

Mainstreaming Gender Considerations in Free Trade Agreements: “Building Back Better” in Post-COVID-19 World

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Executive Summary

The world is facing an unprecedented pandemic of COVID-19. During this pandemic, gender justice concerns may have gone to the back of the minds of many policymakers; so there is a real danger that gender equality considerations could take a back seat again. This study seeks to reiterate the role trade policymakers and negotiators can play in “building back an inclusive economy” in the post-COVID-19 world by connecting more women to the global economy. The health crisis presents a unique opportunity to explore how trade policies can contribute in this respect through existing and future free trade agreements (FTAs). This intervention addresses two questions and answers them in the following manner:

Question 1: *Are gender considerations a part of existing free trade agreements?*

Answer: Yes, they are. For this study, we analyze 48 FTAs signed by North American countries and 41 FTAs signed by the European Union. Out of these 48 FTAs signed by Canada, United States of America and Mexico, 17 contain gender-explicit provisions in one form or the other. Out of the 41 FTAs signed by the European Union, 29 contain gender-explicit provisions in one form or the other. The nature, scope and depth of these provisions are very diverse, but they all seek to accommodate gender justice concerns in trade policy discussions. [More details in Section II]

Question 2: *How can the existing and future FTAs be better prepared to encourage women empowerment for achieving faster and inclusive economic growth in the post-pandemic world?*

Answer: To better prepare the FTAs for post-COVID-19 inclusive recovery, policymakers and trade negotiators can consider 5 policy recommendations.

- *Policy Recommendation 1:* Craft a Gender-Explicit Exception
- *Policy Recommendation 2:* Cooperate on (or Commit to) Enhancing Women’s Access to Education
- *Policy Recommendation 3:* Cooperate on (or Commit to) Enhancing Women’s Access to Health
- *Policy Recommendation 4:* Include Minimum Legal Standards
- *Policy Recommendation 5:* Create Institutions, Procedures and Financing Channels to Ensure Implementation

Each of these recommendations is followed by model provisions. Each model provision is proposed in two different drafting styles: one with binding expressions and the other with permissive expressions. Policymakers and trade negotiators can adopt, in part or fully, these recommendations and the proposed model provisions to increase gender-responsiveness of trade agreements they are currently negotiating or planning to renegotiate or modernize in the future. [More details in Section III]

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Preface

COVID-19 has put women employees, women entrepreneurs and women consumers at the frontline of this struggle. The limited gains made in the past decades in respect of achieving gender equality are at the risk of being rolled back as the pandemic is deepening the pre-existing inequalities. The post-pandemic world will require multiple interventions to repair this harm at domestic and international levels. One such intervention could come from international trade law and policies. In particular, free trade agreements (FTAs) can play an instrumental role in “building back better” in the post-COVID-19 world. Through FTAs, countries can encourage their trade partners to create laws and procedures that can allow women to participate in trade and commerce. This is not a new realization. In the recent years, we have witnessed a sharp increase in the number of FTAs mainstreaming gender considerations. This paper will explore how FTAs can accommodate gender considerations and contribute in building back an inclusive economy in the post-COVID-19 world.

Outline

- I. “Building back better” after COVID-19: Can Free Trade Agreements Help?
- II. Best Practice Examples: North America and European Union
- III. Policy Recommendations with model provisions

Keywords: COVID-19, Free Trade Agreements, Women Empowerment, North America, European Union

Introduction

The world is facing an unprecedented pandemic of COVID-19. COVID-19 has upended the global economy, and with it the international trade, creating enormous shocks to supply and demand. Never before has the world experienced a health contingency leading to an economic contagion of this nature - with shrinking output, massive job loss and rising hunger. This economic contagion is exacerbating the existing inequalities; be it inequality between developed and developing nations, rich and poor, or women and men. The pandemic has put to light the vulnerabilities of women in trade and commerce.

COVID-19 has put women employees, women entrepreneurs and women consumers at the frontline of this struggle.¹ A recent UN report explains it in the right words: ‘Across every sphere, from health to the economy, security to social protection, the impacts of COVID-19 are exacerbated for women and girls simply by virtue of their sex.’² This is happening for various reasons. *First*, with 30% of women workforce employed in service-based industries, women are experiencing a serious loss of employment in pandemic-inflicted service sectors such as tourism and hospitality.³ *Second*, women working in informal sectors (as street vendors, petty goods and services traders, subsistence farmers, seasonal workers and domestic workers) are either putting their lives at risk as they continue to venture out to work or they are losing their livelihood due to the continuing lockdowns.⁴ *Third*, the pandemic is disrupting the economic activities of women that own or work in small and medium-sized enterprises as the pandemic is forcing many SMEs to close or scale down their operations.⁵ *Fourth*, this pandemic is exacerbating the existing digital disparities between women and men.⁶ This implies that working remotely or in an online-mode is either not an option for some women with no access to laptops, smart-phones and internet or they have to face a steep learning curve to switch to working online. This growing disparity also implies that women cannot take advantage of the booming digital trade transformation that provides new avenues for economic empowerment of women. Moreover, owing to fears of contagion and loss of income, this pandemic is reducing women’s access to

¹ For details, see Titan Alon, Matthias Doepke, Jane Olmstead-Rumsey, and Michèle Tertilt, ‘The Impact of COVID-19 on Gender Equality’ (2020) NBER Working Paper No. 26947; ‘COVID-19: A Gender Lens, Technical Brief Protecting Sexual and Reproductive Health and Rights, and Promoting Gender Equality’ (UNFPA, March 2020) <<https://www.unfpa.org/resources/covid-19-gender-lens>>

² Policy Brief: The Impact of COVID-19 on Women (United Nations, 9 April 2020)

³ J Faus, ‘This is how coronavirus could affect the travel and tourism industry’ (*World Economic Forum*, March 2020), <<https://www.weforum.org/agenda/2020/03/world-travel-coronavirus-covid19-jobs-pandemic-tourism-aviation/>> accessed 21 April 2020; ‘COVID-19 Educational Disruption and Response’ (UNESCO, 2020) <<https://en.unesco.org/covid19/educationresponse>> accessed 21 April 2020

⁴ ‘Women in informal economy’ (*UN Women*) <<https://www.unwomen.org/en/news/in-focus/csw61/women-in-informal-economy>> accessed 21 April 2020

⁵ Usman Ahmed, Thorsten Beck, Christine McDaniel, and Simon Schropp, ‘Filling the Gap: How Technology Enables Access to Finance for Small- and Medium-Sized Enterprises’ (2015) 10 (3–4) *Innovations: Technology, Governance, Globalization*, 35, 42; OECD Working Party on SMEs and Entrepreneurship, ‘SME Policy Responses’ (OECD, 2020) <https://read.oecd-ilibrary.org/view/?ref=119_119680-di6h3qgi4x&title=Covid-19_SME_Policy_Responses> accessed 21 April 2020 [Empirical research finds that due to COVID-19, more than half of SMEs now already face severe losses in revenues, with many having only a few months’ reserves to withstand the crisis]

⁶ Phumzile Mlambo-Ngcuka and Anne-Birgitte Albrechtsen, ‘Op-ed: We cannot allow COVID-19 to reinforce the digital gender divide’ (UN Women, May 6, 2020), <https://www.unwomen.org/en/news/stories/2020/5/op-ed-ed-phumzile-covid-19-and-the-digital-gender-divide>

medical services including family planning services such as abortions.⁷ Difficulty and fear in approaching medical services for having an abortion or accessing contraceptives could cause untimely and unwanted pregnancy to many women professionals, which in turn could take some women a step farther from their professional aspirations.⁸ The other reasons include massive increase in household responsibilities⁹ and increasing rate of domestic violence against women¹⁰.

The post-pandemic world will require multiple interventions to repair this harm at domestic and international levels. International trade can form an important part of this recovery. International trade law and policies can participate in this process, as they can contribute to the economic empowerment of women. This crisis presents a unique opportunity to “build back better” and in an inclusive manner in the post-COVID-19 world and explore how trade policies can contribute in this respect through existing and future free trade agreements (FTAs).¹¹

Even in the midst of the crisis, we need to think beyond the immediate. Policy response will play an important role in determining the pace and nature of economic recovery. Before this crisis is over, policymakers and international organizations need to work together and prepare action plans for repairing the harm post pandemic. The world economy will suffer even more if women – who account for one half of the world’s working-age population – are further excluded from the economy and hence impeded from contributing to economic growth and economic recovery post-COVID-19.¹² Future trade-policy response must recognize this and include women at the heart of the COVID-19 response. Placing women at the centre of economies will lead to a more rapid recovery; this recovery will put us back on track to achieve the Sustainable Development Goals.¹³

⁷ Amber Peterman, Alina Potts, Megan O’Donnell, Kelly Thompson, Niyati Shah, Sabine Oertelt-Prigione, and Nicoele van Gelder, 'Pandemics and Violence Against Women and Children' (*Center for Global Development, Working Paper 528*, April 2020), <https://www.cgdev.org/sites/default/files/pandemics-and-violence-against-women-and-girls.pdf>

⁸ COVID-19: A Gender Lens, Technical Brief (see note 1)

⁹ Matthias Doepke and Fabian Kindermann, 'Bargaining over Babies: Theory, Evidence, and Policy Implications' (2019) 109(9) *American Economic Review*, 3264 (the authors observe that women provide the majority of childcare even if both spouses are working)

¹⁰ See Infographic: The Shadow Pandemic - Violence Against Women and Girls and COVID-19 (UN Women, 6 April 2020) <<https://www.unwomen.org/en/digital-library/multimedia/2020/4/infographic-covid19-violence-against-women-and-girls>> accessed 26 April 2020; Megha Mohan, 'Coronavirus: I'm in lockdown with my abuser' (*BBC News*, 31 March 2020) <<https://www.bbc.com/news/world-52063755>> accessed 25 April 2020; Amanda Taub, 'A New Covid-19 Crisis: Domestic Abuse Rises Worldwide' (*New York Times*, 6 April 2020) <<https://www.nytimes.com/2020/04/06/world/coronavirus-domestic-violence.html?smid=fb->

¹¹ The expression “Free trade agreements” or FTA” in this paper is used to refer to all international trade agreements (except the WTO multilateral agreements) and may include regional trade agreements, plurilateral agreements, bilateral agreements, economic partnership agreements, and such others.

¹² Jonathan Woetzel, Anu Madgavkar, Kweilin Elingrud, Eric Labaye, Sandrine Devillard, Eric Kutcher, James Manyika, Richard Dobbs, and Mekala Krishnan, 'The Power of Parity: How Advancing Women’s Equality can Add \$12 Trillion' (*McKinsey Global Institute*, September 2015) <https://www.mckinsey.com/~media/McKinsey/Featured%20Insights/Employment%20and%20Growth/How%20advancing%20womens%20equality%20can%20add%2012%20trillion%20to%20global%20growth/MGI%20Power%20of%20parity_Full%20report_September%202015.ashx> accessed 17 March 2019

¹³ Observed in Making Trade Agreements Work for Gender Equality – Data and Statistics (Policy Brief No. 81, June 2020, UNCTAD)

This paper will first address the following question: *Are gender considerations a part of existing free trade agreements?* This paper will identify and analyze several best practice examples of mainstreaming gender considerations in the existing FTAs signed by countries in North America and the European Union. These two regions are chosen as the FTAs in these regions present diverse best practice examples and also provide an indication of the flaws in current gender-mainstreaming trends. Subsequently, the paper will address the second question: *How can the existing and future FTAs be better prepared to encourage women empowerment for achieving faster and inclusive economic growth in the post-pandemic world?* To respond to this question, the paper will explore how future FTAs can take a step further in respect of strengthening women empowerment, so they are able to better respond to the pandemic-inflicted-disruptions to inclusive growth. In doing so, the paper will propose several policy recommendations with model provisions that trade negotiators and policymakers can consider for negotiation of new and renegotiation of existing FTAs.

I. “Building back better” after COVID-19: Can Free Trade Agreements Help?

Women’s economic empowerment and international trade share an intricate and complex relationship as the former could be enhanced through an effective regulation of the latter.¹⁴ The Addis Ababa Agenda of Action¹⁵ and the UN’s 2030 Agenda for Sustainable Development¹⁶ recognize foreign trade as an important instrument to reach development objectives including gender equality. The Sustainable Development Goals directly address the need to achieve full and effective participation of women for furthering economic growth and sustainable development.¹⁷ The most recent multilateral instrument that reinforces this view is the WTO’s Joint Declaration on Trade and Women’s Economic Empowerment. The Declaration reaffirms that ‘international trade and investment are engines of economic growth for both developing and developed countries, and that improving women’s access to opportunities and removing barriers to their participation in national and international economies contributes to sustainable economic development’.¹⁸

Free trade agreements (FTAs) can play an instrumental role in enhancing women empowerment and hence “building back better” in a sustainable manner in the post-COVID-19 world. Through gender mainstreaming¹⁹ in FTAs, countries can encourage their trade partners to create laws and procedures that can reduce barriers that impede women’s access to trade and commerce.²⁰ Countries in these FTAs can bind themselves to certain minimum legal standards for improving the employment conditions for women or prohibiting sex-based discrimination. Countries can also endeavor to increase women’s access to health services, education and skill development. They can also create encouraging conditions for women businesses to flourish, for example by pushing for the creation of business networks and improved infrastructure in relevant sectors and industries. Countries in FTAs could also commit to increasing the representation of women in decision-making and policymaking roles.

Countries can use trade agreements as envelopes of change, where they can experiment with different legal provisions regarding gender equality. In the recent years, we have witnessed

¹⁴ Anna Hutchens, ‘Empowering Women through Fair Trade? Lessons from Asia’ (2010) 31(3) *Third World Quarterly*, 449

¹⁵ ‘Third International Conference on Financing for Development (Ffd3)’ (*United Nations*, 13-16 July 2015) <<https://www.un.org/esa/ffd/ffd3/conference.html>>

¹⁶ 2030 Agenda for Sustainable Development, United Nations (Resolution adopted by the General Assembly on 25 September 2015, A/RES/70/1)

¹⁷ Goal 5, United National 2030 Agenda for Sustainable Development

¹⁸ ‘Buenos Aires Joint Declaration on Trade and Women’s Economic Empowerment’ (WTO Ministerial Conference, 12 December 2017) [hereinafter referred to as ‘Declaration 2017’]

¹⁹ Gender mainstreaming provides a tool to ensure that FTAs do not perpetuate gender inequalities but rather promote more equitable opportunities. Mainstreaming gender in FTAs entails the inclusion of gender considerations and concerns in the drafting and implementation of FTAs.

²⁰ Amrita Bahri, ‘Measuring the Gender-Responsiveness of Free Trade Agreements: Using a Self-Evaluation Maturity Framework’ (2019), 14 (11) *Global Trade & Customs Journal*, 517; for a discussion on barriers, see ‘Unlocking Markets for Women to Trade’ (International Trade Centre, 2015, Doc. P356.E/DBIS/TS/15-XII), chapter 3.

a sharp increase in this experimentation.²¹ Out of 292 FTAs currently in force, more than 80 have at least one gender-explicit provision.²² The last 3 years have been phenomenal in this respect. In 2019, 2 FTAs were enforced with a dedicated chapter on gender.²³ The EU committed itself to ensuring that trade-related aspects of gender will be adequately addressed in trade agreements.²⁴ The European Parliament in 2018 passed a resolution to include gender equality consideration in all future trade agreements it would sign.²⁵ These recent developments show that gender-mainstreaming in trade agreements is here to stay.

The next two sections will respond to the following two questions: (1) How does gender-mainstreaming in existing agreements look like?; (2) Can future FTAs take a step further in this respect to ensure a speedy and inclusive rebooting of the global economy? The following section addresses the first question, by identifying and assessing the gender fabric of FTAs from North America and Europe. The final section addresses the second question by identifying some gaps in the existing FTAs and proposing several policy recommendations together with model provisions for negotiation of new and renegotiation of existing FTAs.

²¹ Jose-Antonio Monteiro, 'Gender-Related Provisions in regional Trade Agreements', (*WTO Economic Research and Statistics Division*, 18 December 2018), https://www.wto.org/english/res_e/reser_e/ersd201815_e.pdf

²² WTO RTA database (2019), <https://rtais.wto.org/UI/PublicMaintainRTAHome.aspx>

²³ Modernized Canada-Chile Free Trade Agreement (CCFTA) (enforced, 5 February 2019); Modernized Canada-Israel Free Trade Agreement (CIFTA) (enforced, 1 September 2019)

²⁴ European Commission, 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Union of Equality: Gender Equality Strategy 2020-2025' (*EC*, 5 March 2020)

²⁵ 'Gender equality in EU trade agreements' (European Parliament, 13 March 2018, 2017/2015(INI)), <https://www.europarl.europa.eu/doceo/document/TA-8-2018-0066_EN.html> accessed 8 April 2020

II. Best Practice Examples: North America and European Union

In this section, we will identify and assess several best practice examples of gender-mainstreaming in existing FTAs signed by countries in two regions: the European Union and North America. These two regions are selected for three reasons: (a) some FTAs in these regions are probably the most gender-responsive FTAs in force so far; (b) FTAs in these regions present diverse and unique ways of embracing gender considerations in trade agreements; (c) Several gender-related provisions in these FTAs indicate that the door is still half-open and hence further efforts are required to make these trade instruments work for inclusive economic recovery in the post-COVID-19 world.

This section contains two sub-sections. Each sub-section focuses on the FTAs signed by countries in a specific region. Tables 1 and 2 provide a quick glance at the gender component of FTAs signed by countries in these regions. Only gender-explicit FTAs (with 1 or more gender-explicit provisions) are included in these tables. FTAs with no gender-related provisions or gender-implicit provisions are not included in this assessment. Those provisions which use terms directly related to gender, women, female, maternity or a similar expression in the provision in an explicit manner are gender-explicit provisions.²⁶ Gender-implicit provisions are those provisions which address the issues of gender in an indirect and implicit manner through areas such as, but not limiting to, human rights, vulnerable groups focus, labor discrimination, corporate social responsibility, intellectual property rights and small and medium enterprises.

An FTA's gender-responsiveness in this study is assessed with the help of three questions:

1. Does the FTA reflect parties' mere awareness or commitment to act on gender equality concerns?
2. Do parties establish any institutions, procedures, activities, or other tools to implement gender-explicit provisions?
3. If there are any commitments, are they binding or non-binding in nature?

The first question is focused at assessing the parties' state of readiness to use FTAs for achieving gender equality. The second question seeks to find if parties have provided for any means (procedures, institutions, cooperation activities etc) to implement the provisions related explicitly to gender concerns. The third question tests the parties' level of commitment by assessing whether the included gender-explicit commitments are drafted in a binding or non-binding fashion. In this manner, each FTA in the selected two regions is read and assessed in light of these three questions. Three colors are used in the tables to reflect three degrees of gender-responsiveness. The "red" corresponds to "least gender-responsive" option. The "yellow" corresponds to something in between the least and the most gender-responsive options. The "green" corresponds to the "most gender-responsive" option. Gender responsiveness of an agreement indicates how sensitive or informed a trade agreement is to issues relating to gender and whether it seeks to minimize the negative impact of free trade agreements (FTAs) and maximize its positive impact on women. In this sense, it is different from gender impact

²⁶ Gender-explicit words used for listing products or entities are not included in this assessment.

assessment, which seeks to assess the impact an agreement may have on the economic and social lives of women.

North America

In North America, the countries covered are: Canada, United States and Mexico. In total, these three countries are party to 48 agreements. Out of these 48 FTAs, only 17 contain gender-explicit provisions in one form or the other. Table 1 provides a quick glance at the gender fabric of these 17 agreements.

FTAs with Gender Explicit Provisions	1. Does the FTA reflect parties' mere awareness or commitments to act on gender equality concerns?	2. Do parties establish any institutions, procedures, activities, or other tools to implement gender-explicit provisions?	3. If there are any commitments, are they binding or non-binding in nature?
Canada – Israel	Commit to Act	Yes: Cooperation Activities, Institutions and Procedures	Mostly Non-Binding
Canada – Jordan	Commit to Act	No	Binding & Non-Binding
Canada – Peru	Awareness	No	Non-Binding
Canada -Ukraine	Awareness	No	Non-Binding
Canada – Chile	Commit to Act	Yes: Cooperation Activities, Institutions and Procedures	Mostly Non-Binding
Canada – Honduras	Awareness	No	Non-Binding
Canada – Panama	Awareness	No	Non-Binding
Canada- Costa Rica	Commit to Act	No	Binding & Non-Binding
Canada-Colombia	Awareness	No	Non-Binding
CPTPP	Commit to Act	Yes: Cooperation Activities	Mostly Non-Binding
EU -Canada	Commit to Act	No	Binding
EU-Mexico	Commit to Act	Yes: Cooperation Activities	Non-Binding
CAFTA-DR	Awareness	No	Non-Binding
United States- Bahrain	Awareness	No	Non-Binding
United States- Colombia	Awareness	No	Non-Binding
United States- Panama	Awareness	No	Non-Binding
United States-Peru	Awareness	No	Non-Binding

Table 1: North American FTAs with Gender Explicit Provisions²⁷

Out of 17 FTAs included in the table, only about 7 demonstrate their parties' commitment to act. The other 10 agreements merely show parties' awareness towards issues relating to gender inequality. This finding shows that out of a total of 48 agreements signed by countries in North America, only about 7 agreements reflect parties' commitment to take a positive action in this respect. For example, the *US-Peru*²⁸ merely demonstrates parties' awareness in Article 17.6 on Labor Cooperation, as it includes elimination of employment discrimination against women as one of the many possible cooperation activities that parties may seek to work on. In contrast, we have *EU-Mexico*²⁹ where the parties seek to encourage dialogue and joint cooperative action on women empowerment and enhancing women's access to productive resources (Articles 36, 37).

Out of the 7 agreements with a commitment to act, 4 contain some kind of mechanism or means to implement these commitments. Let's look at *CPTPP*³⁰ for example. The highlight of its gender fabric is found in the chapter on development, which includes a provision on the economic empowerment of women and their contribution to economic growth (Article 23.4). Under this provision, the parties seek to cooperate on activities to help women entrepreneurs and workers benefit from the trade opportunities the agreement would create. These activities focus on information sharing, capacity building and increasing market access for women. They include providing advice or training; exchanging information and experiences on programs to help women build skills and capacity; improving women's access to markets, technology and financing; developing women's leadership networks; and identifying best practices relating to workplace flexibility. However, it is important to point out that the parties undertake these commitments in a rather modest and non-binding manner.

Now let's look at the recently modernized *Canada-Israel*³¹ and *Canada-Chile*³² accords, which are best-practice examples from the perspective of question 2 (i.e., implementation of commitments). They are both very similar in content and scope. Both agreements have a stand-alone chapter on gender (Canada-Israel, Chapter 13; Canada-Chile, Chapter N-bis). Both enlist cooperation activities directly related to women empowerment and inclusive trade that see women not merely as employees or laborers, but also as entrepreneurs, leaders, decision-makers and scientists (Canada-Israel, Article 13.3; Canada-Chile, Article N bis-03). These activities focus on improving educational or skill development opportunities in fields that can translate to high-paid job opportunities for women (such as science, technology, engineering, mathematics and information and communication technology). These FTAs are exceptional in this respect, as most trade agreements only consider cooperation focused on traditional roles for women (such as farming, fisheries and handloom). In addition, they create specialized institutions and procedures

²⁷ Only free trade agreements with explicit gender provisions were considered for the purpose of this table. Source: WTO RTA Database, <https://rtais.wto.org/>

²⁸ The United States - Peru Trade Promotion Agreement (enforced, 01 February 2009)

²⁹ Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and the United Mexican States (enforced, 01 October 2000)

³⁰ Comprehensive and Progressive Agreement for Trans-Pacific Partnership (enforced, 30 December 2018)

³¹ Modernized Canada-Israel Free Trade Agreement (enforced, 1 January 1997).

³² Modernized Canada-Chile Free Trade Agreement (enforced, 5 July 1997).

to further ensure implementation of gender-related commitments (Canada–Israel, Article 13.4; Canada–Chile, Article N bis-04).

Finally, when we assess the agreements in light of the third question, we find that there is only one agreement in this region in which parties have committed themselves to fully-binding gender-explicit commitments. *EU-Canada*³³ provides a binding gender-explicit provision in its investment chapter. Art 8.10(d) of the agreement states that a party will breach its obligation to provide fair and equitable treatment to foreign investors if any of its measures constitutes ‘targeted discrimination on manifestly wrongful grounds, such as gender...’ This is the only gender-related commitment found in the entire agreement. In all other agreements, all we find are either best endeavor promises or similar commitments drafted with a mix of binding and permissive expressions.

Let’s have a look at some key takeaways from these best-practice examples.

Best-Practice Examples: Key Takeaways

- ✓ *Canada-Israel* and *Canada-Chile* include a stand-alone chapter on gender and trade. In the absence of a stand-alone chapter, gender concerns can be incorporated in a chapter on development/sustainable development (as seen in *CPTPP*).
- ✓ The most recent FTAs signed by North American countries (*Canada-Israel*, *Canada-Chile* and *CPTPP*) envisage women in different roles: as business owners, employees, consumers, decision-makers and leaders. This differentiates these agreements from others in this region, as most of the others envisage women solely as employees or labor.³⁴
- ✓ In cooperation activities, *Canada-Israel* and *Canada-Chile* focus on improving women’s access to education and skill development in areas that can translate to high-paid job opportunities.
- ✓ *Canada-Israel* and *Canada-Chile* encourage industries and enterprises to incorporate corporate social responsibility explicitly related to gender.
- ✓ Only 2 FTAs - *Canada-Israel* and *Canada-Chile* - create specialized institutions to monitor and implement gender-related commitments.
- ✓ Only *Canada-Israel* explicitly provides for an applicable dispute settlement mechanism for gender-related provisions, but the mechanism has binding yet non-compulsory jurisdiction.
- ✓ None of these FTAs foresee or identify how the implementation of their respective gender commitments could be financed.

European Union

This sub-section assesses 41 FTAs the European Union has signed so far. Out of these 41 FTAs, 29 contain gender-explicit provisions in one form or the other. Table 2 provides a quick glance at the gender fabric of these 29 agreements.

³³ Comprehensive Economic and Trade Agreement (CETA) between Canada, of the one part, and the European Union and its Member States, of the other part (enforced, 21 September 2017)

³⁴ USMCA not included in this analysis, as it is pending enforcement at the time of this writing.

FTAs with Gender Explicit Provisions	1. Does the FTA reflect parties' mere awareness or commitments to act on gender equality concerns?	2. Do parties establish any institutions, procedures, activities, or other tools to implement gender-explicit provisions?	3. If there are any commitments, are they binding or non-binding in nature?
EC-Treaty	Commit to Act	Yes: Procedures	Binding
EU-Albania	Commit to Act	No	Mostly Non-Binding
EU-Algeria	Commit to Act	Yes: Procedures, Cooperative Activities	Mostly Binding
EU-Armenia	Commit to Act	Yes: Cooperative Activities	Mostly Non-Binding
EU-Bosnia and Herzegovina	Awareness	No	Non-Binding
EU-Cameroon	Awareness	No	Non-Binding
EU-Canada	Commit to Act	No	Binding
EU-CARIFORUM	Awareness	No	Non-Binding
EU-Central America	Commit to Act	Yes: Cooperative Activities	Mostly Non-Binding
EU-Chile	Commit to Act	Yes: Cooperative Activities and Procedures	Mostly Non-Binding
EU-Eastern and Southern African States Interim EPA	Commit to Act	Yes: Procedures, Cooperation Activities	Mostly Binding
EU-Egypt	Commit to Act	Yes: Procedures	Mostly Non-Binding
EU-Georgia	Commit to Act	Yes: Institution	Mostly Non-Binding
EU-Israel	Awareness	No	Non-Binding
EU-Jordan	Commit to Act	Yes: Procedures	Non-Binding
EU-Republic of Korea	Awareness	No	Non-Binding
EU-Lebanon	Commit to Act	Yes: Cooperative Activities	Non-Binding
EU-Mexico	Commit to Act	No	Non-Binding
EU-Republic of Moldova	Commit to Act	No	Non-Binding
EU-Montenegro	Awareness	No	Non-Binding
EU-Morocco	Commit to Act	Yes: Cooperative Activities	Non-Binding
EU-North Macedonia	Awareness	No	Non-Binding
EU-OCT	Awareness	No	Non-Binding
EU-Palestinian Authority	Commit to Act	Yes: Cooperative Activities	Non-Binding
EU-Serbia	Commit to Act	Yes: Cooperative	Non-Binding

FTAs with Gender Explicit Provisions	1. Does the FTA reflect parties' mere awareness or commitments to act on gender equality concerns?	2. Do parties establish any institutions, procedures, activities, or other tools to implement gender-explicit provisions?	3. If there are any commitments, are they binding or non-binding in nature?
		Activities	
EU-South Africa	Commit to Act	Yes: Procedures	Non-Binding
EU-Tunisia	Commit to Act	Yes: Cooperative Activities, Institution	Non-Binding
EU-Ukraine	Commit to Act	Yes: Cooperative Activities	Non-Binding
EEA	Commit to Act	No	Binding

Table 2: European Union's FTAs with Gender Explicit Provisions³⁵

Out of 29 FTAs included in the table, as many as 21 demonstrate their parties' commitment to act. The other 8 agreements merely show parties' awareness towards issues relating to gender inequality. This finding shows that out of a total of 41 agreements signed by the EU so far, half of them reflect parties' commitment to take a positive action in this respect. This is a very reassuring number; however the picture gets dimmer when we move onto the next 2 questions. Out of 21 agreements demonstrating parties' commitment to act, about 16 of them provide for some kind of mechanism or means to implement these commitments and only about 3 of them frame these commitments as binding legal obligations. Let's have a look at some examples.

*EU-Central America*³⁶ probably seems to be one of the most advanced FTAs in the region in this respect. Article 13 of the agreement encourages the parties to hold political dialogues about social issues including gender equality. Another best-practice provision is Article 32 that is focused on conflict prevention, as it includes a commitment to protect the lives of women against anti-personnel mines. Article 41 on Social Cohesion includes a commitment to combat xenophobia and discrimination on the grounds of sex (amongst other grounds). Article 47 is a stand-alone provision on gender, and it contains multiple cooperation-styled promises to work on women's equal participation in economic, social and cultural life, integration of gender perspective in public policies, development strategies and policy actions. It also seeks to equate women's and men's access to services and resources such as education, health, vocational training, political decision-making, governance structures and private undertakings. It also gives particular attention to initiating programs that could address violence against women. Article 44 is another best practice provision which focuses on women's health as parties through this provision seek to improve maternal health, and to address health priority areas such as sexual and reproductive health and the care for and prevention of sexually transmitted diseases and unwanted pregnancies. The parties to this FTA also reaffirm their commitments they have

³⁵ Only free trade agreements with explicit gender provisions were considered for the purpose of this table. Source: WTO RTA Database, <https://rtais.wto.org/>

³⁶ Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other (enforced, 01 August 2013)

undertaken under ILO Convention 100 (concerning Equal Remuneration for Men and Women Workers for Work of Equal Value) and Convention 111 (concerning Discrimination in Respect of Employment and Occupation). Finally, the parties in this agreement agree to reserve a right to enforce any measure for the protection of social security, health, education and child care. This reservation is a unique best practice example which is the only provision in this agreement drafted with binding expressions.

In *EU-Albania*³⁷, parties seek to cooperate on ensuring the adjustment of the Albanian legislation concerning working conditions and equal opportunities for women. This seems to be a minimum legal standard, but drafted in a best endeavor language (Article 99). This can be contrasted to *European Economic Area*³⁸, which contains a binding obligation wherein parties commit to ensuring the application of the equal pay for equal work requirement. This is a minimum legal standard drafted with binding expressions, and is quite rare to find in most of the existing FTAs.

The *EU-Eastern and Southern Africa States Interim EPA*³⁹ incorporates gender considerations in a different manner. Its provision on trade in fisheries includes parties' best endeavor promise to promote gender equality and women's capacity in fisheries. Moreover, Article 38 identifies gender mainstreaming as one of the cooperation areas for economic development. In Annex IV, the parties seek to promote female entrepreneurship and women's access to business and resources as part of their development matrix. However, nowhere in the agreement do the parties explain how they might want to implement these activities or put these promises into action.

In *EU-Egypt*⁴⁰, parties seek to enhance women's access to higher education and training (Article 42). However, the article does not identify whether this education and training would focus on traditional and low-paid skills or they would extend to lucrative fields of education (such as STEM and ICT) which might translate to high paid and attractive employment. This agreement, together with the *EU- Jordan*⁴¹ are unique in the sense that the parties in these agreements seek to align Jordanian and Egyptian laws and policies with the objective of gender equality through effective use of education and media. The parties seek to develop family planning policies which might work in favor of women, as lack of family planning regulations could cause a barrier to their participation in trade and commerce (Article 82). This angle of women empowerment makes this provision very unique and different to most existing FTAs (except for some other FTAs EU has signed with other countries in Middle Eastern region with similar provisions).

³⁷ Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania of the other part (enforced, (G): 01 December 2006, (S) 01 April 2009)

³⁸ Agreement on the European Economic Area (enforced, 01 January 1994)

³⁹ Interim Agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States, on the one part, and the European Community and its Member States, on the other part (enforced, 14 May 2012)

⁴⁰ Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part (enforced, 01 June 2004)

⁴¹ Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States and the Hashemite Kingdom of Jordan (enforced, 01 May 2002)

In *EU-CARIFORUM*⁴², parties in Article 5 commit to review the operation of the Agreement to ensure that agreement is implemented for the benefit of men as well as women. This commitment to review the impact or operation of the agreement is a best practice provision. However, the parties to this agreement do not commit to any affirmative action in this respect, either in the form of cooperation or a binding commitment. They also do not identify how this review or impact assessment may be carried out and whether it would be an *ex-ante* or an *ex-post* assessment of the agreement's impact.⁴³

In *EU-Chile*⁴⁴, Article 45 is a stand-alone gender provision that seeks parties' cooperation on 'strengthening policies and programmes that improve, guarantee and extend the equitable participation of men and women in all sectors of political, economic, social and cultural life.' It also contains parties' unequivocal willingness to ensure that gender and gender-related issues are taken into account at every level and in all areas of cooperation including macroeconomic policy, strategy and development operations. This best practice provision reflects parties' willingness to incorporate gender perspective into their economic growth and development, policies, programs, decision-making, policy-making and practices at the national level. However, most of these commitments are promises that the parties are not bound to fulfill.

Now let's have a look at some key takeaways from these best-practice examples.

Best-Practice Examples: Key Takeaways

- ✓ In *EU-Eastern and Southern Africa States Interim EPA*, parties seek to promote female entrepreneurship and women's access to business and resources as part of their development matrix.
- ✓ In *EU-Egypt* and *EU-Jordan*, EU giving its market access in exchange for the counterparts agreeing to bolster and develop their family planning policies and mother and child protection programs.
- ✓ In *EU-Ukraine*, parties seek to address major health concerns of women such as maternity needs and mental healthcare
- ✓ In *EU-CARIFORUM*, parties commit to review the operation and impact of the Agreement to ensure that agreement is implemented for the benefit of men as well as women.
- ✓ In *EU-Central America*, the focus is turned to protecting the lives of women in conflict situations and to combat xenophobia and discrimination on the grounds of sex. Also mentions programs that could address violence against women.
- ✓ In *EU-Central America*, attention paid to sexual and reproductive health of women and the care for and prevention of sexually transmitted diseases and unwanted pregnancies.

⁴² Economic Partnership Agreement between the CARIFORUM States, of the one part, and the European Community and its Member States, of the other part (enforced, 29 December 2008)

⁴³ Countries can the UNCTAD's toolbox on trade and gender for conducting these assessments. More details at UNCTAD, 'UNCTAD Trade and Gender Tool Box', (UNCTAD, 2017) <<https://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=1877>> accessed 8 September 2019

⁴⁴ Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part (enforced, (G): 01 February 2003, (S): 01 March 2005)

- ✓ *EU-Chile* reflects parties' willingness to incorporate gender perspective into their economic growth and development, policies, programs, decision-making, policy-making and practices at the national level.
- ✓ *European Economic Area* contains a binding minimum legal standard on equal pay for equal work.

III. Policy Recommendations with Model Provisions

The discussions so far show that there is a half-opened door in existing FTAs that countries need to push upon further by finding different ways of implementing or enforcing their gender-related commitments. A number of existing agreements mainstream gender considerations in their own unique ways; however rarely would an FTA contemplate how gender-related commitments could be implemented, financed, or enforced. For implementation of gender-related commitments, countries in their future FTAs need to create dedicated procedures and institutions that can put their long list of commitments into action. FTAs need to spell-out the functions of these specialized institutions, milestones and objectives these institutions are expected to achieve, and a timeline by which to achieve these milestones. The most important in this regard is to provide for funding arrangements to finance gender-related activities if we genuinely intend these commitments to be put into action. The Canada-Chile and Canada-Israel FTAs provide for specialized institutions (gender committees), but neither of them clarify precise procedures nor identify channels to finance these activities. Moreover, we find that most of the gender-related provisions in existing FTAs are drafted as best-endeavor promises and not so much as commitments and almost never as binding commitments (with very few exceptions seen in the section above).

So the question is: how do we push open that half-opened door? In this section, policymakers and trade negotiators will find five recommendations. Together with each recommendation, a model provision is proposed. Each model provision is proposed in two different drafting styles: one with binding expressions and the other with permissive expressions. Policymakers and trade negotiators can adopt, in part or fully, these recommendations and the proposed model provisions to increase gender-responsiveness of trade agreements they are currently negotiating or planning to renegotiate or modernize in the future. Countries considering these provisions can adapt and adjust the language of these provisions to make them more permissive or more obligatory. They can make these adjustments as per their individual political willingness, socio-economic needs, existing domestic laws and available resources.

Policy Recommendation 1: Craft a Gender-Explicit Exception

It is very common to find various GATT-like exceptions in existing FTAs; they could range from protection of public morals, human health or life to environment or national security.⁴⁵ In the same manner, a new exception for gender can be designed for future FTAs. No such exception exists to date in FTAs. If countries can allow FTA-inconsistent practices and laws to operate if they harm their public morals, or animal health or life, or even plant health or life, how can countries oppose an exception that can reduce gender inequality and include humankind's half population in the journey towards economic growth and development? With women entrepreneurs and employees placed at the frontline of the pandemic, countries in the post-pandemic-phase could support the recovery of selected industries to help with the process of inclusive recovery. In this uncertain environment, more governments than ever would have to extend various support measures (including subsidies) mainly to those industries that are most severely hit by the pandemic. A gender-specific exception can allow countries to provide such support for industries that particularly impact women employees and entrepreneurs in the form

⁴⁵ See USMCA, Article 32.1

of government bail-outs, loans and subsidies. Such an exception can also allow parties to create favorable conditions for investment and growth in sectors that are particularly relevant for women (such as agriculture, tourism, hospitality and education services).

Model Provisions:

Option 1: Adapted from Art XX, GATT 1994

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any party of measures:

- (a) *Necessary to reduce gender inequality,*
- (b) ...
- (c) ...

Option 2: Adapted from Art XXI, GATT 1994

Nothing in this Agreement shall be construed

(a) To prevent any party from taking any action which it considers necessary for the reduction or elimination of gender inequality in its territory; or

(b) To prevent any party from taking any action in pursuance of its obligations under the United Nations 2030 Sustainable Development Goals and the Convention on the Elimination of All Forms of Discrimination against Women 1979.

Note: Option 1 will be difficult to satisfy, as the country invoking it will have to satisfy the requirements of necessity and the chapeau. Option 2 will be easier to satisfy, especially if it is interpreted to be a self-judging exception due to the inclusion of the words “which it considers necessary”.

Policy Recommendation 2: Cooperate on (or Commit to) Enhancing Women’s Access to Education

As discussed earlier, the pandemic has made women more time-poor as it has drowned them in increased household responsibilities, taking them further away from the possibility of availing educational opportunities they might have otherwise availed. The lockdown mode of academic institutions has made this situation even worse for women, as women with no or less technological abilities are more poorly equipped than men to benefit from the online education.⁴⁶ Hence, improving women’s access to education is a crucial commitment that policymakers should consider. Efforts directed at women’s access to education should entail increasing their access to technology and internet, which is crucial to reconnect women back to the economy and help them reap the benefits of trade digitization. As seen in the earlier section, many FTAs

⁴⁶ International Trade Centre (2015), 'Unlocking Markets for Women to Trade' (ITC, Geneva)

already include cooperation provisions on enhancing women's access to education and skill development. But the fundamental problem with most of these provisions is that they either do not spell out the type of education and skill development; or the type of education or skill development mentioned in the agreement can only prepare women for traditional and low-paid jobs for example in the field of nursing, farming and knitting. It is important that future FTAs contain provisions that clearly spell-out the kind of education and encourage women to undertake studies in the fields of science, technology, engineering and mathematics (STEM) that can prepare them for high-paid career opportunities.⁴⁷ These new roles will enable women to move away from the traditional stereotyped jobs that societies have imposed on them such as farming, nursing or household responsibilities.

Model Provisions:

Option 1: Adapted from Article N bis-03, Canada-Chile FTA

1. *Parties shall carry out activities designed to improve the education and capacity for women as business leaders, entrepreneurs, decision-makers and high-paid professionals.*
 - 1.1 *These activities must include, but not be limited to:*
 - (a) *improving women's access to education and skill development in business and management studies, science, technology, engineering and mathematics (STEM), and other areas that can translate to high salaries and decent working conditions for women; and*
 - (b) *developing programs to promote women's full participation and advancement in the economy by encouraging access to education, capacity-building and skills enhancement of women at work, in business, and at senior levels across different industries (including on corporate boards); and*
 - (c) *improving women's access to digital skills to reduce existing digital divide between women and men.*

Option 2: Adapted from Article N bis-03, Canada-Chile FTA

1. *Parties may carry out activities designed to improve the education and capacity for women as business leaders, entrepreneurs, decision-makers and high-paid professionals.*
 - 1.2 *The Parties may focus, amongst others, on the following:*
 - (a) *improving women's access to education and skill development in business and management studies, science, technology, engineering and mathematics (STEM), and other areas that can translate to high salaries and decent working conditions for women; and*
 - (b) *developing programs to promote women's full participation and advancement in the economy by encouraging access to education, capacity-building and skills enhancement of women at work, in business, and at senior levels across different industries (including on corporate boards); and*
 - (c) *improving women's access to digital skills to reduce existing digital divide between women and men.*

⁴⁷ This best practice can be seen in Modernized Canada – Israel Free Trade Agreement and Modernized Canada – Chile Free Trade Agreement

Note: Option 1 is drafted with binding expressions and Option 2 is drafted as a best-endeavor provision implementation of which will be left to the discretion of the parties involved.

Policy Recommendation 3: Cooperate on (or Commit to) Enhancing Women’s Access to Health

Insufficient protection of health requirements such as maternity needs, child-care and prevention of unwanted pregnancy have been an impediment to women empowerment even before the onset of this pandemic. This pandemic has exacerbated these pre-existing concerns, as medical services worldwide are now focused on tackling the virus-inflicted patients and patients with non-urgent issues are reluctant or even fearful to approach the medical establishments. This can lead to complications in birth and higher rates of unwanted pregnancy.⁴⁸ Hence, COVID-19 has reduced women’s access to crucial health services. To top it all, women that work in informal sectors mainly in developing countries are putting their lives at risk as they still have to venture out in search of their livelihood. A focus on access to health is therefore crucial in the future regional trade negotiations to undo the repercussions this pandemic is having on women’s health. As seen in the section before, none of the North American FTAs put a direct focus on women’s access to health services. However, the EU has signed a couple of agreements with best practice provisions on health. The *EU–Ukraine* FTA is one such example where parties seek to cooperate on addressing major health concerns of women such as maternity needs and mental healthcare.⁴⁹ To be better prepared to operate in the post-COVID-19 world and to engage women in the economic recovery process, it is important that trade agreements embrace this focus on health requirements.

Model Provisions:

Option 1

1. *Parties shall carry out activities designed to improve the women’s access to health services and protect crucial health needs of women such as maternity health, mental-healthcare, sexual and reproduction health and care for and prevention of sexually transmitted diseases and unwanted pregnancies.*
 - 1.1 *To achieve the aforementioned, the Parties must focus on the following:*
 - (a) *improving maternal healthcare, and*
 - (b) *providing for pre and post-pregnancy mental health-care, and*
 - (c) *provide for better child health-care facilities, and*
 - (d) *Working to minimize sexual and reproductive health problems and fatalities, and*
 - (e) *Preventing or minimizing unwanted pregnancies*

Option 2

⁴⁸ 'The women who can't get an abortion in lockdown' (13 July 2020), <https://www.bbc.com/news/world-asia-india-53345975> (accessed 14 July 2020)

⁴⁹ Art 427

1. *Parties may carry out activities designed to improve the women’s access to health services and protect crucial health needs of women such as maternity health, mental-healthcare, sexual and reproduction health and care for and prevention of sexually transmitted diseases and unwanted pregnancies.*
- 1.1 *The Parties may focus, amongst others, on the following:*
 - (a) *improving maternal healthcare, and*
 - (b) *providing for pre and post-pregnancy mental health-care, and*
 - (c) *provide for better child health-care facilities, and*
 - (d) *Working to minimize sexual and reproductive health problems and fatalities, and*
 - (e) *Preventing or minimizing unwanted pregnancies*

Note: Option 1 is drafted with binding expressions and Option 2 is drafted as a best-endeavor provision implementation of which will be left to the discretion of the parties involved.

Policy Recommendation 4: Include Minimum Legal Standards

With increased cases of violence, loss of jobs and rising unfavorable conditions to achieve professional development in the post-COVID-19 world, it is important that policy-makers consider including certain legal standards in the future FTAs. Minimum legal standards require a change in country’s domestic laws and regulations. One important standard to repair or minimize the ongoing harm could be the inclusion of “the equal pay for equal work” requirement. We find this obligation mentioned in several agreements, but it is mostly framed in permissive language without any binding obligations on the negotiating members to provide for binding equal pay legislation. Eliminating or reducing the wage gap is crucial for engaging women in the economic recovery process, and FTAs can provide an avenue for imposing such obligations on individual countries. This is because a country otherwise unwilling to employ an equal pay legislation in its domestic laws may be willing to consider it as part of its domestic law if it comes as a package with enhanced market access to an important trading nation. Other standards could relate to the elimination of employment discrimination on the basis of sex, provision of anti-harassment procedures at workplace, and protection of women against any form of violence.

Model Provisions:

Option 1

1. *Each party shall adjust its respective laws and policies to maintain the following legal standards:*
 - (a) *Equal pay for equal work, and*
 - (b) *Elimination of any form of employment discrimination on the basis of sex, and*
 - (c) *Protect women workers against any kind of harassment at workplace, and*
 - (d) *Provide job-protected leave for birth or adoption of a child and care of family members, and*

(e) *Protect women against any form of violence.*

Option 2

1. *Parties should strive to adjust their respective laws and policies to maintain one or more of the following legal standards:*
 - (a) *Equal pay for equal work,*
 - (b) *Elimination of any form of employment discrimination on the basis of sex,*
 - (c) *Protect women workers against any kind of harassment at workplace,*
 - (d) *Provide job-protected leave for birth or adoption of a child and care of family members, or*
 - (e) *Protect women against any form of violence.*
 - (f)

Note: Option 1 is drafted with binding expressions and Option 2 is drafted as a best-endeavor provision implementation of which will be left to the discretion of the parties involved.

Policy Recommendation 5: Create Institutions, Procedures and Financing Channels to Ensure Implementation

An FTA could have multiple provisions or even chapters with gender commitments, but they would remain a distant reality if that FTA does not provide for how those gender commitments might be put to action. To build back better and in an inclusive manner, the existing FTAs need to take a step further and envisage the implementation of gender provisions. To implement gender-related commitments, whether drafted in binding or best endeavor form, parties need to devise implementation mechanisms. These mechanisms could be institutional or procedural. In the earlier section, we have seen some very good examples of institutional mechanisms. For example, as discussed before, *Canada-Chile* and *Canada-Israel* FTAs provide for the creation of a Gender Committee (hereinafter referred to as the “Committee”). These agreements also outline some operational arrangements for the Committee such as its composition, functions and meeting frequencies. Yet, the provision falls short of clarifying how these functions or activities or Committee meetings might be financed. So in addition to providing for institutions or procedures, it is important that policymakers identify funding options alongside these commitments to bring these promises a step closer to their implementation. In the absence of such provisions, the resource-constrained pandemic-hit countries may not have sufficient resources to invest on the women-favoring promises they might have made in trade instruments.

Model Provisions:

Option 1: Adapted from Article N bis-03: Cooperation Activities, Canada-Chile FTA

1. *The Parties hereby establish a Trade and Gender Committee composed of representatives from each Party’s government institutions responsible for trade and gender. The Parties shall compose this Committee in a gender-balanced manner.*
2. *The Committee shall:*
 - (a) *determine, organize and facilitate the gender-related activities under Articles xxx, xx, x;*
 - (b) *discuss joint proposals to support policies on trade and gender;*
 - (c) *invite international donor institutions, private sector entities, non-governmental organizations, or other relevant institutions, as appropriate, to assist with the implementation and financing of all gender-related activities under Articles xxx, xx, x; and*
 - (d) *carry out other duties as determined by the Parties.*
3. *The Committee shall meet annually and as otherwise agreed by the Parties, in person or by any other technological means available, to consider any gender-related matters arising under this Agreement. The Committee and Parties shall exchange information and coordinate activities by email, videoconference or other means of communication.*
4. *The Committee shall prepare a 3-year action plan within the first year of its creation, and such an action plan must be revised or updated by the Committee after every 3 years.*
5. *The Parties shall provide adequate funding for the Committee to perform its functions.*

Option 2: *Adapted from Article N bis-03: Cooperation Activities, Canada-Chile FTA*

1. *The Parties hereby establish a Trade and Gender Committee composed of representatives from each Party’s government institutions responsible for trade and gender. The Parties may compose this Committee in a gender-balanced manner.*
2. *The Committee may:*
 - (a) *determine, organize and facilitate the gender-related activities under Articles xxx, xx, x;*
 - (b) *discuss joint proposals to support policies on trade and gender;*
 - (c) *invite international donor institutions, private sector entities, non-governmental organizations, or other relevant institutions, as appropriate, to assist with the implementation and financing of all gender-related activities under Articles xxx, xx, x; and*
 - (d) *carry out other duties as determined by the Parties.*
3. *The Committee shall strive to meet annually and as otherwise agreed by the Parties, in person or by any other technological means available, to consider any gender-related matters arising under this Agreement. The Committee and Parties can exchange information and coordinate activities by email, videoconference or other means of communication.*
4. *The Committee shall strive to prepare a 3-year action plan within the first year of its creation, and such an action plan could be revised or updated by the Committee after every 3 years.*
5. *The Parties shall endeavor to provide adequate funding for the Committee to perform its functions.*

<p>Note: Option 1 is drafted with binding expressions and Option 2 is drafted as a best-endeavor provision implementation of which will be left to the discretion of the parties involved.</p>

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Modernized Canada-Chile Free Trade Agreement (enforced, 5 July 1997).

Comprehensive Economic and Trade Agreement (CETA) between Canada, of the one part, and the European Union and its Member States, of the other part (enforced, 21 September 2017)

Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other (enforced, 01 August 2013)

Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania of the other part (enforced, (G): 01 December 2006, (S) 01 April 2009)

Agreement on the European Economic Area (enforced, 01 January 1994)

Interim Agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States, on the one part, and the European Community and its Member States, on the other part (enforced, 14 May 2012)

Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part (enforced, 01 June 2004)

Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States and the Hashemite Kingdom of Jordan (enforced, 01 May 2002)

Economic Partnership Agreement between the CARIFORUM States, of the one part, and the European Community and its Member States, of the other part (enforced, 29 December 2008)

Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part (enforced, (G): 01 February 2003, (S): 01 March 2005)

Annex

This Annex contains all FTAs, together with their full citation, that are studied for the purpose of this research. The information used in these citations and the full text of all FTAs are taken from WTO's Regional Trade Agreements' Database [<https://rtais.wto.org/>] The FTAs included are the ones that were in force on 1 May 2020.

Table 3: Canada

Canada-Chile	Canada - Chile Free Trade Agreement(enforced, 5 July 1997)
Canada - Colombia	Canada - Colombia Free Trade Agreement (enforced, 15 August 2011)
Canada - Costa Rica	Canada - Costa Rica Free Trade Agreement (enforced, 01 November 2002)
Canada - Honduras	Canada - Honduras Free Trade Agreement (enforced, 01 October 2014)
Canada - Israel	Modernized Canada–Israel Free Trade Agreement (enforced, 1 January 1997)
Canada - Jordan	Canada - Jordan Free Trade Agreement (enforced, 01 October 2012)
Canada - Korea, Republic of	Canada - Korea Free Trade Agreement (enforced, 01 January 2015)
Canada - Panama	Text of the Canada - Panama Free Trade Agreement (enforced, 01 April 2013)
Canada - Peru	Canada - Peru Free Trade Agreement (enforced, 01 August 2009)
Canada - Ukraine	Text of the Canada - Ukraine Free Trade Agreement (enforced, 01 August 2017)
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership (enforced, 30 December 2018)
EFTA - Canada	Free Trade Agreement between Canada and The States of the European Free Trade Association (Iceland, Liechtenstein, Norway and Switzerland) (enforced, 01 July 2009)
EU - Canada	Comprehensive Economic and Trade Agreement (CETA) between Canada, of the one part, and the European Union and its Member States, of the other part (enforced, 21 September 2017)
NAFTA	North American Free Trade Agreement (enforced, 01 January 1994)

Table 4: Mexico

Argentina - Mexico	Argentina - Mexico ACUERDO DE COMPLEMENTACIÓN ECONÓMICA N° 6 (enforced, 01 January 1987)
Brazil - Mexico	ACUERDO DE COMPLEMENTACION ECONOMICA N° 53 ENTRE LA REPÚBLICA FEDERATIVA DEL BRASIL Y LOS ESTADOS UNIDOS MEXICANOS (enforced, 02 Mayo 2003)
Chile - Mexico	Acuerdo de Complementación Económica entre Chile y México (ACE N° 17) (enforced, 01 August 1999)

Colombia - Mexico	Tratado de Libre Comercio entre los Estados Unidos Mexicanos y la Republica de Colombia (enforced, 01 January 1995)
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership (enforced, 30 December 2018)
Ecuador - Mexico	Ecuador - Mexico Acuerdo de Alcance Parcial para la Renegociación de las Concesiones Otorgadas en el Periodo 11962/1980 (enforced, 01 May 1983)
EFTA - Mexico	Free Trade Agreement between the EFTA States and the United Mexican States (enforced, 01 July 2001)
EU - Mexico	Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and the United Mexican States (enforced, 01 October 2000)
GSTP	Agreement on the Global System of Trade Preferences Among Developing Countries (enforced, 19 April 1989)
Israel - Mexico	Free Trade Agreement Between the State of Israel and the United Mexican States (enforced 01 July 2000)
Japan - Mexico	Agreement Between Japan and the United Mexican States for the Strengthening of the Economic Partnership (enforced, 01 April 2005)
LAIA	Latin American Integration Association - Treaty of Montevideo 1980 (enforced, 18 March 1981)
Mexico - Bolivia	ACUERDO DE COMPLEMENTACIÓN ECONÓMICA No. 66 CELEBRADO ENTRE LOS ESTADOS UNIDOS MEXICANOS Y EL ESTADO PLURINACIONAL DE BOLIVIA (enforced, 07 June 2010)
Mexico - Central America	Tratado de Libre Comercio entre Mexico y Costa Rica, El Salvador, Guatemala, Honduras y Nicaragua (enforced, 01 September 2012)
Mexico - Cuba	ACUERDO DE COMPLEMENTACIÓN ECONÓMICA N° 51 CELEBRADO ENTRE LOS ESTADOS UNIDOS MEXICANOS Y LA REPÚBLICA DE CUBA (enforced, 28 February 2001)
Mexico - Panama	TRATADO DE LIBRE COMERCIO ENTRE LOS ESTADOS UNIDOS MEXICANOS Y LA REPÚBLICA DE PANAMÁ (enforced, 01 July 2015)
Mexico - Paraguay	Mexico - Paraguay Free Trade Agreement (enforced, 01 January 1984)
Mexico - Uruguay	Tratado de Libre Comercio entre los Estados Unidos Mexicanos y la Republica Oriental del Uruguay (enforced, 17 July 2004)
NAFTA	North American Free Trade Agreement (enforced, 01 January 1994)
Pacific Alliance	Acuerdo Marco de la Alianza del Pacífico (enforced, 01 May 2016)
Mexico - Peru	Acuerdo de Integración Comercial entre la República del Perú y los Estados Unidos Mexicanos (enforced, 01 February 2012)
PTN	Protocol on Trade Negotiations (enforced, 11 February 1973)

Table 5: United States of America

CAFTA - DR	Dominican Republic - Central America - United States Free Trade Agreement (enforced, 01 March 2006)
United States - Korea	Free Trade Agreement between the United States of America and the Republic of Korea (enforced, 15 March 2012)

NAFTA	North American Free Trade Agreement (enforced, 01 January 1994)
United States - Australia	United States - Australia Free Trade Agreement (01 January 2005)
United States - Bahrain	United States - Bahrain Free Trade Agreement (01 August 2006)
United States - Chile	United States - Chile Free Trade Agreement (enforced, 01 January 2004)
United States - Colombia	United States - Colombia Free Trade Agreement (enforced, 15 May 2012)
United States - Israel	Agreement on the Establishment of a Free Trade Area between the Government of Israel and the Government of the United States of America (enforced, 19 August 1985)
United States - Jordan	Agreement Between the United States of America and The Hashemite Kingdom of Jordan on the Establishment o a Free Trade Area (enforced, 17 December 2001)
United States - Morocco	United States - Morocco Free Trade Agreement (enforced, 01 January 2006)
United States - Oman	Agreement between the Government of the United States of America and the Government of the Sultanate of Oman on the Establishment of a Free Trade Area (01 January 2009)
United States - Panama	United States - Panama Trade Promotion Agreement (enforced, 31 October 2012)
United States - Peru	The United States - Peru Trade Promotion Agreement (enforced, 01 February 2009)
United States - Singapore	United States - Singapore Free Trade Agreement (enforced, 01 January 2004)

Table 6: European Union

EC Treaty	Consolidated Treaty on European Union (enforced, 01 June 2018)
EU-Albania	Stabilization and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania of the other part (enforced, (G): 01 December 2006, (S) 01 April 2009)
EU-Algeria	Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part (enforced, 01 September 2005)
EU-Andorra	Agreement in the form of an Exchange of Letters between the European Economic Community and the Principality of Andorra (enforced, 01 July 1991)
EU-Armenia	Comprehensive and enhanced Partnership Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part (enforced, 01 June 2018)
EU-Bosnia and Herzegovina	Stabilization and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part (enforced, G: 01 July 2008, S: 01 June 2015)

EU-Cameroon	Interim Agreement with a view to an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the other part - Protocol (enforced, 4 August 2014)
EU-Canada	Comprehensive Economic and Trade Agreement (CETA) between Canada, of the one part, and the European Union and its Member States, of the other part (enforced, 21 September 2017)
EU-CARIFORUM States EPA	Economic Partnership Agreement between the CARIFORUM States, of the one part, and the European Community and its Member States, of the other part (enforced, 29 December 2008)
EU-Central America	Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other (enforced, 01 August 2013)
EU-Chile	AGREEMENT establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part (enforced, (G): 01 February 2003, (S): 01 March 2005)
EU-Colombia and Peru	Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part (enforced, 01 March 2013)
EU-Côte d'Ivoire	Stepping stone Economic Partnership Agreement between Côte d'Ivoire, of the one part, and the European Community and its Member States, of the other part - Protocol (enforced, 03 September 2016)
EU-Eastern and Southern Africa States Interim EPA	Interim Agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States, on the one part, and the European Community and its Member States, on the other part (enforced, 14 May 2012)
EU-Egypt	Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part (enforced, 01 June 2004)
EU-Faroe Islands	Agreement between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part (enforced, 01 January 1997)
EU-Georgia	Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part (enforced, 01 September 2014)
EU-Ghana	Stepping stone Economic Partnership Agreement between Ghana, of the one part, and the European Community and its Member States, of the other part (enforced, 15 December 2016)
EU-Iceland	Agreement between the European Economic Community and the Republic of Iceland (enforced, 01 April 1973)
EU-Israel	EURO-MEDITERRANEAN AGREEMENT BETWEEN THE EUROPEAN COMMUNITIES AND ISRAEL (enforced, 01 June 2000)
EU-Japan	AGREEMENT BETWEEN THE EUROPEAN UNION AND JAPAN FOR AN ECONOMIC PARTNERSHIP (enforced, 01 February 2019)
EU-Jordan	Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States and the Hashemite Kingdom

	of Jordan (enforced, 01 May 2002)
EU-Republic of Korea	Free trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part (enforced, 01 July 2011)
EU-Lebanon	Euro-Mediterranean Agreement establishing an association between the European Community and its Member States of the one part, and the Republic of Lebanon, of the other part (enforced, 01 March 2003)
EU-Mexico	Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other part (enforced, (M): 07 January 2000, (S):01 October 2000)
EU-Republic of Moldova	ASSOCIATION AGREEMENT between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part (enforced, 01 September 2014)
EU-Montenegro	Stabilization and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part (enforced, 01 May 2010)
EU-Morocco	Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part (enforced, 01 March 2000)
EU-North Macedonia	Interim Agreement on trade and trade-related matters between the European Community, of the one part, and the former Yugoslav Republic of Macedonia, of the other part (enforced, (M): 01 June 2001, (S): 01 April 2004)
EU-Norway	Agreement between the European Economic Community and the Kingdom of Norway (enforced, 01 July 1973)
EU-Overseas Countries and Territories (OCT)	The association of the overseas countries and territories with the European Union (enforced, 01 January 1971)
EU-Palestinian Authority	Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part (enforced, 01 July 1997)
EU-Papua New Guinea/Fiji	Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of the other part (enforced, 20 December 2009)
EU-SADC	ECONOMIC PARTNERSHIP AGREEMENT between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part (enforced, 10 October 2016)
EU-San Marino	Agreement on Cooperation and Customs Union between the European Economic Community and the Republic of San Marino (enforced, 01 April 2002)
EU-Serbia	Stabilization and Association Agreement between the European Communities and their Member States of the one part, and the Republic of Serbia, of the other part (enforced, (M): 01 February 2010, (S): 01 September 2013)
EU-South Africa	EU- South Africa Free Trade Agreement (enforced, 01 January 2000)
EU-Switzerland-	Agreement between the European Economic Community and the Swiss

Liechtenstein	Confederation (enforced, 01 January 1973)
EU-Syria	Cooperation Agreement between the European Economic Community and the Syrian Arab Republic (enforced, 01 July 1977)
EU-Tunisia	Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part (enforced, 01 March 1998)
EU-Turkey	EU- Turkey Free Trade Agreement (enforced, 01 January 1996)
EU-Ukraine	Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, (enforced, 23 April 2014)
European Economic Area (EEA)	AGREEMENT ON THE EUROPEAN ECONOMIC AREA (enforced, 01 January 1994)