic resource mobilisation, a reduction in tax avoidance and improved gender-responsive public service provision.
- Ensure that the removal of trade tariffs through trade and investment agreements do not negatively impact on state revenues for countries in the global South and therefore on their ability to fund gender-responsive and quality public services.
- Go beyond monitoring “the number of women reached” by using feminist monitoring methods that gather useful data about the (lived experience of) the position of women and members of Indigenous and LGBTIQ+ communities.



Addressing the root causes of inequality

Another key element of FFP is acknowledging the history of colonisation, as well as its role and contribution to the wealth of many countries in the global North. An important role for FFP is to address these root causes of inequality. It is important to strike a balance between respect for national sovereignty and domestic policy space in (i) trade negotiations and (ii) alongside state obligations under multilateral human rights norms. Dialogue and dissent with global civil society and experts is crucial to reflect the – often invisible – inequalities in Dutch trade and investment policies.

WE IDENTIFIED THE FOLLOWING OPPORTUNITIES:

- Create room for more domestic policy space and control in trade agreements and policies:
 - for countries that want to introduce climate measures such as curbing fossil fuel extraction or building local or domestic energy support programmes. Continue and finalise the exit from the Energy Charter Treaty, as announced in 2022.⁵⁰
 - to allow countries to develop their own agricultural markets, stimulate local, -including women-led- small businesses, cooperatives and other shared enterprises and propose measures to protect their markets. The development of accessible agricultural markets with more decision-making power for farmers is crucial, especially for women, who are responsible for half of the world's food production.⁵¹
- Uphold the primacy of international human rights, gender equality, sustainable development, and climate obligations and commitments, and ensure that all trade and investment rules are subordinate to these commitments.⁵²
- Develop proposals that offer systemic solutions for the current power imbalance between corporations and communities, women, youth, (female) small-scale farmers, indigenous peoples. Trade and investment agreements that contain ISDS provisions and the currently proposed Multilateral Investment Court lack these systemic solutions and go against the feminist principles of addressing the root causes of inequality.⁵³
- Add a fifth R – Reparation – to explicitly acknowledge and apologise and to initiate a process of reparation for past colonisation, the historical injustices, human rights violations, economic exploitation, and cultural degradation.
- Adopt ambitious national mandatory and gender-responsive human rights due diligence legislation in line with international standards, such as the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. This is to ensure Dutch companies respect human rights, women's rights, and the environment throughout their value chains.



Engaging in meaningful participation and consultation

The Dutch government is aware that meaningful participation comes hand in hand with a successful Dutch FFP. This follows examples of past and present state-to-state negotiations of human rights treaties or conventions, as well as policy-making, that have been carried out in a fairly open, democratic and transparent manner.

WE IDENTIFIED THE FOLLOWING OPPORTUNITIES:

- Continue and intensify putting forward the requirement of consultations with civil society at EU level and within the negotiating country – both with EU and with local civil society (including feminist and women's rights experts). Continue the platform of consultation with Dutch civil society 'Breed Handelsberaad'.
- Provide equal access to negotiation processes and strongly encourage diversity and inclusion in trade missions by letting civil society, feminists, women's rights experts, communities, and trade negotiators participate at an equal level.⁵⁴ Equal access goes hand in hand with acknowledging and addressing the power imbalances that lie between those different actors when they come and sit together. These imbalances also

include the disproportionate power and influence that multinational corporations can wield over these processes, even when they are not in the room.

- Ensure companies meaningfully engage stakeholders such as employees, affected communities, civil society and especially women, in a gender-responsive way throughout every step of their human rights due diligence process. This includes paying special attention to the additional barriers faced by women and marginalised communities to participate in consultations.

Box 4: **How to organize meaningful participation and consultation?**

First of all, making power imbalances explicit and acknowledge forms the basis. Concrete measures include ensuring speaker time for communities and people with less decision-making power (including women, youth, indigenous peoples and local communities); ensuring they have the same level of information; ensuring that people who are not used to participating in these fora are also heard – even if they are not used to speaking the same “language” or are not that familiar with the inside “rules of the game”.

Specifically with regards to trade missions, specific meetings and networking opportunities can be organized for those who have less access to trade missions such as women, female small-scale farmers, LGBTQ+ and indigenous peoples and local communities.

These efforts can also include systematically organising consultations with civil society, including gender justice and women’s rights organisations – both from the global South and North – focused on trade policy. Organising these consultations in advance ensures that trade missions can afterwards be designed in a way that responds to the needs emerging from these consultations.



Ensuring policy coherence

Ensuring that one harmful policy does not undermine the good of all other policies is key to any effective FFP. There is a key role for Dutch civil society and experts to play here, in collaboration with their global networks. The Netherlands is the only country developing and applying a Policy Coherence for Development Action Plan. There are plenty of opportunities for this and the FFP to reinforce each other.

WE IDENTIFIED THE FOLLOWING OPPORTUNITIES:

- Continuing efforts to call for mandatory gender, sustainability, environmental and labour chapters in trade and investment agreements that are effective, enforceable, and of value.⁵⁵ While doing so, ensure that any potential benefits of these chapters would not be undermined by ISDS provisions, intellectual property rules on seeds (UPOV 1991), and further trade liberalisations.
- Commit to the goal of trade treaties and agreements to no longer include the UPOV 1991 convention,⁵⁶ in order for farmers (including many women) to freely save, use, exchange, and sell seeds.
- Commit to reviewing the trade and investment agreements on the potential of doing harm to gender justice and women’s rights. This concerns agreements that are currently negotiating both as an individual state and a party to the EU.⁵⁷

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- Ensure coherence within the Dutch embassies by aligning trade interests with human rights, gender justice, and environmental rights.
 - Link the FFP to the Action Plan on Policy Coherence for Development⁵⁸ – to ensure that FFP goals are part of the policy coherence action plan, which is reported on an annual basis, and also include commitments and lessons from the action plan in the FFP plan and learning process.
 - Engage in more qualitative analysis to assess the effectiveness of measures taken by the Dutch government to stop tax avoidance in order to properly assess the effectiveness of FFP policies and to identify and stop policy gaps in consultation with countries in the global South.

NOTES

- 1 <https://www.government.nl/latest/news/2022/11/18/feminist-foreign-policy-netherlands>
- 2 The FFP handbook is due to be released in November 2023.
- 3 <https://www.government.nl/documents/letters/2022/05/17/letter-on-the-added-value-for-the-netherlands-of-a-feminist-foreign-policy> (page 3).
- 4 See, for example: https://www.bothends.org/uploaded_files/document/221019_Both_ENDS_input_Internet_consultatie_FBB.pdf, <https://www.wo-men.nl/en/blog-post/fatimah-kelleher-on-feminist-foreign-policy-and-trade>, <https://www.government.nl/documents/reports/2021/08/31/study-on-feminist-foreign-policy>
- 5 Blanco, L. R., and Steinberg, R. H. (2018) *The TPP and the New Economics of Free Trade*. Peterson Institute for International Economics.
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- 7 <https://www.somo.nl/nl/wp-content/uploads/sites/2/2016/03/Rethinking-bilateral-investment-treaties.pdf>
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- 9 Cumulative number of all investment treaties and treaties with investment provisions signed by the Netherlands currently in force. Available at: <https://investmentpolicy.unctad.org/international-investment-agreements/countries/148/netherlands>
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- 12 <https://actionaid.org/sites/default/files/publications/final%20who%20cares%20report.pdf>
- 13 *Free Trade Agreements or Women's Human Rights?*, Kate Lappin; *Trading stories: experiences with gender and trade*, <https://www.unescap.org/resources/trading-stories-experiences-gender-and-trade>
- 14 *The gender dynamics of trade and investment and the post-2015 development agenda: A developing-country perspective*, Ranja Sengupta for Third World Network.
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- 19 See full report by Alfred-Maurice de Zayas, Independent Expert on the promotion of a democratic and equitable international order on the impact of Investor-State Dispute Settlements: <https://www.ohchr.org/en/special-procedures/ie-international-order/impact-investor-state-dispute-settlements-report>
- 20 <https://www.fao.org/3/am307e/am307e00.pdf>
- 21 <https://www.unwomen.org/en/news/in-focus/women-and-the-sdgs/sdg-2-zero-hunger>
- 22 See FAO (2009) *What are "women's crops", and why?* Available at: <https://www.fao.org/gender/success-stories/success-stories-detail/What-are-women's-crops-and-why-/en>; and Manzanera-Ruiz, R., Lizarraga, C. and Mwaipopo, R. (2016) Gender Inequality, Processes of Adaptation, and Female Local Initiatives in Cash Crop Production in Northern Tanzania. *Rural Sociology*. 81. n/a-n/a. 10.1111/ruso.12090.
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- 40 International Labour Organization (2015) *Advancing gender equality: The co-operative way*. Available online: https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---coop/documents/publication/wcms_379095.pdf
- 41 <https://justassociates.org/all-resources/a-new-weave-of-power-people-politics-the-action-guide-for-advocacy-and-citizen-participation/>
- 42 See the three-part article on the historical perspective of free trade agreements and bilateral investment treaties by bilaterals.org: <https://www.bilaterals.org/?how-colonialism-shaped-free-trade>
- 43 See statement by the feminist movement calling the World Trade Organization's "Joint Declaration on Trade and Women's Economic Empowerment" a pink herring: <https://apwld.org/statement-womens-rights-groups-call-on-governments-to-reject-the-wto-declaration-on-womens-economic-empowerment/>
- 44 Due to be released in November 2023.
- 45 <https://www.government.nl/documents/letters/2022/05/17/letter-on-the-added-value-for-the-netherlands-of-a-feminist-foreign-policy> (page 3).
- 46 an official appointed to investigate individuals' complaints against a company or organization, especially a public authority.
- 47 See the letter of the Gender and Trade Coalition ahead of the 12th Ministerial Conference: <https://drive.google.com/file/d/1jH6va-hZV3U6vb4sfRRBp6QQPd26r9Yz/view>, with a clear ask for appropriate and effective special and differential treatment (SDT) for developing and least developed countries across WTO negotiations. The SDT allows for developing countries to be exempted from the same strict trade rules and disciplines of more industrialised countries.
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- 51 <https://www.fao.org/family-farming/detail/en/c/1634537/#:~:text=Research%20by%20the%20Food%20and,%2Dto%2Dday%20family%20subsistence>
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- 53 https://www.bothends.org/uploaded_files/document/Dutch-Bilateral-Investment-Treaties-60-years-of-pro.pdf
- 54 <https://www.wo-men.nl/kb-bestanden/1662026286.pdf>
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- 56 <https://www.bothends.org/en/Whats-new/Publicaties/UPOV-91-and-trade-agreements-Compromising-farmers-right-to-save-and-sell-seeds/>
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COLOPHON

Reimagining Trade and Investment through
a Feminist Lens

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