

Understanding the Gender Impacts of Implementation of Selected Chapters of the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) in Malaysia

Final Report

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Front cover photo:

A participant at AANZFTA Regional Workshop on Full Cumulation, 30 November - 01 December 2023, Kuala Lumpur, Malaysia.

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List of Abbreviations and Acronyms

Abbreviation	Full term
AANZFTA	Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area
ACW	ASEAN Committee on Women
AFTA	ASEAN Free Trade Area
ASEAN	Association of Southeast Asian Nations
AWEN	ASEAN Women Entrepreneurs Network
CPC	Central Product Classification
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
DFAT	Department of Foreign Affairs and Trade (Australia)
DOSM	Department of Statistics Malaysia
FDI	Foreign Direct Investment
FGD	Focus Group Discussions
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GBA+	Gender-based Analysis Plus
GDP	Gross Domestic Product
GIA	Gender Impact Assessment
ICT	Information and Communications Technology
ILO	International Labour Organization
IPEF	Indo-Pacific Economic Framework for Prosperity
ITC	International Trade Centre

Abbreviation	Full term
KII	Key Informant Interviews
LFPR	Labour Force Participation Rate
MAFTA	Malaysia-Australia Free Trade Agreement
MATRADE	Malaysia External Trade Development Corporation
MDEC	Malaysia Digital Economy Corporation
MITI	Ministry of Investment, Trade and Industry
MNZFTA	Malaysia-New Zealand Free Trade Agreement
MSME	Micro, Small, and Medium Enterprises
NESR	National E-Commerce Strategic Roadmap
OECD	Organisation for Economic Co-operation and Development
RCEP	Regional Comprehensive Economic Partnership
RM	Malaysian ringgit
RT4D	Regional Trade for Development
SDG	Sustainable Development Goal
TGEI	Trade and Gender Equality Incubator
UNCTAD	United Nations Conference on Trade and Development
UNCITRAL	United Nations Commission on International Trade Law
USD	United States Dollar
WEE	Women's Economic Empowerment
WEF	World Economic Forum
WTO	World Trade Organization

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This study was led by Cadmus Group in collaboration with New Markets Lab and Engender, LLC. The research team at New Markets Lab, including Katrin Kuhlmann (President and Founder), Tara Francis (Lead in Trade and Development Initiative in Asia), and Dhari AlSaleh (Director of Research), produced the research and analysis. Omna Sreeni-Ong and Nuraiza Shamsul Baharin from Engender, LLC in Malaysia collected primary data through key informant interviews and focus group discussions. A team of reviewers provided valuable comments and suggestions, which were instrumental in shaping the report, including My Linh Nguyen, Sebastian Cortes-Sanchez, Erin Weiser, Mia Mikic, Omna Sreeni-Ong, and Kate Francis.

Executive summary

This study analysed selected chapters of the Agreement Establishing the ASEAN–Australia–New Zealand Free Trade Area (AANZFTA) to understand its impacts on gender equality and opportunities for women in Malaysia.ⁱ Key findings and recommendations relating to commitments under sectors with high women’s participation liberalised under the Trade in Services chapter, as well as those focused on electronic commerce (e-commerce) are summarised below, along with an overview of the scope and goals of the study.

Problem Statement

The Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA), signed in February 2009, is a trade agreement between ASEAN Member States,ⁱⁱ Australia, and New Zealand. The agreement was upgraded through the Second Protocol to the AANZFTA, which was signed in August 2023. It entered into force for Malaysia and five other Parties on 21 April 2025.

The AANZFTA Upgrade includes a Trade and Sustainable Development (TSD) chapter which enhances cooperation on women’s economic empowerment and is the first such provision in an agreement signed by ASEAN. While it is too early to assess the impact of the Second Protocol, assessing the original Agreement’s effect—particularly on gender equality—is key to understanding broader social outcomes.

AANZFTA is an important agreement for Malaysia, as it provides a platform for deepening trade relations with key economic partners. Yet, limited analysis exists on how the Agreement has been implemented and how it has differentially impacted men and women in Malaysia across their economic roles (e.g., as entrepreneurs, workers, business owners and consumers). While Malaysia has witnessed significant growth in trade in services and e-commerce post-pandemic, the gender implications of this growth remain underexplored.

Study Objectives, Scope, and Methodology

The primary goal of this study is to advance a deeper understanding of the gender dimensions of the AANZFTA by pursuing the following research objectives:

1. Generate evidence on the ex-post gender impacts of AANZFTA in Malaysia.
2. Inform and guide the design of future activities under the Trade and Gender Equality Incubator (TGEI), providing a foundation for more targeted and effective programming that addresses gender disparities in trade.
3. Equip government officials, policymakers and trade negotiators with actionable and practicable information on priority gender issues to inform future trade agreements.

The study focused on trade with Australia and New Zealand, as the AANZFTA was the first free trade agreement (FTA) to include Australia, New Zealand and Malaysia. Focusing on the original Agreement, the research involved an investigation of the relevant AANZFTA provisions within Chapters Eight (Trade in Services) and Ten (E-commerce), the Malaysia’s schedules of services commitments (for the health and tourism sectors and sub-sectors) along the different mode of services supplied, as well as Malaysian domestic policy reforms and initiatives related to those sectors. While the findings are specific to Malaysia, the research ultimately seeks to demonstrate the value of conducting gender impact analysis related to trade agreements to inspire other countries in the region to implement similar approaches in the context of their own trade negotiations and domestic reforms.

ⁱ Due to data limitations such as lack of sex-disaggregated and intersectional data, the gender analysis in this report primarily focuses on women.

ⁱⁱ Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam.

Using a mixed-method approach, the study aimed to address the following research questions:

1. Which services sub-sectors and aspects of digital trade are most relevant in the context of assessing the impact of the implementation of the AANZFTA's trade in services and e-commerce commitments on women?
2. What is the nature and purpose of the services commitments and e-commerce provisions in the AANZFTA, and which of these provisions could have a specific impact on women?
3. Which domestic legal reforms has Malaysia introduced to fulfil its obligations under the AANZFTA, and did these legal reforms include any gender-based considerations?
4. How could specific aspects of the AANZFTA's services and e-commerce obligations and domestic policies and laws disproportionately impact women, where possible differentiating based on their roles as producers, business owners and entrepreneurs, and employees?

The textual analysis that anchors this report was supplemented by desk research, key informant interviews (KII) and focus group discussions (FGDs) with entrepreneurs and workers in the health care, tourism and e-commerce sectors, as well as officials in selected government agencies.ⁱⁱⁱ While respondents provided valuable insights into industry-level experiences, engagement with several key government bodies was limited by the study's timeframe. This, together with the limited availability of sex-disaggregated data, shaped the extent to which the study could generate comprehensive, evidence-based insights into the gendered impacts of the target chapters.

Summary of Key Findings

This study finds that both the original AANZFTA and Malaysia's related domestic reforms included limited considerations to address a variety of gendered barriers women face. The lack of sex-disaggregated and cross-border trade data also limits analysis of how women are accessing new opportunities created through the AANZFTA. While data gaps posed a significant limitation, the following key findings underscore the importance of strengthening gender equality considerations in ongoing AANZFTA implementation and in future trade agreements.

1. The original AANZFTA laid an important foundation for cooperation, and there is scope to further integrate gender-responsive provisions through the Second Protocol and future reviews. These provisions relate to cooperation on women's economic empowerment (WEE) issues and digital inclusion in e-commerce.
2. Availability of sex-disaggregated data remains an area where further investment could enhance evidence-based policymaking. Some government entities highlighted that AANZFTA-related matters intersect with other portfolios, underscoring opportunities for stronger inter-ministerial coordination, including in data collection efforts. The research team noted that consultation timeframes were limited; additional engagement with key agencies in future iterations could provide further valuable insights.
3. The health care services sector was included in this study because women constitute the majority of paid employees in Malaysia's health and social work sector. Selected key findings related to health care services included the observation that, while Malaysia's medical tourism sector is expanding in the dental services segment, this sub-sector was not covered under the original AANZFTA. This suggests a potential area for expanding trade benefits in a sector dominated by women workers.
4. Women play a substantial role in Malaysia's tourism workforce, reportedly accounting for 48.3 per cent of the sector's workers in 2020. However, limited sex-disaggregated data make it difficult to assess women's participation across individual tourism related sub-sectors.¹ Women are also concentrated in informal employment, particularly in wholesale and retail trade, accommodation, food and beverage service activities.² Malaysia's Mode 2 (consumption abroad) commitments reveal full liberalisation, facilitating inbound services consumption from AANZFTA Parties. This presents opportunities for women who own tourism businesses in Malaysia to benefit from increased demand. Tourist arrivals from

ⁱⁱⁱ See Annex C for the list of stakeholders consulted.

Australia and New Zealand began recovering after the pandemic, although they remained modest relative to Malaysia's total international arrivals. While these numbers remain low relative to some other ASEAN Member State parties to the AANZFTA, continued promotion under regional frameworks could further position Malaysia as a destination of choice.

5. AANZFTA's e-commerce commitments do not include gender-responsive provisions in the original Agreement, but the Second Protocol has digital inclusion provisions, which could pave the way for future cooperation on gender inclusion. Currently, however, while the cooperation on MSMEs is an AANZFTA implementation priority, which could be impactful for women in Malaysia, key informant interviews and focus group discussions under this study suggest that awareness of the AANZFTA among MSMEs could be further enhanced. Most digital capacity-building initiatives supporting Malaysian women have been implemented independently by national ministries and agencies with limited direct linkage to AANZFTA activities.

Recommendations

Based on the findings, the study offers a number of practical, action-oriented recommendations to advance gender-inclusive outcomes and benefits in the context of the ongoing implementation of AANZFTA and other trade agreements, including the ASEAN Free Trade Area (AFTA).

1. To enhance gender outcomes, **policymakers and national institutions** should consider including robust gender-responsive provisions (possibly including stand-alone gender chapters) in future trade agreements, drawing on models from Canada, Chile, the EU, and New Zealand. Provisions could include those on non-discrimination in services, support for women-owned MSMEs through capacity building, digital inclusion, gender impact assessment and other issues related to women's roles and interests. Sex-disaggregated, sector-specific data collection and stakeholder engagement should be strengthened to enable the design of evidence-based policies. Trade policy should focus on identifying sub-sectors with high women's participation and potential for growth, such as dental and cultural services. It should also support digital upskilling and invest in creating pathways for women-owned MSMEs to engage in cross-border partnerships, specifically under Modes 1 and 2. The public sector should also work to strengthen gender-responsive financial inclusion measures for women-owned MSMEs.
2. During stakeholder consultations, women in services and e-commerce highlighted challenges such as a lack of awareness of the AANZFTA, gender-based harassment, underutilisation of trade opportunities and limited institutional support. **Industry associations** such as MATRADE and Malaysian Association of Tour and Travel Agents (MATTA) could help address these gaps by promoting an inclusive trade network, and these issues could be addressed through future trade agreements.
3. **International organisations** such as the International Labour Organization (ILO), United Nations Trade and Development (UNCTAD), the World Bank, the United Nations Economic and Social Commission for Asia and the Pacific (UN ESCAP), and the Asian Development Bank (ADB) can play an important role in supporting gender-responsive trade by funding research and generating sex-disaggregated data. Organisations such as UN Women, the Organisation for Economic Co-operation and Development (OECD) and the International Trade Centre (ITC) could deliver capacity-building workshops relevant to the implementation of trade agreements in a gender-responsive manner. They could also support women-owned MSMEs in digital upskilling and compliance.
4. **Researchers and academics** could play a vital role in evaluating the gendered impact of trade agreements by conducting independent studies, generating sex-disaggregated data (both quantitative and qualitative) on women's participation in the focus sectors, and offering evidence-based gender-responsive policy recommendations. Gender experts could also play a key role in raising awareness around key issues that impact women. Economists could also develop key economic and social metrics to evaluate the gendered impact of trade in services and e-commerce.

1 BACKGROUND

Trade is a powerful economic tool that can substantially improve the quality of economic outcomes for women by increasing job opportunities, expanding markets for women-owned businesses, improving working conditions, increasing wages and lowering costs. However, these benefits can only materialise if barriers that constrain women's access to opportunities are removed. Although trade agreements typically include gender-neutral provisions, the impact of those provisions is shaped by the roles men and women play in the economy, both in the formal and informal sectors. Gender impact analysis is critical to understanding how trade policy and liberalisation can affect women and men differently. For example:

1. **Women entrepreneurs and business owners** may face greater challenges accessing markets compared to men, as evidenced by the under-representation of women-owned firms in export-oriented industries.³ They often face greater financial constraints, limiting their ability to formalise and expand their businesses to be able to participate in trade.
2. With respect to **employment** (both in the informal and formal sectors), trade can create jobs, but it also often relegates women to low-wage, low-skill sectors.⁴ This reinforces the gender wage gap and increases job insecurity. Additionally, women are disproportionately employed in the informal sector in developing countries, which is more vulnerable to trade shocks.
3. Gendered barriers such as income inequality, the digital divide, uneven access to finance, technical training and limited consumer protection can also impact women as **consumers** and prevent them from fully benefiting from trade liberalisation.⁵

In response to these disparities, trade agreements are increasingly used as tools to promote gender equality. They incorporate both gender-specific provisions and broader measures with implicit gender implications, such as human rights, labour protections and measures to safeguard vulnerable groups. As of 2023, there were over 300 provisions that implicitly or explicitly reference gender in about 100 regional trade agreements (RTAs).⁶ Canada, Chile, and the European Union have the highest number of gender-related provisions in their FTAs.⁷ There has also been a shift in how gender-related issues are addressed in RTAs. While earlier agreements often relegated gender provisions to preambular references or cross-cutting considerations, more recent RTAs include dedicated chapters on gender equality.⁸ This shift has enhanced the visibility of gender issues and strengthened the potential for trade policy to support inclusive and equitable outcomes.

Inclusion of gender-specific provisions is the first step; however, it is not adequate to address gender inequalities meaningfully. These must be supplemented by well-designed domestic laws, regulations and policies, as well as impact assessments to see how trade impacts women differently in specific sectors, roles and regions. For this, it is necessary to collect sex-disaggregated data. Legal and institutional barriers that hinder women's participation in trade must be identified and addressed. Further, targeted support is essential. This includes providing women entrepreneurs, workers and producers with capacity building, technical assistance, market information and access to finance to enhance their competitiveness.

The AANZFTA is significant for Malaysia, as AANZFTA Parties collectively accounted for an estimated 45.9 per cent of Malaysia's services exports and 25.9 per cent of its services imports in 2023,⁹ highlighting its potential to have trickle-down effects for Malaysian citizens. In 2023, Malaysia's combined services exports and imports with AANZFTA Parties represented almost one-third of its total services trade.¹⁰ Additionally, the Agreement complemented national trade-related policies. These included liberalisation of 27 services sub-sectors in 2009 and an additional 18 sub-sectors announced in 2012, with the focus of liberalisation efforts on opening the services sector to foreign direct investment (FDI) and foreign ownership. The AANZFTA Upgrade includes a Trade and Sustainable Development (TSD) chapter which enhances cooperation on women's economic empowerment and is the first such provision in an agreement signed by ASEAN.

The AANZFTA is also unique as the first free trade agreement between Malaysia, Australia, and New Zealand, which lends itself to an ex-post analysis of the impact of the agreement on women in Malaysia. As a result, the statistics and data discussed below will focus on trade between Malaysia, Australia, and New Zealand. Additionally, Malaysia has separate FTAs with Australia and New Zealand. The Malaysia-Australia FTA (MAFTA), which entered into force in 2013, overlaps to some extent with the AANZFTA in coverage. The Malaysia-New Zealand Free Trade Agreement (MNZFTA) entered into force in August 2010, just eight

months after the AANZFTA's entry into force. The MNZFTA is also less comprehensive than the AANZFTA and does not cover issue areas such as e-commerce.

Annex B includes a more detailed discussion of Malaysia's national and regional commitments on gender equality and an overview of how Malaysia has mainstreamed gender in the context of its FTAs.

2 METHODOLOGY

This study analysed the gender impacts of the AANZFTA guided by the following research questions:

1. Which services sub-sectors and aspects of digital trade are most relevant in the context of assessing the impact of the implementation of the AANZFTA's trade in services and e-commerce commitments on women?
2. What is the nature and purpose of the services commitments and e-commerce provisions in the AANZFTA, and which of these provisions could have a specific impact on women?
3. Which domestic legal reforms has Malaysia introduced to fulfil its obligations under the AANZFTA, and did these legal reforms include any gender-based considerations?
4. How could specific aspects of the AANZFTA's services and e-commerce obligations and domestic policies and laws disproportionately impact women, where possible differentiating based on their role as producers, business owners and entrepreneurs and employees?

The study employed a mixed-method approach, combining contextual research, textual legal analysis of commitments in the AANZFTA, review of domestic reforms, assessment of publicly available sex-disaggregated data and stakeholder consultations through KIIs and FGDs.^{iv} In total, the following four government entities provided responses via interviews or in writing: Ministry of International Trade and Industry (MITI), Malaysia External Trade Development Corporation (MATRADE), Ministry of Tourism, Arts and Culture (MOTAC), and Ministry of Entrepreneur Development and Cooperatives (MEDC). In addition, a total of six women entrepreneurs operating businesses in the health care and tourism sectors participated in online KIIs and an FGD. A detailed description of the methodology is set out in Annex A.

3 FINDINGS

The section below presents the findings of the gender impact analysis of the AANZFTA; key gaps in the analysis due to data availability are also identified. The analysis examines the gender equality outcomes and implications for WEE in Malaysia, with the findings structured around the core research questions.

3.1 Services sub-sectors and e-commerce provisions that are most relevant in the context of AANZFTA commitments and gender equality

This section identifies key services sub-sectors and aspects of e-commerce most relevant to assessing the impact of AANZFTA's trade in services and e-commerce commitments. It draws on labour force and sector-specific data to highlight the concentration of women in Malaysia's services sector and highlights aspects of e-commerce essential for a focused gender analysis.

3.1.1 Overview of Labour Force Trends

Between 2010 and 2023, Malaysia's female labour force participation rate (LFPR) increased from 46.8% to 56.2%, while the female labour force increased from 4.35 million to 6.18 million.¹¹ Women, however, still accounted for only around 37 per cent of the total labour force.¹² This indicates that, while women's participation has increased, it has not reduced the gender gap. Limited progress in closing this gap could be

^{iv} For a complete list of stakeholders consulted, please see Annex C.

a result of economic barriers and policy settings. It should be noted that this dataset offers limited insight for this study, as it lacks sector-specific data; however, it highlights the importance of more granular labour statistics to meaningfully assess women's participation across sectors.

3.1.2 Services Sub-sectors Relevant to Assessing Gender Impact of AANZFTA

The study relied on 2023 data from the Department of Statistics Malaysia (DOSM),¹³ focused on persons engaged in services by sub-sector. This dataset shows high concentration of women both as employees and proprietors in health care and tourism – two sectors that are liberalised under the AANZFTA.

Health care is a growing industry in Malaysia that was projected to reach USD30 billion by 2027, driven by increasing domestic demand and international trade in health care services.¹⁴ The Malaysian government actively promotes medical tourism and health care exports, while importing medical expertise, equipment and pharmaceuticals. Women accounted for 64.3 per cent of employed persons in Malaysia's human health and social work activities in 2023.¹⁵ Within specific health professions, women represented 94.6 per cent of nurses, 70.1 per cent of dental practitioners and 74.1 per cent of pharmacists in 2021.¹⁶ This is the highest proportion among all listed services sub-sectors.

Malaysia's **tourism** industries generated RM 291.9 billion in gross value added in 2024, contributing 15.1 per cent to the country's gross domestic product (GDP).¹⁷ Employment in Malaysia's tourism industries is concentrated mainly in retail trade and food and beverage serving services which accounted for 37.9 per cent and 36.6 per cent, respectively, of tourism-industry employment in 2024.¹⁸ However, available data do not allow the study to determine women's share of employment specifically attributable to tourism within each of these broad industries. According to the figures cited by Malaysia's then Minister of Tourism, Arts and Culture, women represented 48.3 per cent of the country's tourism workforce in 2020, down from 50.3 per cent in 2019.¹⁹ Publicly available data do not provide a consistent sex-disaggregated breakdown across all tourism-related subsectors. Based on data available for 2014-2018, women's earnings in Malaysia's accommodation and food services sector were approximately 77 per cent of men's earnings, indicating a substantial gender earnings gap.²⁰

Given this, **health care and tourism were selected for deeper analysis in the study**, as they represent sectors that have been liberalised under the AANZFTA and that employ a high proportion of women, making them critical subjects for a gender analysis.

3.1.3 E-commerce Aspects Relevant to Assessing Gender Impact of AANZFTA

E-commerce provisions in the AANZFTA differ from those related to services, as they address broad issue areas that indirectly or directly impact women. Substantively, these can be grouped into **cooperation provisions, trade facilitation provisions, and consumer and data protection provisions**. These issue areas are particularly relevant to gender equality and WEE due to the potential to increase access to e-commerce, reduce compliance burdens, boost cooperation on MSME issues and ensure the protection of consumers, which can address some of the obstacles women face within their roles as entrepreneurs, workers and consumers. For example, cooperation provisions encourage collaboration on MSME adoption and digital inclusion, although their impact depends on actual implementation. Trade facilitation measures can help reduce cost and time burdens, which can have outsized, positive implications for women juggling business and caregiving responsibilities. Stronger consumer and data protection measures are particularly important for women, as they increase safety and trust and reduce risk of online harassment. Structuring this analysis under the three pillars can help highlight how the AANZFTA e-commerce framework might address obstacles limiting Malaysian women's participation in the digital economy.

Moreover, relevant emerging issues in e-commerce have been recently added under the Second Protocol of the AANZFTA, including customs duties, data localisation and digital inclusion. Some of these issues are also addressed in other Malaysian agreements, including the Regional Comprehensive Economic Partnership (RCEP), the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and the ASEAN E-Commerce Agreement.

3.2 Assessing Gender Impacts of Services Commitments Related to Health Care

This section sets out findings related to the health care services sector,^v responding to research questions 2, 3 and 4. It examines the nature of commitments under the AANZFTA as reflected in Malaysia's schedule, reviews domestic reforms and uses data to assess potential gender outcomes across each mode of supply.

Under the AANZFTA, Malaysia undertook health care services commitments under three sub-sectors, namely medical specialty services,^{vi} veterinary services,^{vii} and private hospital services.^{viii} These commitments largely align with its existing obligations under the World Trade Organization (WTO) General Agreement on Trade in Services (GATS), which Malaysia signed in 1995.

3.2.1 Mode 1 (Cross-border Supply) Commitments for Health care Sector

Mode 1, or cross-border supply, refers to the delivery of services from another country into Malaysia, typically via digital platforms, telemedicine, or remote consultations. While this analysis primarily focuses on imports—i.e., services coming into Malaysia—it is worth noting that Malaysian firms may also export services under Mode 1. Liberalisation of Mode 1 can benefit women by enabling access to health care services without the need for travel or in-person consultations. It can also improve quality, diversity and affordability of services.

While conducting an analysis of Mode 1 commitments for health care services, the study examined whether Malaysia allows foreign health care providers to deliver services remotely and whether market access or national treatment restrictions apply. Under the AANZFTA, Malaysia imposes no limitations on allowing *cross-border supply of medical services*, allowing foreign medical specialists to offer teleconsultations without a local presence. Similarly, for *veterinary services*, Malaysia allows experts to provide online consultations without restrictions on market access; this may not be very practical, as providing veterinary services remotely is generally not feasible. The commitment on national treatment is unbound due to technical feasibility. Full liberalisation for *private local hospital services* allows Malaysian patients and health care providers to access foreign hospital services such as remote specialised teams, second opinions through telehealth platforms or other digital platforms.

Regarding domestic reforms related to Mode 1 for the health care sector, the study assessed how domestic policies and regulations relate to cross-border provision of services and whether these address gender-specific barriers. This includes assessing whether these reforms enhance women's ability to access remote health care, support women health care providers in delivering cross-border services and ensuring that digital platforms are inclusive. The Telemedicine Act 1997, which has not entered into force, sets out requirements relating to the practice of telemedicine, including eligibility to practice, certification for practitioners licensed outside Malaysia and written patient consent.²¹ The Medical Act 1971, the Personal Data Protection Act 2010 (PDPA), and the MMC Guidelines on Telemedicine²² aim to govern professional ethics and private matters related to telemedicine. ***These domestic reforms were primarily driven by Malaysia's own national strategies and their linkages to AANZFTA have not been explicitly established.*** Strategies such as MyDIGITAL and the Health White Paper 2023 are also relevant, with MyDIGITAL providing explicit support for women as a vulnerable group related to digital inclusion and entrepreneurial advancement.

^v See Malaysia's Schedule of Specific Services Commitments [here](#).

^{vi} Malaysia has undertaken a commitment for limited specialties, namely forensic medicine, nuclear medicine, geriatrics, micro vascular surgery, neurosurgery, cardiothoracic surgery, plastic surgery, clinical immunology, oncology, traumatology, and anaesthesiology.

^{vii} Veterinary services fall under CPC 932, which includes services for pets, livestock, and animals other than pets, such as zoo animals and animals raised for fur production. Malaysia has limited its commitments only to services delivered to equine animals in equestrians or turf clubs. This will include services to animals such as horses used for competitive sports.

^{viii} Private Health Services are classified under CPC 93110. Services delivered under the direction of medical doctors primarily to in-patients are covered. Some examples include nursing services, laboratory and technical services including radiological and anaesthesiologic services, etc.

To assess Malaysia's Mode 1 commitments from a gender lens, specifically for women as consumers, workers and entrepreneurs, the study sought to analyse the following data points:

Dimension	Data Points
Women as consumers	• Women's access to telehealth services • ICT accessibility and affordability²³
Women as employees and owners	• Proportion of women employed in health care services sub-sectors²⁴ • Proportion of women in telehealth delivery (not available)

The study found that official disaggregated statistics on the data points above are not publicly available. Stakeholders consulted for this study indicated that there was demand for remote consultations and online health services in Malaysia, including telehealth services.

One of the few published studies on this issue analysed 835,826 telehealth service records from Malaysian pharmacies during the pandemic from January 2019 to December 2021. The results indicated that telehealth services were used more widely than direct consultation services, likely because in-person visits were more fraught during this time. It found that 88.8 per cent of consultations were facilitated through e-prescriptions, while the rest were through direct consultation.²⁵ This data shows that women comprised 58.7 per cent of telehealth service customers, highlighting women's strong uptake of digitally delivered telehealth services.²⁶ No publicly available studies appear to focus explicitly on affordability or telehealth preference amongst women in Malaysia.

3.2.2 Mode 2 (Consumption Abroad) Commitments for Health care Services

Under Mode 2, patients from abroad travel to Malaysia to access medical services. This is specifically relevant for medical tourism, a sector in which Malaysia is a key regional player.

In reviewing Mode 2 commitments, the analysis focused on whether Malaysia allows foreign patients to travel into the country to consume medical services and whether there are any restrictions on market access. Malaysia imposed no limitations on Mode 2 for *medical speciality services*, which means that foreign patients are free to travel to Malaysia to receive medical services. The liberalisation of *veterinary services* is not likely to have a significant impact, but it shows Malaysia's openness in specialised service areas. There are also no limitations on *private hospital services*, which is key to Malaysia's medical tourism industry for foreign patients seeking services at Malaysian hospital facilities. Liberalisation of these sub-sectors could increase inbound tourism and increase job opportunities for Malaysian women.

Malaysia has implemented several domestic reforms covering the consumption of health care services by foreign patients in Malaysia (i.e., medical tourism). Malaysia is actively building ecosystems to support this. In 2009, the Malaysian Health care Travel Council (MHTC) was created to promote Malaysia as a global hub for health care travel. It coordinates marketing, accreditation and facilitation services for foreign patients. It also helps streamline visa support for foreign patient access. Further, the Malaysia Health care Travel Industry Blueprint (2021-2025) sets out strategies to position Malaysia as a leading destination for medical tourism by focusing on the quality of services, technology adoption and a patient-centric experience. Malaysia provides an eVISA for Medical for eligible foreign healthcare travellers, complementing MHTC's network of participating member hospitals.²⁷ This could boost Mode 2 health services, growing medical specialty services and private hospital services. The latest Twelfth Malaysia Plan 2021-25 proposes measures to strengthen the provision of holistic end-to-end care in the public and private health care sectors. One of the proposals includes promoting exclusive high-end medical tourism packages for premium medical travellers. The expansion of medical tourism has been a result of national economic strategies, including the classification of health care as a National Key Economic Area (NKEA) under the 10th and 11th Malaysia Plans. ***The Malaysian Government has the goal of positioning Malaysia as a medical tourism leader in the region. AANZFTA and other trade agreements (like the RCEP and CPTPP) provide additional legal certainty and market access, which likely enhances investor confidence, but they have not been the primary drivers of reform.***

To assess the gendered impact of Malaysia's Mode 2 commitments in the health care sector, specifically for women as workers and entrepreneurs, several key data points were reviewed:

Dimension*	Data Points
Women as employees	• Employment data by health care sub-sector • Percentage of women specialists, nurses and pharmacists
Women as business owners	• Proportion in ownership or leadership roles²⁸

* *Women as consumers was not a primary lens, as this mode focuses on foreign patients consuming services in Malaysia.*

Women comprise a substantial share of several health professions in Malaysia. In 2021, women accounted for 94.6 per cent of nurses, 70.1 per cent of dental practitioners and 74.1 per cent of pharmacists.²⁹ However, there is a significant gap in understanding women's leadership,³⁰ which risks reinforcing gendered divisions and preventing women from equitably benefiting from the sector's growth.

Malaysia's healthcare travel industry continued to expand in 2024. The country welcomed more than 1.6 million healthcare travellers, who generated RM 2.7 billion (approximately USD 590 million) in revenue for Malaysia's healthcare sector.³¹ This growth may create additional opportunities across the healthcare sector, but available data do not show how these benefits are distributed by gender. Healthcare travellers to Malaysia have come from a range of markets, including Australia, Bangladesh, China, Hong Kong, India, Indonesia, Japan, the Philippines, Singapore, the United Kingdom and the United States.³² The sustained growth highlights the competitiveness of the sector. However, to conduct a full assessment of the AANZFTA's role in catalysing growth in this sector, granular data would be needed, including a breakdown by gender and nationality, services-specific data, and data on the role of women in delivering and managing services in the value chain. ***During consultations, stakeholders highlighted that medical tourism is growing in Malaysia, especially in the dental sector. However, this sub-sector is not covered under the original AANZFTA, although it is covered under the Second Protocol.*** Stakeholders also stressed the need for proper medical tourism portals and support for dental services.

3.2.3 Mode 3 (Commercial Presence) Commitments for Health care Sector

Under Mode 3, foreign entities establish a physical presence in Malaysia to provide health care services. This mode will likely have the most substantial impact on domestic regulations, as it deals with foreign investment, licensing, ownership caps and joint ventures.

To assess Mode 3 commitments, the study examined foreign ownership limits, national treatment provisions, licensing requirements and sectoral liberalisation to understand how they affect women's ability to attract investment, establish businesses and access services in liberalised sectors. The commitments prescribe that *medical speciality services* can only be supplied by a natural person, with no commitments for foreign corporate presence. Malaysia also lists broad national treatment as 'unbound,' allowing the government to take measures affecting foreign investment and business expansion in the sub-sector. In *veterinary services*, foreign equity is capped at 49 per cent through joint ventures with local partners. *Private hospital services* in Malaysia require an economic needs test and cap foreign ownership at 49 per cent. While these limitations can encourage domestic ownership, they may limit access for women as consumers.^{ix} These restrictions seem designed to protect local ownership, while allowing for modest foreign participation and ownership. While this may protect women-led businesses that engage in health care services through structured foreign partnerships, it could also restrict the availability of affordable, high-quality foreign-operated services, especially for women seeking a wider range of services options.

^{ix} From a comparative perspective, under GATS, Malaysia's commitments were more restrictive, allowing only up to 30 per cent foreign equity. Under AFAS, particularly in the latest package, Malaysia put forward a more liberal position than under the AANZFTA, with 70 per cent foreign ownership permitted.

To assess domestic reforms under Mode 3, the study examined the legal framework, licensing framework, ownership and equity rules, and whether the reforms have been codified to understand how they impact women's ability to invest in or access health care services. Domestically, the regulatory framework governing *medical speciality services* can be found in the Medical Act 1971, which regulates the registration of medical practices through MMC. The Private Health care Facilities Services Act 1998 (PHFSA) governs the licensing and operation of private clinics. In 2012, the MOH issued policy circulars which enabled foreigners to establish stand-alone clinics provided accreditation is obtained through the MMC. However, this was not codified and hence is not legally binding.³³ Relevant to AANZFTA commitments for *private health services*, post-2012, Malaysia undertook significant reforms to open its health care sector to greater foreign investment, which included the removal of foreign equity caps for hospital services, removal of a minimum number of beds, and removal of foreign specialist restrictions.³⁴ This was implemented through the Economic Planning Unit (EPU)/Malaysian Investment Authority (MIDA) (2012 Liberalization Initiative) by MOH via PHFSA licensing framework, as well as specific MOH circulars and licensing practices. It must be noted that these were not codified into legislation. ***This shows that domestic regulatory reforms have, in practice, created more opportunity for foreign entry into health care services than the AANZFTA commitments require.***

To evaluate the gendered impact of Malaysia's Mode 3 commitments in the health care sector, specifically for women as consumers, workers and entrepreneurs, the following data points were investigated:

Dimension	Data Points
Women as employees	• Presence of foreign-operated clinics and gender composition of staff
Women as business owners	• Proportion of joint ventures involving women-owned firms
Women as consumers	• Indirect impact via increased choice and service availability from foreign investment

As of 2021, the MOH reported that there were 8,419 registered private medical clinics in Malaysia.³⁵ However, no data exist on employment in foreign owned clinics, nor is there sex-disaggregated data on joint ventures, or direct evidence on consumer impact of these facilities by gender. ***The lack of data on gender impact under Mode 3 posed a significant challenge in assessing the gender impact.***

3.2.4 Mode 4 (Movement of Natural Persons) Commitments for Health care Sector

Under Mode 4, health care workers from foreign countries can come to Malaysia to work temporarily. Commitments are set out under the Schedule on Movement of Natural Persons and Chapter 9 on Movement of Natural Persons.

For medical specialty services, Malaysia's market access commitments are unbound, except for its horizontal commitments whereby Malaysia reserves the right to impose restrictions. National treatment commitments restrict services to *private hospitals* with at least 50 beds. This requires government approval, and no private individual or group practices are allowed. A qualifying examination ensures that only qualified personnel move to Malaysia to work in the sector. *For veterinary services*, both market access and national treatment commitments are unbound, except as specified in horizontal commitments, which means that Malaysia maintains a high degree of protection over this sector. Horizontal commitments are critical under Mode 4 and often set terms on entry duration, qualification and visa types. Malaysia's horizontal commitments are cautiously open and allow temporary entry for specific categories of foreign individuals— intra-corporate transferees, contractual services suppliers and independent professionals—thereby limiting migration to low skilled health care roles. Licensing and accreditation are required for professionals practicing in Malaysia, and there are practice restrictions. It should be noted that under the original AANZFTA Agreement, provisions on Mutual Recognition Agreements (MRAs) were purely aspirational; however, the Second Protocol introduces stronger cooperation mechanisms that could make MRAs more accessible and operational.

Malaysia has undertaken several domestic and legal reforms that facilitate, to some extent, the temporary entry and practice of foreign health care professionals. These reforms include the Medical Act 1971, which governs registration and licensure of medical practitioners via the MMC. Further, the Allied Health Professions Act 2016 regulates the registration of health professionals, such as physiotherapists and radiographers. The Immigration Act 1959/63 also plays a central role in implementation, as foreign professionals must obtain required authorisation. These applications are endorsed by the MOH. Post 2012, Malaysia has begun to ease restrictions that had constrained the participation of foreign health professionals. **However, some restrictions remain, such as the requirement that foreign medical specialists can only work in hospitals with 100 beds,³⁶ which still exists under the AANZFTA.**

To understand the gendered impact of these commitments, two key data points were explored:

Dimension	Data Points
Women as employees	- The number of foreign health care professionals working in Malaysia, especially from Australia and New Zealand - Data on gender distribution of foreign professionals in health care sector in Malaysia

The research found that while Malaysia is a major destination for labour migration, most incoming workers are in low-skilled sectors, such as construction, agriculture, manufacturing and domestic help,³⁷ rather than in high-skilled health care roles. **There are no data on large-scale recruitments of foreign trained doctors or nurses into Malaysia's health care under Mode 4. On the other hand, Malaysia is experiencing an outbound trend, with many domestic professionals emigrating, which is worth noting but outside the scope of this study.**

3.3 Assessing Gender Impacts of Services Commitments Related to Tourism Sector

Understanding the intersection of trade commitments under the AANZFTA and domestic tourism reforms can provide a valuable entry point for identifying opportunities for gender equality in the tourism sector. Under the original AANZFTA, Malaysia scheduled reservations for the tourism and travel-related services sector under two sub-sectors: hotel, tourist resort, and restaurant services and travel agencies;^x and tour-operator services.^{xi}

The tourism sector is important for women in Malaysia, as it has a substantial female participation. Further, tourism employs many MSMEs, opening opportunities for women in both rural and urban areas.³⁸ It also has low barriers to entry, and women without formal education or capital can enter the sector. While these achievements are encouraging, women in the tourism sector continue to encounter some ongoing barriers. For example, stakeholder consultations highlighted that male competitors actively try to undermine women-led agencies. Compliance in e-commerce – licensing, taxation and consumer protection – has also become more stringent, which, despite improvements in digital infrastructure, creates obstacles for women-owned MSMEs' access to trade.

Services commitments in agreements such as the AANZFTA can support women in Malaysia, as they can create more opportunities for women-owned businesses. To better understand how these commitments have translated into opportunities and challenges for women in the tourism sector, the following sections assess Malaysia's scheduled commitments under the four modes of supply.

^x Including hotel and lodging services (CPC 641), food serving services (CPC 642), and beverage consuming services for consumption on the premises (CPC 643).

^{xi} This service is covered by CPC 7471 and includes services rendered for passenger travel by travel agencies, tour operators, travel information, advice and planning services, services related to arrangement of tours, etc. These services are provided on a fee or contract basis.

3.3.1 Mode 1 (Cross-border Supply) Commitments for Tourism Sector

Mode 1, or cross-border supply, in the context of tourism refers to the delivery of tourism-related services from a foreign country into Malaysia, without the physical movement of the service provider or consumer.

Under Mode 1, Malaysia has placed no limitations on market access or national treatment commitments for either sub-sector. This means that foreign service providers can offer remote services (e.g., through booking platforms, hotel management consultancies and online travel agencies) without any restrictions. Women entrepreneurs in Malaysia could face increased competition from bigger players such as Australia or New Zealand-based travel agencies that cater to Malaysian consumers. Examples of tourism-related services supplied from Australia and New Zealand into Malaysia include platforms such as Wotif.com (Australia). Competition may be influenced by different levels of digital access and technological capacity among Malaysian women-run enterprises. At the same time, increased competition could result in access to a wider variety of services and more competitive pricing for consumers in Malaysia.

Domestically, efforts to empower women in tourism have been ongoing under targeted initiatives, such as the National Tourism Policy; however, these initiatives could be further strengthened to support inclusive and sustainable growth. Women represent a large segment of Malaysia's tourism workforce and own and/or work in tourism-focused MSMEs. **However, the sector's informality and uneven access to credit and formal supply chains may limit the extent to which women can fully benefit from liberalisation efforts.** Many women remain concentrated in lower-paid, entry-level positions with limited job opportunities and face discrimination, while their male counterparts rise to hold relatively high-level leadership positions.³⁹ This highlights the importance of further integrating gender-sensitive considerations into the existing legal framework. The Tourism Industry Act 1992 may benefit from review to better reflect the evolving dynamics of the tourism sector.⁴⁰

Neither the Tourism Act nor the Malaysian Tourism Promotion Board (MTPB) Act explicitly mandates the promotion of digital technologies within the tourism sector. They instead focus on other aspects of tourism, including regulation, licensing, and promotion of tourism activities. Domestic reform measures enshrined in the Tourism Recovery Plan, the National Tourism Policy 2020-2030, and MyDIGITAL seek to integrate digital technologies for the betterment of the tourism sector. **These reforms aim to promote the adoption of online booking systems, virtual engagement tools, cashless payment platforms and digital marketing strategies, which can enhance travel options for consumers in Malaysia and thereby strengthen capacity to deliver tourism services through Mode 1.**

The study sought data points that could help understand the percentage of women-owned enterprises in tourism using digital platforms, market share of locally-owned businesses in the online booking/tourism segment, and revenue trends of women-owned tourism firms pre- and post-liberalisation. This data could help assess participation and competitiveness of women in digital tourism, although further micro-data points may be needed to assess actual impact.

Dimension	Data Points
Women as business owners	Share of women-led enterprises in the online tourism sub-sector
Women as consumers	- Women's access to ICT - Usage of online travel and tourism platforms

Research involving Malaysian micro and small women entrepreneurs found that more than 80 per cent recognised the importance of digital technology and could undertake basic digital activities, although their use of these tools was predominantly for personal rather than business purposes.⁴¹ **There are no available data on women-owned businesses in the tourism sector using digital platforms.** The Malaysia Competition Commission (MyCC) published a report titled "Markets Review on the Digital Ecosystems Under the Competition Act 2010" in March 2025, which discusses the challenges faced by local businesses due to increased competition from foreign e-commerce platforms. It states that Malaysian companies, including those operating in the tourism sector, face increased competition from international sellers, especially from China. The report does not provide gender-disaggregated or country-specific data.⁴²

Stakeholders observed that local travel agencies experience increasing competition from regional and global players, encouraging innovation and diversification. As a result, many agencies have shifted their focus to group bookings, as individual consumers increasingly prefer to make travel arrangements independently through online booking platforms.

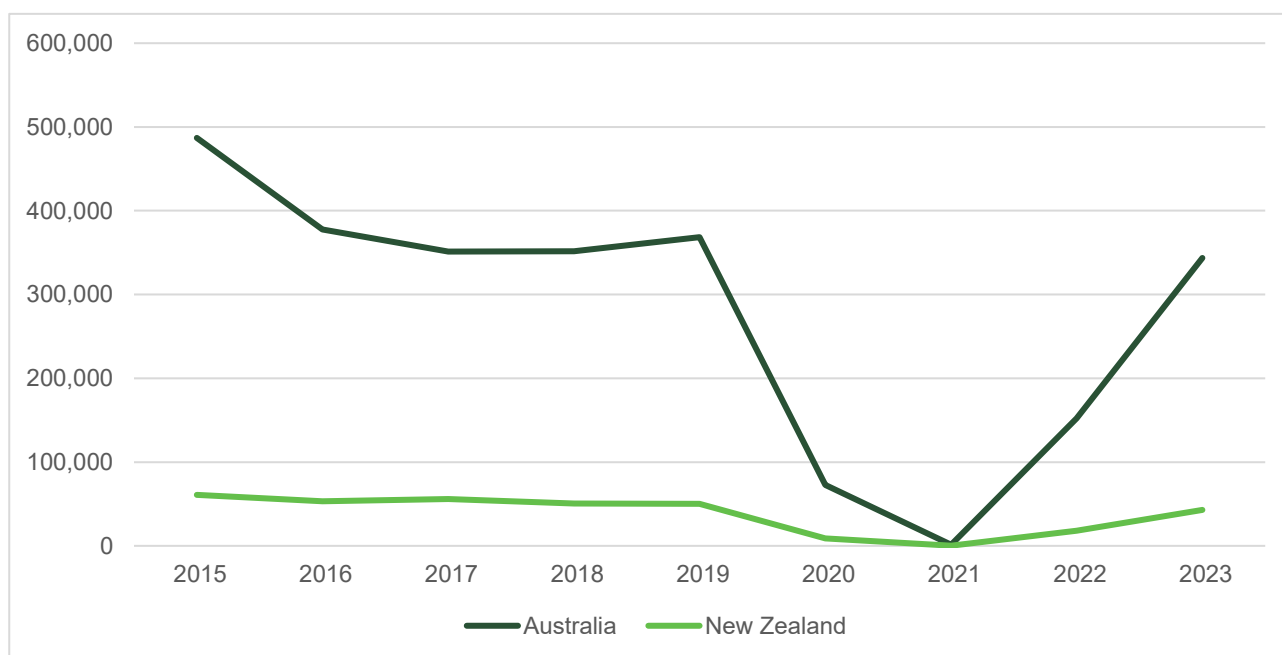
3.3.2 Mode 2 (Consumption Abroad) Commitments for Tourism

Mode 2 refers to foreign tourists travelling into Malaysia to consume tourism-related services, such as accommodation, food and beverage, and cultural experiences. Malaysia has not placed any restrictions under Mode 2 services commitments for tourism, which means that foreign consumers are free to travel into the country and consume hotel, restaurant and tourism services. This liberal approach could have gender-differentiated implications, given the high participation of women in the sector. Increased inbound tourism should expand the customer pool for women-owned businesses, homestays, travel agencies, and restaurants. It could also have spillover effects for other related services. This also means more job opportunities for women in the tourism sector. Women-owned MSMEs also largely operate in an informal or semi-formal manner within the tourism sector in Malaysia. As a result, women may also be disproportionately represented in informal and lower-wage segments, highlighting the importance of measures to enhance job quality and inclusion.

Malaysia has fully liberalised Mode 2 (consumption abroad) for tourism-related services flowing from Australia and New Zealand into Malaysia. Malaysia has implemented domestic reforms that aim to enhance international tourism in Malaysia and streamline entry procedures. These include the Tourism Recovery Plan 2022, which was designed for the post-pandemic revival of domestic and inbound tourism. They also include the National Tourism Policy 2020-2030, the objective of which is to transform Malaysian tourism into a competitive industry. The Visa Liberalization Plan of 2023—which extends the visa validity period from 3 months to 6 months for all countries and establishes social visit pass eligibility for 22 countries (including Australia and New Zealand) for a minimum of 30 days—is also an important development. These reforms directly support and enhance liberalisation objectives under the AANZFTA; however, it has not been possible to directly link any of these initiatives to the AANZFTA.

To assess impact, the study incorporates the growth of tourism from Australia and New Zealand into Malaysia since 2015 by looking at the number of inbound foreign patients and tourists by country of origin (Figure 1).

Figure 1: Tourist Arrivals from Australia and New Zealand into Malaysia



Source: Tourism Malaysia, *Malaysia Tourism Key Performance Indicators 2023*, p.19 and 35.⁴³

The data show that tourist arrivals from New Zealand or Australia into Malaysia between 2015 and 2023 have remained modest. This may be due to comparatively smaller populations in these markets, as well as the fact that ASEAN Member States benefit from the ASEAN Free Trade Area (AFTA). Australian tourists averaged between 350,000 and 480,000 annually before the pandemic, while tourists from New Zealand averaged around 50,000-60,000. Tourists from Australia constituted less than two per cent, and those from New Zealand constituted less than one per cent, of Malaysia's total international tourist arrivals. ***The expectation from liberalisation under Mode 2 would have been a higher inflow of tourists into the country; however, the modest rates suggest that AANZFTA's liberalisation has yet to translate into a noticeable increase in arrivals.*** This may be due to multiple factors, including the fact that tourism does not just depend on the two sub-sectors that have been liberalised (hotels and travel agencies). Further, there may be other competitive regional markets such as Thailand, Bali (Indonesia), and Vietnam, which are popular with tourists from Australia and New Zealand. Stakeholders confirmed that they do not see Australia and New Zealand as primary markets for promoting tourism services.

To assess gendered impact, the study explored the following data points; however, this data was unavailable.

Dimension	Data Points
Women as employees	Data on women employed in tourism sub-sectors serving foreign tourists⁴⁴
Women as business owners	Share of women-owned tourism businesses serving inbound tourists

3.3.3 Mode 3 (Commercial Presence) Commitments for Tourism Sector

Under Mode 3, foreign entities establish a commercial presence in Malaysia to provide tourism services. This involves FDI into Malaysia. Under Mode 3, Malaysia takes a cautious approach to the tourism and hospitality sectors, in that it restricts investment in high-value services segments.

For *hotel, tourist resort and restaurant services*, Malaysia places significant limitations on market access, especially for four- and five-star establishments, where foreign service providers can only participate through joint ventures with a Malaysian individual or Malaysian controlled corporation.^{xii} Aggregate foreign shareholding in the joint venture must not exceed 49 per cent. Malaysia has not imposed limitations on national treatment, which means that foreign service providers need to be treated on par with domestic firms. Similarly, for *travel agency and tour-operator services*, market access is only available for inbound travel services through a joint venture with a Malaysian individual or Malaysian controlled corporation, and aggregate foreign shareholding in the joint venture must not exceed 49 per cent.⁴⁵

As with the hotel sector, there are no limitations on national treatment, indicating that foreign service providers must be treated the same as local service providers. The emphasis on local control could help women owners retain revenue control; however, this depends on whether women owners are represented equally in the upstream tourism value chain. This could provide women-owned businesses the opportunity to partner with foreign corporations while also protecting domestic opportunities. Domestically, these regulations are enforced through administrative practice and investment guidance provided by MIDA and MOTAC. These are not explicitly codified under the Tourism Act, leading to legal ambiguity. The Promotion of Investment Act 1986 also supports foreign investment but defers to sector-specific equity ceilings. Malaysia's AANZFTA Mode 3 commitments for tourism services differ in several respects from the foreign-equity limits published by MIDA, as shown in Table 1.

^{xii} CPC 64110 includes lodging and related services typically provided by hotels. Related services comprise services normally furnished with and included in the lodging price and include room service, desk service, mail service, and bellboy service. Other services, such as entertainment, swimming pool, banquet, and convention centre, etc., if not charged separately, are included as well.

Table 1: Comparison of AANZFTA Mode 3 Commitments and Published Foreign Equity Limits

Sub-sector	AANZFTA Mode 3 Commitments	Published Foreign Equity Limit	Comments/Contrast
Hotels (1-2 star)	Not explicitly limited	0 per cent foreign equity	Only Malaysians can own
Hotels (3-star)	No limitations	70 per cent	Loosely aligned with AANZFTA; partial liberalisation
Hotels (4-5 star)	Only allowed via joint ventures; foreign shareholding not to exceed 49 per cent	100 per cent	Contradiction; practice appears more liberal than AANZFTA
Theme parks/ convention centres/ health care	Not scheduled or bound under tourism services (may fall under other categories)	100 per cent	Not part of AANZFTA commitments; reflects unilateral liberalisation
Recreational parks/ other tourism project	Not specific	51 per cent	Shows domestic policy discretion; not bound under AANZFTA
Inbound travel agencies	Only allowed via joint ventures, foreign shareholding not to exceed 49 per cent	Singapore/Cambodia: 70 per cent Other ASEAN: 51 per cent Non-ASEAN: 30 per cent	Less liberal in practice than AANZFTA commitments

Sources: AANZFTA Annex 3 – Malaysia’s Schedule of Specific Services Commitments, p.69-70; WTO, *Trade Policy Review: Malaysia (2022)*; and Malaysia Investment Development Authority (MIDA), *Hospitality Sub-sector*.⁴⁶ The final column contains the authors’ comparison and analysis. The comparison reflects the AANZFTA commitments and published investment guidance available at the time of the cited sources.

This shows that Malaysia’s framework for foreign participation in the tourism sector is shaped primarily by domestic reforms rather than AANZFTA obligations. This suggests that the agreement itself may have only had a limited impact on the sector.

3.3.4 Mode 4 (Movement of Natural Persons) Commitments for Tourism Sector

Mode 4 covers the temporary movement of service providers into Malaysia. These include intra-corporate transferees, business visitors, independent professionals and contractual services suppliers. The AANZFTA Mode 4 commitments relating to tourism are set out under the Schedule on Movement of Natural Persons and Chapter 9 on Movement of Natural Persons. These include sector-specific commitments in tourism, specifically on hotel, resort, restaurant services and travel agency services. These are compared below with horizontal commitments, highlighting the relevant domestic regulatory framework and assessing the implications for Malaysia’s tourism workforce and services trade.

For *hotels, tourist resorts, restaurant services, travel agencies and tour-operator services*, no specific commitments were listed; therefore, there are no liberalisation commitments beyond horizontal commitments that applied across services. There are also no national treatment commitments. Under horizontal commitments, Malaysia retains the right to impose limitations concerning the stay of senior management (maximum 10 years), experts (maximum 10 years) and business visitors (maximum 90 days), with these

limitations noted in horizontal commitments in the schedule, meaning that they apply to all sectors. The absence of specific liberalisation for hotel and travel services under Mode 4 restricts foreign professional participation in the Malaysian tourism sector. This is a protective approach, possibly intended to preserve employment opportunities for local service providers, many of whom are women.

Malaysia's Mode 4 regime is implemented through immigration laws and work pass regulations, not sector-specific regulations. Key instruments include the Immigration Act 1959/63, which governs entry permits, employment passes and visa categories; the Expatriate Services Division, which handles work permits for foreign workers; and the Tourism Industry Act 1992, which requires licensing of tour guides and agencies and indirectly restricts foreign workers. While no major legislative amendments have been made to liberalise the movement of natural persons into Malaysia with respect to the tourism sector, administrative reforms such as digitising the Integrated Foreign Workers Management System (ePPAx) portal have streamlined cross-border mobility in border services. Malaysia's Mode 4 commitments are primarily reflected in its horizontal commitments, with no specific liberalisation for tourism-related sub-sectors. This means that foreign service providers remain restricted in this area. It may be beneficial to revisit the conservative approach to Mode 4 commitments in line with the robust growth of the sector.

Data points used to assess gender impact in Mode 4 commitments for the tourism sector include:

Dimension	Data Points
Women as employees	• Data on gender distribution of foreign tourism professionals in Malaysia • Broader migration data

There is no evidence of large-scale recruitment of foreign professionals as tour operators, hospitality managers or specialised tourism services providers under Mode 4 for tourism services. A study of 258 migrant workers employed in Langkawi's tourism and hospitality sector found that the majority were semi-skilled, male workers from Indonesia, working in accommodation and food services roles and not in managerial or professional positions.⁴⁷ ***Given the lack of data and minimal presence of skilled foreign entrants, the gender impact of Mode 4 commitments is limited and difficult to assess.***

3.4 Assessing Gender Impacts of Electronic Commerce as a Priority Sector for Gender Equality and WEE

This section sets out findings related to the e-commerce sector, responding to research questions 2, 3 and 4. It examines the nature of commitments under the AANZFTA as reflected in Malaysia's schedule, reviews domestic reforms and uses data to assess potential gender outcomes. The analysis of Chapter Ten commitments is organised into three overarching categories: cooperation, trade facilitation, and consumer and data protection.

3.4.1 General and Cooperation Provisions

General and cooperation provisions within Chapter Ten of the AANZFTA address a broad range of issues, including economic cooperation, domestic regulatory harmonisation and digital inclusion. These provisions are analysed below, including in relation to how binding they are in construction. This category effectively operates as a catch-all that encompasses provisions that do not fit within trade facilitation or consumer and data protection provisions.

a. Textual Analysis

The first category of relevant provisions includes General and Cooperation provisions, which encompass Articles 1 (Objectives), 3 (Transparency), 4 (Domestic Regulatory Frameworks), 9 (Co-operation on Electronic Commerce) and 10 (Non-Application of Chapter 17, Consultations and Dispute Settlements). They address a variety of issues, including the objectives of Chapter 10, definitions of the terms included within, domestic regulatory harmonisation, and cooperation between the parties on electronic commerce issues.

Article 1 of AANZFTA Chapter 10 establishes the objectives around promoting and facilitating cooperation on e-commerce across AANZFTA parties, which is critical to shape an inclusive digital trade ecosystem. Embedding gender strategies in cooperation efforts could help support women in e-commerce.

Article 9 encourages cooperation in areas such as assisting MSMEs, sharing best practices and cooperating to promote electronic commerce.⁴⁸ The text here is extremely broad, lacking specificity and clear obligations for the Parties. Therefore, Parties are mostly responsible for defining the level of cooperation on these issues. Given that the majority of women-owned businesses in Malaysia are MSMEs, adequate support—through capacity building, regulatory reforms, or targeted programs—should be a priority. Increasing the adoption of e-commerce tools among women-owned MSMEs would significantly grow the e-commerce market in Southeast Asia.

Article 4 of Chapter Ten of the AANZFTA on domestic regulatory frameworks⁴⁹ calls on each Party to adopt or maintain domestic laws governing e-commerce in line with international standards, such as the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Commerce 1996. In the Second Protocol of the AANZFTA, this provision was expanded to also include the United Nations Convention on the Use of Electronic Communications in International Contracts of 23 November 2005 and other applicable international conventions and model laws on electronic commerce.⁵⁰ These commitments could streamline cross-border e-commerce and lower compliance burdens on the Parties. However, due to the inclusion of qualified language—namely “as soon as practicable”—the provision is only partially binding and will rely on domestic implementation by FTA Parties. In the context of Malaysia, efforts were already underway during the AANZFTA’s negotiation to implement Article 4.⁵¹

A particularly relevant addition within the Second Protocol is **Article 19** on Digital Inclusion.⁵² This article does not explicitly mention women or gender equality. However, it does stipulate that the parties recognise the importance of ensuring that “all people and businesses including MSMEs” can participate in, contribute to and benefit from digital trade and e-commerce. The likely outcome would be that this provision could help to raise awareness or highlight gender-related issues, but effectively addressing the issue of digital inclusion will require domestic and regional efforts by the Parties.

b. Domestic Reforms Relating to General and Cooperation Provisions

Malaysian domestic policy reforms closely mirror Articles 1, 4, 9 and 19, which aim to foster economic cooperation, regional harmonisation and digital inclusion. For example, Malaysia’s 2006 E-Commerce Act lays the groundwork for recognition of electronic transactions in Malaysia through referencing and including specific provisions from the UNCITRAL Model Law. This closely mirrors Article 4 of Chapter Ten of the AANZFTA. It provides clarity on the legal status of electronic messages, signatures, communications and contracts, giving consumers and businesses the confidence to partake in electronic transactions and digitise their processes where possible. Despite the progress that the E-Commerce Act shows, it is unclear whether this was directly a result of the AANZFTA. The passage of the Act did overlap with the AANZFTA negotiation process, which began in 2005, but it does not align with the entry into force of the AANZFTA in 2010. While there is some temporal and subject-matter overlap between the AANZFTA and the E-Commerce Act, it is unclear whether there is a causal link.

Parallel to these efforts, Malaysia’s National E-Commerce Strategic Roadmap (NESR) and Malaysia Digital (MD) initiatives aim to boost e-commerce adoption by MSMEs. At face value, the NESR pursues the increase of MSME e-commerce adoption, with a goal of 1,148,000 MSMEs adopting e-commerce by 2025 and 84,000 businesses adopting e-commerce for export by 2025.⁵³ These goals are ambitious, and, based on the most recent data published by SME Corp, there were 1,101,725 MSMEs in Malaysia in 2023.⁵⁴ While that is the most recent available figure, the data show that the NESR and Malaysia Digital Economy Corporation’s (MDEC) goals require the vast majority of Malaysian MSMEs to have adopted e-commerce by 2025. These goals are particularly relevant in the context of Article 9 of Chapter Ten of the AANZFTA on cooperation between the FTA parties to promote MSME use of e-commerce and encourage the promotion of e-commerce. However, these initiatives are focused domestically on Malaysia, without much cooperation with other FTA parties. The primary implementer of these initiatives is MDEC, which did not participate in consultations, and, as a result, it was not possible to obtain detailed data on their activities to support Malaysian women, MSMEs, and entrepreneurs in digitising and utilising e-commerce.

c. Gender Impact of Digital Cooperation Initiatives

The impact of general and cooperation provisions primarily comes down to their implementation and translation into actual cooperation efforts that tangibly improve the e-commerce landscape for women. This usually takes the form of technical assistance or capacity building. For example, under the Regional Trade for Development (RT4D) program funded by Australia and New Zealand, e-commerce initiatives focused on strengthening ASEAN's capacity to implement AANZFTA's upgraded digital trade provisions and promote inclusive, rules-based online markets. Under the project *Promoting Cross-Border Electronic Commerce*, RT4D supported policymakers through consultations, analytical studies and a regional workshop in Jakarta to enhance understanding of cross-border data transfer and localisation rules. These activities equipped officials with practical knowledge to design interoperable, business-friendly data regulations. The *AANZFTA Business Engagement Roundtables* further strengthened public-private dialogue and ensured that trade benefits everyone including MSMEs, women and people with disability. These are examples of opportunities that are available for women within the Southeast Asian e-commerce market, with an estimated \$300 billion USD in growth if gender disparities are addressed.⁵⁵

Domestic initiatives led by MDEC, such as the NESR and MD, appear to be unrelated to AANZFTA.

The landscape in Malaysia in relation to initiatives to support women in e-commerce has fluctuated over time. For example, the Women Exporters Development Program, previously run by MATRADE, ended earlier this year based on consultations with MATRADE. This was the primary program directed specifically at supporting women in gaining access to additional markets through export. However, other programs have been started, with EmpowerHER, launched in 2025 to support women entrepreneurs and women-owned MSMEs through digital transformation, as the most notable effort in the digital space.⁵⁶ This program is organised by MDEC and the Ministry of Digital, highlighting the government's focus on the need to support women through the digital transformation. Other programs are directed at MSMEs on a non-gendered basis.

One essential aspect of cooperation provisions is their potential to highlight certain issues and bring them to the forefront, even if those provisions do not necessarily constitute a tangible or substantive obligation for the parties. An example of this is Article 9 (1(a)) of the AANZFTA, which sets out cooperation to assist MSMEs with obstacles related to e-commerce. This is clearly also a priority for the Malaysian government, as highlighted in both the Twelfth Malaysia Plan and the NESR, both of which prioritise inclusive economies through the involvement of women and MSMEs. Malaysian MSMEs contributed one-third of the country's GDP in 2023 but have so far struggled to digitalise.⁵⁷ ***This highlights both the need for further efforts through the AANZFTA and domestic Malaysian instruments, as well as the growth potential within the Malaysian e-commerce sector (even though Malaysia already has the largest e-commerce sector among the ASEAN-6).***

Another aspect related to the inclusion of MSMEs in Article 9 on cooperation is the fact that women-owned establishments in Malaysia overwhelmingly fall within the MSME category. MSMEs in Malaysia make up 97.4 per cent of all establishments, with women owning 20.6 per cent of the MSMEs.⁵⁸ This clearly highlights how MSMEs are the backbone of the Malaysian economy and, further, how women are significantly involved in MSMEs. As a result, an increased focus on supporting MSMEs in the adoption of digital tools and e-commerce will significantly impact women. ***However, increased MSME support for e-commerce adoption is not necessarily gendered with intention or by design, and a strong causal link to the AANZFTA is not possible, since both the RCEP and the CPTPP contain cooperation provisions in relation to support for MSMEs.*** The ASEAN Agreement on E-Commerce also acknowledges the importance of reducing barriers facing MSMEs in its preamble.⁵⁹

According to Economic Census data, the proportion of Malaysian MSMEs involved in e-commerce increased only modestly, from 4.8 per cent in 2015 to 6.6 per cent in 2022.⁶⁰ SME Corp's MSME Survey 2023 found that 31.4 per cent of MSMEs utilised e-commerce.^{xiii} While these surveys and censuses highlight the significant growth of Malaysia's MSME e-commerce utilisation, they also show that this remains well below potential, especially for a country with a highly developed digital and internet infrastructure. ***Additionally, consultations with SME Corp, an agency under the Ministry of Entrepreneurs Development and Cooperatives (MEDC), revealed a lack of awareness of AANZFTA amongst MSMEs in Malaysia for***

^{xiii} These statistics were provided in a written response by SME Corp, in lieu of consultations.

cross-border trade. This naturally poses obstacles for assessing the AANZFTA's impact. SME Corp also confirmed that they had not been a part of any cooperation efforts under the purview of the AANZFTA, further confirming limited awareness of the FTA. SME Corp and partners in the Malaysian government are still implementing programs to support women entrepreneurs in the digital trade space, but these programs are unrelated to the provisions of the AANZFTA. These include the Women Entrepreneurs Financing Programme (WEFi) and the MSME Digital Transformation Programme conducted by MDEC.

3.4.2 Digital Trade Facilitation Provisions

Digital trade facilitation provisions in the AANZFTA focus on facilitating digital trade through paperless trading, electronic signatures, and electronic authentication. These provisions, depending on the level of domestic implementation, could improve the ease of doing business, build confidence in electronic transactions and allow more access to cross-border trade through digitisation.

a. Textual Analysis

Article 5 of the AANZFTA's original text outlines that parties are required to, as soon as practicable, implement measures that permit the use of appropriate electronic authentication methods for businesses, not limit the recognition of authentication methods and models, and permit participants in electronic transactions to prove compliance with their authentication methods.⁶¹ Simultaneously, Article 5 requires that the parties encourage the interoperability of digital certificates and promote the mutual recognition of digital certificates and signatures recognised by the Parties to the Agreement.⁶²

Article 8 of the AANZFTA promotes paperless trading, requiring that parties implement initiatives, where possible, that provide for the use of paperless trading, cooperate to enhance the acceptance of electronic trade documents, endeavour to make their own electronic trade administration documents publicly available and take into account the methods utilised by the World Customs Organization and other international organisations while implementing paperless trading.⁶³ Paperless trading can play a critical role in ensuring an easier trading process from start to finish through digitisation, limiting the need for interactions with customs and government officials. However, through the use of the language, "where possible," significant discretion is provided to the FTA Parties, effectively allowing them to choose what measures to implement and the extent of their enforcement.

The Second Protocol incorporates additions to digital trade facilitation provisions, most notably the addition of Article 13 on Customs Duties, which seeks to maintain the WTO Moratorium on Customs Duties on Electronic Transmissions within the context of the AANZFTA.⁶⁴ This is particularly relevant to ensuring that additional burdens are not placed on MSMEs and women entrepreneurs through the addition of customs duties after the possible expiration of the WTO Moratorium in 2026.⁶⁵ ***While these aspects are not unique to women, and the expected impact would not be gendered in nature, studies have shown that MSMEs would face a greater burden if have to pay customs duties on electronic transmissions, which makes this particularly relevant to women, as the majority of women-owned establishments are MSMEs.***⁶⁶

b. Domestic Reforms Relating to Digital Trade Facilitation Provisions

Digital trade facilitation provisions have been incorporated into Malaysian law to some extent. The Malaysian E-Commerce Act 2006 and the 2007 amendment to the Consumer Protection Act were both enacted during the negotiation period of the AANZFTA, which began in 2005. These provisions almost directly implement provisions from the AANZFTA, specifically Articles 5, 6 and 8 from Chapter Ten of the AANZFTA on the recognition of electronic authentication, online consumer protection, and paperless trading.⁶⁷ While these regulations directly align with the aforementioned Articles, drawing a direct causal link between these instruments and the AANZFTA is difficult. However, there is a clear temporal and subject-matter relationship. Unfortunately, confirming a causal link between the AANZFTA and policy changes was difficult due to the absence of consultations with MDEC.

The 2006 E-Commerce Act is designed to implement and legitimise the use of electronic means in communications, contracts and transactions.⁶⁸ The legislation provided electronic certification and signatures with the same legal standing as those done by hand, creating a domestic legal framework that builds confidence in electronic commerce and transactions. Significantly, this draws directly from the text and

format of the UNCITRAL Model Law on E-Commerce, which must be implemented in accordance with Article 4 of AANZFTA Chapter Ten.⁶⁹ ***This highlights the level of connection between the AANZFTA provisions and reforms taking place within Malaysia during the negotiation process. It also suggests a potential causal link between the AANZFTA and domestic reforms in Malaysia, which could signify a direct impact on women through AANZFTA provisions, but the confirmation of such a link should be treated with caution pending confirmation from government ministries.***

c. Gender Impact on Women of Digital Trade Facilitation Commitments

Digital trade facilitation provisions and relevant domestic reforms are gender-neutral and may not seem to have differential impacts on women in any way. However, improving access to trade through digitisation, electronic certification and electronic transactions could offer significant opportunities for MSMEs and women as entrepreneurs, workers, and consumers. Crucially, a failure to support women in the ongoing digitisation of Malaysia could further exacerbate gender inequalities and leave significant economic gains on the table. Still, while the benefits of these provisions may improve trading opportunities for women due to the obstacles they face, these provisions are not gendered, and their benefits, following effective implementation at the domestic level, are likely to be broad in effect.

Electronic trade facilitation should also significantly reduce compliance costs and time burdens faced by MSMEs and women by streamlining procedures and improving transparency. It can also reduce reliance on intermediaries and curb corruption, making it easier for women to engage in cross border trade. Reduced time and compliance burdens through electronic trade facilitation measures, including paperless trading, digital customs measures and electronic transactions, could also help women balance home and business responsibilities.⁷⁰ However, this is by no means a silver bullet, and the AANZFTA in and of itself cannot solve these issues. Malaysian initiatives related to implementing and providing education on electronic trade facilitation, as well as broader efforts to offer services, such as affordable child and elderly care, are still needed to address those larger issues.⁷¹

Similar to the general and consumer and data protection categories, the AANZFTA is the first FTA to which Malaysia is a party that included digital trade facilitation provisions. As a result, changes in legislation, such as the E-Commerce Act, which took place during the negotiation of the AANZFTA, likely have some connection with the AANZFTA negotiation process. However, this finding should be treated with caution pending confirmation by MDEC and MITI. While the E-Commerce Act has definitely impacted women by providing legitimacy and legal weight to electronic transactions and contracts, laying the legal foundation for e-commerce, a causal link with the AANZFTA should be confirmed.

The upgraded Agreement could further assist MSMEs, according to SME Corp, particularly due to Article 13 and the maintenance of the WTO Moratorium on Customs Duties on Electronic Transmissions.⁷² As a result, MSMEs in Malaysia, including women-owned businesses, should be able to maintain competitive pricing of their products and maintain access within the AANZFTA market. Although this impact is neither gendered in nature nor unique to women, it remains highly relevant due to the prevalence of women among MSMEs, which may not be able to cope with the increased costs if the Moratorium were allowed to lapse.

3.4.3 Consumer and Data Protection Provisions

Consumer and data protection provisions address a broad range of issues, with recent expansions, including in the areas of cybersecurity and access to government data. These provisions are analysed below in the context of their text and bindingness, the domestic reforms that stem from the provisions and their potential impact on gender equality in Malaysia.

a. Textual Analysis

Consumer and data protection provisions primarily relate to the protection of private data and the development of consumer protection frameworks for e-commerce domestically. In both cases, the onus is placed on the AANZFTA Parties to ensure the implementation of rules that protect data privacy and consumers, both of which are aimed at providing important legal protection and improving the confidence of consumers and businesses utilising electronic transactions and digital platforms. Articles 6 and 7 of the original AANZFTA text fall within this category.

Article 6 addresses online consumer protection and requires that the Parties, where possible, shall provide electronic consumers with at least an equal level of consumer protection provided for other forms of commerce.⁷³ While this is qualified by “where possible,” the provision does set a high standard for FTA Parties by providing at least an equivalent level of protection to all consumers. This should improve confidence in electronic transactions, promoting growth in the sector while also ensuring that consumers are protected. However, it could also cause a higher compliance burden for MSMEs, which would need to ensure that they meet consumer protection rules.

Article 7 requires that Parties to the AANZFTA protect the personal data of e-commerce, stating explicitly in Article 7.1 that “each Party shall, in a manner it considers appropriate, protect the personal data of the users of e-commerce.”⁷⁴ However, Article 7(2) provides a significant exception, clarifying that a “Party shall not be obliged to apply paragraph 1 before the date on which that Party enacts domestic laws and regulations to protect the personal data of e-commerce users.”⁷⁵ In theory, this could allow a Party to simply avoid implementing this provision completely, especially considering that dispute settlement does not apply to Chapter Ten.⁷⁶ However, in practice, many of the Parties do have online data protection laws, and Malaysia specifically implemented legislation following the AANZFTA’s entry into force.

Consumer and data protection are also two key areas of contention that require significant effort and continued cooperation among Parties to ensure the highest standards, especially due to the vulnerability of parties involved in e-commerce. This is relevant both for the protection of personal data and for the protection of consumers in relation to sensitive data shared in purchases and the mitigation of data breaches and fraud, which are clear risks associated with the e-commerce sector. Another consideration for entrepreneurs and workers involved in this space is the litany of regulatory requirements that must be followed to engage in e-commerce and trade abroad, with the notable example of the EU’s General Data Protection Regulation (GDPR), which impacts any business that handles the data of EU consumers.

Consumer protection also has gender implications, especially as female consumers tend to both be vulnerable online and make many decisions when it comes to household consumption.⁷⁷ Ensuring that women and other consumers in the e-commerce sector have the necessary information and protections afforded to other sectors could ensure more inclusive markets. AANZFTA’s provisions (including Articles 6 and 7) could help ensure that Parties implement certain minimum standards for consumer and data protection. While progress is not insignificant, more could be done through the AANZFTA on online data and consumer protection, especially through provisions that highlight the unique gender implications of e-commerce, particularly as related to data protection and consumer protection.

b. Domestic Reforms on Consumer and Data Protection

Malaysia’s 2007 amendment to the Consumer Protection Act 1998 is significant in that it directly follows Article 6 of the AANZFTA and expands existing consumer protection to all online and e-commerce transactions.⁷⁸ The Amendment adjusted Section 2 regarding the application of the Consumer Protection Act 1999 to add “including any trade transaction conducted through electronic means.”⁷⁹ This expanded the scope of the Act to encompass e-commerce, thus providing the same level of protection for e-commerce as is provided for other forms of commerce, in line with Article 4 of Chapter Ten of the AANZFTA.

Additionally, Article 7 of Chapter Ten of the AANZFTA was implemented by Malaysia shortly after the entry into force of the AANZFTA through the passage of the Personal Data Protection Act in 2010.⁸⁰ The Act covers entities that process data as well as rights for those who are having their data processed.⁸¹ The protections under the Act are quite extensive and clearly align with Article 7 of the AANZFTA. While there are a clear temporal and subject-matter link between the AANZFTA and the Personal Data Protection Act, it is likely that the Act was already under development prior to the entry into force of the AANZFTA. While a direct causal link cannot be confirmed without consultations with MITI and MDEC officials, it appears as though the AANZFTA negotiations acted as an incentive for passage of this and other legislation.

c. Gender Impact of Consumer and Data Protection Provisions

The AANZFTA was likely a catalyst for enactment and amendment of domestic Malaysian legislation, and a textual analysis of these instruments shows an alignment in substance and timeframe. The AANZFTA was the first Malaysian FTA to include consumer protection and data privacy provisions in the context of e-commerce, with many other FTAs following suit in the ensuing decade. As previously mentioned, the 2007

Amendment to the Consumer Protection Act overlapped with the AANZFTA negotiating period, and the Personal Data Protection Act was passed eight months after the AANZFTA's entry into force.⁸² This seems to highlight a connection, especially considering that Malaysia did not have any other agreements that included consumer and data protection provisions in the context of e-commerce at that time.

However, the direct impact of these changes specifically on women in Malaysia is difficult to ascertain due to the limited availability of data on e-commerce and in the absence of consultations with MDEC. The policy changes clearly had an impact on the Malaysian e-commerce market as a whole, with significant growth over the years. While e-commerce data for Malaysia do not go back to 2010, it is estimated that the sector grew from RM 26 billion (USD 5.9 billion) in 2016 to RM 38 billion (USD 8.6 billion) in 2022, and is expected to grow to RM 67.1 billion (USD 15.3 billion) in 2026.⁸³ E-commerce has also been growing as a share of GDP from 7.6 per cent in 2015 to 13.6 per cent in 2023.⁸⁴ All of these signs point to the growing confidence in e-commerce, likely due in part to the COVID pandemic, where electronic transactions were often the only option.

The growth of the e-commerce sector can also offer significant benefits to women as entrepreneurs and workers if they are supported in capitalising on these benefits. As shown by the ITC SheTrades report on Malaysia, Malaysia ranks highly in access to education and skills, ensuring that workers and entrepreneurs can develop the prerequisite skills to participate in the sector.⁸⁵ However, access to skills is only one aspect of the enabling environment, with other aspects such as support from MITI staff and knowledge of gender issues in trade remaining important areas for improvement in Malaysia.⁸⁶ Consumer protection and data privacy play a key role in continuing to boost the growth of the Malaysian e-commerce sector by providing consumers with the confidence and legal certainty to engage in e-commerce.

4 RECOMMENDATIONS

The recommendations below are tailored to key stakeholders involved in developing and implementing domestic reforms related to the AANZFTA. They seek to advance gender equality and inclusive trade in the context of AANZFTA's ongoing implementation and provide insights to inform the design and rollout of future trade agreements.

4.1 Policymakers

Policymakers play a key role in aligning domestic reforms and legislation with commitments undertaken in trade agreements. The original AANZFTA did not contain gender-specific provisions; therefore, it did not impose any obligations on Malaysia to initiate gender-responsive reforms under the Agreement. The inclusion of WEE elements in the upgraded agreement (Second Protocol) underscores the need for targeted policymaking in this area.

The recommendations below suggest ways that Malaysia and other Parties to AANZFTA can advance gender equitable outcomes by incorporating gender provisions in trade agreements, adopting gender-responsive domestic trade policies, capacity building to help women-owned enterprises take advantage of FTA-related opportunities, improving the collection of sex-disaggregated data and collaborating with industry associations to promote WEE and trade.

4.1.1 Gender Mainstreaming in Trade Agreements

The original AANZFTA does not include explicit references to gender equality, which likely contributed to the absence of a gender-responsive approach in its implementation. The Second Protocol introduces the Trade and Sustainable Development (TSD) chapter, the first of its kind in the ASEAN region, which establishes a framework for cooperation among Parties to advance sustainable, inclusive, and equitable trade. The Chapter also recognises the importance of collaborating on women's economic empowerment issues, although WEE is not listed among the agreement's formal cooperation areas.^{xiv} This could encompass

^{xiv} Article 2 – Co-operation of Chapter 13 on Trade and Sustainable Development specifies that economic co-operation may cover topics related to: climate and environment, the green and blue economy, circular economy in manufacturing, energy, labour, issues under the Sustainable Development Goals and any other areas as mutually agreed by the Parties.

measures to promote gender inclusion in services and e-commerce, consistent with AANZFTA's gradual liberalisation of professional services such as dental services, and the digital inclusion provisions aimed at fostering equitable participation in the digital economy. However, this approach remains modest and less explicit than WEE focused commitments in agreements such as the CPTPP, to which Malaysia is a party.^{xv} To address these challenges, policymakers in Malaysia could consider the following:

1. Continue to incorporate gender-responsive provisions and obligations in future trade agreements. For guidance, policymakers could look to agreements signed by countries such as Canada, Chile, the European Union, and New Zealand for examples of tailored provisions and comprehensive gender chapters.
2. Consider targeted gender-responsive provisions such as non-discrimination in provision of services; commitments to improve women's access to finance and ICT; gender-specific provisions in labour, MSME or sustainable development chapters; commitments to deliver capacity building for women-owned MSMEs, including in services sectors and e-commerce; and obligations to collect gender-disaggregated data and conduct gendered impact assessments of FTAs.
3. Join the WTO's Joint Statement Initiative on Services Domestic Regulation (JSI-SDR).
4. Ensure that trade committees include gender experts or focal points to offer guidance on decision-making.

4.1.2 Strengthen Gender-Disaggregated Data Collection and Stakeholder Engagement

To design and implement effective gender-responsive trade policies, evidence and stakeholder engagement are critical. Comprehensive sex-disaggregated data would enable more complete assessment of the impact of trade liberalisation on women as leaders, workers, and consumers. Strategies to build more robust data systems to better capture and understand the gender related impacts of trade include:

1. Collaborate with agencies such as the ILO to invest in data collection and publication of sex-disaggregated data related to employment, firm ownership, and participation in trade-related sectors and sub-sectors (specifically in health, tourism, and e-commerce).
2. Collect sector-specific data and cross-border data on women's participation in joint ventures with foreign investors and FDI flows into Malaysia (specifically in the health and tourism sectors).
3. Focus on sex-disaggregated and country-specific data collection in emerging sectors such as telemedicine and medical tourism.
4. Engage women's business associations, MSMEs and industry-specific networks in ongoing private sector consultations to better understand the needs and challenges faced by women in trade, and design targeted support including literacy, upskilling and access to technology to enable women's participation in digitally delivered services.

4.1.3 Expand Trade Commitments and Support Infrastructure for Services

To fully realise the benefits of a trade agreement, it is important that trade commitments are aligned with domestic reform efforts. The AANZFTA (original agreement and Second Protocol) has shown alignment with some of Malaysia's domestic reforms. Malaysia's services schedule under the Second Protocol has yet to be updated, and there remains scope to continue aligning ongoing reforms. The recommendations below propose measures to promote inclusive growth, enhance digital readiness and build an enabling environment for women in the services economy:

1. Identify and liberalise services sectors with high women's participation and potential for growth, such as dental services (under the health care sector) or cultural services (for the tourism sector).

^{xv} Article 23.4: Women and Economic Growth of the CPTPP specifies that parties shall consider undertaking cooperative activities aimed at enhancing the ability of women, including worked and business owners, to fully access and benefit from the opportunities created by the Agreement. The article specifies activities that may include: (i) programmes that help women build their skills and capacity, and enhance their access to markets, technology and financing, (ii) developing women's leadership networks and (iii) identifying best practice related to workplace flexibility.

2. Capitalise on the absence of market access and national treatment limitations under Mode 1 and Mode 2 for both the health care and tourism sectors by investing in digital upskilling of women-led MSMEs and strengthening digital infrastructure in rural areas.
3. Align AANZFTA commitments with domestic liberalisation reforms, especially in relation to tourism-related services.
4. Promote policies that create opportunities for women-owned MSMEs to partner with foreign investors in the services sector.

Women in tourism remain concentrated in informal and lower-paid segments of the sector. Further efforts to expand access to finance and formal supply chains could enhance their participation and ensure full benefits from services liberalisation under AANZFTA.

1. To improve gender-inclusive outcomes in the tourism sector, policymakers could consider strengthening gender-responsive financial inclusion measures and facilitating access to credit for women-owned tourism MSMEs. This could involve closer coordination between the Ministry of Tourism, Arts and Culture (MOTAC), the Ministry of Entrepreneur Development and Cooperatives (MEDC) and financial institutions to enhance women's access to affordable finance and business support programs. Complementary actions may include promoting financial literacy, mentoring and access to business networks to help women transition from informal to formal operations. Such measures would support women's ability to benefit from tourism-related liberalisation and align domestic service-sector reforms with AANZFTA cooperation commitments on women's economic empowerment.

4.1.4 E-commerce

Due to the nature of e-commerce commitments compared to traditional trade commitments, such as services liberalisation and tariffs, future efforts on e-commerce need to prioritise promoting the adoption and widespread use of e-commerce among women entrepreneurs and business leaders. Policymakers should consider the following strategies:

1. Prioritise e-commerce economic cooperation activities that consider the needs of women and people with disabilities as one of the focus areas of AANZFTA Economic and Technical Cooperation (ECOTECH). Such support could combine technical cooperation and capacity building to help ASEAN Member States strengthen digital trade governance, consumer protection and e-commerce use among entrepreneurs led and owned by women and people with disabilities. Such efforts could be adapted or tailored to the Malaysian context, in line with this study's findings.
2. Include stronger commitments within the AANZFTA, especially in key areas that address obstacles women face when engaging in e-commerce. These could include trade facilitation measures such as electronic transactions and authentication, paperless trading, consumer protection and personal data protection. The use of the term 'shall' could establish stronger legal obligations and enhance enforceability. For model language addressing digital inclusion, including for women, see the Agreement Establishing the African Continental Free Trade Agreement (AfCFTA), the Digital Economic Partnership Agreements and the CPTPP, amongst other agreements.
3. Collaborate at the domestic level to support and strengthen ongoing initiatives in Malaysia, such as EmpowerHER and NESR, ensuring they align with broader trade and development initiatives.
4. To strengthen women's participation in e-commerce, gender-responsive measures could focus on improving women entrepreneurs' access to finance, skills development, and digital literacy. Integrating financial inclusion into digital-trade initiatives such as *MyDIGITAL* and the *National Tourism Policy 2020–2030* could help women-owned MSMEs adopt e-commerce tools for marketing, payment systems, and online platforms. Partnerships with financial institutions and digital service providers could also help tailor non-collateralised, low-cost financial products and training to women entrepreneurs. These measures would enable women-owned MSMEs to participate more effectively in cross-border digital trade and support AANZFTA's cooperation objectives under the *Trade and Sustainable Development* and *E-Commerce* chapters.

4.2 Private Sector

The KII and FGDs highlighted several challenges faced by women in the services and e-commerce sectors, including limited awareness of the AANZFTA, a lack of support for women-led MSMEs to grow in the tourism sector and informal influence and harassment used by male competitors to undermine women-owned businesses. Industry associations and private sector actors could work with the government to advance inclusive trade policies, support women entrepreneurs engaged in trade and promote gender equality and supply chain integration by implementing the following strategies:

1. Establish networks among ministries and industry associations such as MATRADE and MATTA (Malaysia Association of Tour and Travel Agenda) that connect women-led tourism agencies in Malaysia with counterparts in Australia and New Zealand. This could be used for knowledge building around AANZFTA and the opportunities it presents, including facilitating access to safe and vetted joint venture opportunities.
2. Encourage women-led MSMEs to leverage Mode 1 and Mode 2 commitments by providing digital capacity building, including training in using digital payment systems.
3. Encourage registration with MATRADE, SME Corp, and MDEC programs, while pushing for targeted support for women entrepreneurs.
4. Conduct and publish surveys to address some of the data gaps highlighted under the study.
5. Promote tourism trade promotion efforts and export participation.
6. Engage international chambers, such as Australian Chamber of Commerce and the ASEAN Women Entrepreneurs Network (AWEN) to promote awareness of AANZFTA among women entrepreneurs and encourage knowledge sharing and capacity building.

4.3 International Organisations

International organisations play an important role in advancing gender-responsive implementation of trade agreements by generating sex-disaggregated data, providing research support and capacity-building initiatives, and issuing policy guidance. These organisations have a strategic interest in ensuring that FTAs contribute to inclusive and sustainable development outcomes. Bodies such as the ASEAN Secretariat, the Economic Research Institute for ASEAN and East Asia (ERIA) and development agencies are also well placed to support gender-informed implementation of the AANZFTA and help bridge the gap between FTA language and implementation. The following recommendations focus on initiatives that can fund gender-inclusive trade programs, invest in gender-disaggregated data collection and promote policies for inclusive trade:

1. Support the collection and analysis of sex-disaggregated data through institutions such as the ILO, UNCTAD, World Bank, Australia's Department of Foreign Affairs and Trade and New Zealand's Ministry of Foreign Affairs and Trade. They could also fund and publicise participatory research and impact analysis of FTA implementation.
2. Deliver training programs that focus on gender-responsive implementation of trade agreements through organisations such as UN Women, the ILO, OECD, and ITC. They could also support local women-owned businesses in building capacity in relation to the utilisation of trade agreements such as the AANZFTA.
3. Support local women-owned businesses in digital upskilling and compliance in relation to the services sectors (specifically under health and tourism). They could also conduct case studies or pilot projects with women-led businesses, examining their challenges in navigating trade agreements such as the AANZFTA.
4. Work with local partners like DOSM and MITI to generate evidence on sector-specific wage differentials and earned income to understand how trade agreements have impacted women's incomes.

4.4 Researchers, Academics, and NGOs

Researchers, academics and NGOs play a central role in analysing policies and assessing the impact of programs, as well as driving an understanding of gender equality at the national and international levels. Their role involves conducting gender impact studies, promoting evidence-based policy recommendations, developing case studies, engaging policymakers, conducting independent data collection on gender and trade, and promoting inter-disciplinary approaches that combine trade, economic and gender studies. Academics can also independently assess the efficacy of trade policies in Malaysia through a gender lens to highlight good practices and policy failures with the aim of improving future efforts. Researchers, academics and NGOs could consider the following:

1. Conduct surveys and independent data collection to improve the collection of sex-disaggregated data. This could help address the fragmented data landscape encountered throughout this study, improving data-driven trade negotiations and policymaking.
2. Raise awareness of key issues that impact women and their access to trade opportunities and benefits.
3. Publish research on the barriers facing women in Malaysia, which could bring a greater focus on addressing the issues, while also highlighting best practices and gaps that may be useful elsewhere in addressing gender equality.
4. Support the development of inclusive policies and trade negotiation processes by highlighting key issues impacting women and ensuring that stakeholders are heard and can influence the policies that impact them. This is central to ensuring more inclusive and gender-responsive trade agreements and policies.
5. Researchers could also develop standard gender indicators or metrics to assess women's participation, challenges and outcomes in services and e-commerce sectors.

Annex A: Detailed Methodology

A.1: Textual Analysis of the Potential Gendered Impacts of AANZFTA

The research incorporated a textual legal analysis of the original AANZFTA, assessing provisions relevant to understanding the potential impact on women. The provisions of the AANZFTA, particularly those in Chapter Eight (Trade in Services) and Chapter Ten (E-Commerce), were analysed to identify provisions that may disproportionately affect diverse groups of women. Given the distinct nature and functioning of these chapters, especially in terms of the services commitments and schedules, a tailored analytical approach was applied to each.

Sectoral Focus on Services Commitments

To evaluate Chapter Eight and Malaysia's schedule of services commitments, a step-by-step approach was used. First, relevant sectors and sub-sectors were identified. Each AANZFTA Party has organised its services schedule into sectors and sub-sectors based on the WTO Services Sectoral Classification (W/120), which is aligned with the UN Central Product Classification (CPC).

The AANZFTA chapter on trade in services includes various commitments on services, both within the actual provisions of the chapter and the relevant schedules. Fundamentally, service commitments can be divided into two categories: general obligations and specific obligations. General obligations are often found within the actual provisions of the trade in services chapter of a trade agreement. These obligations cover issues such as most-favoured-nation treatment, national treatment, transparency, regulatory cooperation, progressive liberalisation and mutual recognition agreements. Other relevant general obligations could include administrative review, appeals mechanisms and dispute settlement. In the context of the AANZFTA, commitments include transparency measures (Article 11), domestic regulation (Article 10), mutual recognition agreements (Article 16) and participation in the Committee on Trade in Services (Article 24), amongst others.

Specific obligations are often found within the schedules of commitments, and in the case of the AANZFTA, there is also an additional Schedule for the Movement of Natural Persons. These commitments can be horizontal or sector-specific commitments. Horizontal commitments are cross-cutting and uniformly apply to all services sectors, while sector-specific commitments are made for individual sectors (such as health care and tourism). The commitments apply across four modes of supply: Mode 1 (cross-border supply), Mode 2 (consumption abroad), Mode 3 (commercial presence) and Mode 4 (presence of natural persons). It is important to note that this assessment is limited to analysing Malaysia's commitments in the health care and tourism sectors. It does not analyse additional sectors or the commitments of other AANZFTA parties, due to the report's scope. Table 2 below provides an overview of each mode of supply, along with relevant examples for the health care and tourism sectors.

Table 2: Description of Each Mode of Services Supply with Examples

Mode of supply	Description ⁸⁷	Example ⁸⁸
Mode 1: Cross-border Supply	Services are supplied from one country (or Malaysia) to Malaysia (or overseas) without movement of the consumer or provider	Telemedicine services provided to consumers in Malaysia Online travel operator services provided to consumers in Malaysia
Mode 2: Consumption Abroad	Residents of one country travel to another to consume services in that country	Medical tourism in Malaysia consumed by foreign nationals of other AANZFTA countries

Mode of supply	Description ⁸⁷	Example ⁸⁸
Mode 3: Commercial Presence	A foreign service provider establishes a commercial presence to supply a service in the territory of another country	Foreign investment in Malaysia for health or tourism facilities
Mode 4: Movement of Natural Persons	Temporary movement of natural persons to supply (provide) a service in the territory of another country	Migration of foreign nurses and health care professionals into Malaysia (movement of Malaysia's health care professionals will be covered under other schedules, which is out of the scope of this study) Hotels and restaurant management staff transferred into Malaysia

Source: Author(s), adapted from using on General Agreement on Trade in Services (WTO, 1995)

A key indicator for assessing services liberalisation is the absence of limitations or reservations related to market access and national treatment provisions. These could include the absence of restrictions on equity caps, licensing requirements, joint venture obligations, investment and economic needs tests. The lack of restrictions indicates that the commitments promote an open and accessible trade environment. This can be important for women-led businesses in the sector but can also lead to increased competition from foreign service providers, potentially impacting local firms owned by women.

To capture these dynamics, the market access and national treatment provisions were disaggregated and analysed by each mode of supply to determine the degree of liberalisation and its potential gender implications. Table 3 summarises this analysis, highlighting how each mode of supply intersects with market access, national treatment, and gender outcomes.

Table 3: Factors for Assessment of Commitments by Mode of Supply and Corresponding Gender Impact

Mode of Supply	Market Access	National Treatment	Possible Gender Impact of Services on Women Economic Roles
Mode 1: Cross-border supply	Degree of liberalisation in cross-border supply of services	Limitation on foreign services providers operating in Malaysia electronically	Greater access to specialised (professional) services may disproportionately impact women as consumers and entrepreneurs in female dominated sector
Mode 2: Consumption abroad	Travel restrictions for accessing services in Malaysia from abroad	Limitations on foreign services providers operating in Malaysia	More foreign demand could create jobs and business opportunities in sectors such as health care and tourism where women make up a large share of the workforce and MSME ownership
Mode 3: Commercial presence	Ownership caps or licensing restrictions for foreign providers	Exclusion or protection of certain sub-sectors	Joint ventures can create more employment, increase business opportunities for women-owned business to access capital and international markets

Mode of Supply	Market Access	National Treatment	Possible Gender Impact of Services on Women Economic Roles
Mode 4: Temporary movement of natural persons	Quota limits, economic needs tests (ENTs), and licensing barriers	Exclusion of certain type of professions	Inflows of foreign professionals can enhance skills transfer and improve services availability, though it is not clear if they face displacement or gain from these opportunities

Source: Author(s), adapted from using on General Agreement on Trade in Services (WTO, 1995)

Commitments are recorded under each mode using terms such as none, unbound, unbound except for specific conditions, no commitments, economic needs test, foreign equity cap, requires local presence, limited to intra-corporate transfers, and others. The most common terms are none or unbound. None refers to the complete lack of reservations, meaning that the country will not impose limitations on the service providers of other parties to the agreement. Unbound means that a state party has not made any commitments to open up market access, allowing it the freedom to implement domestic regulations that limit access to foreign service providers. This form of commitment can also come with conditions.

Sectoral Focus on E-commerce

To conduct a gendered assessment of digital trade and e-commerce under the original AANZFTA agreement, the study maps key provisions found in Chapter Ten. A gender lens is applied to these provisions to evaluate which provisions could impact women in their roles as entrepreneurs, workers, and consumers.

Chapter Ten of the AANZFTA on e-commerce includes provisions addressing cooperation, online data protection, online consumer protection, paperless trading, and more. The table below reveals the relevant provisions addressed within this research brief in the context of their impact on Malaysian women. However, such provisions can also unintentionally widen the digital divide for marginalised groups if they are designed without accounting for the unique obstacles faced by these groups; for example, only 58 per cent of rural women in Malaysia have access to the Internet⁸⁹ Some relevant affirmative commitments included in the Second Protocol may be referenced, such as the provision on digital inclusion.⁹⁰

Table 4: AANZFTA Provisions on E-Commerce and their Potential Gender Impact

Category of Provisions	AANZFTA Articles	Possible Gendered Impact on Women in their Economic Roles
General and Cooperation	Original Agreement	These provisions aim to promote the use of e-commerce among the parties and more globally, which, if achieved, could provide more access to trade for women. Provisions on cooperation related to MSMEs, where women-owned businesses in Malaysia are highly concentrated, are also relevant.
	Article 1: Objectives	
	Article 4: Domestic Regulatory Frameworks	
	Article 9: Cooperation	Domestic regulatory harmonisation includes instruments such as the UNCITRAL Model Law on e-commerce as common reference points for e-commerce regulation, potentially helping to ease the compliance burden on women and MSMEs.
	Article 10: Non-Application of Chapter 17 (Consultations and Dispute Settlements)	
	Second Protocol	The non-application of dispute settlement simply reaffirms the lack of stringent obligations to implement the chapter on e-commerce, leading to looser obligations with regard to legal remedies on a regional level.

Category of Provisions	AANZFTA Articles	Possible Gendered Impact on Women in their Economic Roles
	Article 19: Digital Inclusion for Electronic Commerce	The Second Protocol promotes digital inclusion for “all persons” and MSMEs, potentially paving the way for more gender-responsive provisions and cooperation in the future.
Trade Facilitation	Original Agreement	The AANZFTA requires efforts to recognise and implement electronic trade methods, creating a more accessible and less burdensome e-commerce process for women and MSMEs.
	Article 5: Electronic Authentication and Digital Certificates	
	Article 8: Paperless Trading	Under the Second Protocol, additional provisions prioritise the interoperability of electronic invoicing systems across parties, ensuring a more harmonised system for MSMEs and women entrepreneurs. Digital standards provisions seek to promote harmonisation with international standards in digital trade to further decrease the compliance burden, with a potential impact on women entrepreneurs and MSMEs. The Second Protocol maintains the WTO Moratorium on Customs Duties on Electronic Transmissions, ensuring that the compliance burden remains low for MSMEs and women-owned businesses within AANZFTA states. The Second Protocol also provides parties with some policy space while ensuring that they do not prohibit covered persons from conducting business, ensuring some protections for MSMEs and women entrepreneurs.
	Second Protocol	
	Article 7: Electronic Invoicing	
	Article 8: Digital Standards and Conformity Assessment	
	Article 13: Customs Duties	
	Article 17: Location of Computing Facilities	
	Article 18: Cross-border Transfer of Information by Electronic Means	
Consumer & Data Protection	Original Agreement	Online consumer protection requires that the same level of consumer protection must be provided for e-commerce as is provided for other commerce, improving confidence in e-commerce and protecting women consumers. Online data protection requires parties to implement a data protection system for consumers, thus protecting the data of women consumers.
	Article 6: Online Consumer Protection	
	Article 7: Online Data Protection	
	Second Protocol	The Second Protocol on unsolicited commercial electronic messages requires parties to implement measures that limit unsolicited electronic messages, thus improving both the confidence and comfort of consumers, including women, in e-commerce. The Second Protocol on open government data and cybersecurity seeks to ensure access to government data and the improvement of cybersecurity frameworks, further increasing transparency and security for consumers, including women.
	Article 11: Unsolicited Commercial Electronic Messages	
	Article 15: Open Government Data	
	Article 16: Cyber Security	

Source: Author(s), adapted from AANZFTA e-commerce chapter

E-commerce provisions relevant to women within Chapter Ten of the AANZFTA original text and the Second Protocol can be grouped into three broad categories: General and Cooperation Provisions, Trade Facilitation Provisions, and Consumer and Data Protection Provisions. These categories fundamentally seek to achieve the same goal of promoting and increasing e-commerce through varying means, including trade facilitation, ensuring consumer confidence in e-commerce, creating regional harmonisation to ease the compliance burden on businesses, and more. While these provisions are not gendered per se, they hold the potential to address some of the unique obstacles facing women indirectly. For example, an Ipsos study used surveys to show that one of the primary obstacles to economic opportunities is the balancing of women's work and business responsibilities.⁹¹ This issue was similarly highlighted by women e-commerce entrepreneurs in Indonesia during consultations by the International Finance Corporation.⁹²

Cooperation provisions can direct parties' attention to certain central issues, including digital inclusion and cooperation on MSME adoption of e-commerce methods. These provisions often lack an affirmative obligation and instead focus on general principles or areas of cooperation without exact details on the form that that cooperation should take. As a result, the effectiveness of cooperation provisions largely depends on how they are implemented by each party, which may vary across contexts. Cooperation provisions included in the AANZFTA must be assessed in terms of their tangible on-the-ground impact and their translation into implemented initiatives.⁹³

Provisions addressing digital trade facilitation to improve the adoption of e-commerce by MSMEs could reduce the time and cost burden on women entrepreneurs and business owners, allowing them to balance work and home responsibilities more effectively. While the AANZFTA provides a useful framework, the facilitation of digital trade could be further enhanced through complementary domestic support measures such as affordable childcare and eldercare.

Consumer and data protection provisions are particularly relevant in ensuring the confidence of consumers while engaging in e-commerce through providing a high level of personal data protection and consumer protection. These issues are important to protecting women as consumers, especially considering women often make decisions in relation to household consumption. Due to the particular risks associated with payment and fraud and data breaches in e-commerce, ensuring high levels of protection will ensure both that vulnerable groups are protected and that consumers are more confident engaging in e-commerce, catalysing the growth of the sector.

Relevant provisions are also assessed based on their language (i.e., use of specific, binding, non-binding, and persuasive language), which indicates the degree to which parties and stakeholders can rely on such provisions and their potential impact on the Malaysian gender equality landscape. Additionally, provisions are assessed based on their domestic implementation in Malaysia through policies, initiatives, and legal and regulatory reforms. Based on available data and stakeholder consultations, the study explores whether specific provisions, such as those on electronic trade facilitation, have improved access to trading for women (as compared to men) through measures such as paperless trading, electronic signatures, and electronic invoicing.

Throughout this analysis, the nature of e-commerce commitments affects their impact. E-commerce provisions will often include operative terms like the "parties shall," which signals that a provision is very binding and requires specific action on the part of an AANZFTA party. However, the binding construction of "parties shall" is often followed by qualifying language, with notable examples such as "where possible" and "in a manner it considers appropriate." As far as the original text of AANZFTA Chapter Ten, of the ten articles in the Chapter, all but three include some form of qualifying language reducing the bindingness of provisions. The three outliers are the articles on definition, scope of application, and dispute settlement (which does not apply to the chapter). Certain provisions can also be considered "best endeavour" provisions that require action or attempts by the parties to pursue a goal without necessarily requiring an outcome. An example is Article 8(4) of Chapter Ten of the AANZFTA original text, which requires that parties endeavour to make electronic trade administration documents publicly available, highlighting how parties are expected to make a "best effort" rather than a clear obligation of result.

Many e-commerce provisions provide flexibility, allowing parties to adapt implementation approaches to domestic priorities and policy contexts. This varies from case to case. For example, Article 4 requires the adoption of domestic laws governing electronic transactions while considering the UNCITRAL Model Law on Electronic Commerce 1996. In comparison, Article 7 of Chapter Ten provides the parties with flexibility in how they can implement regulations on consumer data protection. The Second Protocol significantly expanded the Chapter on E-Commerce, doubling the number of provisions from ten to twenty articles. It maintained large parts of the original AANZFTA Chapter Ten, while expanding upon the original provisions to include issues such as data inclusion, location of computing facilities, and others.

Qualifying language can be found in the Second Protocol as well, with many provisions referring to parties “recognising” the importance of various issues, such as inclusion and cybersecurity. However, a new approach to flexibility appears in the Second Protocol, with binding and specific provisions that are then followed by an exception granting the parties flexibility on the issue. A clear example of this is Article 17 on the location of computing facilities, with Article 17(2) laying out a prohibition on Parties requiring covered persons to locate their computing facilities in that Party’s territory to conduct business there. However, Article 17(3) follows up by providing a public interest and national security exception, which, in the case of national security, is self-judging and not subject to dispute.

Alignment of Domestic Reforms: Domestic Legislation and Regulations Relating to the AANZFTA commitments

The implementation of trade commitments under FTAs such as the AANZFTA often necessitates domestic legal and institutional reforms. These reforms play an important role in supporting the operationalisation of the agreement’s commitments. There may be legislative, regulatory, and institutional changes when new laws are introduced, and existing laws are amended. Implementation and enforcement should also be assessed along with stakeholder experience.

In assessing domestic reforms under services Modes 1 and 2 relating to health care and tourism services, the report examines whether legislation or regulations exist that enables cross-border flow of services into Malaysia and whether the country has created a legal framework to enable different aspects of services trade. For example, under Mode 3, it examines foreign investment in the focus sectors, specifically from New Zealand and Australia, taking into account relevant licensing and registration systems. Under Mode 4, it examines how the enabling environment facilitates the movement of natural persons into Malaysia, considering mutual recognition agreements and visa requirements. To assess the impact on women, gender considerations are identified in reforms, as are gender gaps in implementation, with analysis of gender disaggregated data where relevant.

A2. Assessment of the Second Protocol

The provisions of the Second Protocol to the AANZFTA were referenced as relevant to identify potential future developments and impacts within the services and e-commerce sectors. Although examining the text of the Second Protocol was not directly within the scope of the project, it is helpful to track domestic Malaysian reforms and developments against the AANZFTA timeframe, including the negotiation of the original text of the AANZFTA and the Second Protocol of the AANZFTA. It could help to highlight a causal link between the AANZFTA provisions, Malaysia’s commitments, and domestic reforms. Notably, however, Malaysia has not updated its services commitments in the health and tourism sectors; therefore, the report’s analysis for those sub-sectors relied only on the Original AANZFTA Agreement.

A3. Leveraging Established Gender Impact Assessment Methodologies

Several different gender impact assessment (GIA) methodologies exist which present important points of reference for this study. The GBA+ is an analytical process created by Canada for policymakers to assess the intended and unintended effects of a policy on diverse groups of people. The methodology can account for a variety of identity characteristics, such as gender, age, indigeneity, education, religion, and more. To implement the GBA+, policymakers must consider relevant issues from economic, social, and cultural perspectives; conduct research by consulting with experts and stakeholders; and ensure that the effects of an initiative are tracked over time. One notable method extracted from the GBA+ in the context of this report is the use of stakeholder and expert consultations, as a mixture of entrepreneurs, policymakers, and workers were consulted in the process of this research. Certain aspects of the GBA+ methodology are not viable in the context of this research, however, such as monitoring the continuing effects of the AANZFTA through the Second Protocol, which only very recently entered into force.

The OECD Trade and Gender Framework uses a variety of methodologies to assess the impact of trade agreements on women as entrepreneurs, workers, and consumers. This research brief attempts to do the same, where practicable. However, it is crucial to note that the OECD has significantly more available data, due to the improved data collection framework in OECD countries. To complete its analysis, the OECD utilises quantitative analysis, relying on sectoral wage data, women-owned establishment data, and the trade exposure of sectors in which women are engaged. All of this data is often limited in whole or in part in the context of Malaysia. As a result, where possible, data will be used to support the analysis of the impact of the AANZFTA in Malaysia.

Finally, the UNCTAD Trade and Gender Toolbox uses a mixture of quantitative data and economic modelling to understand the impact of trade agreements on women. It then feeds this data and the findings into a Trade and Gender Index to assess the co-evolution of trade openness and gender equality. In the context of this project, indexing the AANZFTA's impact on women using economic modelling to understand the future impact of the AANZFTA was not viable due to data limitations and the nature of the ex-post analysis conducted. However, quantitative data is used to understand the existing impact of the AANZFTA on women in Malaysia in an ex-post context where available.

To summarise, the study draws upon the GBA+ incorporation of stakeholder consultations and the OECD framework's inclusion of analysing the impact on women through their roles as workers, entrepreneurs, and consumers. Both of these methods are integrated into this assessment to try to more comprehensively understand the impact of the AANZFTA on Malaysian women. Certain methods used in these other GIAs are not possible in the context of this study, primarily economic modelling and quantitative data collection. These various GIA methodologies are often applied to trade agreements as well as broader government policies and programs. This research brief does incorporate the use of consultations and data analysis, while also adding a textual legal analysis focused on the provisions of the agreement.

A4. Challenges and Limitations

Although senior policymakers from key ministries were invited to participate in interviews, securing their participation was challenging and often unsuccessful, which resulted in difficulty establishing causal links between potential impacts and AANZFTA provisions. FGDs and KIs with entrepreneurs and trade associations were also part of the study, but they provided limited policy insights. Throughout the report, stakeholder experience and data collected through the consultations were integrated into the textual and contextual analysis to present the narrative from a different angle. Given the difficulty conducting KIs and need for additional FDGs, outstanding questions requiring further investigation are featured in the recommendations section of the report as areas for future research.

Throughout the research conducted under this project, significant gaps in the availability of data were encountered. For services, the primary challenge was the lack of sector-specific, sex-disaggregated and mode-specific data, as well as inadequate data on participation of women in their various economic roles. DOSM aggregates services data broadly, without capturing particular aspects relating to trade commitments and women's economic roles. For e-commerce, the availability of source material remains limited due to the relative novelty of e-commerce and challenges with measuring e-commerce data. The data framework is often fragmented between platforms, which collect their own data, and government surveys and censuses, with all data usually lacking sex disaggregation. This creates significant obstacles for clearly discerning an impact on women in Malaysia.

The lack of detailed data in relation to electronic commerce was clear from the outset. This is in large part due to a lack of centralised data collection on electronic commerce and digital trade, with DOSM collecting data on the ICT sector generally, which does not accurately capture the specifics of utilising digital platforms for cross-border trade and services.^{xvi} Although consultations and requests for data were made to various Malaysian entities and ministries, not all requests received a response.

^{xvi} The nature of electronic commerce as a mechanism for trade in goods and services rather than as a good or a service in and of itself also poses some difficulties for data availability. This issue is also not unique to Malaysia, with other countries within ASEAN and the world also lacking consistent data collection. The framework for data collection is often fragmented, with no central collection by governments; rather, some data is collected by payment services providers such as PPRO, international organisations, and scattered governmental institutions.

Annex B: Background and Context

B1. Why the AANZFTA Matters: A Focus on Services and E-Commerce

Both services and e-commerce sectors are critical for gender equality in Malaysia, as women are highly concentrated in these sectors. Services accounts for the majority of female employment in Malaysia, with women concentrated in sectors such as education, health and tourism. Despite their over-representation in the sector overall, women remain under-represented in leadership and decision-making roles, and they face occupational segregation and wage gaps. The rapid growth of the e-commerce sector in Malaysia—projected to reach USD 12.26 billion by 2025 and nearly double by 2030—paired with strong internet infrastructure (98.4 per cent smartphone penetration) in both urban and rural areas provide a solid foundation for digital growth in Malaysia.⁹⁴ However, despite these advantages, women entrepreneurs face notable challenges: 95 per cent of women entrepreneurs in the digital space operated individually without formalising their businesses,⁹⁵ and many earn less than RM1,000 per month (approx. USD 215).⁹⁶ Given the challenges women face in e-commerce specifically (and digital trade generally), trade agreements such as the AANZFTA become particularly relevant.

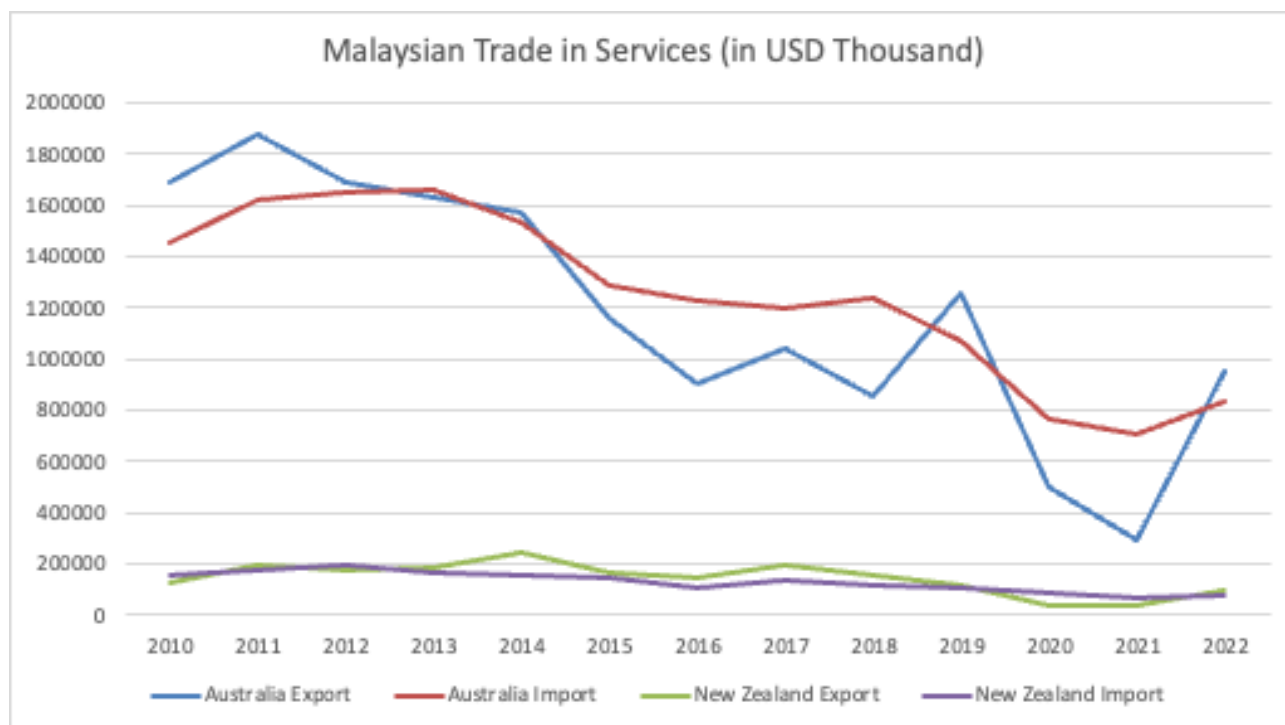
The AANZFTA is also significant for Malaysia, as trade with AANZFTA parties accounts for 45.9 per cent of Malaysia's services exports and 25.9 per cent of Malaysia's services imports,⁹⁷ highlighting its potential to have trickle-down effects for Malaysian citizens. For the year 2023, the total trade volumes of Malaysia's services exports and imports under the AANZFTA amounted to almost one-third of total trade volumes.⁹⁸ Additionally, the Agreement complemented national trade-related policies. These included liberalisation of 27 services sub-sectors in 2009, with an additional 18 sub-sectors announced in 2012, with the focus of liberalisation efforts on opening the services sector to FDI and foreign ownership.

The AANZFTA is also unique, as it is the first free trade agreement between Malaysia, Australia and New Zealand, which lends itself to an ex-post analysis of the impact of the agreement on women in Malaysia. As a result, the statistics and data discussed in the report focuses on trade between Malaysia, Australia and New Zealand. Additionally, Malaysia has separate FTAs with Australia and New Zealand. The MAFTA, which entered into force in 2013, overlaps to some extent with the AANZFTA in coverage. The NZ-Malaysia Free Trade Agreement (MNZFTA) entered into force in August 2010, just eight months after the AANZFTA's entry into force.

Malaysia is also party to a network of economic partnerships and FTAs that overlap significantly with each other, including in their parties. These include major regional agreements such as the ASEAN Free Trade Area (AFTA), the CPTPP, RCEP, and many more. Notably, all AANZFTA parties except for Australia and New Zealand are also parties to the ASEAN Trade in Good Agreement (ATIGA), which addresses tariffs and trade facilitation in its own right. This significant overlap in membership and coverage makes it challenging to isolate specific impact of AANZFTA, as trade outcomes may be a result of parallel liberalisation and cooperation commitments under other FTAs.

Following the AANZFTA's entry into force, the export and import of services between Malaysia and Australia and New Zealand increased but has since stagnated, with a significant drop during Covid (as shown in Figure 1). During the COVID-19 pandemic, a steep drop in trade volumes was likely the result of a mixture of factors, including disrupted supply chains, decreased shipping, lockdowns and a general decrease in production and productivity.

Figure 2: Malaysian Imports and Exports of Services (USD Thousand) to and from Australia and New Zealand



B2. Gender Impact Analysis: An Opportunity to Align Trade Outcomes with National Gender Equality Goals

A gender analysis can help bridge the gap between Malaysia trade policy and national gender equality objectives.

National and Regional Commitments on Gender Equality

While Malaysia had previously taken steps to advance women's rights, a significant turning point occurred with its ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1995, which was later embedded in the Federal Constitution. Gender equality goals were also integrated into Malaysia's national development plans through the Twelfth Malaysian plan, which outlined the objective of pursuing a more inclusive society under Chapter Five, with Strategy F3 targeted at "Empowering the Role of Women."⁹⁹ National Women's Policy and Women's Development Action Plan 2025-2030 reaffirm the government's commitment to advancing women's economic participation, leadership, safety and well-being.¹⁰⁰ Together, these frameworks demonstrate Malaysia's evolving approach to gender equality both as a rights-based imperative and a strategic priority in national economic development.

Gender inequality continues to constrain women's economic participation and empowerment in Malaysia. In the World Economic Forum's *Global Gender Gap Report 2024*, Malaysia ranked 114th out of 146 economies overall, with a gender parity score of 0.668.¹⁰¹ The report also identified gender parities across indicators of economic participation and opportunity, including labour force participation, estimated earned income, wage equality, representation in leadership positions and the distribution of professional and technical workers, as summarised in Table 5.

Table 5: Selected Economic Participation and Opportunity Indicators for Malaysia 2024¹⁰²

Indicators	Rank	Score	Male	Female	Implications
Labour Force Participation Rate	102	0.681	81.88 per cent	55.79 per cent	<i>Women are significantly underrepresented in the labour market</i>
Wage Equality of Similar Work	33	0.719	-	-	<i>Women's perceived earnings for similar work are approximately 71.9 per cent of men's</i>
Estimated Earned Income (Int \$1000)	68	0.651	34.22K	22.29K	<i>Women's estimated earned income is approximately 65.1 per cent of men's estimated earned income.</i>
Legislators, Senior Officials, Managers (2024 data)	110	0.326	75.40 per cent	24.60 per cent	<i>Leadership roles are male dominated</i>
Professional and Technical Workers (2024 data)	103	0.688	59.25 per cent	40.75 per cent	<i>Gender representation is more balanced in professional and technical workers, although women remain underrepresented.</i>

Source: World Economic Forum, *Global Gender Gap Report 2024*, Malaysia Economy Profile. The 'Implications' column contains the author's interpretation of the reported indicators.

Gender Mainstreaming in Malaysian FTAs

Malaysia has taken a limited approach to integrating gender mainstreaming into its trade agreements. For example, the CPTPP Preamble recognises the importance of sustainable development and of ensuring that the benefits of trade are broadly shared.¹⁰³ Its Labour Chapter also identifies the promotion of equality, the elimination of discrimination against women and the protection of vulnerable workers as areas for cooperation.¹⁰⁴ The CPTPP's Development Chapter also includes a dedicated provision on women and economic growth, which requires parties to undertake cooperative activities to enhance the ability of women to fully access and benefit from the opportunities emerging from the agreement.¹⁰⁵

Malaysia also participates in the Indo-Pacific Economic Framework for Prosperity (IPEF). The Trade Pillar seeks to promote inclusivity and participation by all segments of society, including women and Indigenous People,¹⁰⁶ but negotiations on the pillar have not yet concluded.^{xvii} IPEF's Clean Economy Pillar emphasises the need for active participation of women,¹⁰⁷ and, in the context of sustainable agricultural practices, IPEF includes a recognition of the importance of partnerships with women.¹⁰⁸ In the Supply Chain Pillar, IPEF focuses on promoting inclusivity by ensuring that resources and training opportunities are accessible to all persons, including women.¹⁰⁹ In other Malaysian trade agreements, broader social and inclusion considerations are reflected through provisions on inclusive economic and technical cooperation,¹¹⁰ a side letter on labour,¹¹¹ and preamble recognition of economic and social development as a component of sustainable development.¹¹²

Malaysia is also a Member State of ASEAN, which has initiatives regarding gender equality, and, while progress on trade and gender initiatives has occurred, it has been relatively limited in recent years. In terms of policy and programs, the ASEAN Women Entrepreneurs Network (AWEN) provides a platform for women

^{xvii} Negotiations on the IPEF Trade Pillar remain ongoing. Although several chapters have reportedly been concluded, the parties have not concluded or signed an overall Trade Pillar agreement.

entrepreneurs to connect and support each other across the region. It plays a crucial role in advocating for women's interests in trade and business policy. The ASEAN Committee on Women (ACW) and its Work Plan for Women's Advancement and Gender Equality are expected to help women benefit from regional trade and economic integration.¹¹³ In addition to AWEN and ACW, ASEAN programs include the ASEAN Ministerial Meeting on Women (AMMW) and the ASEAN Confederation of Women's Organizations (ACWO) for gender mainstreaming.

The Declaration on the Advancement of Women in the ASEAN region (1988) is the first regional declaration to formally commit members to promoting women's participation in all areas, including the economy and business. Based on this, the Declaration on the Elimination of Violence Against Women in the ASEAN Region (2004) was expanded to the Declaration on the Elimination of Violence Against Women and Children in ASEAN (2013), urging Member States to enforce laws and policies that would eliminate all forms of violence against women and promote gender mainstreaming in policies and programmes. This has been a significant step considering the diversity among ASEAN Member States' economic status and socio-cultural backgrounds. Nonetheless, certain limitations remain. Under ACW and its work plan, for example, most women are likely to remain concentrated in lower-wage and less dynamic sectors, and gender gaps in wages and export participation will persist without targeted policies.¹¹⁴ This suggests that programs and declarations must be accompanied by concrete, targeted actions to close gender gaps. Also, those initiatives have not yet been integrated into any binding agreement. The ASEAN Free Trade Area (AFTA) itself does not include specific gender provisions or commitments. This reflects a broader pattern: while policy and advocacy infrastructure for gender equality exists, the tools to integrate this priority meaningfully into trade agreements are still underdeveloped.

Annex C: List of Stakeholders Consulted

Government

KII/FGD	Entity	Respondent
KII 1	Ministry of International Trade and Industry (MITI)	Male
KII 2	Malaysia External Trade Development Corporation (MATRADE)	Female
KII 3	Ministry of Tourism, Arts and Culture (MOTAC)	Male
KII 4	Ministry of Entrepreneur Development and Cooperatives (MEDC)	Female

Private Sector - Women Exporters (note: KIIs were substituted for FGDs due to scheduling challenges)

KII/FGD	Entity	Respondent
FGD	AmLeisure Group Berhad	Female
	SME Association	Female
KII 5	Ceritera Travel	Female
KII 6	Dental practice	Female
KII 7	ACG Health care Sdn Bhd	Female
KII 8	Verlyss Global Resources Sdn Bhd	Female

Annex D: Research Matrix

Research Question	Sub-research questions	Method and tools
1. Which services sub-sectors and aspects of digital trade are most relevant in the context of assessing the impact of implementation of the AANZFTA's trade in services and e-commerce commitments on women?	Women as business owners/entrepreneurs and employees: - Data on employment, wages, ownership, and workforce participation for men and women in health, tourism and e-commerce sector - Tourism data - E-commerce, health care - Where in the supply chain are women as employees predominantly positioned? - KIIs - Are women predominantly working in the formal or informal jobs? - Tourism and health – literature review - E-commerce – KIIs - Is there any evidence of discrimination of these groups in the workplace? and if so how (e.g. hiring practices, wages, unprotected contracts etc.) - Literature review - KIIs and FGDs	Literature review, national data sources, and secondary data analysis KIIs with SME Corp
2. What is the nature and purpose of the services commitments and e-commerce provisions in the AANZFTA, and which of these provisions could have a specific impact on women?	Trade in Services Commitments - What are the sectors included in Malaysia's schedule of Specific Commitments for Services? - Textual analysis - What is the coverage of market access and national treatment commitments for sectors within the scope of the project by mode of supply? - Textual analysis - How do those market access and national treatment commitments impact on women? - KIIs and FGDs E-Commerce Commitments - What are the provisions within the e-commerce Chapter of the AANZFTA? - Textual analysis - What is the depth and coverage of the AANZFTA e-commerce provisions? - Textual analysis - How can those provisions, considering their depth and coverage, have an impact on women? - KIIs and FGDs	Textual analysis of the AANZFTA Literature review and secondary data analysis KIIs and FGDs
3. Which domestic legal reforms has Malaysia introduced to fulfill	Women as business owners/entrepreneurs: To what extent have domestic legal reforms which were introduced by Malaysia to fulfil its obligations under AANZFTA, addressed equitable access to:	Literature review and assessment of domestic legal reforms

Research Question	Sub-research questions	Method and tools
its obligations under the AANZFTA, and did these legal reforms include any gender-based considerations?	finance related to e-commerce and digital technology/skills? KIIs and FGDs	KIIs and FGDs
	2. What systems are in place for enforcement of the above? - Literature/legal review - KIIs	
	3. Is there any evidence that women as business owners have benefitted or experienced difficulties arising from the regulatory reforms under AANZFTA? KIIs and FDGs	
	Women as employees: 4. To what extent are women as employees considered in: national plans, export strategies, trade facilitation plans / strategies such as those linked to the domestic legal reforms to fulfil obligations under the AANZFTA? - Literature review - KIIs	Literature review and assessment of domestic legal reforms KIIs and FGDs
4. How could specific aspects of the AANZFTA's services and e-commerce obligations and domestic policies and laws disproportionately impact women, where possible, differentiating based on their role as producers, business owners and entrepreneurs, and employees?	Women as consumers: 5. How does the e-commerce regulatory reforms under AANZFTA provide for consumer protection? - Primarily KII - Limited secondary data	Literature review and KIIs
	Women as business owners/entrepreneurs: 1. Do regulatory reforms under AANZFTA create more opportunities for women as business owners to participate in business networks or associations? If so, to what extent? If not, what are the barriers to participation? - Literature review - KIIs and FGDs 2. Is there any evidence that women as business owners face constraints to international trade or engaging in global supply chains and if so, what are these constraints (e.g. financial services & capital, market information, currency exchange rates, transfer of technology, new technology & digital services, unpaid care burden, increased competition)? - Literature review - FGDs 3. Would women-owned MSMEs see reduced duties, improved consumer protections, and reduced compliance burdens as important developments that benefit their businesses? - FGDs	Literature review and secondary data KIIs and FGDs

Research Question	Sub-research questions	Method and tools
	Women as employees: 4. Is there any data showing an increase or decrease amongst women as employees in health tourism sector compared to other sectors? Are these changes due to the regulatory reforms under AANZFTA? • KIs 5. Have regulatory reforms under AANZFTA impacted on the employment opportunities of women as employees and if so how (eg more jobs, increased wages due to higher demand, mobility, or a lack of emergency protection because job is in informal sector)? • KIs • FGDs 6. Have regulatory reforms under AANZFTA impacted on the employment opportunities of women as employees and if so how (eg more jobs, increased wages due to higher demand, mobility, or a lack of emergency protection because job is in informal sector)? • KIs • FGDs	KIs and FGDs
	Women as consumers: 7. Have regulatory reforms under AANZFTA enabled women as consumers to participate in consumer associations more easily and, if so, how is this done (e.g. receiving information / providing feedback on products and services)? • FGDs 8. How has the presence of foreign service providers in the health sector affected women's access to affordable and high-quality health care services? • FGDs	KIs and FGDs

Annex E: KII and FGD Questionnaires

Introduction

This key informant interview and focus group discussion guide is part of a broader study that aims to analyse and understand the impact of the implementation of trade in services and ecommerce chapters under the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) on women's economic empowerment and gender equality in Malaysia.

The study seeks to assess the extent to which the AANZFTA has had a differentiated impact on gender equality, focusing specifically on how diverse groups of women-owned businesses, female entrepreneurs, and women in the Malaysian workforce have been impacted. It also seeks to gather insights into the potential impact of the Second Protocol, which introduces some explicit gender-related provisions, and how these changes can further benefit diverse groups of Malaysian women in trade and e-commerce in the future.

Engender LLC, a woman-owned consulting firm in Malaysia, organised and conducted the Key Informant Interviews (KIIs) and focus group discussions (FGDs). Below are targeted questionnaires for Key Informant Interviews (KIIs) and Focus Group Discussions (FGDs). In total, the study consulted four government ministries and six women entrepreneurs operating in the tourism, health care, and e-commerce sectors. Please see Annex C for a list of KII and FGD participants and their affiliations.

At the beginning of each KII and FGD, the interviewer introduced the project and sought consent with the following statement:

Hello, thank you for taking the time to talk with me. My name is _____ [add a brief background about you].

I am conducting a study on behalf of the Trade and Gender Equality Incubator (TGEI), an initiative funded by the Australian Department of Foreign Affairs and Trade (DFAT). TGEI operates under the Regional Trade for Development (RT4D) which supports ASEAN Member States (AMS) to maximise benefits from the upgraded Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA). The research study aims to assess the impact of the implementation of the AANZFTA on gender equality and opportunities for women in Malaysia. The research focuses on two chapters: services (specifically for health and tourism commitments) and e-commerce.

As part of this study, we are consulting with leading entrepreneurs like you to help us fill in the gaps in our analysis of the AANZFTA and existing literature. We are particularly interested in learning from you about how Malaysia has implemented the provisions of the AANZFTA through domestic policy and regulatory reform, if those reforms impacted men and women differently, and what challenges and opportunities you see for your business related to regional trade – particularly with New Zealand and Australia – in the future.

I will be taking notes throughout the focus group. Our team will write a report that will include your inputs and those from five key informant interviews and one other focus group discussion with women entrepreneurs. We may use quotes and details from this interview, but we will not attribute any information directly to you or your organisation without your consent.

Before we begin, do you have any questions?

Do you agree to participate in this interview?

Questionnaires

Ministry of International Trade and Industry

1. 1. How has Malaysia implemented AANZFTA commitments relating to trade in services (for the health and tourism sector) and e-commerce? Can you give concrete examples of legal, regulatory, or administrative changes that were required?
2. Has MITI taken any measures to ensure women benefit from these provisions, or the AANZFTA in general?
3. What activities has the Malaysian government undertaken to promote the AANZFTA and especially among SMEs or women owned businesses?
4. How is Malaysia monitoring the overall effectiveness and gendered impact of AANZFTA?
 - a. What factors are used to determine if Malaysia—and specifically women in key sectors—are benefitting?
 - b. Has MITI requested for specific provisions in the National Budget for women exporter development programmes?
 - c. Which domestic legal reforms has Malaysia introduced directly or indirectly to fulfill its obligations under the AANZFTA, and did these legal reforms include any gender-based considerations? For example, to what extent did the provisions in the Malaysian E-Commerce Act (2006), Amendment to the Consumer Protection Act (2007), and the Personal Data Protection Act (2010) stem from the AANZFTA negotiations or vice versa?
 - d. Have there been policy or regulatory reforms in the tourism or health sectors under the AANZFTA that specifically address barriers faced by women?
5. What mechanisms are in place to enforce these reforms?
6. Has the Government of Malaysia attempted to streamline the compliance burden faced by MSMEs in recent years in response to AANZFTA provisions?
 - a. For example, what adaptations or reforms (such as paperless trading) have been instituted to ease the compliance burden related to cross-border e-commerce?
 - b. Has there been sector-specific reforms in tourism or health care aimed at making it easier for MSMEs to access AANZFTA benefits?
7. Does MITI have data on the following:
 - a. Trade data in the health and tourism data between Malaysia and Australia / New Zealand
 - b. Approved FDI and other investment data in the health and tourism sector from Australia/New Zealand into Malaysia
 - c. Data on Malaysia-Australia/New Zealand trade in health and tourism services. Employment linked to export processing zones where Australia investors are basing themselves.

SME Corp

I. GENERAL QUESTIONS

1. What is your title and role in the organisation?
2. What is your involvement in international trade, particularly with respect to services and e-commerce for companies?

II. AANZFTA-RELATED QUESTIONS

1. What role does MATRADE and SME Corp play in trade negotiations and the development of trade policy and trade agreement? Are they consulted during or before trade negotiations?
2. How successful has the Women Exporters Development Program (WEDP) program been?
 - d. Does MATRADE collect data on the WEDP and which sectors have specifically been impacted?
 - e. How does the WEDP link with the AANZFTA capacity-building and cooperation programs?
3. How has MATRADE and SME Corp supported the implementation of the AANZFTA for women entrepreneurs in Malaysia?

III. SERVICES

4. How does MATRADE and SME Corp assist Malaysian women-owned MSMEs in capitalizing on opportunities (e.g., in medical tourism) in the health care and tourism sector that arise from the AANZFTA?
 - a. Does SME Corp have data on these opportunities?
5. What cooperation efforts have been implemented among AANZFTA parties focused on trade in services that Malaysia has participated in or led?
6. Are there specific challenges MSMEs face in providing cross border trade (such as telehealth) or medical tourism services, and does MATRADE and SME Corp support MSMEs in overcoming these challenges?
7. What kind of support does MATRADE and SME Corp provide to facilitate partnerships between foreign health care providers or tourism companies and local Malaysian entities to establish commercial presence in Malaysia?
 - a. Are foreign entities operating in Malaysia increasingly hiring women workers?
 - b. Are women entrepreneurs entering into partnerships with foreign tourism or health companies to operate in Malaysia?
8. What role does MATRADE or SME Corp play in bringing foreign health care providers into Malaysia from AANZFTA member countries?
 - a. Is there a trend of increased presence of foreign female health care workers coming into Malaysia? If yes, what sectors do they focus on?
 - b. Are foreign workers displacing domestic health care workers (of whom the majority are women)?
6. Is there marked (and/or increasing) competition for tourism jobs spurred by foreign workers coming to Malaysia? Is it more pronounced in certain subsectors of the tourism industry that are dominated by women?

IV. E-COMMERCE

9. What cooperation efforts have been implemented among AANZFTA parties focused on e-commerce that Malaysia has participated in or led?
 - a. Have women led or participated in any cooperation activities to advance e-commerce adoption, promote consumer protection, or develop e-commerce legal frameworks and policies?
 - b. How is MATRADE implementing exporter development and export promotion in the context of e-commerce and the AANZFTA?
10. What government-supported capacity building activities related to digitization and e-commerce technical expertise are available to MSME owners?
 - a. When were these activities offered? (Do the dates align with AANZFTA implementation?)

- b. What technical expertise was included? (Does the content support priorities found in AANZFTA provisions?)
 - c. What percentage of participants are women entrepreneurs?
 - d. Are women's business associations involved in the delivery or development of this capacity building support?
11. To what extent have MATRADE and SME Corp provided MSMEs and women with support to comply with AANZFTA commitments and additional e-commerce regulations?
 12. Has the compliance burden faced by MSMEs been streamlined or reduced in recent years?
 - a. Has paperless trading been implemented? How has that affected businesses and entrepreneurs?
 - b. To what extent has technical assistance and support been provided to MSMEs to comply with consumer and data protection regulations?
 - c. Do consumer protections change the behaviour of women consumers and/or women entrepreneurs?
 13. Under the Second Protocol, no additional duties should be placed on cross-border electronic transmissions. Would this have a significant impact on MSMEs - on women-owned companies especially?
 14. How can the National E-Commerce Strategic Roadmap better facilitate adoption of e-commerce platforms and tools among women-owned MSMEs? How are MATRADE and SME Corp involved in the NESR and Twelfth Malaysia Plan?

Malaysia External Trade Development Corporation (MATRADE) and Ministry of Entrepreneur Development and Cooperatives (MEDC) / SME Corp*

**The same questionnaire was used for both respondents given the similar areas of focus.*

I. GENERAL QUESTIONS

1. What is your title and role in the organisation?
2. What is your involvement in international trade, particularly with respect to services and e-commerce for companies?

II. AANZFTA-RELATED QUESTIONS

1. What role does MEDC and SME Corp play in trade negotiations and the development of trade policy and trade agreement? Are they consulted during or before trade negotiations?
2. How successful has the Women Exporters Development Program (WEDP) program been?
 - Does SME Corp collect data on the WEDP and which sectors have specifically been impacted?
 - How does the WEDP link with the AANZFTA capacity-building and cooperation programs?
3. How has SME Corp supported the implementation of the AANZFTA for women entrepreneurs in Malaysia?

III. SERVICES

4. How does SME Corp assist Malaysian women-owned MSMEs in capitalizing on opportunities (e.g., in medical tourism) in the health care and tourism sector that arise from the AANZFTA?
 - Does SME Corp have data on these opportunities?
5. What cooperation efforts have been implemented among AANZFTA parties focused on trade in services that Malaysia has participated in or led?

6. Are there specific challenges MSMEs face in providing cross border trade (such as telehealth) or medical tourism services, and does MATRADE and SME Corp support MSMEs in overcoming these challenges?
7. What kind of support does MATRADE and SME Corp provide to facilitate partnerships between foreign health care providers or tourism companies and local Malaysian entities to establish commercial presence in Malaysia?
 - Are foreign entities operating in Malaysia increasingly hiring women workers?
 - Are women entrepreneurs entering into partnerships with foreign tourism or health companies to operate in Malaysia?
8. What role does MATRADE or SME Corp play in bringing foreign health care providers into Malaysia from AANZFTA member countries?
 - Is there a trend of increased presence of foreign female health care workers coming into Malaysia? If yes, what sectors do they focus on?
 - Are foreign workers displacing domestic health care workers (of whom the majority are women)?
9. Is there marked (and/or increasing) competition for tourism jobs spurred by foreign workers coming to Malaysia? Is it more pronounced in certain subsectors of the tourism industry that are dominated by women?

IV. E-COMMERCE

10. What cooperation efforts have been implemented among AANZFTA parties focused on e-commerce that Malaysia has participated in or led?
 - a. Have women led or participated in any cooperation activities to advance e-commerce adoption, promote consumer protection, or develop e-commerce legal frameworks and policies?
 - b. How is MATRADE implementing exporter development and export promotion in the context of e-commerce and the AANZFTA?
11. What government-supported capacity building activities related to digitization and e-commerce technical expertise are available to MSME owners?
 - a. When were these activities offered? (Do the dates align with AANZFTA implementation?)
 - b. What technical expertise was included? (Does the content support priorities found in AANZFTA provisions?)
 - c. What percentage of participants are women entrepreneurs?
 - d. Are women's business associations involved in the delivery or development of this capacity building support?
12. To what extent have MATRADE and SME Corp provided MSMEs and women with support to comply with AANZFTA commitments and additional e-commerce regulations?
13. Has the compliance burden faced by MSMEs been streamlined or reduced in recent years?
 - a. Has paperless trading been implemented? How has that affected businesses and entrepreneurs?
 - b. To what extent has technical assistance and support been provided to MSMEs to comply with consumer and data protection regulations?
 - c. Do consumer protections change the behaviour of women consumers and/or women entrepreneurs?
14. Under the Second Protocol, no additional duties should be placed on cross-border electronic transmissions. Would this have a significant impact on MSMEs - on women-owned companies especially?

15. How can the National E-Commerce Strategic Roadmap better facilitate adoption of e-commerce platforms and tools among women-owned MSMEs? How is SME Corp involved in the NESR and Twelfth Malaysia Plan?

Ministry of Tourism and Culture (MOTAC)

1. How is MOTAC working with women-owned businesses to facilitate movement of tourists into Malaysia from the AANZFTA parties? In terms of data?
2. Is it correct that MOTAC does not have any focus? That means no focus activity or accelerator program that is targeting women-owned businesses, women in tourism?
3. Do you have data on that, tourists that are coming in from New Zealand and Australia who would be not specifically, but who actually have the Kampung homestay experience?
4. What are the barriers women-owned tourism companies face in the tourism sector? How is MOTAC working with women-owned MSMEs to ensure that they can benefit from opportunities arising from AANZFTA? What initiatives or programs does MOTAC manage to reduce these barriers and provide technical assistance to women service providers to face these barriers?
5. Does MOTAC have data related to:
 - a. The gendered composition of Malaysia's tourism sector? What percentage of women vs. men comprise the tourism workforce? Gender-disaggregated wage data?
 - b. Trends indicating greater engagement of women entrepreneurs in the tourism sector in recent years (specify timeframe if possible)?
6. In terms of what MOTAC is doing to mitigate those challenges faced by this particular large group of women-owned businesses? How much do you see is the uptake of women-owned businesses for all these programs that you are offering?
7. What role does MOTAC play in facilitating collaboration between foreign tourism companies and local businesses? And have these collaborations expanded or increased since 2010?

WOMEN ENTREPRENEURS IN THE TOURISM AND HEALTH CARE SECTORS

Respondents: The study originally intended to gather 8-10 women entrepreneurs into two focus groups, one focusing on tourism and the other focusing on health care. Both groups would include entrepreneurs who used e-commerce or digital technologies as part of their businesses. Unfortunately, the team was unable to schedule focus group discussions due to the respondents' unaligned and busy schedules. Thus, the team scheduled eight individual interviews and FGD with two respondents.

FOCUS GROUP DISCUSSION QUESTIONS

A. Tourism Focus Group Discussion

1. What is your involvement in international trade, particularly via e-commerce?
 - a. What is your main business?
 - b. How do you receive payment from clients?
2. Please describe the gender dynamics in your field. Are women concentrated in certain roles or subsectors in the tourism sector? Is there a pay gap between men and women doing the same job in the tourism sector?
3. Do women-owned tourism companies face increasing competition from online booking platforms, travel consultation, and e-visa services based in other countries?
4. What opportunities are available to women entrepreneurs to partner with foreign corporations seeking to operate in the Malaysian tourism sector?

5. How could opportunities for joint ventures with women-owned businesses be expanded, particularly in the context of the Second Protocol, which allows for an increase of foreign participation in hotel, tourist resort, and restaurant services?
6. Is there marked (and/or increasing) competition for tourism jobs spurred by foreign workers coming to Malaysia? Is it more pronounced in certain subsectors of the tourism industry that are dominated by women?
7. For companies providing online services for tourists coming to Malaysia, has the compliance burden faced by MSMEs been streamlined or reduced in recent years?
8. Do MSMEs and consumers feel confident in engaging in e-commerce transactions? If not, why?
9. Have you heard of or participated in government-supported programs to help Malaysian businesses take advantage of AANZFTA opportunities, particularly in expanding exports/trade with Australia and New Zealand?

B. Health care Services

1. What is your involvement in international trade, particularly via e-commerce?
2. How are women distributed across roles and sub-sector in health care services? Is there a gender pay gap for similar jobs?
3. What are the trends for women-owned businesses in health care services?
 - a. Are online health services a growth sector for women entrepreneurs?
 - b. Do women-owned health services businesses (such as telehealth) employ a significant number of women service providers?
4. How has the growth of medical tourism influenced employment opportunities, working conditions, and the economic empowerment of diverse groups of women workers?
5. To what extent are women entrepreneurs in Malaysia opening facilities to serve medical tourists, in partnership with foreign firms since 2010?
 - a. Has foreign investment improved return on investment, reduced the price of health services, or expanded the variety/affordability/quantity of health services available in Malaysia? How so?
6. In general, are there increasing numbers of foreign health care professionals and/or companies seeking to work in Malaysia? Has this increased since the AANZFTA entered into force in 2010?
7. For companies providing online medical services to clients outside of Malaysia, has the compliance burden faced by MSMEs been streamlined or reduced in recent years?
 - a. Has the compliance burden improved in recent years? How so?
 - b. Has paperless trading been implemented? How has that affected your business?
8. Do MSMEs and consumers feel confident in engaging in e-commerce transactions? If not, why? Has that feeling changed since 2010?
 - a. Has consumer protection and online confidence improved in recent years? How so?
9. Have you heard of or participated in government-supported programs to help Malaysian businesses take advantage of AANZFTA opportunities, particularly in expanding exports/trade with Australia and New Zealand?

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About RT4D

Regional Trade for Development (RT4D) is an AUD53.3 million, 6-year initiative funded by the governments of Australia and New Zealand to support the effective implementation of ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) and the Regional Comprehensive Economic Partnership (RCEP) agreements.

Under RT4D, the Trade and Gender Equality Incubator (TGEI), with funding support from Australia's Department of Foreign Affairs and Trade (DFAT), generates evidence, tests practical approaches and works with partners to inform gender responsive trade related policies, systems and processes. TGEI seeks to strengthen the participation, influence and leadership of women from diverse backgrounds and with different abilities in trade, economic cooperation and decision making.

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