



Mainstreaming Gender in Trade Policy:

Practice, evidence,
and ways forward

IISD REPORT



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Mainstreaming Gender in Trade Policy: Practice, evidence, and ways forward

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Written by Caroline Dommen

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Head Office

111 Lombard Avenue,
Suite 325
Winnipeg, Manitoba
Canada R3B 0T4

Tel: +1 (204) 958-7700

Website: www.iisd.org

Twitter: [@IISD_news](https://twitter.com/IISD_news)



Executive Summary

If trade is to promote sustainable development, it must be inclusive. This includes creating equal opportunities for women to benefit from trade and ensuring that women are not more adversely impacted than men by trade or trade-related policies. There is a growing willingness to “mainstream” concerns about trade’s gendered impacts in trade agreements, as evidenced notably by the adoption within the World Trade Organization (WTO) of the Buenos Aires Declaration on Women’s Economic Empowerment.

As these mainstreaming efforts gather momentum, it is useful to take stock of the ways that existing provisions on gender and trade help—or hinder—achievement of gender equality. Defining metrics against which to gauge whether trade agreements are meeting gender equality objectives will enable us to identify and suggest ways to design gender-responsive measures for inclusion in future agreements.

This brief has three sections. Section 1 analyzes different types of gender-related provisions in trade agreements. Section 2 proposes a gender equality framework to evaluate gender-related provisions’ capacity to ensure that trade is gender responsive, and recalls the importance of a gender lens that enables a fully rounded, 360° awareness of trade policy’s impacts. Section 3 describes mechanisms for anticipating possible gender-disaggregated effects of planned trade agreements on women. In concluding, the brief asks how the knowledge we have about differential impacts of trade on women and men is—and can be—reflected in trade agreements in such a way as to promote inclusive trade, gender equality, and sustainable development.



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Introduction: Gender equality is the goal, and gender mainstreaming is a strategy toward that goal

International trade and trade liberalization have created many new jobs for women and reduced the prices of goods and services, to the benefit of women who often spend more on household needs. At the same time, trade, trade liberalization (and international rules relating to trade) can have more adverse impacts on women than on men, such as when export-oriented agriculture displaces subsistence farming, on which women depend more than men. In short, the relationship between trade and gender is complex, but its essential element is simply expressed: trade often affects women differently from men.

Until recently, the differential impacts of trade were not acknowledged. Trade policy-making was gender-blind¹ as trade was thought of as being gender-neutral.² But in the last few years we have witnessed a growing willingness in the trade community to acknowledge that trade and trade rules can have different effects on different groups within countries (See, e.g., Engel et al., 2021).

There has arguably been the most international policy activity around the distributional impacts of trade on one group: women. Over the past few years, an increasing number of initiatives that aim to mainstream gender in trade have emerged—i.e., initiatives whose stated aim is to achieve gender equality in trade policy. These initiatives are found within new trade agreements, in the work of international organizations, and at the national level.

Mainstreaming gender in trade policy requires that due consideration be given to gender inequalities and implications at the outset and at every stage of the trade policy process. In other words, at (i) the stage of generating evidence to inform decisions on trade policy; (ii) the stage of designing policies, including the negotiation and adoption of new international trade agreements; (iii) the stage of implementing trade policies; and (iv) subsequent monitoring of the impacts of trade or trade-related rules.³

Part 1 of this brief will consider how gender equality has been approached in the text and implementation of recent trade agreements. Part 3 will present and discuss the sources of knowledge at our disposal, based on which we can design gender-responsive⁴ trade policies.

¹ To be gender blind is to ignore gender norms, roles, and relations, and thus fail to realize that policies, programs and projects can have different impact on women, men, girls, and boys. Gender blindness often reinforces gender-based discrimination as it neither acknowledges nor attempts to address gender inequalities.

² Neutrality is sometimes presented as being based on the principle of being “fair” through treating everyone the same, even though in practice it may have be discriminatory as neutrality does not address pre-existing inequalities.

³ So far those working on trade and gender have tended to focus on the first three of these stages, such as the United Nations Conference on Trade and Development (UNCTAD) (2014). As discussed below, we suggest that monitoring is an essential yet often neglected stage of trade policy.

⁴ Gender-responsive policies and measures identify and acknowledge existing differences and inequalities between women and men *and* articulate measures or policies to address their different needs, aspirations, capacities, and contributions.



1.0 Gender Equality in the Text and Implementation of Trade Agreements

Gender equality is a fundamental human right. It is protected in international law, and most authoritatively set out in the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) which all but six countries in the world have signed or ratified (Office of the High Commissioner for Human Rights, n.d.).⁵ CEDAW defines gender-based discrimination as “any distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women” of human rights and fundamental freedoms (Office of the High Commissioner for Human Rights, 1979, n.p.).

Discrimination can ensue even when none is intended. Discrimination “can occur through the failure of states to take necessary legislative measures to ensure the full realization of women’s rights, the failure to adopt national policies aimed at achieving equality between women and men and the failure to enforce relevant laws.” In other words, “identical or neutral treatment of women and men might constitute discrimination against women if such treatment resulted in or had the effect of women being denied the exercise of a right because there was no recognition of the pre-existing gender-based disadvantage and inequality that women face” (See, e.g., CEDAW, 2010, p. 2).

1.1 Gender-Related Provisions in Trade Agreements

1.1.1 History and Evolution

The 1957 Treaty of Rome establishing the European Economic Community was one of the first trade agreements to refer to gender equality. This provided that each member state should guarantee equal pay for women and men. The 1983 Treaty establishing the Economic Community of Central African States was the first trade-related agreement between developing countries to include a gender-related provision, committing member states to research and develop policies to improve the economic, social, and cultural status of women and to increase their integration into development activities (Monteiro, 2018).

The number of explicit gender-related provisions in trade agreements has been increasing steadily since the 1990s, and the scope and depth of gender provisions have expanded significantly since the mid-2010s. Over 75 bilateral and regional trade agreements now include explicit provisions on gender. Another 170 refer indirectly to gender equality, for instance through references to labour discrimination, human rights, or social dimensions of sustainable development. Most gender-related provisions are expressed in “best-endeavour” language (Monteiro, 2018).

There is no single approach to gender-related wording and provisions: differences are found in terms of language, scope, and commitments as well as in terms of structure and location in

⁵ The countries that have not are Iran, Niue, Palau, Somalia, and Tonga.



the text. This brief does not purport to give an exhaustive list of trade agreements' provisions relating to gender equality or women's rights; other publications offer detailed overviews of the scope, location, and evolution of these (See notably International Trade Centre [ITC], 2020, Monteiro, 2018; Organisation for Economic Co-operation and Development [OECD], 2021) The next subsection considers some indicative examples as a basis for reflecting on the relative usefulness of different approaches.

1.1.2 A Typology of Gender-Related Provisions

The explicit gender-related provisions in trade agreements can be organized into five broad (and sometimes overlapping) categories: (1) reaffirmation of parties' existing commitments to gender equality; (2) statements that the agreement will not adversely affect women or gender equality; (3) provisions acknowledging the need for (or maintaining the ability of) the State to protect women's rights or promote gender equality; (4) measures for the promotion of gender equality and women's economic empowerment; and (5) cooperation mechanisms to promote gender equality.

1. Existing Commitments to Gender Equality

In the first category, agreements reaffirm the parties' commitments to soft-law instruments relevant to gender equality, such as the UN's Sustainable Development Goals (SDGs) or the WTO's Buenos Aires Declaration on Trade and Women's Economic Empowerment,⁶ to legally binding commitments such CEDAW or International Labour Organization (ILO) Conventions and/or to existing domestic standards. Examples are the Argentina–Chile,⁷ Canada–Chile, and Canada–Israel agreements, which recall Goal 5 of the SDGs (achieve gender equality and empower all women and girls) and CEDAW. The association Agreement between the European Union and Central America⁸ also refers to CEDAW and its labour-related articles refer to ILO Convention No. 100 on Equal Remuneration for Men and Women Workers for Work of Equal Value. Commitments to women's rights to work and at work are often found in the labour or sustainable development chapters of those agreements that have such chapters, although in many cases, the modalities for implementing these standards domestically are in the hands of each party. These provisions generally call on parties to sustain and properly implement their existing commitments; some note that parties will strive to continue to improve labour and environmental laws and regulations and their underlying levels of protection,⁹ but most do not require introduction of higher standards in favour of women's rights (OECD, 2021).

⁶ *WTO Joint Declaration on Trade and Women's Economic Empowerment*, adopted in 2017 during the Buenos Aires WTO's 11th Ministerial Conference, held in Buenos Aires (WTO, 2017). The Declaration is discussed below in Section 1.1.4.

⁷ Argentina–Chile trade agreement (2017), Capítulo 15, Género y Comercio.

⁸ Agreement Establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other (2012).

⁹ Agreement Between the European Union and Japan for an Economic Partnership (2019).



2. No Adverse Effect on Women or Gender Equality

Provisions aiming to ensure that the agreement does not have adverse effects on gender equality or on women also take different forms. Some references are quite timid, as is the case with the Article 8.5 of the European Free Trade Association (EFTA)–Indonesia agreement¹⁰ in which the parties “underline the need to protect the welfare and improve the livelihoods of vulnerable groups such as women”¹¹ without giving any indication of how this is to be done. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)¹² Preamble similarly reaffirms “the importance of promoting corporate social responsibility, cultural identity and diversity, environmental protection and conservation, gender equality, Indigenous rights, labour rights, inclusive trade, sustainable development and traditional knowledge.”

Several agreements are a bit bolder, with their operative sections setting out parties’ agreement to avoid weakening the levels of labour or environmental protection with a view to encouraging trade and investment, and to ensure that businesses do not infringe domestic laws or core standards to take advantage of new export opportunities or under pressure from foreign competition¹³ (ITC & European Commission, 2019).

3. Ability of the State to Protect Women’s Rights or Promote Gender Equality

The CPTPP Preamble reaffirms “the importance of preserving [the] right to regulate in the public interest” as does the EU–Mexico Agreement¹⁴ and a number of other trade accords.¹⁵ While not necessarily being specific to gender equality measures, these recognitions of the right to regulate implicitly acknowledge that the state may need to maintain policy space to protect women’s rights or to promote gender equality. The Chile–Uruguay agreement sets out more specific gender-related examples in its chapter on cross-border trade in services. This specifies *inter alia* that Uruguay reserves the right to adopt or maintain any measure granting rights or preferences to socially or economically disadvantaged groups and any measures relating to social services created or maintained for public purposes, including unemployment insurance, social welfare, state education, public training, health, or child protection.¹⁶

Such references help ensure that domestic gender equality-supportive policies (including positive discrimination measures in favour of women) are sheltered from dispute under trade agreements’ liberalization, non-discrimination, and domestic regulation provisions. Some say that these “right to regulate” provisions are potentially significant (OECD, 2021), even if closer legal analysis leaves questions unanswered as to whether these provisions, formulated as

¹⁰ Comprehensive Economic Partnership Agreement Between the Republic of Indonesia and the EFTA States (2018).

¹¹ Paradoxically, the same article goes on to ignore women by referring only to fishermen (emphasis added).

¹² Comprehensive and Progressive Agreement for Trans-Pacific Partnership (2018).

¹³ See for instance United States–Canada–Mexico Agreement (USCMA), Article 23.4: Non-Derogation; and EU–Ukraine Association Agreement (Association Agreement between the European Union and its Member States and Ukraine), Article 296.

¹⁴ EU–Mexico Trade Agreement (2018).

¹⁵ See also the 2018 Agreement between the European Union and Japan for an Economic Partnership, *supra* note 9.

¹⁶ Acuerdo de libre Comercio Chile–Uruguay (2016).



exceptions, would prevail in a dispute, when taken together with the constraints on the right to regulate set out in other parts of the agreements.¹⁷

Several U.S. trade agreements specify that the government procurement chapter does not apply to preferences or restrictions implemented in the context of programs that promote businesses owned by minorities, disabled veterans, or women.¹⁸ Although many governments use public procurement to support vulnerable groups, other countries' trade agreements do not contain provisions similar to the U.S. ones, nor does the WTO Government Procurement Agreement.

4. Promotion of Gender Equality and Women's Economic Empowerment

A number of agreements include measures in the fourth category, i.e., that promote gender equality and women's economic empowerment and/or enhance women's capacity to benefit from the opportunities created by the agreement. They mainly require parties to adopt gender-responsive policies,¹⁹ and promote cooperation to improve women's access to employment, education, and decision making, close information gaps, and bolster social policies (OECD, 2021).

In addition, some provisions that are increasingly common in recent agreements implicitly favour women. This is the case with those mentioned above, through which parties agree to avoid weakening labour or environmental standards to encourage trade and investment. This is also the case with measures proposed to alleviate the challenges micro, small and medium enterprises (MSMEs) face in engaging in international trade.²⁰ These can contribute to gender equality, as more women work in MSMEs than men, and as female-owned MSMEs usually start smaller with lower levels of capitalization and grow more slowly than male-owned firms. In other words, female entrepreneurs wishing to engage in international trade, particularly those that own or lead MSMEs, face more challenges than their male counterparts.

5. Cooperation

Stipulations to cooperate are the most common gender-related provisions, with more than 60 trade agreements having at least one provision mandating cooperation on gender or gender-related issues (Monteiro, 2018). These include cooperation with a view to conducting gender-based analysis or to develop indicators to measure the impact of gender-responsive policies,

¹⁷ See for instance EU–Mexico Trade Agreement (2018), Title on Investment and Trade in Services, Chapter V – Regulatory Framework. Section A – Domestic Regulation. See also Dommen, 2021.

¹⁸ An example is the US Notes to the Colombia–U.S. Trade Promotion Agreement Government Procurement Chapter (2006). Similar provisions are included in US trade agreements with Chile, Central America and the Dominican Republic, Morocco, Panama and Peru.

¹⁹ See for instance Brazil–Chile Free Trade Agreement (2020), Article 16.3: Compromisos Compartidos and Capítulo 18 Comercio y Género Artículo 18.1.6: Disposiciones Generales.

²⁰ See for instance USMCA, CPTPP, Comprehensive and Economic Trade Agreement (CETA), the Pacific Alliance and Asia Pacific Economic Cooperation (APEC), WTO Buenos Aires Declaration.



strategies, and actions supported by the agreement's cooperative activities.²¹ The most highly developed cooperation provisions are set out in the recent trade agreements with dedicated trade and gender chapters.

1.1.3 Gender Chapters in New-Generation Trade Agreements

Some recent trade agreements contain dedicated chapters on trade and gender. These include the 2016 Chile–Uruguay trade agreement, the 2017 Canada–Chile, Argentina–Chile, Canada–Israel trade agreements, as well as the 2020 Brazil–Chile and the 2020 Chile–Ecuador trade agreements.²² Several of these were adopted in the context of countries' Feminist Foreign Policy which embodies feminist values of transparency, intersectionality,²³ justice, equality, and solidarity.

These six agreements are similar in terms of the gender-related provisions incorporated in various parts of their texts, and in terms of their trade and gender chapters. They recognize the importance of a gender perspective, recall SDG5, state the economic benefits of women's economic independence and enhanced participation in the labour market and reaffirm their commitment to international agreements such as CEDAW (Hughes, 2019). The salient difference between these chapters and other types of gender-related provisions lies in the greater attention to cooperation activities and to capacity building, as well as the institutionalization of monitoring these through the creation of a Trade and Gender Committee (OECD, 2021).

The cooperation activities' stated aim is to improve the capacity and conditions for women—including workers, businesswomen, and entrepreneurs—to access and fully benefit from opportunities that the trade agreement creates. The agreements provide illustrative lists of areas of cooperation, which emphasize skills enhancement of women at work and in business, promotion of financial inclusion for women, advancing women's leadership and developing women's networks in business and trade (OECD, 2021). They leave it open to parties to address broader trade-related gender equality objectives by noting that parties may cooperate in conducting gender-based analysis, in sharing methods and procedures for collecting sex-

²¹ Such as those provided for in the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America, Art. 47. 2: "Cooperation shall promote the integration of the gender perspective in all the relevant fields of cooperation, including public policies, development strategies and actions as well as indicators to measure their impact." The four trade agreements with dedicated gender chapters also contain provisions saying that Parties will conduct gender-based analysis, share methods and procedures for the collection of sex-disaggregated data, the use of indicators, and the analysis of gender-focused statistics related to trade.

²² The 2020 Agreement between the United Kingdom of Great Britain and Northern Ireland and Japan for a Comprehensive Economic Partnership (UK–Japan) has a dedicated trade and gender chapter but with more limited provisions and fewer references to other instruments in favour of women's rights than the agreements that Canada and Chile conclude. Note also that a 2018 recommendation of the CETA Joint Committee on Trade and Gender is a de facto equivalent of a trade and gender chapter in the CETA. See CETA Joint Committee on Trade and Gender (2018), Recommendation 002/2018.

²³ According to the Oxford English Dictionary, "intersectionality" recognizes that social categories such as race, class, and gender create overlapping and interdependent systems of discrimination or disadvantage. It also reminds us of the differences among women (due to nationality, race, economic or social status, geographic location, or other factors) which it is important to recognize in analysis.



disaggregated data, for the use of indicators, and for analysis of gender-focused statistics related to trade as well as “other issues as decided by the Parties.”²⁴ The Argentina–Chile agreement refers to expanding social security policies’ coverage and programs aimed at generating employment and social inclusion for highly vulnerable women as possible areas of cooperation. The Brazil–Chile agreement notes advancing care policies and programs with a gender perspective and shared social responsibility in the public and private sector.²⁵

Cooperation activities are being implemented under recent trade agreements with gender provisions (Government of Canada, 2019a; 2020b). All the same, the dedicated gender chapters and other agreements’ gender cooperation provisions have been criticized for not including a specific program and for not defining budgets, baselines, targets, objectives, or measurements to monitor the cooperation or the broader impact of the agreement on equality between men and women.

Each of the six agreements establishes a gender committee composed of representatives from both parties. Among other things, the committees organize cooperation activities, facilitate sharing of best practices, make recommendations to the agreement’s commission on matters in the gender chapter, discuss proposals to support policies and initiatives on trade and gender, and consider matters related to the implementation and operation of the gender chapter.²⁶ The role of the trade and gender committees set up by these chapters is consultative and carries no power or authority.

Only the Canada–Israel agreement allows the parties to have recourse to the agreement’s dispute settlement mechanism. The others call on the parties to seek to resolve any issues through dialogue and consultations and explicitly prohibit them from availing themselves of the agreement’s dispute settlement procedures. The Canada–Israel agreement can thus be seen as a symbolic step toward making trade agreements’ gender provisions more enforceable. However, in practice, it is likely to have little effect, as it only applies to matters arising under the gender chapter, which relates mainly to cooperation activities. Therefore, any matter that would arise under the chapter would likely be dealt with through dialogue, consultations and cooperation (OECD, 2021).

²⁴ See for example, Canada–Israel Free Trade Agreement (1997), Article 13.3: Cooperation Activities; Argentina–Chile, Artículo 15.3: Actividades de cooperación.

²⁵ Brazil–Chile Free Trade Agreement 2018, Artículo 18.3: Actividades de Cooperación. The Canada–Chile Agreement contains similar wording in its Chapter N bis–Trade and Gender.

²⁶ See for example, Canada–Chile Free Trade Agreement, Article N bis-04: Trade and Gender Committee.



Box 1. Standard provisions sought by Canada in trade and gender chapters

“Ensure all gender equality laws are effectively enforced

Ensure women have access to, ownership of, and control over economic resources required for economic empowerment

Ensure that gender equality laws and standards are not lowered to attract trade and investment

Work together multilaterally to advance gender equality and women’s economic empowerment

Listing all gender-responsive provisions across free trade agreements for transparency and communication purposes

Illustrative list of cooperation activities”

Source: Giroux, 2019.

1.1.4 The WTO Declaration on Trade and Women’s Economic Empowerment

Other trade forums are also sending clear signals that gender equality objectives are on their agenda. The most significant is the WTO’s adoption, in 2017, of the Joint Declaration on Trade and Women’s Economic Empowerment (WTO, 2017). The Declaration has been endorsed by 127 WTO members and observers from all parts of the world and all levels of development. Endorsers agree *inter alia* to share experiences relating to policies and programs to encourage women’s participation in the economy, best practices for conducting gender-based analysis and monitoring of trade policies, methods, and procedures for collecting gender-disaggregated data, for using indicators, and for analyzing gender-focused statistics related to trade. The Declaration is the first document fully devoted to gender issues adopted during a WTO conference, thus marking a decisive step in putting trade and gender on the multilateral agenda. Following the adoption of the Declaration, an Informal Working Group on Trade and Gender has begun work at the WTO (Dommen, 2021a). This brings together most of the organization’s members and observers in discussions that seek “to intensify efforts to increase women’s participation in global commerce” (WTO, n.d.).

1.1.5 Three Contrasting Regional Approaches

A range of practices is emerging within regional trade bodies. This subsection presents three examples, drawn from the Americas, Africa, and the Asia-Pacific region.

1. The USMCA

The USMCA (United States–Mexico–Canada Agreement) entered into force in 2020, updating the North American Free Trade Agreement (NAFTA). The USMCA does not have a gender chapter but does contain language recognizing the importance of gender equality,



such as in the chapter on small- and medium-sized enterprises, through which the parties agree to collaborate in supporting small businesses owned by underrepresented groups, including women. The chapter that addresses the links between gender and trade most substantively is the labour chapter. This recognizes the three governments' commitment to fundamental labour rights, including elimination of discrimination in respect of employment and occupation and promotion of women's equality in the workplace. The chapter also introduces new objectives such as co-operating to eliminate discrimination in employment and wages, promoting equal pay for equal work, considering gender issues related to occupational safety and health (including childcare and nursing mothers), and preventing gender-based workplace violence and harassment. (Macdonald & Ibrahim, 2019) The USMCA's labour chapter is subject to the agreement's dispute settlement provisions. This places the burden of proof on the party alleged to be in violation of the agreement: in other words USMCA creates a rebuttable presumption that an alleged violation of labour commitments affects trade and investment, unless demonstrated otherwise.

2. The African Continental Free Trade Area's National Implementation Strategies on Gender

The African Continental Free Trade Area (AfCFTA) Agreement takes another approach: it is integrating gender equality into states' trade policies through their strategies for AfCFTA implementation. The agreement contains three references to gender equality and does not incorporate a separate gender chapter. Its preamble recognizes the importance of gender equality for the development of international trade and economic cooperation, Article 3 emphasizes the promotion of gender equality as one of the general objectives of AfCFTA, and Article 27 of the Protocol on Trade in Services acknowledges the need to improve the export capacity of formal and informal service suppliers, with particular attention to micro, small and medium-sized operators and women and youth service suppliers. More significant than the actual text of the Agreement, then, is the integration of gender equality in states' national implementation of AfCFTA.

Gender mainstreaming in national implementation of AfCFTA is seen as a key way for the new trade area to promote gender equality. According to the United Nations Economic Commission for Africa (UNECA), this reflects the understanding that to fully reap the benefits of increased intra-African trade flows, it is necessary to design domestic policy measures to correct for gender inequalities. An illustration is Senegal's National Strategy for the Implementation of AfCFTA (NS-AfCFTA). Its priority action plan includes activities to increase women's contribution in developing productive capacities and to create new opportunities to access export markets for goods and services. (AfCFTA Secretariat & UNDP, 2020).

UNECA has recognized that without complementary domestic policies the gender wage gap may be used to drive competitiveness in exports and keep women in low-productive activities and sectors, adding that "The policy objective should be to promote women as 'achievers' in, rather than 'sources' of, trade competitive advantage."²⁷ (AfCFTA, 2021) As the impacts of the AfCFTA, including on women, are likely to be different for each country,

²⁷ This distinction is addressed further in Subsection 3.1.



national implementation strategies can be a particularly fruitful approach to making the trade agreement contextually relevant and domestically effective for women (Bayat, 2020).

3. Asia-Pacific and the Global Trade and Gender Arrangement

Let us note two non-binding initiatives from the Asia-Pacific region: the Pacific Alliance's technical group on gender, set up in 2015, and APEC's Women and the Economy Forum and Policy Partnership on Women and the Economy. The latter two have launched a dialogue on obstacles to women's access to capital and to markets, on possible support for skills development, on the advancement of women into leadership roles in business, government, community and political levels, and on their better integration in scientific, innovation, and technology sectors. (OECD, 2021, pp. 43–44).

In 2020, trade ministers from Canada, Chile, and New Zealand signed a Global Trade and Gender Arrangement (Trade Ministerial Meeting of the Inclusive Trade Action Group, 2020). The arrangement is open to other economies; Mexico joined it in 2021. This stand-alone arrangement aims to promote mutually reinforcing gender and trade policies, and to open new opportunities to increase women's participation in trade, as part of efforts to improve gender equality and women's economic empowerment. The arrangement “acknowledges the importance of not weakening or reducing the protection afforded” in participating states' gender equality laws and regulations to gain trade or investment. The arrangement sets up a working group to “identify, coordinate, implement, and report on activities” and to interact with stakeholders.



2.0 Gauging the Effectiveness of Gender Provisions in Trade Agreements

Is the increased inclusion of substantive gender provisions or dedicated gender chapters an effective way to mainstream gender in trade agreements and trade-related policies? This brief reflects on how best to ensure that existing gender-related provisions enhance gender equality and how to design future such provisions in such a way that they also do.

Our knowledge about how gender-related provisions have been applied in practice and whether they have led to better outcomes for women is scant, in part because many of these provisions are quite recent. With this in mind, to help us reflect on the suitability of gender provisions to help meet gender equality objectives, we will first address the question of what metrics would be relevant to determining the relative success of different approaches to get a sense of how we can measure the suitability of existing provisions and approaches, and guide us in the development of new provisions. Then we will set out some of the most evident strengths and shortcomings of the current provisions that are already observable.

2.1 What Are the Relevant Metrics?

We know that trade and trade-related rules affect women in different ways, depending on the type of trade measure and on women's role in the economy. Some trade reforms can be positive for gender equality while others can be negative. There may be tensions between different effects; hence the net effect for each individual woman and man can be ambiguous (Fontana, 2009).

2.1.1 Recognizing All the Different Ways Women May Be Affected by Trade

To understand how economic factors affect women differently than men, it is necessary to recognize that women occupy multiple roles.²⁸ A woman may be an entrepreneur, a worker, a producer, a trader, a consumer, an investor, a carer, a decision-maker, a rights holder, a user of public services, or a taxpayer. These roles overlap (a producer may also be a trader) and women hold multiple roles at the same time (a woman who works will also be a rights holder and may also be a consumer and a taxpayer). Trade and trade-related rules may provide the same woman with opportunities or challenges in each of these roles, as illustrated by Figure 1. The original literature on gender and trade generally organizes the discussion about women in four roles: women as workers, as producers and entrepreneurs, as consumers (including of public services), and as taxpayers (Joeques et al., 2020).²⁹

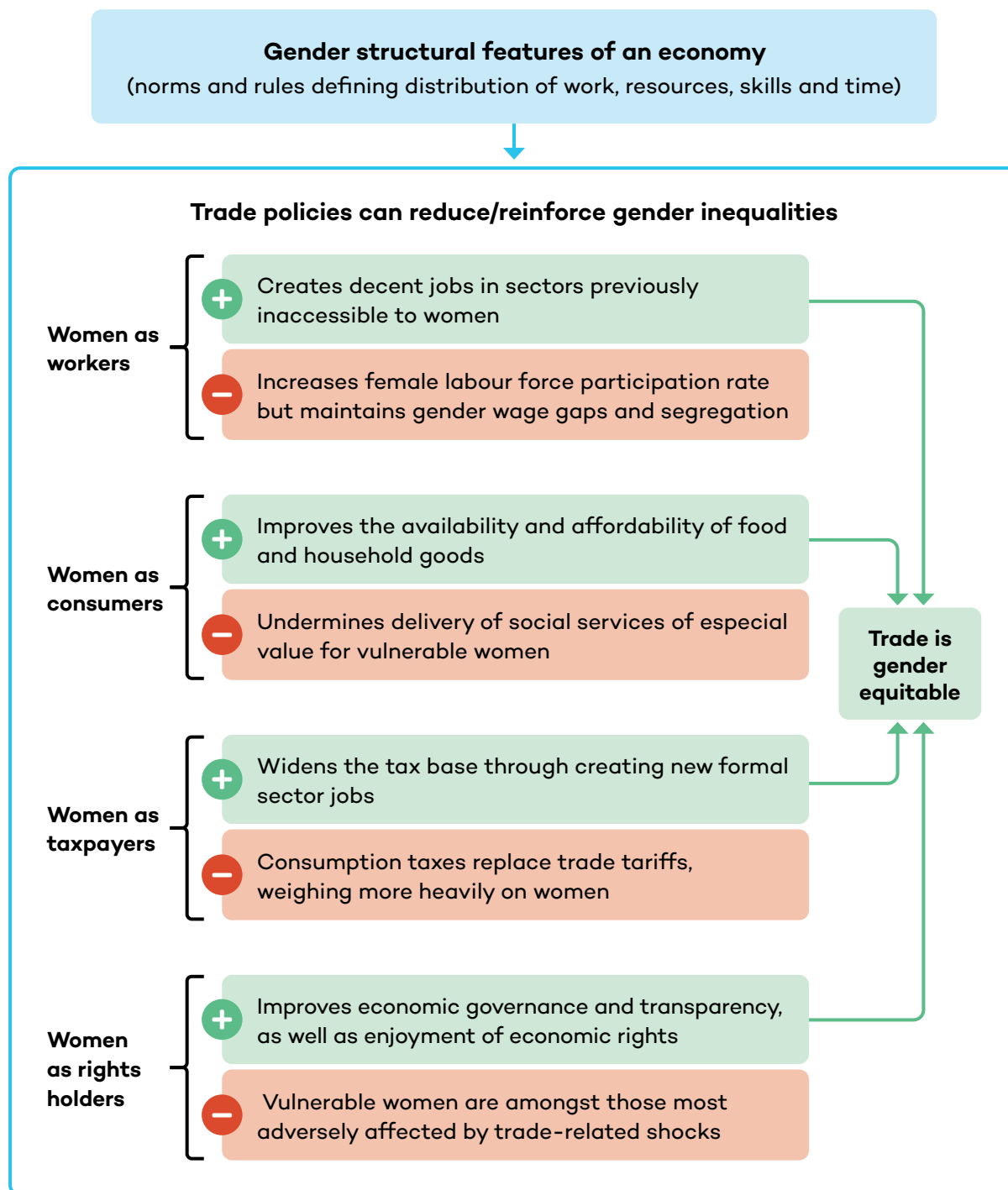
²⁸ As do men.

²⁹ Other categorizations of women's multiple roles have emerged in the trade policy context. UNCTAD tends to refer to "workers, producers, traders, consumers and taxpayers" (UNCTAD, 2021, p. 11). The European Commission (2018) applies the categories "workers, producers, traders or consumers," while the World Bank and WTO (2020) refer to women as workers, producers and business owners, consumers and decision-makers, and Hannah et al. (2021) to "workers, producers, consumers (including of public services) and carers."



In agriculture, for instance, trade liberalization tends to benefit large and medium-sized agricultural producers, who are mainly men, who can produce the volumes necessary to enter export markets. In most regions, women are smaller-scale producers. Due to the scale of their production and gender biases, they lack the comparable access to credit, marketing know-how, or markets that would enable them to grow their businesses and take advantage of foreign markets. Women may produce food for the household, but if the land on which they produce

Figure 1. Impacts of international trade on women in selected roles



Source: Adapted from Joeques et al., 2020.



is converted to export-oriented production (of food or other goods), they may have to buy the food that they previously produced, thus pushing them into paid work. Case studies on the effects of increased export orientation find that women bear much of the weight of adjustment and experience increases in both their paid and their unpaid work burdens, the latter in their role as carers (ActionAid, 2020; Floro, 1995). Liberalization may result in cheaper agricultural imports. While this may displace agricultural production for local markets, it may lower the cost of purchased food. Put another way, agricultural trade liberalization may benefit men more than women as producers but because women spend a higher part of their income on food, lower prices may be of higher benefit to them than to men, as consumers.

We add another role here, which is women as rights holders. This refers to the fact that whatever their economic role—and even if they are not involved in trade—women may be affected by trade-related decisions and measures to a different degree than men. Research in Cambodia, for instance, showed that land concessions for export-oriented agriculture or mining particularly impacted women and girls, in terms *inter alia* of labour, livelihoods, security, and family structure and roles (UN Human Rights Council, 2012). One reason is that women less often had property registered in their name or land titles. Their consequent insecurity of tenure left them more vulnerable to concessions being granted on the land they inhabited or used. When evictions or resettlements occurred, women lost jobs and sources of livelihood more than men did, and where there were problems with access to basic services such as water or sanitation at resettlement sites, women and children were disproportionately affected because they spent more time than men at the sites (UN Human Rights Council, 2012). Experience from elsewhere shows that women have suffered more in terms of critical illnesses caused by pollution of water sources due to export-led foreign investments and are at higher risk of sexual abuse when they have to travel further for food and water collection.

2.1.2 Acknowledging Both Sides of the Trade and Gender Relationship

We also know that there are two sides to the trade and gender relationship, in respect of market dynamics. On one side is the fact that men and women may be affected differently by changes in trade patterns, volumes, and regulations. In other words, the distributional outcomes of trade and trade-related rules within a country vary by gender.

On the other side, gender inequalities in labour markets and access to resources affect a country's competitiveness and export performance. These inequalities tend to position women as sources of competitive advantage more than achievers of competitive advantage (Elson, 2007). In other words, women's cheaper labour may be a source of competitive advantage for labour-intensive export-oriented production. This can be a source of employment for women who would otherwise be unemployed and, in some cases, has been a driver of improvements both to women's economic empowerment and a country's economic development (Bunwaree, 2004). In many cases, though, women's cheaper labour is exploited as an economic strategy, notably in export-oriented sectors in which international competition is intense. (Seguino, 2020) At the same time, on this side of the trade and gender relationship, women's businesses may find it harder than men's to achieve competitive advantage or to compete on international markets, due (among other things) to their lower access to finance, professional networks, and other resources.



Put another way, trade and trade-related rules can increase or decrease gender inequality, and gender inequality can prevent trade and trade-related rules from achieving the desired results (Williams, 2004). This context means that if trade agreements are to reduce, rather than entrench or amplify, pre-existing gender inequalities, we would want to see them address both sides of the trade and gender relationship, and focus on the gender-based factors that women face in their multiple roles even when they are not involved in trade.

2.1.3 Ensuring 360° Awareness of Trade Policy's Impacts

Discrimination can occur through failure to take necessary measures to redress pre-existing inequalities through gender-blindness or through assumptions of gender-neutrality. Parties to trade agreements can avoid these types of unintended consequences by taking into account all aspects of their legal obligations under CEDAW to respect, protect and fulfill women's right to non-discrimination and to enjoy equality. In the trade context, the obligation to respect requires that state parties refrain from entering into agreements or adopting trade-related policies, regulations, programs, procedures, or institutional structures that directly or indirectly result in denying women equal enjoyment of their civil, political, economic, social, and cultural rights. This necessarily entails knowing whether a planned policy or program is likely to reduce or increase inequalities—a point we will consider in Part 3 of this brief. The obligation to protect requires that states protect women against discrimination by private actors. The obligation to fulfill requires that states take steps to ensure that women and men enjoy equal rights de jure and de facto, which may involve adopting temporary special measures in favour of women. Complying with CEDAW entails obligations of conduct as much as obligations of result (CEDAW, 2010).

It would be a worthwhile exercise to apply these three frameworks (on women's roles, the two sides of the trade–gender relationship, and elimination of discrimination) to systematically evaluate whether existing gender provisions in trade agreements meet their stated goal of contributing to gender equality and whether proposed future provisions do so. This level of analysis will not be undertaken here. Rather, the next subsection will offer initial conclusions about the strengths and shortcomings of some of the existing provisions, keeping these frameworks in mind.

2.1.4 Other Proposed Metrics

Before moving on to this, we briefly note that other metrics have been put forward to gauge whether provisions in trade agreements meet gender equality objectives (Hannah et al., 2021; ITC, 2020; OECD, 2021). ITC proposes a methodology for “countries to gauge the gender responsiveness of their trade agreements, based on a 20-question survey” (ITC, 2020, p. 4). The survey questions focus on whether the agreement includes explicit references to gender, and whether it has institutional mechanisms for cooperation or research on gender-related issues. The methodology applies to textual analysis and does not look at how the agreements play out in practice.

The OECD (2021) suggests exploring whether gender provisions in trade agreements focus on—or encourage national policies to focus on—the seven drivers of transformation that the UN Secretary-General's High-Level Panel on Women's Economic Empowerment



(HLP-WEE) identified as necessary to address systemic barriers to women’s economic empowerment. These are: (1) tackling adverse norms; (2) ensuring legal protections and reforming discriminatory laws; (3) recognizing, reducing, and redistributing unpaid work and care; (4) building assets—digital, financial, and property; (5) changing business culture and practice; (6) improving public sector practices and procurement; and (7) strengthening visibility, collective voice, and representation. The OECD finds that the gender provisions in trade agreements touch on all seven of these drivers of transformation, although some to lesser degrees than others. The OECD analysis notes that other than labour norms, tackling adverse norms is hardly touched on, and recognizing, reducing, and redistributing unpaid work and care (as well as building assets) have attracted little attention in gender provisions, the exceptions being a few references in agreements such as the USMCA to non-discrimination on the basis of caregiving responsibilities.

Hannah et al. (2021) have a more critical perspective. To evaluate existing gender and trade initiatives, they use analytical insights drawn from feminist international political economy to respond to three questions:

1. What is the overarching purpose of global trade?
2. Does the initiative recognize the centrality of structural gender inequalities to the global economy and seek actively to dismantle them?
3. Does the initiative further the democratization of global trade relations?

With regard to the first question, Hannah et al. (2021) find that current initiatives (including some of the assessment approaches described in Part 3) tend to prioritize economic growth over social reproduction,³⁰ even if some, like the United Nations Conference on Trade and Development (UNCTAD) gender toolbox or the Argentina–Chile and Chile–Uruguay trade agreements are better attuned to how trade policies affect women’s participation in the economy and outline domestic policies to mitigate negative impacts of trade on workers, public services users, carers, and others. On the whole, they conclude that gender and trade initiatives in their present form constitute minor policy adjustments that may appear to prioritize social goals, but in effect serve to further entrench neoliberal trade. They also find that the distribution of expected gains is not explicitly discussed.

According to feminist international political economy scholars, the “production of people, meeting human needs, and fostering well-being should be the driving force of economics” (Hannah et al., 2021). In response to the second question, they argue that existing initiatives display no coherent or systematic approach to embedding a broad understanding of economic activity in trade policy, as social reproduction remains a second-order or non-existent concern for trade policy-makers. For instance, trade and gender initiatives emphasize support for women’s entrepreneurship and analysis is mainly for women as workers. This ignores other aspects such as the fact that for many women “entrepreneurship” is a survival strategy and not a business choice, and how for many women, increased paid work adds to their unpaid

³⁰ The term social reproduction as used here to relates to biological reproduction of the species, which includes social constructions of motherhood and the conditions under which this work is performed; the reproduction of the labour force (including subsistence, education, and training); and the reproduction and provisioning of caring needs (Hannah et al., 2021).



work burden. Hannah et al. recall that trade theory and policy analysis needs to consider the impact of trade on communities and people in their multiple roles as producers, workers, consumers (including consumers of public services), carers, and more—as well as the broader environmental conditions in which social reproduction takes place.

As to their last question, they describe how some initiatives recognize that women's groups hold valuable knowledge about global trade yet fall short of prompting further democratization of trade policy formation. Stakeholder consultation is a common mechanism across gender and trade initiatives, yet there is no indication that this has yielded meaningful participation of civil society and women's groups in decision making related to the formulation, implementation, or assessment of trade policy.

All three of these frameworks (ITC's, OECD's, and that put forward by Hannah et al.) contain relevant and helpful elements to guide reflections on existing gender mainstreaming initiatives in the trade field and on how to design future initiatives. We contend that the first two fall short in that they do not sufficiently engage with the broader impacts of trade and trade policy on those women who are already the most vulnerable. While the third is more holistic, it could be difficult to apply due to an apparent lack of measurable indicators. This brief posits that the starting point should be women's lives and experiences, regardless of whether these are within or outside what is defined as the economic sphere. This brief suggests that the legal framework that CEDAW embodies offers a simpler and stronger reference point against which to assess the capacity of existing or proposed gender mainstreaming initiatives to enhance equality between women and men.

2.2 Strengths and Shortcomings of Existing Gender Provisions

The majority of existing trade and gender provisions fall short by reference to any of the four metrics described above. This is not to say that existing initiatives are not useful or on the wrong track. On the contrary, they are to be welcomed and similar future initiatives are to be encouraged bearing the above considerations in mind.

One of the positive aspects of existing gender provisions in trade agreements is that they signal awareness that women face discrimination. Therefore, in and of themselves, their increased frequency is welcome, and positive impacts from existing provisions can already be observed. Most significantly, inclusion of gender language has significantly raised the profile of gender equality issues in the trade policy context and is enabling an increasingly focused consideration of ways that women can be affected by, or fail to benefit from, trade. They prompt a move beyond the traditional assumption that everyone has equal access to benefits—or risks—associated with new trade measures and trade-related rules.

At the governmental level, the explicit gender lens in trade agreements has enhanced other ministries' cooperation with trade officials; in Chile for example, the Ministry of Women and Gender Equity now participates in trade negotiations, and the Trade Policy and Negotiations Branch at Global Affairs Canada appointed a gender focal point in 2018. Moreover, by broadening discussions around trade to differential impacts on men and on women, and, in some cases by setting up stakeholder consultations, gender provisions have facilitated



participation by civil society and the private sector in trade policy formulation and in monitoring how trade agreements play out in practice.

The cooperative processes that trade agreements have set up for the exchange of information and practices relating to gender equality also hold promise. The capacity-building exercises within these processes have facilitated sharing of valuable knowledge and further raised awareness among trade officials about challenges that women face. The fact that committees established under trade and gender chapters are to meet annually ensures that the question will remain on the agenda. The scope that agreements leave for the committees to undertake new activities over time also enables them to evolve as awareness develops of the many ways that trade and gender interact, and willingness to engage with these increases.

However, as formulated so far, the gender provisions have shortcomings when viewed through the analytical prism presented in Part 2 of this brief. First, the factors that determine trade's impact on women are a country's structural composition of trade, its degree of export diversification or concentration, the legislative framework around gender equality, and the situation of women within the country. Gender provisions, and even gender chapters in trade agreements do not alter the patterns of trade—only the substantive provisions of the agreements and accompanying implementing measures do so.³¹ Therefore the gender lens and specific gender-related measures must apply to all parts of a trade agreement, not just those with the words “gender” or “women.” As we saw in Section 1.1, this is the case for some agreements, but so far, it tends to be the exception.

Second, the vast majority of gender provisions address the inequalities that women face in the workplace. The way that they are affected as consumers, carers, or ordinary citizens is overlooked, or only mentioned so superficially as to be meaningless, as in the case of the EFTA–Indonesia agreement referred to in Subsection 1.1.2 above. This is consistent with the available body of knowledge: as we will discuss in Part 3, the majority of studies focus on women in their roles as workers, producers, or traders. Linked to this, most of the initiatives focus on only one side of the trade–gender relationship: women as sources of—or under-achievers of—competitive advantage. This leaves aside those women who are already the most vulnerable or marginalized, such as those in informal employment, or those living in remote areas or especially dependent on natural resources for their livelihoods.

Third, gender provisions tend to be worded in best-endeavour language. Fourth, they lack mechanisms for monitoring their impacts on gender equality or sustainable development. The oversight functions set up by the gender chapters—or the labour or sustainable development chapters—in trade agreements are limited to oversight of that specific chapter; they do not cover the impacts of the agreement in its entirety. The monitoring and oversight mechanisms lack meaningful milestones, targets, or indicators for measuring whether or not the objectives they set out have been met (Harrison et al., 2017). Thus, the effectiveness of these mechanisms to contribute to gender equality will depend on the countries' commitment to the processes and activities set up within the cooperation mechanism (OECD, 2021).

³¹ Nor do they reconfigure the domestic legal, economic and social landscape affecting women's rights or gender equality. As this is a separate point it is not discussed here, but it is useful to keep sight of the fact that trade or trade-related rules alone cannot effect the breadth of changes necessary to achieve equality between women and men.



Fifth, to a large extent, the trade and gender measures call on countries to do what they should be doing anyway under binding international law. This includes undertaking gender analysis of all their policies—trade included—under CEDAW and other human rights agreements or collecting gender-disaggregated data under SDG 5. There is a concern that inclusion of obligations under trade agreements that are weaker than those already set out in CEDAW or ILO Conventions and subjecting them to monitoring by trade officials rather than gender specialists risks downgrading or diluting the relevant obligations.³² Efforts and resources might be more usefully dedicated to strengthening the ILO and CEDAW implementation systems and equipping them to tease out the trade-related aspects of the gender equalities that are brought to them.

Sixth, several of the agreements adopt a conditionality approach. In other words, they make trade benefits conditional on respect for certain standards. This approach has been criticized in the trade and labour context for not taking sufficient account of developing countries' specific circumstances—such as low labour costs—as a source of comparative or competitive advantage. The approach has also been criticized for seeking to use trade to impose Western standards on other countries around the world.

A seventh point, which may or may not be a weakness, is that the provisions are, for the most part, not subject to the agreements' dispute settlement mechanisms. Some observers argue that subjecting the gender (or sustainable development chapter to the agreement's dispute settlement mechanisms constitutes a powerful symbol of the agreement taking the gender (or sustainable development) parameter seriously, as well as being necessary to enforce the chapter. Others disagree. One reason is that subjecting the provisions to dispute settlement could damage the collaborative relationship between the parties that is valuable for promoting improvement for gender equality or constitute a disincentive to ratification. Another is alluded to above, that subjecting gender provisions to trade bodies' adjudication systems risks diluting the women's rights standards, not to mention the challenge involved in demonstrating a causal link between the trade agreement and the gender discrimination observed (ICTSD, 2017).

Perhaps the most significant shortcoming of existing gender provisions is the lack of clear monitoring mechanisms. Deficiencies in the assessment of environmental and social impacts of EU, EFTA, and other trade agreements have been amply documented with regard to these and other trade agreements. This is the case as regards both the negotiation stage (as discussed in Part 3 below) and the stage of monitoring social and environmental impacts once the agreements have come into force (Harrison & Paulini, 2020). As we will consider further below, monitoring the impacts of new trade patterns or trade-related regulations that flow from trade agreements is essential so that policy-makers and the general public can understand where their strengths lie or where they are causing problems. This, in turn, permits action to be taken in consequence.

Most significantly, ongoing monitoring will enable the development of a body of knowledge about broader and differentiated impacts of trade and trade-related rules. This knowledge is critical to achieving better outcomes for women from future trade agreements.

³² “[D]rawing them lock, stock and barrel into the purview of trade-related fora” (LeClercq, 2021).



3.0 How to Inform Trade Policy Based on Evidence About Its Gendered Effects?

Evidence about what trade policy choices will be most conducive to meeting gender equality objectives may come from different sources. Increasingly, civil society groups and other actors are calling for ex ante impact assessments; below, we will discuss some of the ways that this has been approached. To inform that discussion, it is worth pausing to consider what ex post knowledge is available about the impacts of trade and trade rules on women.

3.1 Ex Post Studies

There exists an array of evidence about how trade and trade policies have affected women. This evidence shows that the effects of trade liberalization and export promotion policies are gender differentiated, as well as being differentiated by other factors such as class, race, geographical location, and ethnicity (Engel et al., 2021). Whether the gendered effects are positive or negative varies depending on the characteristics of the economy in question, and studies have sometimes yielded contradictory results. Research in this area faces a number of empirical and analytical obstacles, such as scarcity of disaggregated data and how to offset benefits in one area (more jobs for women, for instance) against losses in others (lower prices for agricultural products on the sales of which women depend) (Cagatay, 2005).

3.1.1 Women as Workers

The vast majority of evidence comes from studies of trade's impacts on women as workers, either in terms of employment and business opportunities or wages (See, e.g., Aleman Castilla, 2020; Eguíluz Zamora, 2012; Fontana, 2020; Seguino, 2020). A significant number confirm that trade has created new jobs for women, offering formal employment to many who were previously not employed, with positive knock-on social effects such as increased education levels for women, reduced fertility, and higher family incomes.

Data is often lacking about the quality of those jobs, although we do know that many trade-related jobs are precarious (Aleman Castilla, 2020; Smith et al., 2021). Moreover, studies of export-oriented production in agriculture and in manufacturing where workers are predominantly women repeatedly find labour rights violations (See, e.g., UN Human Rights Council, 2019). In addition, many studies find that many women remain concentrated in low-skilled activities, with fewer chances of accessing higher-value-added jobs, that remain male-dominated (Borrowman & Klasen, 2019).

There is also an extensive literature on whether trade reduces the gender wage gap, with studies of different sectors and different countries. The results of these are contradictory, but some factors are clear, such as the fact that trade liberalization widens the wage differential between the formal and the informal sectors, which increases aggregate wage inequality (Aleman Castilla, 2020). Indeed, trade has been found to damage the most immobile factors in import-competing industries, which includes those in the labour force—such as women—who cannot easily relocate to other sectors (Krugman et al., 2018). Empirical studies find



evidence of trade liberalization having the severest impact on those population groups at the bottom layers of income distribution that are geographically and sectorally least mobile (see, e.g., Topalova, 2010). Despite the variance in results about trade and liberalization's impacts on women as workers, most studies concur that when women are held back, it tends to be due to their care burdens and flexible working arrangements, and not to levels of educational attainment.³³

3.1.2 Women as Producers and Traders

There is some literature about women entrepreneurs and traders in the context of international trade. While this does not necessarily make a link between existing trade agreements and direction of exports by women-led enterprises, the data they contain permit some insights as to how trade agreements impact women in their roles of entrepreneurs or traders or exporters (ITC & European Commission 2019; ProChile, 2019).

In this, as in other areas, research is hampered by a lack of gender-disaggregated data. However, as several governments and international agencies have started linking trade data with data about women's presence in companies that trade, this is an area where we can expect to see some progress soon. El Salvador, for instance, has started to include a new variable—the name of the exporter—in foreign trade data. Based on this, it should be possible to know which trading companies (importers and exporters) are women-owned and which are men-owned. Nordic countries have linked micro-data from various business and social statistics, which also offers new insights on gender and trade (Lindroos et al., 2019).

3.1.3 Women in Other Roles

We have surprisingly little knowledge about the differential impacts of trade and trade-related rules on women in their other roles. A few studies have considered trade's impacts on women as consumers. Lower food prices as a result of liberalization have been shown to benefit urban women who are net buyers of food (Randriamaro, 2005, Siddiqui, 2009). However, in many cases cheap food imports that follow trade liberalization have reduced the domestic price of agricultural produce and eroded the already-low earnings of subsistence farmers, a group dominated by women (UNCTAD, 2020).

If the expansion of export-oriented crops has created new jobs for women, it has also led to decreasing availability of land and time devoted to subsistence agriculture. Small-scale subsistence farms (in which women are often active) struggle to compete with large agribusinesses, as they are unable to achieve the same economies of scale. Furthermore, expansion of commercial agriculture has been shown to lead to the depletion of communal land and resources, which women frequently rely on for fuel, water, fodder, or medicinal plants. Cambodia is one country where the granting of land concessions to investors has been shown to particularly impact women and girls in terms of access to traditional lands and resources, due in part to their less-secure property rights (UN Human Rights Council, 2012).

³³ However, the choice of area of specialization in education and training has an impact: women are less present in the science, technology, engineering, and mathematics (STEM) subjects that can lead to better-quality and better-paying jobs.



Two recent studies that look at the effects of import tariffs on goods consumed by women conclude that tariff reductions would benefit women (Artuc et al., 2019; Betz et al., 2021). For some goods, though, expected gains from tariff reductions do not benefit the most vulnerable women consumers, as the cheaper imports include consumption items such as washing machines and gas cookers, which can only be afforded by households with high incomes and easy access to energy sources (Fontana, 2009).

We have some knowledge about trade-related changes in access to public services. Women, alongside certain racial and minority ethnic groups, are over-represented among users of public services, partly because they tend to take on greater responsibility for care work. In most countries, they also make up the majority of workers in the health, social work, and education sectors. Sometimes liberalization permits better provision of services. In other areas, the picture is more mixed. Reduced governmental revenue from trade tariffs has preceded reduced spending on social services. Non-profitable regions, poor communities, and more vulnerable groups including women have been penalized, as has been demonstrated with regard to health care (Missoni, 2013).

Researchers who have analyzed the economic impact of existing preferential trade agreements have found increases in economic inequality after their entry into force (Baccini et al., 2015), with only modest decreases in inequality (European Parliament, 2017).

Existing ex post evidence findings offer trade policy-makers indications as to areas in which trade and trade policy might particularly affect women. However, as the overview above indicates, it is not possible or even useful to conclude whether increased trade or trade liberalization is good or bad for women (or for equality between men and women) as the effects differ for different groups of women as they will for women and men in different sectors of the economy (Cagatay, 2005). It is more meaningful to ask how trade policies can be made more gender equitable.³⁴

Ex ante gender impact assessments of planned trade agreements are a valuable tool to help answer this question. In the following subsections we will consider experience with these kinds of assessments, developments in methodologies, some of the critiques, and suggestions for improvement that have been articulated.

3.2 Ex Ante Gender Impact Assessments of Trade Agreements

The central question of a gender impact assessment is whether the law, policy, or measure being assessed reduces, maintains, or increases inequalities between women and men. Ex ante assessments of new planned trade rules and measures are useful for a number of reasons. They enable a shift in focus away from the overall aggregate impacts of changed trade-related rules on a country as a whole. They narrow the focus of enquiry to impacts on specific segments of the population—rural versus urban populations for instance, or men versus women. Second, they help identify optimal policy design for achieving specific targets (in this case, reducing gender inequalities). Third, they can point to what policies or measures should be avoided. Fourth, they

³⁴ To be gender equitable is to attempt to address forms of gender discrimination.



can direct attention to the types of flanking or complementary measures that might be needed to mitigate the adverse effects of the planned reform or enhance its potential positive effects. More generally, gender impact assessments of trade measures serve to gather evidence and broaden knowledge about how trade and trade-related policies affect women and men.

As early as 1995, the Beijing Platform for Action called for gender impact assessments. Its Paragraph 165 advises governments to seek to ensure that national policies related to trade agreements “do not have an adverse impact on women’s new and traditional economic activities,” and “to use gender-impact analyses in the development of macro and micro-economic and social policies in order to monitor such impact and restructure policies in cases where harmful impact occurs” (UN, 1995). Assessments of likely gendered impacts of planned trade measures and policies are arguably required under human rights law, of which CEDAW is part. The CEDAW Committee, the body of independent experts that monitors implementation of the CEDAW Convention, is one of the many human rights bodies to have affirmed the importance of knowing how trade and trade-related policies affect women, recalling that states are required to carry out impact assessments (See Box 2). Ex ante impact assessments are also a key tool for accountability in trade policy-making.

Box 2. Overseeing women’s rights in trade and investment policy

The CEDAW Committee raises concerns about the impact of international trade and investment policies on women. For instance, it has expressed concern that developed countries do not undertake sufficient impact assessments explicitly taking into account women’s human rights before they negotiate international trade and investment agreements. In 2016 and 2017, it recommended that Switzerland, Canada, and Germany do so (CEDAW Committee, 2017). In 2019 the Committee said that Britain should ensure that any future trade and investment agreements “explicitly consider their impact on women’s rights” (CEDAW Committee, 2019a).

In 2019, CEDAW recommended that the Seychelles develop a national policy on the Buenos Aires Joint Declaration on Trade and Women’s Economic Empowerment in the context of the Agreement Establishing the AfCFTA (CEDAW Committee, 2019b). The Committee further advised the Seychelles to ensure that any future trade and investment agreements it negotiates recognize the primacy of its obligations under CEDAW and explicitly consider the impact of these agreements on women’s rights.

On several occasions, the Committee has expressed regret about the lack of data about the impact of trade policies on women. In 2011 it regretted Costa Rica’s “lack of concrete information regarding measures taken to analyse, prevent and follow up the possible negative impact of the Central American Free Trade Agreement for women employed in the formal sector” (CEDAW Committee, 2011). In 2018, the Committee expressed concern to the government of the Bahamas about “the limited information available on trade liberalization policies and their impacts on women” (CEDAW Committee, 2018a). CEDAW has also deplored the lack of data on the impacts of Samoa’s trade and investment agreements (including its accession to the WTO) on the rights of women and girls (CEDAW Committee, 2018b).



Some countries or economic blocs do undertake assessments before negotiating a trade agreement. Many include at least some sex-disaggregated analysis of likely distributional effects of the trade measures that are being considered; others have a more detailed focus on women.

3.2.1 Canada's GBA+

Canada has made gender equality and empowerment of women and girls a priority. It has developed a tool to analyze all policies and programs in light of gender equality: Gender-Based Analysis Plus (GBA+) (Government of Canada, 2019b). In 2019, the Canadian government conducted a comprehensive quantitative and qualitative GBA+ of each of the 25 chapters of the trade agreement it was negotiating with Mercosur (Argentina, Brazil, Paraguay, and Uruguay). Canada expanded its modelling capacity to include a newly developed labour market module that takes into account gender, age, and the distribution of Canadian workers across eight different occupational groups and 57 sectors of the economy. (Government of Canada, 2020b). The analysis was supported by a questionnaire to guide lead negotiators in assessing the effects (positive and negative, direct and indirect, intended and unintended) of provisions on men and women in Canada in their roles in the economy as workers, entrepreneurs, business owners, and consumers. Lead negotiators regularly updated their GBA+ before each round of negotiations with Mercosur by integrating information on progress to date, adding new data and evidence as it is identified, and analyzing these inputs to reveal findings to inform the negotiation strategy through the development of new provisions. The GBA+ exercise—which considered women in Canada but not in Mercosur countries—served to inform the negotiations and help identify opportunities for adding new gender-responsive and inclusive trade provisions across the FTA (Government of Canada, 2020a). Through this GBA+, Canada became the first government to undertake a standalone ex ante gender impact assessment of a trade agreement. A striking difference between the GBA+ process and the types of assessment described below is that GBA+ is undertaken by trade negotiators themselves.

3.2.2 EU Trade Sustainability Impact Assessments

The EU treaties oblige it to aim to promote equality between men and women in all its activities, including external trade. The European Commission commissions sustainability impact assessments (SIAs) of all its planned trade agreements, and since 2002 most SIAs have included at least some mention of gender issues.

One recurrent criticism of EU SIAs is that their analysis of gendered impacts is narrow, superficial, and siloed (WIDE & Concord, 2018). The 2019 SIA of the trade agreement between the EU and the Republic of Indonesia is an illustration of this. Its section on women's rights occupies hardly more than three out of its 285 pages. The arguments it puts forward are general and lack dedicated data. The SIA's recommendations are in effect limited to flanking measures such as strengthening labour rights monitoring capacity in Indonesia and continuing



EU–Indonesia bilateral cooperation under the existing EU–Indonesia Human Rights Dialogue (European Commission & Development Solutions, 2019).³⁵

The SIA on the modernized association agreement with Chile is an improvement on previous SIAs in terms of the scope and depth of its gender analysis, an improvement that may be lasting because the terms of reference for all EU SIAs include a requirement to carry out an analysis of impacts on women. The SIA of the agreement with Chile considers women in their roles as workers, leaders of enterprises, and traders and acknowledges that trade can affect women as consumers. The SIA applies UNCTAD’s Trade and Gender Toolbox (presented below), complemented with elements of the European Institute for Gender Equality Gender impact assessment toolkit (European Institute for Gender Equality, 2016). The assessment concludes that women as workers are expected to benefit from the agreement in absolute terms even if sectors that employ more men are expected to grow the most (e.g., agriculture, fishing and utilities, including construction) and that the agreement may result in reduced employment in sectors such as wholesale and retail trade, in which many women work. The SIA expects that women-led enterprises may also benefit, as a large part of these operate in sectors such as trade, hotels, restaurants, and agriculture for which the Computable General Equilibrium (CGE) model estimates some increases, notably in Chile. The SIA recommends measures to support these companies and promote their exports (EC & BKP Consulting, 2020).

In another welcome development, the EU–Chile SIA broaches other areas that are important for women, albeit timidly. It notes that increased trade in vegetables, fruit, and nuts could benefit women as producers or traders but could simultaneously affect water quality and availability in the regions where these items are produced. It touches on how the agreement would affect social policies, including those relating to care services, but does not offer any particular insights or recommendations as to how to respond to these risks. The EU–Chile SIA also makes proposals for how rules on public procurement could be positive for women (EC & BKP Consulting, 2020).

The SIA recommends investing in education and training to encourage women to enter expanding sectors such as construction. It advises including gender equality and support for women so that they can seize opportunities offered by the agreement, in the preamble and objectives of the modernized agreement. It calls for mainstreaming gender issues into core parts of the agreement, such as those on trade in services, public procurement, or investment. The SIA also recommends including clear and measurable targets on women’s rights in the trade and gender provisions. The SIA suggests that both parties strengthen the collection and analysis of data disaggregated by gender to enable monitoring of impacts of the modernized agreement on women (EC & BKP Consulting, 2020).

The EU issues a response (“position paper”) to all the SIAs it commissions. These are usually quite general. In its position paper responding to the EU–Chile SIA, the EU does not engage with any of the SIA’s recommendations. It simply reiterates that it had already proposed that the agreement reaffirm the commitment to effectively implement CEDAW

³⁵ It is worth observing that the EU approach tends to put more emphasis on impacts of the planned agreement on women in partner countries (in this case, Indonesia) than those in the EU. This contrasts to the Canadian GBA+ approach, which deals only with the trade agreement’s impacts on women in Canada.



and says that the SIA did not identify specific challenges for companies led by women or for female employees in core trade disciplines such as trade in services, public procurement or investment (EC, 2020a).

Overall, the conclusion that “[T]SIA findings have never seriously challenged the usual course of action of the Commission” is a reasonable one (Brando et al., 2015).

3.2.3 Human Rights Impact Assessments

Several ex ante human rights impact assessments (HRIAs) of trade agreements have devoted attention to women’s rights. The human rights approach puts the concepts of non-discrimination and equality front and centre, in contrast to other types of assessment which look at the relative opportunities of women prior to and after entry into force of a new trade agreement, HRIAs generally do not distinguish explicitly between women in their different roles but seek to take a holistic approach, with their starting point being the situation of those who are the most vulnerable within a country. It follows that HRIA analysis considers equality between men and women and also equality between women, for instance as between women from different ethnic groups, religions, or disability statuses. HRIAs require qualitative as well as quantitative methods of enquiry. Indeed, qualitative data are essential for gauging women’s choices at the household or firm level that are relevant to enjoyment of human rights, such as intra-household spending, division of labour, power relations, and agency (Dommen, 2020). The human rights approach emphasizes the importance of participation in trade policy-making as well as in the HRIA process itself. Most notably, human rights require states to take positive action to address inequalities between women and men and to ensure that women can exercise and enjoy their rights. This contrasts with SIAs, where domestic policies or flanking measures sometimes appear to be optional (Walker, 2009).

In 2015, UNECA commissioned an HRIA of the AfCFTA, then under negotiation (Economic Commission for Africa & Friedrich-Ebert-Stiftung, 2017). This HRIA paid particular attention to women as well as other vulnerable groups. It focused on agriculture, agro-processing, and informal cross-border trade. The HRIA methodology was based on the Guiding Principles on Human Rights Impact Assessments of Trade and Investment, that the UN Human Rights Council adopted in 2011. Through qualitative and quantitative research, the AfCFTA HRIA identified trade-related interventions that could be harmful for women and others that could enhance enjoyment of women’s rights. It also addressed intersectionality, paying particular attention to rural women and women in informal cross-border trade.

Among its recommendations most pertinent for women were to recognize women’s high participation in agriculture and in the informal economy, as well as their unpaid labour, including through increasing data-collection efforts; to take steps to better adapt border crossings in order to reduce the ill-treatment that women informal cross-border traders face; to design provisions that enable members to temporarily exclude some tariff lines from tariff liberalization, so as to protect products important for vulnerable groups such as women. The AfCFTA HRIA also suggested that member states should increase their efforts to include women in trade and investment negotiating delegations, and to ensure that those adversely affected by the AfCFTA are compensated for these effects through adjustment assistance and reskilling programs. The HRIA recommended increasing participation in



trade policy formulation, stating that proactive measures should be taken to ensure the participation of vulnerable and disadvantaged actors such as MSMEs, women, and rural populations. Importantly, it put forward indicators for ongoing monitoring of the AfCFTA as well as suggestions for the area's institutional framework. This HRIA is significant as it is to date the only published HRIA commissioned by an intergovernmental body.³⁶ Some of its recommendations have been applied in the AfCFTA, such as tariff exclusion lists and the efforts to mainstream gender in countries' AfCFTA implementation strategies.³⁷

3.2.4 UNCTAD Trade and Gender Toolbox

UNCTAD's Trade and Gender Toolbox offers a systematic framework for evaluating the impact of trade reforms on women and on gender inequalities prior to the implementation of these reforms. It focuses primarily on women as workers. The toolbox was first applied to assess how the economic partnership agreement between the EU and East African Community (EAC) would affect Kenyan women (UNCTAD, 2017). The toolbox was also applied in the SIA of the modernization of the Trade Part of the EU–Chile association agreement, discussed in Section 3.2.2 above.

The toolbox's approach is the following (see Figure 2). First comes a description of the economic context and the prevailing situation regarding gender inequalities in the country being assessed. Relevant features may be access to work, resources (land, finance), or education. Sources of information can include legal texts, existing surveys, and other data sources. Second, it evaluates how expected trade reforms could affect different sectors of the economy. A CGE model can be applied at this stage. The results of the first two steps are identified and matched with the results of the CGE modelling to determine the scale and direction of potential impacts of the planned trade agreement on women as workers. If more detailed data is available, sectors and groups of products and services can be identified in which women are particularly present, and the trade reform's impact on their production and sales, including exports, and competition with imports (i.e., effects of the agreement on women as entrepreneurs and traders, including exporters).

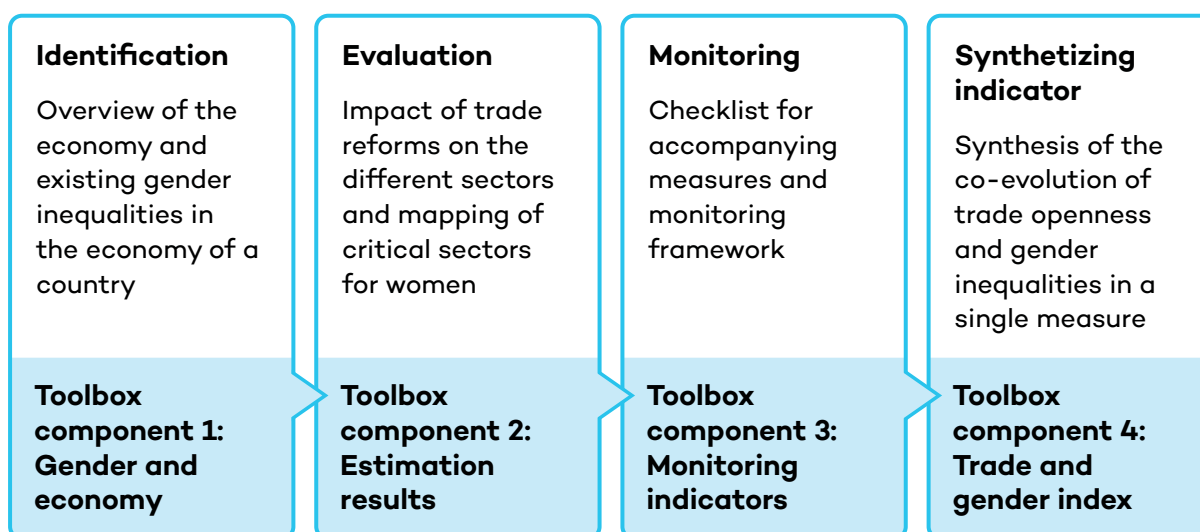
The third step introduces a checklist to guide the implementation of accompanying measures to achieve greater gender equality or to reduce the risk of exacerbating gender disparities. This points to the need to assess whether export promotion policies include support for childcare and whether reductions in public expenditures and increases in taxation affect public services access and the burden of care work (Hannah et al., 2021). The toolbox includes a monitoring framework for evaluating the effects of the trade reforms on gender equality over time and proposes a Trade and Gender Index to measure the co-evolution of trade openness and gender inequality in the workplace (UNCTAD, 2017).

³⁶ In 2017 the Commonwealth commissioned an HRIA of services trade liberalization for Mauritius, in the context of the negotiations towards the trade in services agreement. As the negotiations stalled, the HRIA was not published. Its methodology and key findings are summarized in Dommen (2021).

³⁷ Discussed above in Section 1.1.5.



Figure 2. Components of the Trade and Gender Toolbox



Source: UNCTAD, 2019.

3.3 Challenges of Ex Ante Gender Impact Assessments

The practice of carrying out ex ante impact assessments of trade agreements on gender is a welcome development, even if a practice based on a satisfactory global methodology is yet to emerge, and even if they are all to some extent stymied by the lack of sex-disaggregated data. As it is an evolving field, though, there is scope for improvement drawing on experience so far. This subsection will present some critiques. In the next section, we will look at some promising methodological developments.

One critique of impact assessments carried out to date is that they are often limited to quantitative analysis of the trade agreement's impacts on employment in the formal sector. Because interactions between trade and gender are complex, affecting women in their multiple roles, a satisfactory impact assessment should include effects on consumption, livelihoods, and access to services as well as its impacts on women working and trading in the informal and formal sectors. Importantly, it should not neglect the rights of women who are not involved in trade but may be indirectly affected, such as those who might be displaced by foreign investments.

For example, Canada's GBA+ has not so far been applied to how trade reforms might affect women as consumers or users of public services, nor how they might affect issues around women's unpaid work burdens. Moreover, it only applies to women in Canada. To date, neither the UNCTAD gender toolbox nor EU SIAs sufficiently considers the intersection of proposed trade policies and pre-existing social and economic hierarchies. However, the model underpinning the EU SIA and the gender toolbox is based on the CGE model, which could in principle be adapted to take into account a much broader set of dimensions, including unpaid work, consumption effects, and public provision effects as well as intersectionality (i.e., distinguishing between different groups of women and men also by location, age, or family circumstances).



As for HRIAs, they have tended to be insufficiently resourced to effectively combine quantitative with qualitative data to build a complete picture of trade's impacts on women's rights. Moreover, participation and stakeholder consultation in SIAs and other impact assessments has been woefully inadequate, even if mechanisms for participation in the EU SIAs have improved over time.

While the SIA of the EU's agreement with Chile showed promise in terms of the capacity of SIAs to undertake meaningful gender analysis of trade agreements under negotiations, the EC position paper hinted at another common shortcoming of gender impact assessments: the evidence and recommendations they generate are often not reflected in the design and implementation of the substantive provisions of the trade agreement being assessed. As noted in Section 2.2, the EU has been criticized for not taking the gender- or human rights-related aspects of SIAs into account in the resulting trade agreements. In fact, the low regard the Commission appears to have for SIA processes has resulted not only in it not picking up on SIA recommendations but has caused the European Ombudsman to find it in maladministration—twice!—over its failure to complete SIAs before concluding trade negotiations.³⁸

Thus one is left with the impression that some government-led impact assessment exercises are used to “legitimize trade policy choices, rather than to mitigate the adverse anticipated, or demonstrated, effects of trade policies” (Hannah et al., 2021). Another reason why gender impact assessment has not so far lived up to its promise is that subsequent monitoring of the impact of implemented trade agreements on women and on gender equality has been neglected.³⁹ Thus opportunities have been missed to generate knowledge along comparable indicators, with which to craft better agreements in the future (Dommen, 2020; WIDE+ & Concord, 2018).

Those concerned with developing gender-responsive trade policies are thus faced with the challenges of making do with imperfect data, resolving methodological questions, and insufficient uptake of SIA recommendations.

3.4 Progress on Methodologies

Despite these challenges, there is ongoing progress toward improved methodologies to take into account the different channels by which trade and trade-related policies can affect women. Fontana (2016) and van Staveren (2007) have undertaken work on modelling the effects of trade on women, as referred to in Box 3. From a gender perspective, these methodologies should include, wherever possible, economy-wide modelling to map the gender composition of different sectors of the economy, taking informal work and women's unpaid work into account. They should also include impacts on public services and consumers, and the effects through taxes and women's welfare regimes, and should include intersectionality with other forms of vulnerability or discrimination.

³⁸ See European Ombudsman (2014, 2021).

³⁹ The EU has started undertaking ex post impact assessments, but to date these have suffered from similar shortcomings as the ex ante SIAs. See EC (2021).



UNCTAD has gone some way toward this, having refined the approach proposed in the Trade and Gender Toolbox to investigate how the Global Trade Analysis Project (GTAP) CGE modelling framework could be used to analyze other channels of trade–gender transmission such as production, consumption, and entrepreneurship (noting that this will depend on the availability of broader and more systematic statistics than is currently the case). UNCTAD also explores how a gendered CGE model for an ex ante gender impact assessment of trade reforms could be developed and what the data requirements for doing so would be. In this, it pays special attention to the role of unpaid care and domestic work in understanding the gender and trade nexus (UNCTAD, 2019).

Box 3. Gender indicators for monitoring trade agreements

Van Staveren (2007) developed a set of indicators to measure the relationship between trade and gender in areas such as employment, income, pay, and domestic work. The only application of these has been to the bilateral trade agreement that was under negotiation between the European Union and Mercosur at the time the indicators were developed.⁴⁰ Application of the 11 indicators signalled possible negative gender impacts of the Mercosur–EU trade agreement and suggested that there could be impacts from persistent gender inequalities in Mercosur on its trade relationship with the EU. In particular, the data seem to suggest that the “lock-in” situation of Mercosur in a traditional trade pattern with the EU (exports of primary products and imports of manufactures) may actually be reinforced by the gender inequalities in the labour markets of the four South American countries.

The proposed set of gender and trade indicators is constructed in such a way that they are likely to reflect at least a part of the impacts. The author stresses that the use of these indicators is only one tool that should be used in conjunction with a wider set of tools. She suggests how the results of these monitoring exercises should be reflected in trade negotiations and the resulting agreements. This could be done through training in gender analysis for members of trade delegations, effective domestic legislation on equal pay, food assistance for poor households, and skills training programs for unemployed women for jobs in export growth sectors.

Overall, we must recall that trade agreements may affect women through their rule-making function as well as through the exchange of market access concessions. Trade policy-makers could usefully ensure that, in preparing for trade negotiations, they have identified national priorities (within and between sectors and topics) as well as areas that present particular risks or opportunities for gender equality, and negotiate, implement, and monitor the eventual agreement with regard to those priorities (Joekes et al., 2020). In this light, ex ante assessments should be helping negotiators identify market segments and types of products that are known to generate positive returns for women and working to free up access to those products and services at an early phase of the implementation of the trade agreement (Shepherd, 2018). Assessments should also focus on areas that are known to present risks

⁴⁰ These negotiations were suspended; talks then resumed in 2010 and resulted in the adoption in 2019 of a trade agreement between the two blocs.



for gender equality so as to ensure that trade rules are crafted in such a way as to minimize them or that adequate flanking measures are implemented alongside the agreement. Ex ante assessments could also be much more explicit about the types of monitoring arrangements and resources (e.g., training and capacity building) that will be needed to make the ongoing monitoring effective and impactful, as was the case with the AfCFTA HRIA (UNECA & FES, 2017).

As well as considering improving existing methodologies, what is needed now is to apply those that we have in order not only to generate the necessary knowledge but also to test out and improve them. In this endeavour, we must bear in mind that a qualitative approach can be useful, particularly in the absence of much of the data we would need for a perfect qualitative assessment. In parallel, it will be essential to ensure that the knowledge we already have and that generated by ex ante assessments makes its way onto the negotiating table.

Last but not least, we must echo the regularly raised call for women, gender specialists, and/or women's groups to be more actively involved both in carrying out impact assessments and in negotiating trade agreements (Asselborn et al., 2020). Ongoing efforts to further sensitize trade officials to the gender implications of trade, which is part of what the cooperative arrangements in a range of trade forums are doing, will be important in this regard.



4.0 Taking Stock and Looking Forward

The trade policy community has made huge strides over the past decade toward mainstreaming gender in trade policy. The ever-increasing number of initiatives being taken to mainstream gender—whether expressed through treaty text, cooperative arrangements or impact assessments—must be recognized and welcomed.

This brief has sought to highlight some of the good practices so far and to shine a light on areas that have been neglected and deserve to be brought within the expanding scope of trade and gender practice. It seeks to remind all those concerned with gender equality in trade to take a 360° view of trade–gender linkages, bearing in mind that trade policies may—sometimes inadvertently—cause or exacerbate discrimination against women, and even affect women who are not themselves engaged in trade. New research and communication channels and techniques may be needed to better understand the community- and household-level impacts of trade and trade policies.⁴¹

Ex ante assessments will be particularly valuable in identifying—and thereby helping to avoid—discrimination between women and men. Even if we do not yet have the perfect methodology for such assessments, practice so far permits identification of promising avenues, and further practice will enable ongoing refinement of methodologies. Parties to trade agreements should at the very least consider the explicit and implicit impact of proposed new trade-related rules on the most vulnerable women within their jurisdictions before agreeing to such new rules.

Ex post monitoring will be equally important, as it can significantly contribute to developing a much-needed body of knowledge on how trade and trade agreements have differential impacts on different sectors of a country’s population and what types of measures can best be deployed to ensure inclusive trade and reduce the different forms of discrimination that women still face.

All those involved in data collection—whether national statistics offices, customs administrations, trade bodies, employers, and others—can play an important role by systematically breaking down by gender any data they collect and process. If this is undertaken in parallel with further work on refining the methodological tools, it will facilitate gender-aware analysis and thus enable the development of gender-responsive policies.

Finally, it will be crucial to include a range of voices and perspectives. Mainstreaming gender in trade policy cannot just be left to trade officials but must involve gender specialists and a range of stakeholders at both international and international levels. Efforts will need to continue to broaden the participation in discussions around trade policy, involving different governmental departments and agencies and non-governmental actors. This will contribute to building knowledge of each other’s field of concern as well as ensuring that gender is truly integrated into the trade policy-making process and not added as an afterthought.

⁴¹ Research will be only one among many influences in the policy process (Carden, 2009), and some trade policy-makers will not be seeking the knowledge about gender-differentiated impacts of trade. It will therefore be necessary to be creative when thinking about ways of bringing this knowledge to policy-formulating processes.



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Head Office

111 Lombard Avenue, Suite 325
Winnipeg, Manitoba
Canada R3B 0T4

Tel: +1 (204) 958-7700

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