



## The Oxford Handbook of Women and International Law

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### CHAPTER

## 27 Women's Empowerment and International Trade: The Same Side of the Same Coin?

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### Abstract

Positive strides have been made by international institutions and states in reaffirming the need for women's empowerment and gender equality. In the field of international trade law, there has been a wave of multilateral as well as regional and bilateral initiatives to ensure that international trade enhances gender equality. This chapter provides an overview of the growing influence of concerns relating to women's empowerment in contemporary trade law and policy debates, and in particular how existing trade institutions and norms have increasingly accommodated these concerns. In doing so, the chapter provides a discussion on the close inter-relationship between trade policy and women's empowerment to argue why they are on the same side of the same coin. Following this conceptualization, the chapter assesses how the institution and norms of the World Trade Organization have gone from being completely gender-blind to gender-aware. The chapter also provides an analysis of the accommodation of gender-related concerns in regional and bilateral trade agreements. The conclusion offers some reflections on gaps in these developments and what remains to be done before it can be ensured that trade policy instruments can be made to work for women.

**Keywords:** [women](#), [gender equality](#), [trade agreements](#), [World Trade Organization](#), [mainstreaming](#)

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# I. Introduction

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As the space between international trade and domestic policy is narrowing, the topic of women's empowerment<sup>1</sup> is increasingly becoming a part of mainstream discussions in global governance circles. Renewed attention is now being paid to how international trade policies and instruments may impact gender equality.<sup>2</sup> Multiple studies demonstrate that trade policy is not gender-neutral.<sup>3</sup> Trade policies create both losers and winners: they benefit some and leave others behind. The distributional outcomes of trade may vary between women and men because they play different roles in society, markets, and the economy and enjoy different opportunities.<sup>4</sup> If international trade policies are designed without taking into account their possible impact on gender powers and opportunities, these policies can magnify existing gender gaps.<sup>5</sup>

Various international organizations, think tanks, and countries are now turning their focus to developing a better understanding of the trade and gender equality nexus and how gender equality can be integrated into countries' trade policies. In 2017, 115 Members and Observers of the World Trade Organization (WTO) agreed to a joint declaration on enhancing women's empowerment in international trade.<sup>6</sup> In this landmark initiative, WTO Members acknowledged the high degree of interconnectedness between trade and gender and the need to create inclusive trade policies that are geared toward women's empowerment.<sup>7</sup>

The focus on the nexus between international trade and inclusive development pre-dates the establishment of the WTO. One of the first acknowledgments of the inter-relationship between gender and commerce can be traced back to the Treaty on the Functioning of the European Union (TFEU), which contains a binding commitment to equal pay for equal work for women and men.<sup>8</sup> Half a century after this acknowledgment, the discussion in policy circles has evolved dramatically, and the terms 'sustainable development' or 'inclusive development' have become far better understood and accepted as a concept that relates to trade interests.

Particularly in the field of international trade law, a wave of multilateral, regional, and bilateral initiatives aim to ensure that international trade enhances gender equality. This chapter provides an overview of the growing influence of concerns relating to women's empowerment in contemporary trade law and policy debates, and in particular, how existing trade institutions and norms have increasingly accommodated these concerns. In doing so, the chapter will first provide a discussion on the close inter-relationship between trade policy and women's empowerment to argue why they are on the same side of the same coin. Following this conceptualization, the chapter will assess how the institution and norms of the WTO have gone from being completely gender-blind to gender-aware. The chapter will then provide an analysis of the accommodation of gender-related concerns in regional and bilateral trade agreements. The chapter will conclude with some observations on what remains undone in efforts to use trade policy instruments to create a level playing field for women and men.

## II. Women and International Trade: Conceptualizing the Nexus

Multilateral, bilateral, and regional trade agreements can play an important role in enhancing women's empowerment.<sup>9</sup> Trade's impact on women's empowerment may likely be positive or negative, depending on a country's productive structures, demography, national spending programs, social norms, and other mediating factors such as resource endowments, systems of property rights, and other socioeconomic characteristics.<sup>10</sup> Women tend to be more affected by the negative effects of trade liberalization and face more barriers than men when it comes to taking advantage of the opportunities offered by trade. This is mainly because of gender biases in education and training, wage and gender inequalities in the distribution of resources, and unequal access to productive inputs such as credit, land, and technology.<sup>11</sup> Trade policies with a gender-responsive approach may be able to mitigate possible negative impacts on women and maximize potential positive impacts on women. Such a gender-responsive approach has a strong business case behind it, as the economic benefits from international trade and trade policies cannot be fully realized if women—who make up the world's half working-age population—are excluded from the operation and opportunities of global markets.

Trade policy instruments should be specifically designed to empower women and subsequently help them mitigate the barriers they face. As existing and future trade agreements between countries increase trade flows, creating more business and employment opportunities for all, including women,<sup>12</sup> countries can use regional or bilateral trade agreements to encourage their trade partners to reduce trade barriers that women face. Using the lure of enhanced market access and freer trade, countries can use trade agreements to incentivize changes in other countries.<sup>13</sup>

Women's empowerment and international trade share an intricate and complex relationship that is often described as bidirectional. Women's empowerment can be enhanced through effective regulation of trade,<sup>14</sup> while the empowerment of women can have a considerable positive impact on international trade. On the latter point, studies have shown that there generally is a positive correlation between gender equality and a country's GDP. A 2015 study estimates that achieving equality in economic opportunities for women and men could increase global GDP by (US)\$28 trillion by 2025.<sup>15</sup> International Labour Organization (ILO) studies have confirmed these estimates, finding that reducing the gap in labor participation rates between men and women by 25 percent would raise global GDP by 3.9 percent by 2025.<sup>16</sup> There are clear economic gains for economies that can engage more women in their labor markets and provide them with more economic opportunities. Gender equality can also have a positive impact on economic growth through the accumulation of human capital as more women and girls access educational opportunities. This is a crucial factor for national productivity and sustainable development. Additionally, a more productive, skilled, and educated workforce increases the rate of return on investments and attracts more foreign investment.<sup>17</sup> Furthermore, companies with women in leadership positions are more profitable than those without them; in the last two decades, firms with women in executive and directorial positions have reported higher annual profit margins than firms without female leaders.<sup>18</sup>

Economic empowerment of women also leads to greater prosperity, reduced poverty, and positive impacts on the ecosystems in which they operate and on their families. This is because women invest most of their additional income back into their families (notably in education, food, and health) and in their communities (as they prefer to buy local).<sup>19</sup> Increasing their economic power, therefore, has a snowball effect on their family and their society by raising living standards for all, thereby reducing poverty.<sup>20</sup> These observations show that gender equality can benefit trade; on the other hand, trade can also serve as a vehicle to further gender equality.

Trade can affect women's empowerment through different channels because it can affect their businesses, participation in labor markets, and consumption. For women as entrepreneurs, trade is an agent of diversity, which includes the diversity of markets, clients, products, and services. Women's presence in international markets can allow women entrepreneurs to use trade as an engine of business expansion. Moreover, trade

liberalization fosters international competition and market access opportunities, which in turn can help women's businesses gain access to greater market opportunities.<sup>21</sup>

p. 437 For women as employees, studies reveal that trade liberalization can boost demand for women's labor but does not necessarily increase their wages or improve their work conditions. This is mainly due to the 'feminization of labor', which refers to an increase in women's employment, particularly in labor-intensive, low-value-added, low-wage activities, and a worsening of their working conditions.<sup>22</sup> However, other studies have shown that trade can help women move from informal work into the formal economy, offering them better working conditions and access to benefits. As a result, trade can create better jobs for women.<sup>23</sup> In sectors with high levels of exports, women workers are more likely to be formally employed in a job with better benefits, training, and security. Women who work in sectors that trade more or are more integrated into global value chains are less likely to work in the informal sector. Therefore, foreign trade can increase women's wages, as firms that export pay more and offer better work conditions than firms that do not export.<sup>24</sup>

For women as consumers, trade liberalization can have an impact through reduced import tariffs on government revenues. Lower import tariffs can reduce government revenue in the short term, forcing a reduction in or withdrawal of social services that have been subsidized or financed by the government. In some cases this shortage of revenue can lead to the privatization of certain social services on which women rely, such as medical care, maternity needs, and education.<sup>25</sup> Privatization of social services can increase their cost, making them unaffordable or less affordable for women without medical coverage or working mothers with childcare needs. Lack of social services and reduced financial benefits (such as cash transfers and subsidies) affect women more than men because women tend to have less access to resources and take on a larger share of domestic responsibilities than men, even when women are employed outside the home.<sup>26</sup> On the more positive side, increased trade and associated growth can generate higher tax revenues. Government budgets can then be reinvested in sectors that benefit predominantly women and generate large fiscal multipliers, such as education, healthcare, and social protection. However, budget allocation remains a political choice, and as such, increased revenues may not necessarily translate into increased benefits for women.<sup>27</sup>

p. 438 At the household level, trade liberalization can reduce or increase female control over household spending, as one of the factors that determine this control is whether trade liberalization creates more sources of independent income for women.<sup>28</sup> Trade liberalization can change the employment opportunities and earnings patterns of women and men. If these changes are positive for women, they are likely to influence the allocation of roles, time, and resources among household members for the benefit of women. For example, an increase in the economic value of a woman's time might result in the reallocation of some of her household responsibilities to her husband, even though there is no evidence (or data) so far to reflect this change in developed countries. This also impacts her ability to control resources and make decisions relating to what food items to buy for family consumption, in what quantities, and how these are distributed among family members.<sup>29</sup> Moreover, newly created jobs for women can challenge gender stereotypes.<sup>30</sup> With more power to take decisions and economic independence, women also gain higher confidence and self-esteem.<sup>31</sup>

Another way to differentiate trade's impact on women and men is to look at the differences in their purchasing power. As discussed previously, women are more likely to be represented in lower-income quintiles. By lowering the prices of goods that women purchase and thereby increasing their real incomes, trade can impact women consumers in lower income quintiles by lowering prices and providing access to a wider variety of goods and services.<sup>32</sup> This is in line with the conventional wisdom suggesting that trade lowers prices through greater competition and trade liberalization lowers barriers to trade (including non-tariff and tariff barriers), which then further lowers the prices of goods for final consumers. However, studies have shown that tariff and non-tariff barriers are generally higher on goods that are most consumed by lower-income groups or are essential for women, such as staple food, clothing, sanitary pads, and tampons.<sup>33</sup> This shows how trade policy can be inadvertently biased against women consumers and that trade liberalization may not necessarily have a

positive impact on women consumers if it does not work in favor of products that are consumed by women and by lower-income groups.

The previous discussion reflects that trade and trade policies are not gender-neutral. Trade liberalization affects men differently from women, and it is therefore important for trade policymakers to engage in the negotiation and implementation of trade agreements with a gender lens.<sup>34</sup> The following two sections discuss how multilateral as well as regional/bilateral trade agreements have accommodated gender equality concerns and what role they can play in creating a level playing field between women and men in international trade.

### III. Women and the World Trade Organization

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p. 439 The 600+ pages of the WTO rulebook governing international trade are gender- neutral or rather gender-blind. None of the WTO's Multilateral and Plurilateral Agreements, Ministerial Decisions, or the WTO Dispute Settlement Reports makes an explicit mention ↴ of any expression related to 'gender equality' or 'women's empowerment'. Yet it is possible to argue that the WTO, in the last few years, has evolved from being a gender-blind<sup>35</sup> to a gender-aware<sup>36</sup> organization.<sup>37</sup>

Until 2016, gender or gender equality was not considered part of the WTO's mandate. Concerns relating to trade and gender equality were explicitly dismissed from all discussions, research work, operations, and negotiations. No research was conducted on this issue,<sup>38</sup> and there was no staff member in the WTO Secretariat working on this area. Moreover, the WTO did not have any division or unit where trade and gender discussions could take place.

Since 2016, several developments have placed these concerns on the radar of the WTO Members and have included this subject within the WTO's mandate. The first notable change was the WTO's creation of a dedicated webpage on its website on 'Women and Trade', which notes that the WTO 'seeks to build a more inclusive trading system'.<sup>39</sup> Yet the question is: How? How can the WTO contribute to building a more inclusive trading system?

Various recent developments and studies show that the WTO has been responsible for several developments in soft law, policy, and other initiatives aiming to increase gender equality. One fundamental multilateral development that affirms this claim is the WTO's 2017 Joint Declaration on Trade and Women's Economic Empowerment.<sup>40</sup> This Declaration, which is a soft law instrument, reinforces the importance of augmenting women's access to economic opportunities through international trade. In the same year and as part of the negotiations on Services Domestic Regulation, Canada introduced the first gender equality language in a WTO negotiating document. On 2 December 2021, sixty-seven Members adopted the Services Domestic Regulation,<sup>41</sup> and for the first time added a gender equality provision into a WTO plurilateral agreement. This provision prohibits gender discrimination while authorizing the supply of a service.<sup>42</sup>

p. 440 The WTO in 2017 created a specialized division responsible for handling trade and gender issues. This new Trade and Gender Focal Point (now renamed as the Trade and Gender Unit) is responsible for coordinating work among divisions, taking stock of what the WTO is doing, and considering opportunities for new initiatives and further work to promote ↴ inclusive trade. Another landmark development is the creation of the Informal Working Group (IWG) on Trade and Gender, established in the WTO in September 2020. With the establishment of this IWG which is composed of a number of WTO Members, the relationship between trade and gender has been further institutionalized at the organization. Other notable efforts by the WTO include various outreach events<sup>43</sup> and research outputs<sup>44</sup> that have contributed to enhanced understanding of trade and gender equality.

Most recently, another landmark development was the multilateral recognition of the role women's empowerment can play in achieving sustainable growth at the WTO's Ministerial Conference 12, held in Geneva in July 2022. In Paragraph 13 of this Outcome Document, all WTO Members, for the very first time by consensus, acknowledged that women's economic empowerment contributes to inclusive and sustainable economic growth, and they took note of the WTO, UNCTAD, and International Trade Centre's (ITC) work carried out on these issues.<sup>45</sup> This inclusion is an anchoring commitment agreed upon in a multilateral setting. Symbolically, it is quite empowering.

However, this statement in the Outcome Document appears with an accompanying footnote which reads as follows: 'These are general messages on cross-cutting issues that do not change the rights or obligations of WTO Members.'<sup>46</sup> This statement brings down the level of recognition that WTO Members are demonstrating toward women's empowerment as it clearly states that this recognition should not impact their rights and obligations or alter any policy instruments in the WTO rulebook. This recognition is a positive step forward but falls short of any commitment on the part of the multilateral trading system, and surprisingly enough, it still had to be inserted with the accompanying footnote that further diminishes the strength and importance of this inclusion. Following this development, some countries have issued statements opposing this inclusion or clarifying that they do not intend to employ trade policies or the WTO as vehicles to enhance gender equality, as such a discussion may bring in more contentious issues to the already stalled multilateral trade negotiations.<sup>47</sup> They have also argued that such inclusions can also allow developed countries to use the advantage of more forward gender policies to obstruct exports from underdeveloped nations and that the WTO is not the appropriate forum to discuss gender issues as 'gender does not relate to trade and hence WTO should refrain from bringing in non-trade issues' on its agenda.<sup>48</sup>

p. 441 These statements show that many critics have questioned and are still questioning the use of the WTO framework to generate social changes such as gender equality. These arguments identify the reasons for greater unease among the WTO membership about the inclusion of gender issues in the multilateral trading agenda as compared to the inclusion of other contemporary issues such as digital trade, e-commerce, labor, and intellectual property (IP). These observations show the limits of WTO's multilateral space that impede its potential to mainstream gender equality-related concerns. The multilateral trading system as yet may not be fully prepared to sign onto these issues, but recent trends show a promising role that Free Trade Agreements (FTAs) can play in promoting gender equality.

## IV. Women and Free Trade Agreements

As per the WTO's database on gender equality provisions in regional trade agreements, there are more than 300 gender-related provisions included in about 100 regional trade agreements (RTAs), representing almost a third of RTAs currently in force and notified to the WTO by members.<sup>49</sup> Moreover, recent years have witnessed a sharp increase in the number of FTAs—mainly in the new generation trade agreements—mainstreaming concerns relating to women's empowerment. These recent developments challenge the long-standing assumption that trade and gender are not interconnected, and they also reflect that gender mainstreaming in trade agreements is here to stay.

Gradually, more and more countries have started including gender-related considerations in their trade agreements, albeit in different ways. Some agreements have a whole chapter on gender but no legal obligations (such as Canada–Chile and Canada–Israel).<sup>50</sup> Some FTAs have a single provision that creates a strong legal obligation related to gender equality or non-discrimination based on sex (such as EU–Montenegro).<sup>51</sup> Several agreements also include these provisions in their main text (such as EU–Jordan);<sup>52</sup> others load them in a side agreement or an annex or a protocol (such as Canada–Panama).<sup>53</sup> In some agreements, countries incorporate general statements where they acknowledge the importance of inclusive trade and/or gender equality (as in

p. 442 Canada–Honduras).<sup>54</sup> In other agreements, we find reaffirming provisions wherein parties reaffirm their commitments made under other international instruments, such as the SDGs, CEDAW, or ILO conventions (as in United States–Republic of Korea).<sup>55</sup> Moreover, several agreements are completely silent or merely make a single mention of expressions relating to gender equality, and others mention gender-explicit expressions more than forty times in their main text (such as Canada–Israel FTA).

In most agreements, gender-related provisions are non-binding, as they are drafted with non-mandatory verbs and ‘soft’ permissive grammatical constructions; but in contrast, a handful of countries have drafted legally binding gender provisions.<sup>56</sup> Gender-related provisions are considered enforceable when they fall within the ambit of an agreement’s dispute settlement mechanism or are not explicitly excluded from the dispute settlement mechanism, as is the case with gender-related provisions in some agreements.<sup>57</sup> Most gender-related provisions are found in chapters on cooperation, which mostly are excluded from or are not meant to fall within the agreement’s dispute settlement mechanism’s scope. Gender-related provisions are considered as legally binding when they are drafted with mandatory verbs (such as ‘shall’ and ‘must’) and their implementation is compulsory in nature.<sup>58</sup>

There is also a significant variation in the level of understanding, readiness, and appetite among countries to discuss and negotiate gender-related concerns in the trade policy context. On the one hand, various countries, especially some in North and South America, are leading gender mainstreaming efforts; on the other hand, many countries—particularly those in the Asia Pacific and the Caribbean—are yet to take their very first step in this regard. Moreover, the onset and prolonged setback of the COVID-19 pandemic has altered countries’ willingness to work on gender equality concerns, particularly within the context of their trade policy agenda.

The topics addressed in gender-related provisions also vary from one region to the other, as some regions have included provisions on social and healthcare concerns of women, and others have been limited to purely economic and market-oriented interests.<sup>59</sup> Differences can be observed in how the topics covered by gender provisions change from one region to the other. For instance, in the case of North America, the trade agreements signed by Canada, the United States, and Mexico have treated gender-related concerns from an economic and market access perspective.<sup>60</sup> These provisions mainly focus on labor standards, women’s access to productive resources, markets and technology, skill development, and participation in economic growth.

p. 443 The EU’s mainstreaming approach includes these issues but is oriented toward a wider range of concerns that deal with gender equality, non-discrimination, labor standards, education and skill development, health and safety, and maternal care.<sup>61</sup> Another contrast can be seen in the topic areas covered by countries in the Asia Pacific. Many of the inclusions in this region address the right to regulate provisions, wherein countries reserve policy space to regulate specific areas that may impact women’s health and maternal concerns, such as healthcare, nutrition, childcare, and women’s personal safety.<sup>62</sup>

South America’s approach mostly resembles that of the North, but some agreements in this region include gender considerations with topics similar to those in the Asia Pacific. Gender-related provisions negotiated by countries in that region focus on labor concerns, market and resource access, and women’s role in growth and development; the agreements that South American countries have signed with Asian and Central American countries, however, also include childcare.<sup>63</sup> Finally, the gender-explicit provisions found in FTAs signed by African countries seek primarily to integrate women into the region’s development process by enhancing women’s access to resources, promoting female entrepreneurship, and increasing women’s representation and participation in political and decision-making positions.<sup>64</sup>

These different areas of focus employed in existing trade agreements also reflect the varied roles of women that existing trade agreements have envisaged in these provisions. Broadly speaking, trade agreements so far have incorporated provisions that have sought to focus on five different roles of women. These roles can be categorized as follows: (1) women as representatives and decision-makers and social actors, (2) women as

mothers, (3) women as employees, (4) women as business owners, and (5) women's role in growth and development.

The agreements that have included provisions that focus on women as political representatives and decision-makers are of various kinds. Countries in some trade agreements seek to foster women's representation in decision-making and positions of authority in both public and private sectors, including on corporate boards. In the Common Market for Eastern and Southern Africa (COMESA), through legislation and other measures, the parties have pledged to increase women's participation in decision-making, eliminate regulations and customs that discriminate against women entrepreneurs and their access to resources, promote their education and awareness, and adopt technology for professional progress of women.<sup>65</sup> East African countries have sought to use these provisions to achieve gender balance in the appointment of staff and composition of government divisions, organs, and institutions.

Another example is the East African Community (EAC) agreement,<sup>66</sup> wherein members seek to ensure gender balance in the appointment of staff for the composition of institutions for the Community and in the election of the members of the East African legislative assembly.<sup>67</sup> Read with Article 121, a standalone provision on enhancing women's role in socioeconomic development, the members demonstrate an intent to promote the empowerment and effective integration and participation of women at all levels of socioeconomic development, especially in decision-making. It cannot get more direct and more explicit than this.<sup>68</sup>

Countries in the Asia Pacific region have frequently opted to focus on women as mothers and child carers. They have negotiated provisions on eliminating discrimination at the workplace based on pregnancy and caregiving in respect of employment, occupation, and wages, and reserving the right to maintain or adopt measures relating to social service for childcare, maternity, and services provided by midwives.<sup>69</sup> Countries in the Middle East have also sought to bolster and develop the country's family planning and mother and child protection programs and adapt legislations accordingly by including gender provisions in their trade agreements.<sup>70</sup>

Trade agreements, in their gender-related provisions, have also focused on women's role as social or cultural actors. Countries in these agreements have sought to construct policies to combat domestic violence against women and protect their physical safety;<sup>71</sup> to strengthen dialogue and awareness in communities on promoting gender equality and on various other social issues and promote public knowledge of laws and practices supporting women and gender equality;<sup>72</sup> to eliminate regulations and customs that prevent women from accessing resources and enjoying the same opportunities as that of men to grow their human capabilities;<sup>73</sup> and to promote effective awareness programs aimed at changing negative attitudes and stereotypes toward women.<sup>74</sup>

A large number of agreements have sought to improve the working conditions of women and increase their participation in the labor force. Several countries, for example, have included commitments to promoting gender equality in the workplace and eliminating discrimination on the basis of sex, pregnancy, sexual orientation, gender identity, and caregiving responsibilities in respect of employment, occupation, and wages;<sup>75</sup> others have sought to provide equal wages for women and men by applying the principle of equal pay for equal work in the same establishment and develop cooperation activities for the prevention of gender-based workplace violence and harassment.<sup>76</sup> For example, in the EU trade agreements with Korea, Ukraine, and Vietnam, parties have sought to promote labor practices that integrate and retain women in the job market and build the capacity and skills of women workers, including on workplace challenges and in collective bargaining.<sup>77</sup> Other agreements have focused on developing better practices to promote gender equality within enterprises through sustainability standards, encourage skills and education enhancement for women, and initiate changes in educational and training strategies to enable women to improve their technical employment levels through the acquisition of transferable skills.<sup>78</sup>

Besides a focus on social, educational, and cultural issues, legal provisions in the existing trade agreements can encourage women's business potential and capacity. In the EU-South Africa FTA, for example, parties seek to enhance the market access of micro enterprises (MEs) and small- and medium-sized enterprises (SMEs) in South Africa.<sup>79</sup> The parties, through this provision, also seek to promote 'cooperation between SMEs in the Community and in South Africa and the region in a manner that is sensitive to gender equality'.<sup>80</sup> In particular, the parties seek to work on increasing SMEs' access to finance, skills training, technology, and marketing, providing them with appropriate technical support, and establishing appropriate channels to improve the flow of information relating to business trends and opportunities, market access opportunities, and joint ventures.

Finally, countries have also recognized the role of women in growth and development in their countries and regions. Countries in a number of trade agreements have recognized that women make a significant contribution toward the process of socioeconomic transformation and sustainable growth and that it is not possible to implement effective programs for economic and social development without the full participation of women, and more precisely to promote the role of women in the economic and social development process through education and the media.<sup>81</sup>

Another development in this respect is the Global Trade and Gender Arrangement.<sup>82</sup> In August 2020, Chile, Canada, and New Zealand came together to sign this Arrangement, which is a standalone and independent instrument not attached to any particular agreement. The parties to this instrument acknowledge their commitment to enhance women empowerment through foreign trade, as the parties impose commitments on their respective governments as well as on the business stakeholders. In context of trade in services, the parties undertake to ensure that no sex-based discrimination is made in measures relating to licensing requirements and procedures, qualification requirements and procedures, or technical standards relating to authorization for the supply of a service. Parties also seek to 'encourage enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate into their internal policies those internationally recognised standards, guidelines, and principles that address gender equality that have been endorsed or are supported' by that member states'.<sup>83</sup> The parties in this instrument identify a wide range of cooperation activities to enhance the 'ability of women, including workers, entrepreneurs, business women and business owners, to fully access and benefit from the opportunities created by this Arrangement'.<sup>84</sup> Yet it is unclear what kind of opportunities are being referred to in this provision, as this arrangement is neither an understanding on trade agreement nor attached to any other trade agreement that may be seen to create trade opportunities for women in these economies.

## V. Conclusion

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While the empowerment of women can lead to more economic growth, the converse is not true; economic growth does not automatically lead to women's empowerment. Therefore, efforts need to be made to make that happen. Trade policy instruments can provide a relevant intervention. As discussed in this chapter, a number of trade agreements include gender concerns in their own unique ways; however, almost no FTA so far contemplates how gender-related commitments can be implemented, financed, or enforced. For the 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 the institutions, milestones, and objectives they are expected to achieve, and a timeline by which they can achieve these milestones. The most important aspect 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. Presently, even the most advanced FTAs that frontload gender concerns do not clarify precise procedures or identify channels to finance these activities. Moreover, almost all FTAs have explicitly and unambiguously excluded gender-related provisions and chapters from the application of their dispute settlement machinery. This shows that the glass is half full as more needs to be done to make these instruments effective.

Alternatively, the multilateral framework of the WTO could be the natural place to lead this process, given its expertise, experience, and positioning in global rulemaking on trade issues. But the WTO's multilateral space has various limitations that impede its potential to mainstream gender-related concerns in trade policy context. These limitations include members' concerns that gender-related obligations in trade instruments can usher in a new generation of protectionist actions against selected countries. Moreover, countries may lack the political willingness to reduce gender inequality in their respective jurisdictions. Countries may also believe that gender equality is not directly related to trade and hence must not be included in trade instruments. These difficulties and hesitations seem insurmountable in the current environment of rising protectionism and nationalism.<sup>85</sup> Therefore, the multilateral trading system may not be fully prepared to sign onto these issues at the moment. After all, there is a reason why WTO's texts are completely silent about these concerns and do not accommodate a single gender-explicit provision in this respect.

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## Notes

- 1 The term ‘women’s empowerment’ refers to the process of increasing women’s access to control over the strategic life choices that affect them and access to the opportunities that allow them fully to realize their capacities. Women’s empowerment as an economic, political, and sociocultural process challenges the system of sexual stratification that has resulted in women’s subordination and marginalization in order to improve women’s quality of life’. Yin-Zu-Chen and Hiromi Tanaka, ‘Women’s Empowerment’ in Alex C Michalos (ed), *Encyclopedia of Quality of Life and Well-Being Research* (Springer 2014).
- 2 Gender equality ‘denotes women having the same opportunities in life as men, including access to resources, opportunities and the ability to participate in the public sphere’. Markéta von Hagen, ‘Trade and Gender: Exploring a Reciprocal Relationship: Approaches to Mitigate and Measure Gender-Related Trade Impacts’ (Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH 2014) <[https://www.oecd.org/dac/gender-development/GIZ\\_Trade%20and%20Gender\\_Exploring%20a%20reciprocal%20relationship.pdf](https://www.oecd.org/dac/gender-development/GIZ_Trade%20and%20Gender_Exploring%20a%20reciprocal%20relationship.pdf)>.
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