

MAY 2021

Women and Trade

*How Trade Agreements
Can Level the Gender
Playing Field*

AUTHORS

Ally Brodsky

Jasmine Lim

William Reinsch

A Report of the
CSIS Scholl Chair in International Business



MAY 2021

Women and Trade

How Trade Agreements Can Level the Gender Playing Field

AUTHORS

Ally Brodsky

Jasmine Lim

William Reinsch

A Report of the
CSIS Scholl Chair in International Business

About CSIS

The Center for Strategic and International Studies (CSIS) is a bipartisan, nonprofit policy research organization dedicated to advancing practical ideas to address the world's greatest challenges.

Thomas J. Pritzker was named chairman of the CSIS Board of Trustees in 2015, succeeding former U.S. senator Sam Nunn (D-GA). Founded in 1962, CSIS is led by John J. Hamre, who has served as president and chief executive officer since 2000.

CSIS's purpose is to define the future of national security. We are guided by a distinct set of values—nonpartisanship, independent thought, innovative thinking, cross-disciplinary scholarship, integrity and professionalism, and talent development. CSIS's values work in concert toward the goal of making real-world impact.

CSIS scholars bring their policy expertise, judgment, and robust networks to their research, analysis, and recommendations. We organize conferences, publish, lecture, and make media appearances that aim to increase the knowledge, awareness, and salience of policy issues with relevant stakeholders and the interested public.

CSIS has impact when our research helps to inform the decisionmaking of key policymakers and the thinking of key influencers. We work toward a vision of a safer and more prosperous world.

CSIS does not take specific policy positions; accordingly, all views expressed herein should be understood to be solely those of the author(s).

© 2021 by the Center for Strategic and International Studies. All rights reserved.

Center for Strategic & International Studies
1616 Rhode Island Avenue, NW
Washington, DC 20036
202-887-0200 | www.csis.org

Acknowledgments

The authors would like to thank the whole Scholl Chair team, especially Scholl Chair Bill Reinsch and former fellow Jack Caporal, for their assistance. The authors extend their sincere thanks to the experts who participated in roundtables and research interviews, representing more than 16 unique organizations in six different countries. Last but not least, the authors thank Penny Naas, Maria Luisa Boyce, and Maria Loreto Lynch at UPS for their continued support, without which this project would not be possible.

This project was made possible by support from UPS.

Contents

Acronymsvi

Executive Summaryvii

1 | Introduction 1

2 | The Nexus of Gender and Trade..... 3

3 | Role of Gender in Trade Agreements 9

4 | Trade Negotiations..... 20

5 | Recommendations..... 22

6 | Conclusion..... 37

Glossary 38

About the Authors 39

Acronyms

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CSR	Corporate social responsibility
DSM	Dispute settlement mechanism
FTA	Free trade agreement
GATS	General Agreement on Trade and Services
GATT	General Agreement on Tariffs and Trade
GBA	Gender-based analysis
GDP	Gross domestic product
GSP	Generalized system of preferences
ILO	International Labor Organization
ITA	International Trade Administration (in the United States)
ITC	International Trade Center (in Geneva)
IWG	Informal Working Group
JSI	Joint Statement Initiative
MSMEs	Micro, small, and medium-sized enterprises
NAFTA	North American Free Trade Agreement
OECD	Organization for Economic Cooperation and Development
PPP	Public-private partnership
ROK	Republic of Korea (“South Korea”)
RTA	Regional trade agreement
SDG	Sustainable Development Goal
SMEs	Small and medium-sized enterprises
STEM	Science, technology, engineering, and math
TPA	Trade Promotion Authority
WOB	Women-owned business
WHO	World Health Organization
WTO	World Trade Organization
UNCTAD	United Nations Conference on Trade and Development
UNHCR	United Nations High Commissioner for Refugees
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women

Executive Summary

In the words of Anna Hallberg, Sweden’s minister for foreign trade, “Trade policy today benefits men more than women.”¹ This disparity holds despite significant evidence that gender equality would greatly increase growth of trade, the global economy, and gross world product.² The World Bank estimates that the earnings gap between women and men has caused countries to lose out on \$160 trillion in potential wealth.³ The higher participation of women relative to men in both the informal economy and unpaid work sector tells only part of the story.⁴ Women around the world also face higher risks and greater legislative hurdles than their male counterparts when acquiring trade knowledge, accessing trade finance, and facing export costs.⁵ As multiple studies have noted, the Covid-19 pandemic has exacerbated these issues, as aggregate demand and global supply chains continue to suffer—negatively impacting everyone, but especially women.⁶

Governments can take clear steps to mitigate gendered trade barriers and increase market access for women—steps that would both mark progress toward gender equity and help unlock as much as \$12 trillion in global GDP by 2025.⁷ A good first step is the inclusion of gender-specific language in trade agreements.

This report first describes the nexus of gender and trade, including existing relevant research and gendered trade barriers, before considering the degree to which four trade agreements, taken as case studies, are gender-responsive (Republic of Korea-United States Free Trade Agreement, Canada-Israel Free Trade Agreement, United States-Mexico-Canada Free Trade Agreement, and the pending WTO E-Commerce Agreement). The report assesses gender responsiveness rather than gender impact, which is an important but separate area of study.

The report then draws on interviews with trade experts and negotiators to consider how trade negotiations might impact the inclusion of gender-specific clauses in trade agreements. It concludes with recommendations for trade agreements, trade negotiations, and domestic policy, which directly and indirectly impacts trade. Specifically:

- **Policymakers should advocate for the inclusion of gender-specific language in trade agreements.** These provisions should be inserted throughout the agreement as well as in a standalone gender chapter, which can create a Trade and Gender Committee and, if subject to dispute mechanism, effectively hold parties accountable to their gender-specific commitments. **The report includes model gender-inclusive language that may be used to increase the gender responsiveness of trade agreements.**
- **Negotiators should push for greater gender diversity in trade advisory councils, create gender-specific trade committees, and commit to collect gender-disaggregated data that can help measure trade’s disproportionate impact on women**—even before negotiating an agreement.
- **Governments should prioritize gender in domestic policy.** They should prohibit all gender-based discrimination in law to work toward de jure gender equity (which, according to World

Bank data, at least 180 countries have not done); apply a gender lens and gender-based analysis to trade policies, tariff schedules, agricultural subsidies, and public procurement; and improve infrastructure, including childcare, the environment, broadband, and complements to “traditional” structures such as roads.⁸

Introduction

At the time of this writing, a woman heads the World Trade Organization (WTO). Women hold the positions of U.S. trade representative (USTR) and treasury secretary, both of which report to a president whose administration, steered in part by a woman vice president, has signaled its commitment to gender equity.

Yet, the presence of women in high-powered positions cannot hide the fact that rules of global trade, for the most part, continue to benefit men more than women. Though trade liberalization can benefit—and has benefited—women in many ways (increasing women’s wages and employing more women, for example), obstacles remain. Women’s clothing items face higher tariffs than men’s, disproportionately burdening women consumers. Requests to receive trade financing are more often rejected for firms led by women, and the services sectors where women tend to work tend to face more frequent trade disruptions.⁹ Not all gendered effects are so direct; for example, leaders of women-owned businesses—99.9 percent of which, in the United States, are small businesses—must contend with the ramifications of inadequate laws on parental leave and childcare in a way that men do not.¹⁰ These types of impacts threaten to undermine the gains already achieved by trade liberalization for all market participants, regardless of gender.

This report does not seek to address the broad systemic structures that institutionalize many of these barriers. It primarily aims to help policymakers and trade negotiators understand how trade policy

disproportionately burdens women—and how they can amend trade agreements to chip away at those barriers and thereby encourage market growth as part of broader public policy.

Indeed, increasing women’s market access can spur economic growth for all. Though women account for half the world’s population, they contribute to only 37 percent of global GDP; as McKinsey noted in 2015, removing obstacles to women’s participation in trade could help grow global GDP by \$12 trillion dollars.¹¹ This growth is crucial, especially as the world recovers from the Covid-19 pandemic—which is estimated to have set back the gains made toward gender equity as much as 10 years (or more, in Latin America and the Caribbean).¹² In March 2021, the World Economic Forum estimated that the global economic gender gap had widened in part due to the pandemic and would take at least 267 years to close, absent mitigating action.¹³

One top-down approach to bolster gender equity in trade is the inclusion of gender-responsive clauses in trade agreements. Similar to “gender-specific” clauses, which reference situations specific to people of a certain gender, “gender-responsive” clauses aim to respond to the needs of a certain gender. In this report—which builds on existing data, legal language, and insights from people who identify as women or men—“gender responsiveness” will refer to an agreement’s perceived ability to equalize market access and mitigate trade barriers across all genders, but with a focus on women.

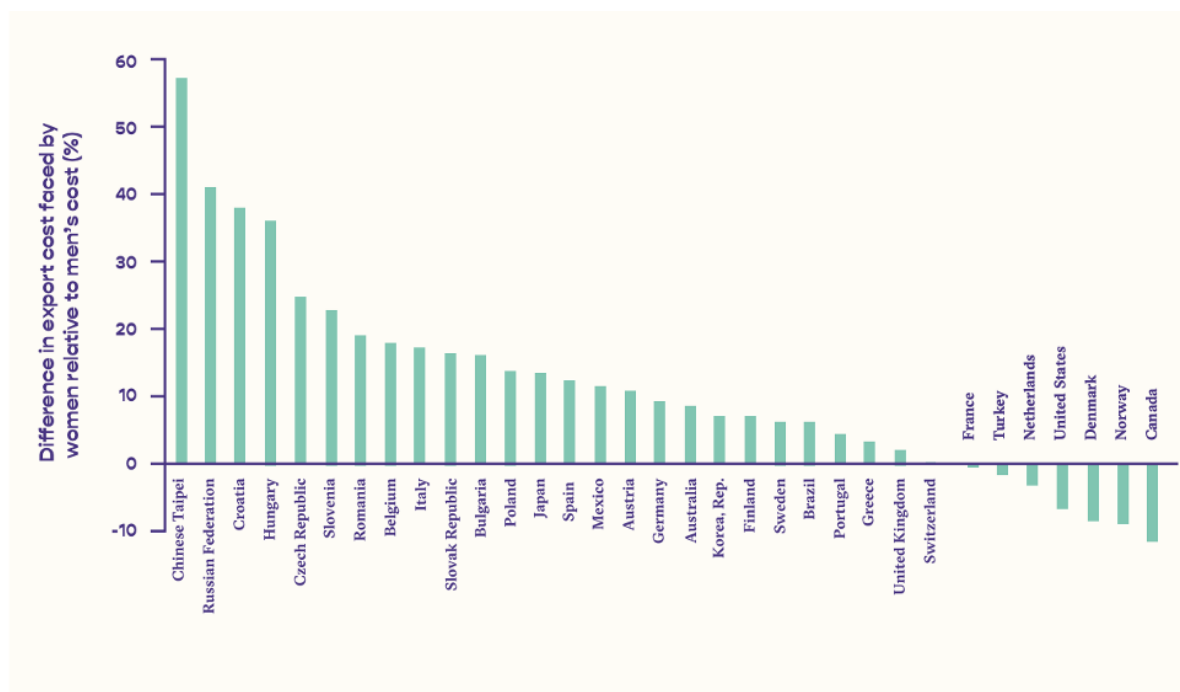
This report examines existing research at the nexus of gender and trade, including the trade barriers women face, and assesses the gender responsiveness of four trade agreements. It also considers the role that gender could play in trade negotiations before proposing recommendations and gender-responsive legal language for incorporation into trade agreements by policymakers and negotiators.

The Nexus of Gender and Trade

The relevance of gender in trade cannot be ignored. For example, trade liberalization may help to mitigate the gender wage gap if it helps women's salaries increase at a faster rate than men's.¹⁴ Trade has also been shown to increase access to new technologies that facilitate the employment of women.¹⁵ Countries show higher levels of gender equality when they are more open to trade—including more legal rights for women—and as global supply chains become more complex.¹⁶

However, as Figures 1–3 from the World Bank and WTO show, women do not benefit from all trade practices encouraged by trade liberalization. Women globally continue to face higher trade costs, are more frequently rejected for trade financing, and tend to work in services sectors that face greater trade disruption.

Figure 1: On Average, Women Face an Export Cost 13 Percent Higher than Men's Cost



Source: World Bank and World Trade Organization. 2020. *Women and Trade: The Role of Trade in Promoting Gender Equality*. Washington, DC: World Bank. doi:10.1596/978-1-4648-1541-6. License: Creative Commons Attribution CC BY 3.0 IGO

Figure 2: Women-Led Firms Face Higher Rejection Rates for Trade Finance

	Women-led firms	Men-led firms
Median number of employees	11 (55% women)	16 (37% women)
Rejection rates for trade finance (self-reported) (%)	21	14
Dependence on trade finance (for trade) (%)	50	43
Likelihood to seek alternatives (%)	41	35
Proportion using digital finance (%)	26	6

Source: World Bank and World Trade Organization. 2020. *Women and Trade: The Role of Trade in Promoting Gender Equality*. Washington, DC: World Bank. doi:10.1596/978-1-4648-1541-6. License: Creative Commons Attribution CC BY 3.0 IGO

Figure 3: Women Tend to Be Employed in Services Sectors That Face Larger Trade Disruption



Source: World Bank and World Trade Organization. 2020. *Women and Trade: The Role of Trade in Promoting Gender Equality*. Washington, DC: World Bank. doi:10.1596/978-1-4648-1541-6. License: Creative Commons Attribution CC BY 3.0 IGO

Policymakers are slowly catching on to these gender disparities, but only because of anecdotal evidence and increasing political pressure.¹⁷ Policymakers do not have much access to trade data that is disaggregated by gender—which could reveal discrepancies in trade’s impact on women versus men—because such data is hard to find. This is a problem. In a world where “what gets measured gets managed,” as Caroline Criado Perez describes in her book *Invisible Women*, a lack of widely available gender-disaggregated data prevents researchers from quantifying the disproportionate impact that they qualitatively observe—thus limiting the effectiveness of their advocacy to policymakers, who may rely on quantitative data to be convinced to prioritize addressing the problem.¹⁸

Existing Research and Data

A number of large multilateral organizations conduct and commission research on the economic empowerment of women relative to men, and a few focus specifically on women in trade. Many of these organizations frame their research in the context of working toward UN Sustainable Development Goal (SDG) 5, “achieve gender equality and empower all women and girls.”¹⁹ For example, the World Bank’s Women, Business and the Law (WBL) initiative works with the Organization for Economic Cooperation and Development (OECD) and UN Women to assess SDG Indicator 5.1.1 (Legal frameworks for gender equality and non-discrimination).²⁰ Within the OECD, the OECD Policy Dialogue on Women’s Economic Empowerment leverages the broader organization’s expertise and database to analyze the additional burdens placed on women by unpaid care work, in line with SDG Indicator 5.4.1 (Time spent on unpaid domestic care and work).²¹ The International Labour Organization (ILO) tracks gender discrepancies in labor across countries through analysis of SDG Indicator 5.5.2 (Female share of employment in managerial positions).²²

Thinking about gender equality across different facets of society—such as the legal prohibition of discrimination, unpaid work, and pay gaps, in the ways outlined above—is important because

they all, in some way, prevent women from being treated equally. Trade policies and regulations constitute another such component. Yet, as outlined above, research in this area has been lacking.

The work of the International Trade Centre (ITC)’s SheTrades Initiative has helped fill that gap, remaining focused on the specific nexus of gender and trade to become the foremost institutional authority dedicated to the topic. Like the aforementioned organizations, SheTrades has a global scope and has worked with governments (e.g., the United Kingdom), private sector partners (e.g., UPS), nongovernmental organizations (e.g., CARE, in creating the CARE-SheTrades Impact Fund), and other institutions (e.g., the WTO)—but its mandate is to mitigate gendered barriers to trade all over the world.²³ Since 2010, ITC SheTrades’ research and findings have helped pave the way for countries such as Sweden, Canada, and Chile to commit to applying a “gender lens” to their domestic trade policies and to push for broader change within the multilateral trading system.²⁴ These “feminist trade policies” push for greater gender disaggregation of trade data as well.

The WTO and the United Nations (parent organizations of the ITC), along with the World Bank, are broader organizations that have also devoted research to gender’s role in global trade. With the World Bank, the WTO compiled research to produce *Women and Trade: The role of trade in promoting gender equality* in July 2020, which representatives presented to the 127 members of the WTO Informal Working Group (IWG) on Trade and Gender in February 2021.²⁵ The WTO has also worked to assess the relationship between gender equality and trade by gender-disaggregating wage, consumption, and welfare data, in line with its Gender Aware Trade Policy.²⁶ Meanwhile, the United Nations has presented research on gender equality and trade policy through its Initiative of the Inter-Agency Network on Women and Gender Equality.²⁷ In 2010, the United Nations established UN Women, an entity dedicated to promoting gender equality and women’s economic empowerment more broadly, but without a specific focus on trade.²⁸

Little research has surfaced specifically on gender and trade agreements, the focus of this paper. Exceptions include a 2016 report commissioned by the European Parliament, 2017 and 2019 reports by the United Nations Conference on Trade and Development (UNCTAD), and a 2020 report, *Mainstreaming Gender in Free Trade Agreements*, by ITC SheTrades.²⁹ In Chapter 3 of the present report, CSIS will draw on the SheTrades report’s “Gender-responsive framework for free trade agreements” to qualitatively assess the gender responsiveness of four trade agreements.³⁰ CSIS’s attention to gender in trade also dovetails with that of the U.S. Government Accountability Office (GAO), which, as of spring 2021, has embarked on a comprehensive project to understand gender’s relevance to trade agreements at the request of Senators Bob Casey (D-PA) and Catherine Cortez Masto (D-NV).³¹ Additionally, just prior to this report’s publication, OECD released a policy paper on trade and gender that in part discusses trade agreements.³²

Gendered Barriers to Trade

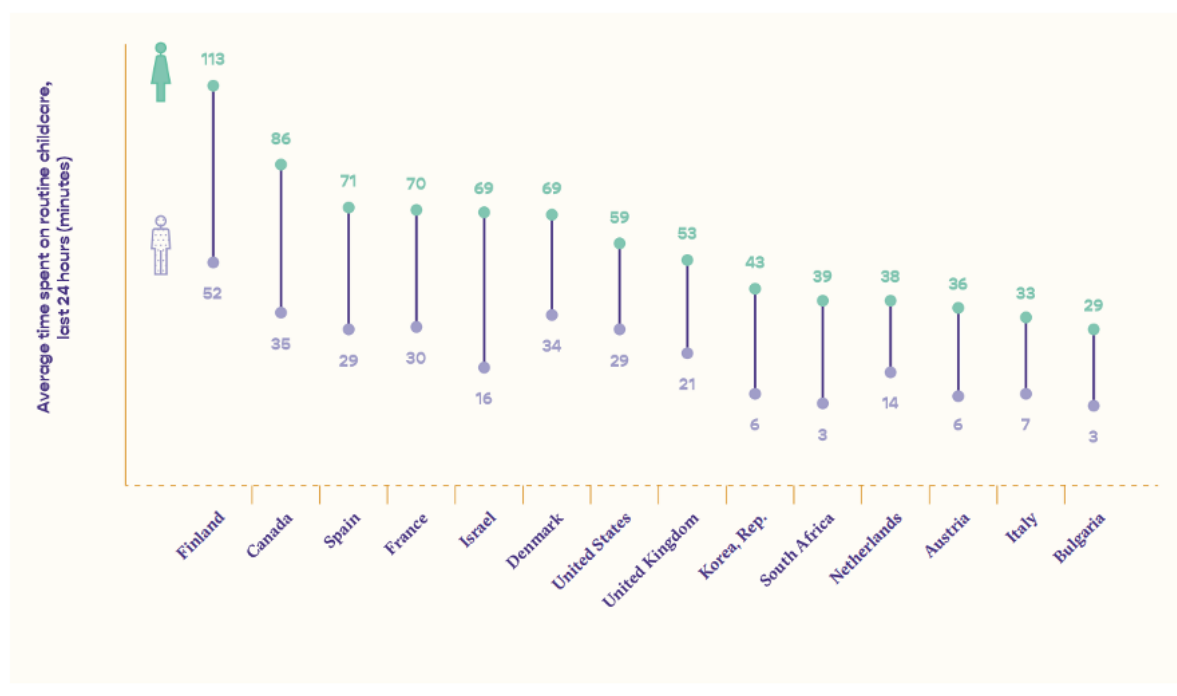
Much of the work to promote women’s access to trade involves mitigating current barriers that prevent women from succeeding in the same way as men—whether success is measured by money, time, personal safety, or employment. While barriers differ by country, economy, and culture, the following section outlines cross-cutting obstacles to women’s full access to trade. Some barriers are direct, but many are indirect. Most are intertwined.

Barriers to Trade Faced by Women

GREATER TIME CONSTRAINTS

Cultural or societal expectations that women are primarily responsible for unpaid domestic work impose greater time constraints on women than men—affecting women’s ability to network and raise capital, pursue knowledge of trade finance, and bring goods to market. Often these constraints are exacerbated by inadequate childcare programs or parental leave (both paternity and maternity), leaving mothers to sacrifice profits for family.

Figure 4: Women Spend Much More Time on Childcare than Men Do across All Countries



Source: World Bank and World Trade Organization. 2020. *Women and Trade: The Role of Trade in Promoting Gender Equality*. Washington, DC: World Bank. doi:10.1596/978-1-4648-1541-6. License: Creative Commons Attribution CC BY 3.0 IGO

HIGHER BORDER COSTS

Adding to women’s time constraints imposed by domestic work is the extra time that women exporters in some developing countries must spend at the border, where they are more likely than men to pay higher cross-border taxes, to feel compelled to bribe customs officials, and—if they refuse—to face harassment and gender-based violence (GBV).³³ Financially, bribes and border taxes cut into their profits, as do gender-based policies of progressive taxation (women may be taxed more as the size of their shipments increases, while men are not) and tax exemption (women may be less likely to be exempted from taxes, which may prevent them from pursuing more profitable trade opportunities). Research by the World Bank shows that in Cambodia and Laos, women pay at least twice as much as men for transportation to the border; this cost swells as soon as the opportunity cost of domestic work or intangible cost of violating societal norms is incorporated. In the same countries, women are 29 percent more likely to export foods that are perishable, increasing the likelihood that the goods are ruined before arriving at the market (thus failing to reap profit).³⁴

SERVICES SECTOR SEGREGATION AND DEFEMINIZATION OF LABOR

Recent OECD research shows that women-led firms tend to be more present in services sectors “and in particular some sub-sectors that are not traditionally traded, which explains in part their absence on international markets.”³⁵ Women comprise 59 percent of employment in the global services sector but hold the majority of the sector’s lowest paying jobs, including in wholesale and retail trade.³⁶ This phenomenon is true across all sectors: women are overrepresented in administrative and other support roles and comprise only 29 percent of senior management roles globally.³⁷ Meanwhile, empirical evidence has shown that as companies continue to deindustrialize in early development stages—in other words, to decrease the number of jobs in early stages of product manufacturing—the jobs that remain tend to go to men.³⁸ This “defeminization of labor” has produced barriers to women’s employment, including in trade.

WEAK DOMESTIC PROTECTION

Women and men are not equally protected by law in 180 of 190 countries, according to the World Bank’s *Women, Business and the Law 2021*. The report praises countries such as Canada, France, and Sweden, who earned top scores in the index’s ranking; yet, in countries such as Qatar, Sudan, Kuwait, and Yemen, fewer than 3 in 10 laws prohibit gender discrimination in areas related to employment, entrepreneurship, caregiving, or economic empowerment.³⁹

Role of Gender in Trade Agreements

Why Trade Agreements?

Countries can advance work on trade and gender in a number of ways, three of which are:

1. **A country may domestically implement trade policies** that mitigate gender inequity by reducing barriers to trade that women face. For example, a government can remove unneeded barriers to trade in services, a sector that tends to employ more women than men. Sweden, Canada, and the European Union have all implemented policies and programs to explicitly work toward gender equity in trade.
2. **WTO member states may engage in collaborative efforts** to better understand both gender's impact on multilateral trade and trade's impact on gender equality. For example, the WTO IWG on Trade and Gender works to share best practices, relevant data, and countries' experience in implementing a gender lens, as well as to support the WTO's Aid-for-Trade program that encourages trade in developing and least-developed countries.
3. **Preferential or free trade agreements (FTAs) among two or more countries may serve as levers for reform** that advance women's participation in trade and, consequently, increase mutual economic growth. For example, an FTA can strike down existing non-tariff barriers—such as import quotas or burdensome licensing requirements—that disproportionately hurt women-owned businesses (WOBs) because they tend to be smaller than those owned by men. This report examines four agreements: Republic of Korea-United States FTA (KORUS); Canada-Israel

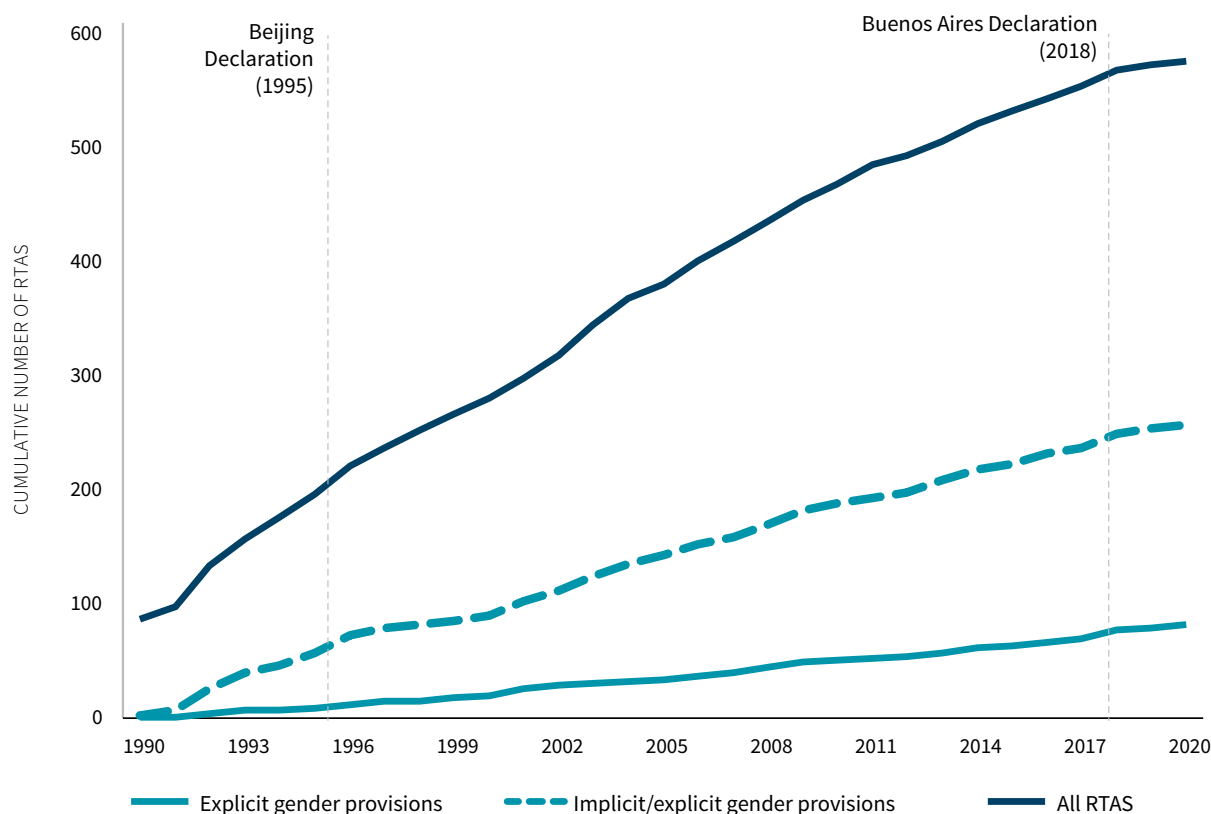
FTA (CIFTA); United States-Mexico-Canada FTA (USMCA); and the pending WTO E-Commerce Agreement, based on text proposed by members of the plurilateral WTO Joint Statement Initiative (JSI) on Electronic Commerce.

Observation of general trends and close analysis of four existing FTAs show that bilateral and plurilateral trade agreements represent promising avenues to increase women’s market access. Though complementary bottom-up practical approaches are necessary to ensure the success of this top-down legal approach, the inclusion of gender-responsive clauses in trade agreements can help to mitigate many of the barriers outlined in Chapter 2 and elevate the importance of gender in domestic trade policy.

A Note on Approach: Gender Mainstreaming vs. Standalone Gender Chapters

As of December 2020, only 27 percent of regional trade agreements notified to the WTO have explicitly referenced gender.⁴⁰ Trade agreements that do reference gender have tended to do so in one of two ways: through a standalone “Trade and Gender” chapter, or through “gender mainstreaming.”

Figure 5: Explicit and Implicit Gender Provisions in Regional Trade Agreements (RTAs)



Source: José-Antonio Monteiro. *The Evolution of Gender-Based Provisions in Regional Trade Agreements* (Geneva: Economic Research and Statistics Division, World Trade Organization, February 24, 2021), https://www.wto.org/english/res_e/reser_e/ersd202108_e.pdf.

The argument for including a standalone gender chapter—without referencing gender elsewhere in the agreement—is that a separate chapter can reference gender-related treaties and comprehensively cover

pertinent topics. However, these chapters tend not to be subject to a dispute settlement mechanism (DSM) that would hold parties to the agreement accountable for abiding by those provisions. On the other hand, the argument for gender mainstreaming—which, as the name implies, refers to “mainstreaming” gender throughout the agreement by use of gender-specific clauses in the preamble, labor chapter, and general provisions, for example—is that parties to the agreement can be more easily held accountable for their gender commitments, as inclusion of provisions throughout the agreement increases the likelihood that they fall subject to the agreement’s dispute settlement measures.

Case Study Analysis

The following trade agreements have been analyzed for their gender-responsiveness, which is different from measurement of their gender impact. Though measuring gender impact would be preferable to analyzing gender-responsiveness—after all, proof of impact is the ultimate nail in the coffin for lingering claims that trade is gender neutral—gender impact assessments require more diverse gender-

Figure 6: Examples of Statistical Data by Sex Required to Assess CETA Goals

Examples of statistical data by sex required to assess CETA goals

CETA goals	Determinants	Outcomes	Impacts
ABOLISH customs duties	Equal rights and access to trade and information, motivations	Tariffs, exports and imports of affected products	Trade and GDP, prices, disposable income, consumption
REDUCE barriers to trade	Economic roles, safety, motivations, norms	Trade barriers, non-tariff measures, exports and imports	Business conditions, business confidence, consumption
OPEN markets for services	Equal rights and access to the services markets	Roles and participation in services, trade in services by category	Employment, production, new start-ups in services
ACCESS public contracts	Access to information and networks, training and skills	Roles and participation in public investment and contracts	Employment and production in affected service industries
CUT red tape	Customs efficiency, trading costs	Roles and participation in trading activities	Business conditions, prices, productivity
INCREASE labour mobility	Education and skills, participation in migration	Migrants by country, education and labour participation	Labour force changes, skills, innovation, R&D by industry
ENCOURAGE investment	Access to resources and finance, land and business ownership	Innovation, R&D statistics	Competitiveness, investment, foreign direct investment
PROTECT the environment	Access to natural resources and ownership rights, legal environment	System of Environmental-Economic Accounting (SEEA), emissions	SEEA, environment, green jobs, energy efficiency
ENHANCE labour rights	Time-use, education and skills, economic roles, wage differentials, equal rights, freedom of association and right to collective bargaining	Informal and vulnerable jobs by industry, working conditions, status in employment workers' representation, women in leadership positions	Status and security in work, income & living conditions, share of vulnerable employment, distribution of unpaid care work
SUPPORT SMEs	Training, access to information and networks, skills, business goals and motivations	Business owners, managers and workers, export and import-orientation by industry and enterprise size	Production, productivity employment and wages paid by enterprise size

Source: UNCTAD and UN Women, *Assessing the Impact of Trade Agreements on Gender Equality: Canada-EU Comprehensive Economic and Trade Agreement* (UNCTAD and UN Women, May 8, 2020), 20, <https://www.empowerwomen.org/en/resources/documents/2020/05/assessing-the-impact-of-trade-agreements-on-gender-equality-canada-eu-ceta?lang=en>.

disaggregated data than is generally collected or otherwise available. For example, statistical agencies and multilateral organizations may capture relevant information at a country level without collecting information on the number of women-owned businesses or the rate at which small and medium-sized enterprises (SMEs)—a third of which are led by women—can access new export markets.⁴¹ A 2020 policy brief developed by UNCTAD and UN Women to assess the gender impact of the Canada-EU Comprehensive Economic and Trade Agreement (CETA) highlights the complexity of collecting enough data to assess any kind of impact of a trade agreement, let alone gender impact (Figure 6).⁴²

An assessment of gender responsiveness, on the other hand, avoids the problem of insufficient data. It considers whether and to what degree a given trade agreement acknowledges and seeks to mitigate trade barriers to women. ITC SheTrades has designed a useful framework for this purpose, incorporating dimensional, benchmarking, and diagnostic factors to assign a final numerical score to an agreement's degree of gender responsiveness. The framework assigns up to two points on 10 dimensions, for a possible total of 20 points. An agreement is considered to have limited gender responsiveness if it scores below 33.33 percent (below seven points); evolving responsiveness if it scores 33.33–66.66 percent (7–13 points); and advanced responsiveness if it scores above 66.66 percent (13.5 or more points).⁴³

It is important to note that these case studies, while diverse from each other, do not encompass the full diversity of existing trade agreements. For example, time limitations prevented consideration of the recently enacted African Continental Free Trade Agreement (AfCFTA).⁴⁴

REPUBLIC OF KOREA-UNITED STATES FREE TRADE AGREEMENT (KORUS), 2019

Figure 7: The Gender Responsiveness of KORUS

TEN DIMENSIONS	SCORE (OUT OF 2)	(OUT OF 20)	STATUS
Frequency of relevant provisions	1	2.5	Limited Gender Responsiveness
Location of relevant provisions	0		
Affirmations & reaffirmations	0.5		
Cooperation activities	0		
Institutional arrangements	0.5		
Procedural arrangements	0		
Review & funding	0		
Settlement of disputes	0		
Waivers, reservations, & exceptions	0.5		
Minimum legal standards	0		

Source: Framework adapted from ITC SheTrades (December 2020).

KORUS—which was signed in 2007, entered into force in 2012, and was updated with minor changes in 2019—exhibits limited gender responsiveness, scoring 12.5 percent on the ITC SheTrades' framework. Its 2.5 points derive from references to broad human rights, as the main agreement does not make explicit gender references. One example of this implicit gender responsiveness occurs in the “Waivers, reservations and exceptions” dimension: KORUS earned a half-point for incorporating general exceptions in the General Agreement on Tariffs and Trade's (GATT) Article XX, which includes a clause on general

public morals (but does not explicitly include gender equity in this category). KORUS also earned one point in “Frequency of relevant provisions” because its labor chapter refers to the 1998 ILO Declaration on Fundamental Principles and Rights at Work and its follow-up, which allows room for cooperative activities to support labor rights, including the right of women to work. Outside the main text, ancillary instruments reference “gender” only twice: in the annexed Schedule of Korea that references the “Ministry of Gender Equality and Family,” which is not relevant, and in Footnote 3 of Appendix II, which merely describes the accreditation process of higher education institutions.

Consistent with observed trends in U.S. trade policy, the terms “gender,” “women,” “sex,” “mother,” “girl,” and “maternity” in the context of trade do not appear at all in KORUS’s preamble, main text, or appendices. Chapter 19 (Labor) reveals no direct reference to human rights concerns, nor does it acknowledge the disproportionate impact that labor policies may have on women. A complementary government report prepared domestically by the ROK reveals that KORUS refers to the ROK’s constitution and domestic legislation that aim to protect women’s right to work, maternity benefits, and protection from forced labor, including trafficking.⁴⁵ Still, by its main text’s failure to identify that trade may affect women differently than men, KORUS does not commit to mitigating the gender gap—or even acknowledge the gap’s existence.

MODERNIZED CANADA-ISRAEL FREE TRADE AGREEMENT (CIFTA), 2019

Figure 8: The Gender Responsiveness of Modernized CIFTA

TEN DIMENSIONS	SCORE (OUT OF 2)	(OUT OF 20)	STATUS
Frequency of relevant provisions	2	15.5	Advanced Gender Responsiveness
Location of relevant provisions	2		
Affirmations & reaffirmations	2		
Cooperation activities	1.5		
Institutional arrangements	2		
Procedural arrangements	1.5		
Review & funding	1		
Settlement of disputes	1.5		
Waivers, reservations, & exceptions	0.5		
Minimum legal standards	1.5		

Source: Framework adapted from ITC SheTrades (December 2020).

In contrast to KORUS, which displays limited gender responsiveness, CIFTA—which entered into force in 1997 but modernized in 2019—scores 77.5 percent in the ITC SheTrades framework, achieving the status of “advanced gender responsiveness.” The agreement mainstreams gender by including explicit gender provisions in its preamble and chapters on labor, as well as in a standalone gender chapter that is subject to a binding DSM, incentivizing both parties to abide by the chapter’s provisions. Though some of CIFTA’s gender-specific language remains hortatory (also called “best endeavor” language), Canada and Israel more often than not use strong language that clearly commits to “removing constraints to [women’s] full participation in their economies and international trade,” making the agreement exceptionally gender responsive, as outlined below.⁴⁶

Explicit Gender-Responsive Language Mainstreamed in CIFTA

Preamble: “THE GOVERNMENT OF CANADA (“Canada”) AND THE GOVERNMENT OF THE STATE OF ISRAEL (“Israel”), hereinafter referred to as “the Parties,” resolved to:

. . . SEEK TO INCREASE women’s access to and benefit from the opportunities created by this Agreement by advancing cooperative activities and removing constraints to their full participation in their economies and international trade.”⁴⁷

Chapter Twelve: Trade and Labor, Annex 12.9.1 (Cooperative Activities): “The Parties have established the following indicative list of areas for cooperative activities that they may develop pursuant to Article 12.9: . . . (i) gender: gender issues, including the elimination of discrimination in respect of employment and occupation.”⁴⁸

Chapter Thirteen: Trade and Gender: See “Anatomy of CIFTA’s Chapter Thirteen on Trade and Gender” below.

Chapter Sixteen: Other Provisions, Article 16.4.1 (Corporate Social Responsibility): “The Parties affirm the importance of each Party encouraging enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate into their business practices and internal policies those guidelines and principles of corporate social responsibility that have been endorsed or are supported by that Party, including the OECD Guidelines on Multinational Enterprises. These guidelines and principles address issues such as labor, environment, gender equality, community relations and anti-corruption.”⁴⁹

The language of CIFTA’s Chapter Thirteen on Trade and Gender merits special attention for its level of commitment. Drawing on the parties’ domestic policy commitments, which require the application of a gender lens to trade policy, negotiators from Canada and Israel were able to conclude an agreement that included a chapter with strong, enforceable language to promote women’s market access and mitigate gendered trade barriers.

Anatomy of CIFTA's Chapter Thirteen on Trade and Gender⁵⁰

13.1: GENERAL PROVISIONS	The parties state their intention to consider gender as a key factor in the promotion of inclusive economic growth and sustainable economic development. They explicitly name UN SDG 5 and reaffirm the importance of working toward gender equality. They reaffirm gender-relevant obligations in Chapter Twelve (Labor) and gender-relevant commitments in Article 16.4 (Corporate Social Responsibility). The parties commit to promoting gender equality and public knowledge of their domestic laws and practices that aim to achieve gender equality.
13.2: INTERNATIONAL AGREEMENTS	The parties reaffirm their commitments to CEDAW and any other gender-relevant international agreements to which they are party. Canada and Israel have also ratified ILO Convention 100 (Equal Remuneration) and 111 (Discrimination, Employment and Occupation), for example.
13.3: COOPERATION ACTIVITIES	The parties must engage various stakeholders in cooperative programs to work toward gender equality in trade. For example, an “area of cooperation may include . . . promoting female entrepreneurship and women’s participation in international trade, including by improving women’s access to, and participation and leadership in, science, technology and innovation.”
13.4: TRADE AND GENDER COMMITTEE	The parties agree to convene an annual committee to review relevant issues and to consider reviewing the effectiveness of the implementation of Chapter Thirteen after five years.
13.5: RELATION TO CHAPTER TWELVE (TRADE AND LABOR)	The parties permit that Chapter Twelve provisions may prevail in the case that they are inconsistent with those of Chapter Thirteen. If a question arises that could potentially be resolved under either chapter, this clause says that it should be resolved under Chapter Twelve (Trade and Labor).
13.6: DISPUTE SETTLEMENT	If parties are unable to resolve a dispute after dialogue, consultation, and cooperation, they may submit the dispute to be settled in accordance with Chapter Nineteen (Dispute Settlement).

Particularly noteworthy in the language of CIFTA's gender chapter is its commitment not just to women in trade across all sectors, but specifically to promoting women's equality in STEM and related fields (as noted above). Research has shown that women are underrepresented in STEM, as historically they have often been relegated to low-paid service roles (as crop pickers in agriculture, cleaners in the hospitality industry, and assistants in the corporate world, for example).⁵¹ Through Canada and Israel's commitment to promoting women's equity in more technical areas, CIFTA aims to develop programs to increase gender diversity across STEM fields and even mitigate the self-selection of career paths informed by traditional gender norms. (For example, Israel might require that childcare program curricula include books that portray women as doctors, not just nurses, or as engineers as well as fashion designers.) STEM roles also tend to offer higher than average pay, meaning that increased women's participation in these fields could help mitigate the gender pay gap.⁵²

Also of note is CIFTA's Trade and Gender Committee prescribed by Article 13.4 and, more importantly, its binding DSM set out in Article 13.6. The establishment of clear terms for a gender-specific committee and the presence of an accountability mechanism obligates both parties to follow up on their Chapter Thirteen commitments. This is true even though the DSM is not compulsory; that is, both Canada and Israel must agree to submit to the DSM if a dispute arises. The gender chapter is not subject to the broader DSM set out in CIFTA's Chapter Nineteen (Dispute Mechanisms).⁵³

As previously noted, assessment of gender responsiveness does not necessarily equate to positive gender impact. The five-year review suggested by CIFTA's Article 13.4, which would take place in 2024, may shed more light on the impact of CIFTA's gender commitments. Meanwhile, Canada has continued to lead other countries in efforts to insert gender-responsive language in trade agreements, including in the efforts of WTO working groups to develop a ministerial statement on trade and gender and to propose a plurilateral agreement on e-commerce (see "WTO Electronic Commerce Agreement" below).

UNITED STATES-MEXICO-CANADA AGREEMENT (USMCA), 2020

Figure 9: The Gender Responsiveness of USMCA

TEN DIMENSIONS	SCORE (OUT OF 2)	(OUT OF 20)	STATUS
Frequency of relevant provisions	1.5	11.5	Evolving Gender Responsiveness
Location of relevant provisions	2		
Affirmations & reaffirmations	1		
Cooperation activities	1		
Institutional arrangements	0.5		
Procedural arrangements	0.5		
Review & funding	0		
Settlement of disputes	2		
Waivers, reservations, & exceptions	1.5		
Minimum legal standards	1.5		

Source: Framework adapted from ITC SheTrades (December 2020).

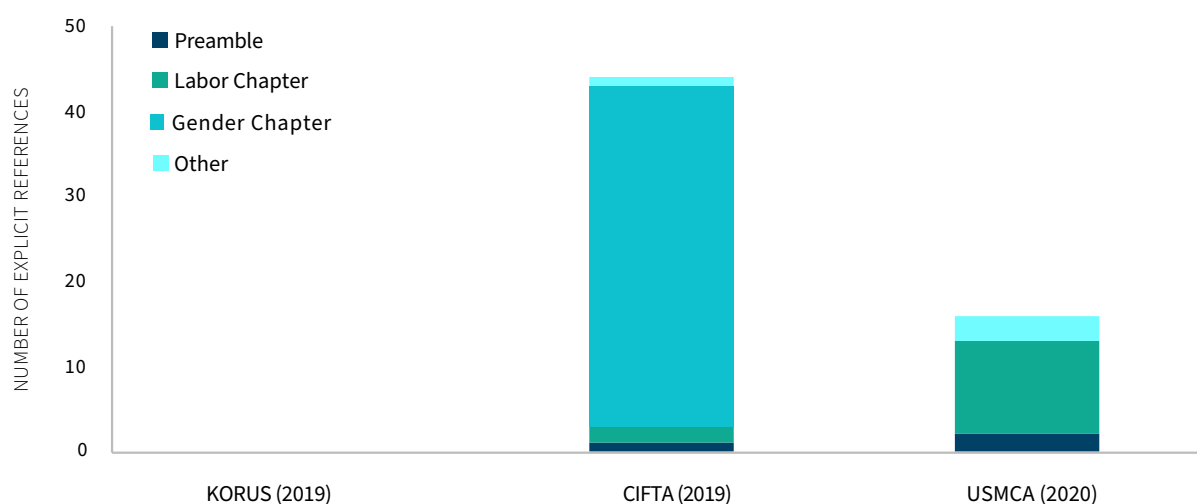
Though Canada is also a party to USMCA—which replaced the North American Free Trade Agreement (NAFTA) and entered into force in 2020, after CIFTA—USMCA is decidedly less progressive in its gender responsiveness, though its score of 52.5 percent still ranks higher than KORUS and classifies its gender responsiveness as “evolving.” USMCA does not have its own gender chapter, despite Canada’s best efforts, but it does include gender-specific clauses in its preamble, chapter on cross-border services, chapter on SMEs, and chapter on labor.⁵⁴ Its labor chapter, which has been widely praised, describes gender-based discrimination but does not propose specific measures to prevent it. For example, in Article 23.9, the parties “*recognize* the goal of eliminating discrimination in employment and occupation and *support* the goal of promoting equality of women in the workplace” (emphasis added).⁵⁵ In the same article, a footnote clarifies that the United States already complies with a requirement that parties implement policies “to protect workers against employment discrimination on the basis of sex,” following the successful protest of 46 Republican lawmakers who objected to the clause’s protection of workers from discrimination based on sexual orientation or gender identity.⁵⁶

Interestingly, a clause in USMCA's Annex 15-E to Chapter 15 on Cross-Border Trade in Services, "Mexico's Cultural Exceptions," refers to gender equality for Indigenous women. Mexico takes reservations against the chapter's local presence obligation in Article 15.6, which says that a party to the agreement cannot require another party's service supplier to maintain local presence in its territory in order to benefit from cross-border service supply.⁵⁷ In Annex 15-E, Mexico specifies that "Concessions for indigenous social use shall be granted to indigenous people and communities of Mexico . . . that, under principles of gender equality, enable the integration of indigenous women in the accomplishment of purposes for which the concession is granted."⁵⁸ This acknowledgment is important; however, its presence in an annex rather than main text is telling. The absence of gender-specific language in the trade services chapter is especially conspicuous because women comprise such large majorities of the parties' services sectors (91 percent in Canada, 90 percent in the United States, and 79 percent in Mexico).⁵⁹

It is also worth noting that the USMCA includes Chapter 25 on Small and Medium-Sized Enterprises, which is notable not for its lone reference to women (Article 25.2(b)) but for its creation of a SME Committee that can address issues of gender equity (Article 25.4).⁶⁰ Though USMCA lacks a gender chapter, its SME Committee provides a structure through which parties can start to discuss the relevance of gender in trade, an effort likely to be led by Canada.

Another positive point for USMCA derives from its DSM, to which the gender-specific provisions in its labor chapter are subject. The first test of the DSM's competence on this topic will come soon, as a group of Mexican migrant women workers filed a petition under USMCA on March 23 on the grounds that they had experienced gender discrimination when applying for U.S. worker visa programs.⁶¹ The case must be reviewed and accepted by the Mexican Ministry of Labor and Social Security before the country's Foreign Ministry can open formal consultations with the United States—a process whose length is uncertain, as this is the first case on labor provisions brought to USMCA's DSM.⁶²

Figure 10: Explicit References to "Gender," "Sex," "Women," "Girl," "Mother," or "Maternity," by Section



Source: Authors' analysis of the Republic of Korea-United States Free Trade Agreement (KORUS), Canada-Israel Free Trade Agreement (CIFTA), and United States-Mexico-Canada Agreement (USMCA).

Though some have praised the structure of the USMCA as strong enough to serve as a template for future United States FTAs, its failure to commit to gender-responsive language throughout the agreement and in a standalone chapter render the agreement less than ideal as a template.⁶³ Recommendations to increase the gender responsiveness of future United States trade agreements are found in Chapter 5.

WTO ELECTRONIC COMMERCE AGREEMENT (E-COMMERCE AGREEMENT)

Figure 11: The Gender Responsiveness of the Proposed Text of the WTO E-Commerce Agreement

TEN DIMENSIONS	SCORE* (OUT OF 2)	(OUT OF 20)	STATUS
Frequency of relevant provisions	1.5	2.5	Limited Gender Responsiveness
Location of relevant provisions	0.5		
Affirmations & reaffirmations	0		
Cooperation activities	0		
Institutional arrangements	0		
Procedural arrangements	0		
Review & funding	0		
Settlement of disputes	0		
Waivers, reservations, & exceptions	0.5		
Minimum legal standards	0		

**Tentative scoring due to uncertainty of composition of final text.*

Source: Framework adapted from ITC SheTrades (December 2020).

Before analyzing its gender responsiveness, discussing the WTO's E-Commerce Agreement requires some context. Based on an existing WTO Work Program, the WTO Joint Statement Initiative (JSI) on Electronic Commerce (E-Commerce) was born at the WTO's 11th Ministerial Conference in 2017, when 71 WTO members created a plurilateral group to negotiate an e-commerce agreement. The JSI on E-Commerce, which now has 86 members, has not yet concluded those negotiations. Led by Australia, Japan, and Singapore, the group released its consolidated negotiating text in December 2020.⁶⁴

The E-Commerce Agreement's proposed text broadly covers themes of enabling e-commerce, openness, trust, telecommunications, market access, general provisions, and scope (the last of which remains especially debatable, as some members have called for the agreement to exclude financial services). E-commerce and digital trade represent particularly important sectors for women, who are more likely than men to engage in digital entrepreneurship while being less likely to have internet access.⁶⁵ Digital technology may allow women to sidestep traditional trade barriers that disproportionately affect them (e.g., using a phone to sell goods from home might be less costly and safer than paying for and traveling to a storefront) and could enable access to trade finance information that would not otherwise be gained.⁶⁶

Despite the market growth that could result from gender-equitable access to e-commerce, the E-Commerce Agreement as currently proposed does little to promote that outcome. It receives only 2.5 of 20 points in the SheTrades framework, earning a status of "limited" gender responsiveness. Proposed text by Canada includes a gender-responsive clause in the agreement's preamble, which

earned the agreement 1.5 points of its 2.5-point total. Without access to the group's meeting minutes, however, it is difficult to determine if the clause is likely to be included in the final agreement. The agreement's other potential references to gender are implicit and largely based on the general public morals exception set out in GATT's Article XX, including the United States' proposed text to "protect against online sex trafficking, sexual exploitation, and prostitution"—activities that primarily target women. These implicit references earned the agreement an additional point. Proposed text also highlights the importance of SMEs, whose projected growth can allow new market access opportunities for women.⁶⁷

The E-Commerce Agreement's lack of gender-responsiveness thus far is disappointing, but perhaps to be expected. WTO negotiations are notoriously difficult, even among plurilateral subgroups such as the JSI on E-Commerce whose membership is voluntary. Still, the group has time to push for greater inclusion of gender-responsive language in the agreement before presenting its progress to the WTO 12th Ministerial Conference in November 2021. The JSI aims to present "clean" text on the negotiations' main areas in the next few months and would do well to consider the recommendations for language provided in Chapter 5 of this report.⁶⁸

Trade Negotiations

In interviews, trade experts from the United States, Canada, and Chile corroborated the fact that a larger number of women in the negotiating room does not necessarily translate to more gender provisions in trade agreements. For example, anecdotal evidence suggests that the USTR office has been staffed with at least 50 percent women since the late 1980s, but the United States' first FTA gender provisions did not appear until the USMCA entered into force in 2020—more than 30 years later. Similarly, representatives of Canada and Chile (two countries that have each entered into at least three trade agreements that include standalone gender chapters or strong gender provisions, including one with each other) have confirmed that though their trade offices are not noticeably imbalanced in terms of gender, their ability to include inclusive language in their agreements derives not from their staff's gender parity but from the presence of political will to drive top-down change.

Though representation of women certainly matters—in the trade negotiating room just as much as in other contexts—increased representation does not seem to determine whether or not FTAs include gender-explicit language. With that in mind, this section considers why gender has been largely ignored in the negotiating process of trade agreements. Interviews with trade negotiators in the United States and abroad revealed that key barriers include insufficient social impetus, political salience, and the gender diversity of stakeholder consultations.

Social Impetus

Several U.S. negotiators said that gender provisions seem to be following a path similar to that of environment clauses in trade agreements in the 1980s and 1990s, when people who had grown up watching *Flipper*—the popular television program about two children and their pet dolphin—engaged in consumer boycotts to protest non-dolphin-safe tuna catches.⁶⁹ In response to this bottom-up pressure, lawmakers directed the USTR office to prioritize developing environmental policies that would result in “high levels of environmental protection and effective enforcement of environmental laws in trade agreements.”⁷⁰ Today, as economists, legal experts, and other advocates have begun to recognize gender inequity in trade, policymakers have increasingly directed negotiators to incorporate gender in FTA negotiations—policymakers abroad, at least, with only a few doing so in the United States.⁷¹

Political Salience

As hinted above, the political salience of an issue plays a key role in determining whether it is addressed in the negotiating room, and the executive branch may not consider gender salient. Furthermore, lawmakers’ views may factor into negotiators’ calculus when considering the content or strength of proposed agreement language, since lawmaker approval will be needed to ratify the agreement; however, in the United States and many other countries, most lawmakers do not yet consider gender a salient topic for trade (or, put another way, a “material risk” to business interests).

This structure leaves trade negotiators with little flexibility to deviate from guidelines laid out by legislators. Therefore, the gender breakdown of the negotiating room does not seem to influence trade agreement outcomes, as trade negotiators are required to pursue the priorities of the administration and lawmakers, regardless of their own stance on trade issues.

Gender Diversity of Stakeholder Consultations

Stakeholder consultations are conducted through advisory committees, whose members help negotiators better understand the needs of the private sector and thus serve as indirect, bottom-up contributors to trade agreements. According to membership lists available on the USTR and International Trade Administration (ITA) websites, women comprise only 25 percent of the nearly 550 committee members (across 26 committees).⁷² Additionally, though advisory committees focus on specific topics relevant to trade (such as the Trade and Environmental Policy Advisory Committee, or TEPAC), the United States has no trade committee dedicated to the importance of gender.⁷³

Recommendations

Fortunately, governments can take steps to enact policies—beginning with trade agreements—to move the needle in the direction of gender equity. The policies that follow are by no means comprehensive but constitute important steps toward the goal of gender equity.

I. Include Gender-Specific Language in Trade Agreements

As the case studies make clear, the inclusion of gender-specific language is the first step to ensuring that trade agreements are gender responsive. This language may be mainstreamed—included in an agreement’s preamble as well as in chapters on labor, services, DSMs, and other provisions—and written into its own trade and gender chapter.

PREAMBLE

The gender-responsive clauses in the preambles of CIFTA and USMCA provide excellent examples of gender-responsive language, whose strength exceeds “best endeavor” language and is sufficiently politically palatable for inclusion in all trade agreements.

CIFTA: *“SEEK TO INCREASE women’s access to and benefit from the opportunities created by this Agreement by advancing cooperative activities and removing constraints to their full participation in their economies and international trade”*⁷⁴

USMCA: “SEEK to facilitate women’s and men’s equal access to and ability to benefit from the opportunities created by this Agreement and to support the conditions for women’s full participation in domestic, regional, and international trade and investment”⁷⁵

An ideal gender-responsive preamble might resemble the following:

[The Parties] SEEK TO INCREASE women’s access to and benefit from the opportunities created by this Agreement by committing to increase women’s participation in their economies and international trade across all industries, prioritize the removal of gender-based domestic legal constraints, and cooperate to collect gender-disaggregated data that tracks the progress of these efforts.

This model preamble clause highlights a need to address the sector segregation of labor, as well as open the door to programs that encourage the skill development of women and girls (“across all industries”). It also commits governments to rethinking any domestic legislation that might not afford women the same rights as men (“prioritize the removal of gender-based domestic legal constraints”) and holds parties accountable for their commitment to gender equity (“collect gender-disaggregated data that tracks the progress of these efforts”).

An ideal preamble might also include a provision that affirms the parties’ commitments to gender-relevant treaties, which would constitute an implicit reference to gender. For example, the preamble might reference the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW 1979) and UN SDG 5 (gender equality), to which nearly all UN members have committed:

[The Parties] REAFFIRM AND REINFORCE their obligations under the International Labor Organization conventions and the Universal Declaration of Human Rights, as well as their commitments to other international instruments focused on gender equality including, but not limited to, UN 2030 Agenda for Sustainable Development, Beijing Declaration and Platform for Action, and CEDAW 1979.

[Language adapted from ITC SheTrades’ Mainstreaming Gender in Free Trade Agreements]⁷⁶

CHAPTERS ON TRADE AND LABOR

Labor chapters provide a natural opportunity to address gender disparities by clearly prohibiting discrimination on the basis of gender or sex in parties’ domestic laws. Ideal gender-responsive language in a labor chapter should include minimum legal standards that obligate parties to prohibit gender-based discrimination in the workplace.

USMCA’s language in Article 23.9 (Discrimination in the Workplace) is a good example:

“The Parties recognize the goal of eliminating discrimination in employment and occupation, and support the goal of promoting equality of women in the workplace. Accordingly, each Party shall implement policies that it considers appropriate to protect workers against employment discrimination on the basis of sex (including with regard to sexual harassment), pregnancy, sexual orientation, gender identity, and caregiving responsibilities; provide job-protected leave for birth or adoption of a child and care of family members; and protect against wage discrimination.”⁷⁷

It is important that parties commit to this language without reservation, unlike the United States, which inserted a footnote to declare the sufficiency of its current commitments to non-discrimination (such

as Title VII to the 1964 Civil Rights Act). Additionally, this explicit gender-responsive language can and should be bolstered by reference to the ILO Declaration on Rights at Work, which describes the right to the elimination of discrimination and thus constitutes an implicit reference to gender equality.

CHAPTERS ON CROSS-BORDER TRADE IN SERVICES

Women constitute 59 percent of employment in services globally; this proportion climbs to as high as 98 percent in Saudi Arabia, with countries such as Israel (92 percent), Sweden (92 percent), the United Kingdom (92 percent), and the United States (90 percent) not far behind.⁷⁸ Yet, even trade agreements showing advanced gender responsiveness do not call attention to gendered barriers to trade in services chapters.

Gender-responsive language in a services chapter could be as simple as acknowledging the presence of barriers that disproportionately affect women and committing to mitigate them. It could also call for parties' commitment to follow through on due diligence. For example, an agreement's Article on Market Access might propose the following:

No Party shall adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire territory, a measure that:

(a) Fails to consider gender in an ex-ante assessment of market access,

(b) Contributes to the continuation or strengthening of existing barriers to women's market access, or

(c) Is not based on due diligence that determines that the measure benefits women's market access as much as men's market access.

[Language adapted in part from USMCA's Art. 15.5: Market Access]⁷⁹

CHAPTERS ON DISPUTE SETTLEMENT

The mainstreaming of gender-specific clauses should bolster the accountability of parties to act in accordance with their trade agreement's gender-related commitments. By design, gender mainstreaming hinders negotiators' ability to exempt gender provisions from DSMs, compelling trade partners to prioritize the provisions' success (since they know that consequences will follow any failure to conform).

Standalone gender chapters may feature their own DSMs, as is the case with CIFTA; yet CIFTA's provisions require that both parties agree to the DSM's use (i.e., it is not compulsory). ITC SheTrades has drafted exemplary model language, based on CIFTA's Article 13.6, that increases the strength of a gender chapter-specific DSM:

"1. The Parties shall make all possible efforts through dialogue, consultations, cooperation and exchange of information to resolve any disagreement that may arise on the interpretation or application of gender-related provisions mentioned in Articles xxx.

2. If the Parties cannot resolve the matter in accordance with paragraph 1 within a mutually agreeable timeframe, they can submit the matter to the dispute settlement procedure established under this agreement under Article xxx. Once a dispute is filed, the Panel established under Article xxx will have binding and compulsory jurisdiction over such a dispute.

3. There should be at least one woman panellist appointed to the Panel composed for resolving matters concerning the interpretation or application of gender-related provisions mentioned in Articles xxx. All other requirements and procedures provided in Article xxx (provision on dispute settlement, consultations, panel of experts, review and implementation) shall be adhered to for resolving matters referred to in the present provision.”⁸⁰

However, standalone gender chapters should be included within the scope of the agreement’s broader DSM, to which other chapters (e.g., on labor) are subject. Broadening the application of a chapter on dispute resolution would also extend the enforcement obligation to the chapter on trade and gender—bolstering the gender chapter’s credibility.

An agreement can include a gender chapter within the scope of its DSM simply by not listing it among exceptions. For example, see the proposed strikethroughs below within Article 19.2 (Scope and Coverage) of CIFTA’s Chapter Nineteen on Dispute Settlement. (It is worth noting that Article 16.4 of Chapter Sixteen (Other Provisions) affirms the importance of corporate social responsibility, which includes considerations of gender.)

“Except for matters arising under . . . ~~Chapter Thirteen (Trade and Gender)~~ . . . and ~~Article 16.4 of Chapter Sixteen (Other Provisions)~~, and as otherwise provided in this Agreement, the provisions of this Chapter apply with respect to the settlement of disputes between the Parties regarding the interpretation or application of this Agreement or wherever a Party considers that:

- (a) a measure of the other Party is inconsistent with one of its obligations under this Agreement;*
- (b) the other Party has otherwise failed to carry out one of its obligations under this Agreement; or*
- (c) there is nullification or impairment within the meaning of Annex 19.2.”⁸¹*

To ensure that gender obligations are enforced, ITC SheTrades has proposed unique language to require that the party under review complies with best practices to promote women’s market access:

“If the disputing Parties are unable to agree on a resolution to the dispute under Article xxx (Implementation of Final Report) within xxx days of receipt of the final report, the complaining Party may suspend the application to the responding Party of benefits of equivalent effect to the non-conformity or the nullification or impairment until the disputing Parties agree on a resolution to the dispute.

“The complaining Party may ask the Party under review to carry out an additional obligation that will enhance women empowerment in its respective jurisdiction. Such additional obligations could be imposed in the following forms: creating a women-favoring government procurement scheme, creating a women-favoring supplier diversity program, subsidizing women’s secondary education at national level, or creating and funding business networks for women.”⁸²

This language goes beyond traditional DSM language to ensure that women are explicitly included and promoted by the trade agreement as a whole.

CHAPTERS ON OTHER PROVISIONS, GENERAL PROVISIONS, AND/OR EXCEPTIONS

As noted above and in Chapter 3, CIFTA includes an article within its “Other Provisions” chapter that explicitly references gender equality as a topic that parties to the agreement should encourage

domestic businesses to prioritize (Article 16.4: Corporate Social Responsibility, or CSR). ITC SheTrades suggests the following as a model CSR clause:

“The Parties shall require public and private enterprises operating within their territories or subject to their jurisdictions to incorporate into their internal policies those internationally recognized standards, guidelines and principles of corporate social responsibility that have been endorsed or are supported by the respective parties. These standards, guidelines and principles shall address areas such as labour, environment, gender equality, human rights, indigenous and aboriginal peoples’ rights, and corruption.

“With regard to gender equality, Parties shall encourage public and private enterprises to have gender-responsive internal regulations such as reserved representation on corporate boards, anti-harassment procedures at workplaces, flexible work arrangements, protection of maternity rights and child-care facilities.”⁸³

While strong, the gender responsiveness of this clause could move past best endeavor language to incorporate even stronger commitments. For example, the following could be added to require disclosure of gender information (to help promote gender equity from the top down within exporting businesses):

With regard to gender equality, Parties shall require that public enterprises track and disclose gender-disaggregated data in their annual reports. This data should include, but not be limited to, gender breakdown of employees by position, gender breakdown of salary information, gender composition of corporate boards, and gender distribution of paid leave. Parties shall encourage private enterprises to do the same.

A trade agreement might also include separate or combined chapters on general provisions and/or exceptions. (USMCA has a chapter titled Exceptions and General Provisions while CIFTA has a chapter titled only Exceptions, for example.) With regard to gender, a general provisions chapter could incorporate gender into cooperative activities. Take CIFTA’s language on gender in cooperative activities, for example:

“The Parties acknowledge the benefit of sharing their respective experiences in designing, implementing, monitoring and strengthening policies and programs to encourage women’s participation in national and international economies. Accordingly, and subject to the availability of resources, the Parties shall develop programs of cooperative activities based on their mutual interests.”⁸⁴

Absent a standalone gender chapter, this language can easily be incorporated in General Provisions. In a standalone chapter, discussed below, an agreement can flesh out many more cooperative activities, such as commitments to collect gender-disaggregated data and mitigate gendered trade barriers.

Currently, no trade agreement includes a provision in the style of a GATT-like exception to prevent gender-based discrimination. Women could benefit from the explicit addition of clear language to trade agreements to protect and promote their rights in trade.

Indeed, the non-discrimination language of GATT could serve as a model for a gender-related provision. As ITC SheTrades notes, parties to an agreement could base such a provision on GATT’s Article XX:

“Subject to the requirement that such measures are not applied in a manner that 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 contracting party of measures necessary to promote women’s economic empowerment or achieve gender equality.”⁸⁵

An exception that includes gender-specific language would render a party’s commitment to increasing women’s market access—and to gender equality more broadly—crystal clear.

STANDALONE CHAPTER ON TRADE AND GENDER

As noted previously, standalone chapters on trade and gender can have enormous symbolic value, signaling parties’ awareness of key gendered barriers to trade and their desire to mitigate that inequity. If subject to a DSM, they may also have practical value, as their terms can be enforced and the parties held accountable. As of April 2020, no FTA features a gender chapter that is both binding (commits parties to address grievances) and compulsory (triggers a dispute settlement process, without requiring parties to agree). CIFTA, whose gender chapter is binding but not compulsory, may settle related disputes only if both parties agree to do so, in accordance with Article 13.6 and Chapter Nineteen (both on dispute settlement).

A chapter on trade and gender can incorporate a number of gender-specific concerns if negotiators find it politically infeasible to mainstream them throughout other sections of the agreement. Again, the structure of CIFTA’s gender chapter proves a useful framework. The box below provides the structure for such a chapter based on provisions of CIFTA. The items in italics are suggested additional provisions intended to strengthen the chapter’s accountability mechanisms.

Structure of a Strong Gender Chapter, Adapted from CIFTA’s Chapter Thirteen⁸⁶

ARTICLE XX.1: GENERAL PROVISIONS

- xx.1.1: acknowledge importance of gender lens application to ensure inclusive growth
- xx.1.2: refer to UN SDG 5 of gender equality
- xx.1.3: reaffirm gender obligations in other chapters and articles (e.g., article on CSR)
- xx.1.4: recognize that removal of market barriers contributes to sustainable development
- xx.1.5: recognize that women’s access to labor market enables sustainable, inclusive economic growth
- xx.1.6: commit to promoting gender equality through domestic laws
- xx.1.7: commit to promoting public knowledge of gender equality laws, practices, etc.

ARTICLE XX.2: INTERNATIONAL AGREEMENTS

- xx.2.1: reaffirm commitment to CEDAW
- xx.2.2: reaffirm commitments to other international agreements (to which Parties are party) that address gender equality
 - *xx.2.2.a: specifically reference ILO Conventions 100 (Equal Remuneration) and 111 (Discrimination, Employment and Occupation)*

ARTICLE XX.3: COOPERATION ACTIVITIES

- xx.3.1: acknowledge benefit of sharing experiences and commit to develop cooperative activities
- xx.3.2: recognize that cooperative activities aim to improve women's ability to participate in trade
- xx.3.3: encourage involvement of government and non-government entities in these activities
- xx.3.4: list areas of cooperation (xx.3.4.a-i: capacity building and skills enhancement, financial inclusion, women's leadership, promotion of gender equality in business, women's representation as decision makers and authority figures, female entrepreneurship, gender-based analysis (GBA), gender-disaggregated data collection, other issues as decided by parties)
- xx.3.5: decide how to carry out those activities
- xx.3.6: Trade and Gender Committee can refer relevant activities to Labor Ministerial Council (established in labor chapter) as appropriate

ARTICLE XX.4: TRADE AND GENDER COMMITTEE

- xx.4.1: establish Trade and Gender Committee
- xx.4.2.a-e: Committee should convene at least annually to facilitate cooperative activities, report and recommend considerations to agreement's Commission, discuss joint initiative proposals, facilitate chapter's implementation and operation, and implement other duties decided by parties
- xx.4.3: Committee can work with and encourage other subcommittees to integrate gender considerations
 - *xx.4.3.a: as applicable, specifically reference committees on SMEs, labor, cross-border trade in services, and/or environment*
- xx.4.4: Committee can request that Commission refer work to other committees established in agreement
 - *xx.4.4.a: as applicable, specifically reference committees on SMEs, labor, cross-border trade in services, and/or environment*
- xx.4.5: Committee can seek advice of non-government stakeholder
- xx.4.6: Committee can consider undertaking review within five years and as desired
 - *xx.4.6 proposed revision: Committee must undertake review every five years, or more often as desired*
- xx.4.7: can report publicly on activities developed by Committee
- xx.4.8: designate coordinators as parties' points of contact for chapter's implementation

ARTICLE XX.5: RELATION TO CHAPTER ON TRADE AND LABOR

- Refers to labor chapter, which prevails in case of inconsistency

ARTICLE XX.6: DISPUTE SETTLEMENT

- xx.6.1: make all possible efforts to resolve related matters that arise
- xx.6.2: if matter can't be resolved, parties may consent to submit matter to dispute settlement
 - *xx.6.2 proposed revision: if matter cannot be resolved within a prespecified time period (decided by both parties), either party can submit the matter to the panel established in the agreement's dispute settlement procedure*

It is worth noting that Canada and the MERCOSUR countries (Argentina, Brazil, Paraguay, and Uruguay) are in the midst of negotiations that, according to Canada, will result in the strongest gender chapter—and the most thorough gender mainstreaming—of any FTA yet. Canada reports that the final FTA may feature many new gender-responsive provisions as a result of its ongoing gender-based analysis (GBA).⁸⁷ The parties have completed seven rounds of negotiations, most recently in July 2019; it may be years before the agreement is finalized.⁸⁸ Still, Canada, the MERCOSUR countries, and all other economies looking to complete a trade agreement would do well to consider the gender-responsive language proposed in this section.

II. Prioritize Gender in Trade Agreement Negotiations

Though the gender of trade negotiators may not determine the presence or absence of gender-specific clauses in trade agreements, gender parity in the committees that advise negotiators constitutes an important goal. If achieved, it would signal a commitment to gender equity in trade, which is a meaningful gesture—even if, in practice, the committees wield little influence over final agreements relative to lawmakers.

DIVERSIFY TRADE ADVISORY COMMITTEES

Trade advisory committees could benefit from broader diversity, as more diverse committees may lead to more inclusive trade practices, including the insertion of gender-specific clauses in trade agreements. As the OECD suggests, in addition to foreign stakeholders, new entrants, and SMEs—which tend to be underrepresented in stakeholder engagement processes—“women, who are less represented in industry networks and have less time to devote to networking, may also need to be prioritized when engaging stakeholders.”⁸⁹ If lawmakers were to hear from and engage with more women small business owners, for example (and fewer representatives of large firms with lobbying money), they might better appreciate the challenges that women in trade face simply because of their gender, including the disproportionate impact of trade barriers on women. Therefore, government **trade offices should prioritize diversifying their trade advisory committees to include 50 percent women**, a criterion that, in the United States, only the Industry Trade Advisory Committee on Services (of 26 total committees) has met.⁹⁰

Though the International Trade Administration (ITA) within the U.S. Commerce Department already states diversity as a key selection criterion for committee membership on its website, it might be more successful in attracting women by, for example, shortening and simplifying the self-nomination process (thus being considerate of the already high constraints on women's time).⁹¹ The ITA and Office of Intergovernmental Affairs & Engagement (IAPE) within USTR, which oversee different committees (sometimes jointly with the Departments of Labor and Agriculture), should consider expanding total membership per committee and set a reasonable deadline by which they can aim to achieve this goal.⁹²

CREATE TRADE AND GENDER ADVISORY COMMITTEE (TGAC)

Governments with advisory committees should **create a distinct Trade and Gender Advisory Committee (TGAC)**, comprised of gender-diverse members (women as well as non-binary individuals and men). These members should be selected through a transparent, inclusive process that recognizes the statistically disproportionate demands on women's time.

COMMIT TO COLLECT GENDER-DISAGGREGATED DATA TO MEASURE GENDER IMPACT

Government trade offices can take action to make trade more gender-inclusive by **committing to collect gender-disaggregated data to measure gender impact**, which will help isolate the disproportionate impact of some trade agreement clauses on women. Quantifying that impact using a "gender country review" and the quantitative impact framework recently published by OECD, for example, can specifically measure the impact of trade on women's employment and wages, as well as barriers to trade for women-owned businesses and micro, small, and medium-sized enterprises, or MSMEs (including access to credit and financing, time constraints that reduce ability to start businesses and build business networks, and price effects of trade).⁹³

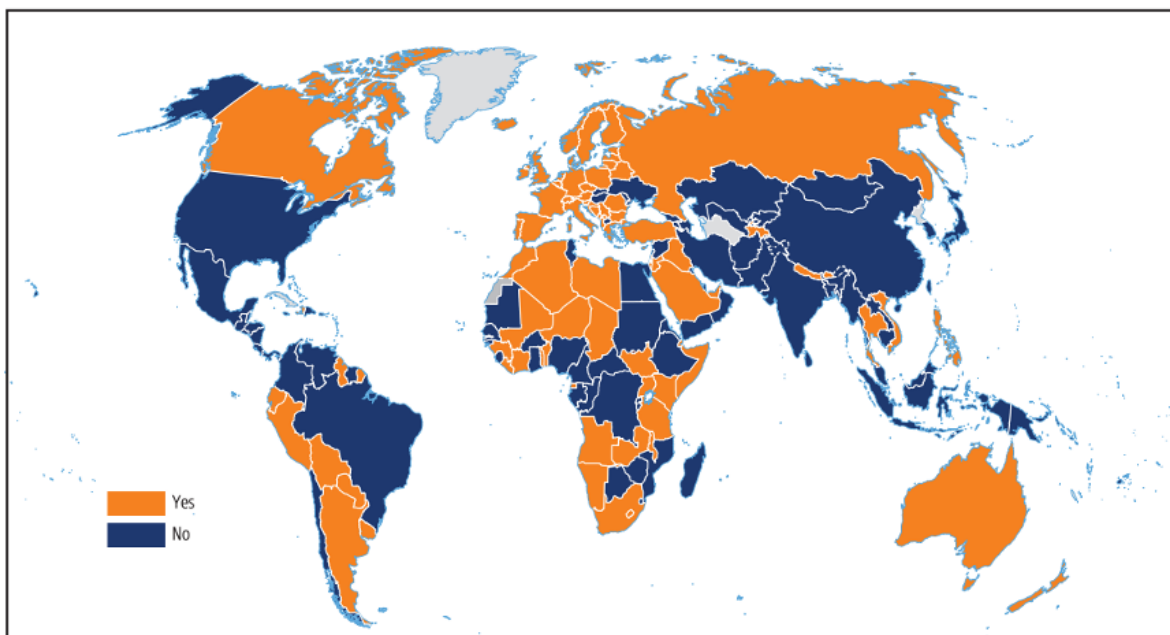
III. Prioritize Gender in Domestic Policy to Further Trade Goals

Often underlying a country's gendered barriers to trade are domestic policies and legislation that prevent full gender equality under the law. A government can prioritize gender in its domestic trade policy by applying a gender lens to conduct a GBA on existing and proposed laws and structures, then using that information to ensure that laws do not lead to de facto disproportionate burdens on women both directly and in areas like childcare, the environment, and broadband.

PROHIBIT ALL GENDER-BASED DISCRIMINATION IN LAW

Though the suggestion may sound obvious to some, **governments should prohibit legal discrimination based on gender in order to achieve gender equity under the law—which will help to mitigate gendered differences in trade impact and grow export markets**. According to the World Bank's *Women, Business and the Law 2021* initiative, in only 10 countries "women are on an equal standing with men across all areas measured" (mobility, workplace, pay, marriage, parenthood, entrepreneurship, assets, and pension).⁹⁴ The 180 other economies fail to prohibit all gender-based discrimination or to protect equal gender rights under law. For example, as seen in Figure 12, only 90 economies mandate equal remuneration for women and men for work of equal value. This gender economic gap fails to equalize women and men's market access opportunities and limits potential export market growth.

Figure 12: 90 Economies Mandate Equal Remuneration for Work of Equal Value



Source: World Bank. 2021. *Women, Business and the Law 2021*. Washington, DC: World Bank. doi:10.1596/978-1-4648-1652-9. License: Creative Commons Attribution CC BY 3.0 IGO. <https://openknowledge.worldbank.org/bitstream/handle/10986/35094/9781464816529.pdf>.

APPLY GENDER LENS AND GENDER-BASED ANALYSIS TO TRADE POLICIES, TARIFF SCHEDULES, AGRICULTURAL SUBSIDIES, AND PUBLIC PROCUREMENT

Canada provides an excellent example of a government that has taken gender considerations to heart. Its inclusive trade policy requires gender-based analysis of every proposed policy and agreement across all of its trade departments; in other words, the onus is on all departments, not just the Department of Inclusive Trade, to promote women's market access. A GBA considers the potential impact of future trade policies and agreements on women versus men—or, in the case of existing trade policies and agreements, the realized impact, disaggregated by gender.⁹⁵

A commitment to conduct a GBA constitutes a sizeable commitment of resources. Governments that conduct GBAs must allocate resources to collect, interpret, and make recommendations based on gender-disaggregated data; they must design and implement infrastructure to measure the impact of new policies that promote women's market access or seek to mitigate gendered barriers; and they must have the political will and legislative freedom to commit to these practices in the first place. In 2018, Canada passed the Gender Budgeting Act, which requires the completion of a GBA before the government can enshrine new budget measures in law—a testament to the government's commitment to inclusive growth.⁹⁶ Other governments, such as South Africa and Vietnam, have also worked to implement gender-responsive budgeting.⁹⁷ Countries such as the Republic of Korea and Indonesia have employed a supplementary framework that was developed by Public Expenditure and Financial Accountability (PEFA) to assess gender-responsive public financial management (GRPFM), using nine indicators to evaluate the degree to which the government has achieved its gender equality goals.⁹⁸ The United States has not yet engaged in a GBA or similar assessment of gender-responsiveness or impact, though its recent creation of a Gender Policy Council may help to accelerate this process.⁹⁹

It is worth noting that the applications of GBAs and gender lenses that follow are only some of many that could be implemented. These examples are among the most salient and should be prioritized by governments.

Governments should apply gender-based analyses to existing and future trade agreements.

Policymakers should push for a gender lens to be applied both during trade negotiations and after the agreement is approved in order to track the impact of gender-responsive clauses.

Governments should also apply a gender lens to their tariff schedules, which are shown to place higher burdens on women consumers.¹⁰⁰ For example, under the U.S. Harmonized Tariff Schedule, women's padded, sleeveless jackets face tariffs of 14 percent, while tariffs for the same products classified as "men's" are only 8.5 percent.¹⁰¹ Another example derives from World Bank and WTO research that finds that women in 54 low- and middle-income countries face higher average tariff burdens than men, largely due to high tariffs on agricultural products for which women disproportionately pay (thus eating into their real incomes).¹⁰² The research describes this aggregate impact as "an (inadvertent) anti-female welfare bias that exacerbates gender inequality."¹⁰³

A comprehensive gender-based analysis should identify every instance that the same tariffed product, differentiated only by its designation as "women's" or "men's," is differently taxed. The government should then take action to mitigate the unequal gender impact of those rates. A government might take unilateral action to revise the tariff system; however, such action may not be politically feasible or attractive. Instead, a government with gender-discriminatory tariffs might consider launching plurilateral negotiations—perhaps within the WTO, or with other like-minded trade partners—to reduce tariffs on products that disproportionately impact women. Such a forum might be similar in structure to the Inclusive Trade Action Group (ITAG) through which Canada, Chile, and New Zealand signed a Global Trade and Gender Arrangement in August 2020 to "open up new opportunities to increase women's participation in trade, as part of other efforts to improve gender equality and women's economic empowerment."¹⁰⁴ Gender-discriminatory tariffs may also be discussed in negotiations of the ongoing WTO Informal Working Group on Trade and Gender, a 127-member group of WTO member states and observers that is working to structure recommendations to present at the WTO 12th Ministerial Conference in November 2021.¹⁰⁵

Governments should apply a gender lens to their agricultural subsidies, which impact women disproportionately because they tend to be overrepresented in agriculture (as both consumers and traders).¹⁰⁶ An example of this need to apply a gender lens lies in last year's UK Agriculture Bill, which aimed to reform subsidy payments made to farmers after Brexit, as well as its subsequent impact assessment conducted in October 2020. Though the assessment considers the bill's impact on "affected groups" (including small- and micro-sized businesses, for example), it does not reference gender-disaggregated data that could either confirm the bill's equal impact on all people or reveal a disproportionate, gender-specific burden.¹⁰⁷ Application of a gender lens could provide concrete information on the subsidies' impact on women; the government could then take action to address it as needed.

Lastly, **governments should apply a gender lens to their public procurement strategy and adjust their practices accordingly.** Though public procurement accounts for about 20 percent of global GDP, only 1 percent of that market is supplied by women entrepreneurs.¹⁰⁸ As a 2017 Chatham

House-ITC report suggests, “gender-smart procurement” can increase women’s market access while growing national GDP, thus fulfilling obligations to taxpayers.¹⁰⁹ Some countries, such as Kenya, South Africa, Tanzania, and the United States, have already introduced procurement targets to encourage women’s involvement;¹¹⁰ a few local governments have required that bidding firms disclose information that sheds light on any gender pay inequity.¹¹¹ Public procurement can have significant overlap with trade, as global value chains span multiple countries, and more specifically with women in trade, as aligned procurement policies increasingly facilitate exports by women-owned businesses.¹¹² Governments should continue to push for the collection of gender-disaggregated data to describe suppliers and bids in order to increase the transparency of gender’s role in procurement and, ultimately, to mitigate barriers to women-owned exporting businesses.

Governments should require that criteria for selecting their private sector partners, who engage in procurement and international development projects through public-private partnerships (PPPs), include demonstrated gender awareness. This awareness may be measured, for example, by the firm’s establishment and adherence to clear diversity, equity, and inclusion (DEI) policies; transparency regarding the gender breakdown of both the firm and the target population served; and commitment to international standards that recognize the importance of gender equity, such as the UN Guiding Principles on Business and Human Rights.¹¹³

IMPROVE INFRASTRUCTURE TO REDUCE IMPACT OF GENDERED BARRIERS

In addition to considering trade policy through a gender lens and undertaking GBAs, **governments should prioritize the goal of gender equity when investing in infrastructure.** That means that this definition of infrastructure should include not only roads, bridges, and other traditional infrastructure, but also childcare services and broadband internet access—the improvement of which stands to boost women in trade.¹¹⁴ Indeed, in the words of Anne-Marie Slaughter, the chief executive of New America and respected feminist international relations expert, infrastructure should be considered “those facilities that are essential for everyone to do their jobs.”¹¹⁵

Childcare

Slaughter’s words on infrastructure focus on childcare. While roads and bridges are crucial to ensure people can travel to work and earn an income, she says, childcare—the burden of which has historically fallen on women—must be considered just as important as traditional structures to ensure a gender-equitable pandemic recovery. Slaughter’s words are not novel; 2020 presidential contender and current senator Elizabeth Warren (D-MA) famously spoke of childcare as “infrastructure for families” in her campaign and at the 2020 Democratic National Convention.¹¹⁶ Similarly, though Slaughter framed her argument in the context of the United States—and in particular, President Biden’s \$2.3 trillion infrastructure plan that allocates \$400 billion for in-home care, a sector dominated by women of color¹¹⁷—the idea has global resonance: the Center for Global Development and other organizations have also called for action to improve childcare infrastructure around the world.¹¹⁸ In the realm of trade, **improved childcare infrastructure could reduce disproportionate childcare burdens on women, freeing them up to pursue trade education, spend more time developing their export businesses, and ultimately contribute to countries’ export growth** (while earning higher incomes and reducing the gender pay gap).

Environment

Though Slaughter posits her definition of infrastructure as a premise from which to speak on childcare, the definition also aligns with that of environmental legal experts who claim that “nature is the infrastructure of society”¹¹⁹—a conclusion that has particular meaning for women (including women traders), who are disproportionately impacted by climate change.¹²⁰ Put another way, **if “ecosystem services are what nature provides humankind for free”—and thus constitute infrastructure—then mitigating climate change effects can reduce the difficulties faced by women traders** when droughts hinder their ability to fetch water, for example, or when floods serve as obstacles to the efficient collection of fuel for domestic cooking and heat (adding to the time constraints that prevent them from gaining trade knowledge or producing and bringing goods to export markets).¹²¹ Though climate change is an issue whose effective remediation requires multilateral cooperation, **governments should take steps to mitigate their own contributions to climate change in order to minimize constraints on women’s time so they may more fully participate in the export economy.**

Broadband

The expansion of broadband internet access is a crucial (and widely accepted) component of infrastructure; it can also increase women’s access to digital trade. As discussed in Chapter 3, women globally are more likely than men to engage in digital entrepreneurship but less likely to have internet access.¹²² **Expanding broadband access can help more women exporting producers conduct business from home, allowing them to avoid gendered barriers** when traveling to the border or even to a storefront (e.g., fear of physical assault, disregarding gendered social norms, paying higher taxes, paying a storefront’s rent). In the United States, President Biden’s infrastructure bill proposes allocating \$100 billion to extend high-speed internet access to rural areas, mostly aligning with bipartisan internet aspirations.¹²³

Traditional Infrastructure Complements

It is worth noting that **rethinking traditional infrastructure can also be important for women in trade—for example, by shifting some funds from roads to sidewalks.** In her book *Invisible Women*, Caroline Criado Perez describes a study on London transportation that suggests that increased investment in roads may not maximize the investment’s potential benefit to women, who may be more likely than men to walk rather than drive (as part of their care or household duties, for example, while also pushing strollers or carrying groceries). A significantly higher rate of hospitalizations for women than for men in the winter in Sweden—where more women than men were being injured as they navigated icy sidewalks—seemed to confirm that women could greatly benefit from a shift in government practice that prioritizes sidewalk safety as highly as road safety.¹²⁴ The same kind of out-of-the-box thinking and subsequent conclusions can help women in trade, who may suffer from long-established infrastructure and urban planning practices that no one has thought to update or revise. For example, if a region’s existing infrastructure makes it impossible to walk to an export market or a country’s border, in a society where women do not or cannot use cars in the same way as men, women may be inherently disadvantaged relative to their counterparts in bringing goods to export and subsequently turning a profit.

Additional Recommendations for the United States

While the above recommendations can and should be heeded by all economies, the following recommendations are tailored to the United States. The country's unique role as an economic, political, and sometimes moral global leader positions it well to serve as an example for other countries, should it choose to more critically engage in discussions on the nexus of gender and trade. Specifically, the United States should formally join and participate in the WTO IWG on Trade and Gender, revise TPA to prioritize gender equity as a negotiating objective, and include provisions of Women's Economic Empowerment in Trade Act in GSP renewal.

FORMALLY JOIN AND PARTICIPATE IN THE WTO IWG ON TRADE AND GENDER

A United States representative is reported to have listened in on the February 2021 meeting of the WTO IWG on Trade and Gender, which convened 127 WTO members and observers to discuss data and research related to the nexus of gender and trade.¹²⁵ As of April 30, 2021, the WTO website does not list the United States as a group member, nor has it announced its formal accession.¹²⁶ However, to align with the Biden administration's demonstrated goal of achieving gender equity, **the United States should formally join and participate in the IWG on Trade and Gender's future discussions**, which are scheduled for June and July in advance of the WTO 12th Ministerial Conference (MC12) in November.¹²⁷ The IWG on Trade and Gender also represents an opportunity for the United States to assume a role of moral leadership, if it were to volunteer to present its experience in this area, in line with the hardline stance against forced labor and other human rights abuses that Biden administration rhetoric has espoused.

REVISE TPA TO PRIORITIZE GENDER EQUITY AS A NEGOTIATING OBJECTIVE

The United States Trade Promotion Authority (TPA) is legislation that establishes negotiating objectives for the executive branch and provides for "fast track" consideration of concluded agreements by requiring votes on the agreements without amendments. **Congress should revise TPA language to affirm its commitment to gender in trade**, as the presence of explicit gender references in the TPA would prioritize gender equity as a negotiating objective.

The existing TPA, which was signed in 2015 and facilitated the passage of USMCA, expires on June 30 and is unlikely to be renewed before then. However, the U.S. Congress should revise the TPA in the future to include the following, inter alia:

- **Acknowledge the disproportionate impact of trade barriers to women**, and commit to mitigating those barriers, within the General Principles section;
- **Require that parties abide by the UN Guiding Principles on Business and Human Rights**, which affirm countries' "duty to protect" and businesses' "responsibility to respect" women's equal market access and other human rights, within the General Principles section;
- **Call for stronger parental leave, childcare, and gender-based violence legislation**, within the TPA's existing section on labor;
- **Introduce reporting requirements to ensure that government agencies apply a gender lens** to the agreement when conducting due diligence prior to the deal's ratification and collect sufficient gender-disaggregated data to determine the deal's impact on women versus men, within a new

section of the TPA on gender; and

- **Require that parties de jure and de facto provide equal access to credit finance for all genders,** within a new section of the TPA on gender.

INCLUDE PROVISIONS OF WOMEN'S ECONOMIC EMPOWERMENT IN TRADE ACT IN GSP RENEWAL

The Women's Economic Empowerment in Trade Act ("the Act") was proposed by U.S. senators Casey and Cortez Masto in June 2020 with the explicit aim to "strengthen and update Generalized System [of] Preferences (GSP) standards on worker rights and ensure countries receiving GSP afford equal rights and protection under the law, regardless of gender."¹²⁸ Specifically, some provisions of the bill would require participating GSP countries to meet eligibility conditions that include legal prohibition of gender-based discrimination, human rights violations, and workplace violence and harassment—while also developing mechanisms and structures to support adherence to those criteria.¹²⁹ These protections are important for women in trade because participating GSP countries enjoy the benefit of greater access to trade with developed nations in order to promote their economic development—growth that benefits women who contribute to global value chains, as well as the United States itself.¹³⁰

Congress failed to extend GSP before the program expired on January 1, 2021.¹³¹ Congress should include the provisions of the Women's Economic Empowerment in Trade Act when it considers GSP renewal. Doing so would not only help the Biden administration follow through on its commitment to human rights, but also accelerate the renewal of GSP to economically benefit women in participating countries and in the United States.

Conclusion

Trade liberalization has increased global market access for women as well as men, but there is more that can be done. Though trade has historically failed to consider how it impacts women and men differently, it is not too late for policymakers and negotiators to take meaningful action. Inserting gender-specific language in trade agreements is an important first step. Negotiators and governments can also work to elevate women's voices through practical and legal means. Demonstrated commitments to these top-down approaches will be crucial to leveling the gender playing field for women in trade.

Glossary

FEMINIST TRADE POLICY	Trade policy enacted after the completion of a gender lens review that considers trade policy's impact on women and women's contributions to trade policy.
GENDER	Describes characteristics of women and men that are socially constructed, vs. sex, which refers to those that are biologically determined. People are born female or male but learn to be girls and boys who grow into women and men. This learned behavior makes up gender identity, which may also diverge from traditional binary gender norms. (Adapted from WHO.) ¹³²
GENDER-BASED DISCRIMINATION	Unfair or harmful treatment of an individual on the basis of sex, pregnancy, possibility of pregnancy, sexual orientation, and/or gender identity.
GENDER-BASED VIOLENCE (GBV)	Harmful acts directed at an individual based on their gender (UNHCR). ¹³³
GENDER EQUALITY	Absence of discrimination on the basis of a person's gender in opportunities, allocation of resources and benefits, or access to services. (Adapted from WHO.) ¹³⁴
GENDER EQUITY	Fairness and justice in the distribution of benefits and responsibilities between women and men. The concept recognizes that women and men have different needs and power, and that these differences should be identified and addressed in a manner that rectifies the imbalance between genders. (Adapted from WHO.) ¹³⁵
GENDER MAINSTREAMING	Process of assessing the implications for men and women of any planned action, including legislation, policies or programs, in all areas and at all levels. It is a way to ensure that women's and men's concerns and experiences are an integral dimension of all development efforts. The goal of gender mainstreaming is gender equality. (Adapted from UN Development Program, 2015.) ¹³⁶
GENDER RESPONSIVENESS	Ability to produce outcomes that reflect an understanding of gender roles and inequalities and which make an effort to encourage equal participation and equal and fair distribution of benefits. Gender responsiveness is accomplished through gender analysis and gender inclusiveness. (Adapted from UN Development Program, 2015.) ¹³⁷
GENDER-SPECIFIC CLAUSE	Trade agreement provision that targets one gender with the goal of achieving gender equality and, ultimately, gender equity.

About the Authors

Ally Brodsky is a research assistant with the Scholl Chair in International Business at the Center for Strategic and International Studies (CSIS). Previously, she held roles in economic policy research, geopolitical risk consulting, education, and survey design. Brodsky holds a M.A. in international economics and law from the School of Advanced International Studies (SAIS) at Johns Hopkins and a B.A. in government from Dartmouth College.

Jasmine Lim is a program coordinator and research assistant for the Scholl Chair in International Business at CSIS, where she oversees program management, as well as supports the program's research agenda on international trade and economic policy issues. Prior to her current role, Lim worked at the Howard County Council, the U.S. Senate with Senator Chris Van Hollen, the Aspen Institute, and the Future of Privacy Forum. She holds a B.A. in international relations and Spanish literature from the University of Maryland and completed a semester of study in Barcelona at the Universitat Pompeu Fabra.

William Reinsch holds the Scholl Chair in International Business at CSIS and is a senior adviser at Kelley, Drye & Warren LLP. Previously, he served for 15 years as president of the National Foreign Trade Council, where he led efforts in favor of open markets, in support of the Export-Import Bank and Overseas Private Investment Corporation, against unilateral sanctions, and in support of sound international tax policy, among many issues. From 2001 to 2016, he concurrently served as a member of the U.S.-China Economic and Security Review Commission. He is also an adjunct assistant professor at the University of Maryland School of Public Policy, teaching courses in globalization, trade policy, and politics.

Reinsch also served as the undersecretary of commerce for export administration during the Clinton administration. Prior to that, he spent 20 years on Capitol Hill, most of them as senior legislative assistant to the late Senator John Heinz (R-PA) and subsequently to Senator John D. Rockefeller IV (D-WV). He holds a B.A. and an M.A. in international relations from the Johns Hopkins University and the Johns Hopkins School of Advanced International Studies respectively.

Endnotes

- 1 Ministry for Foreign Affairs of Sweden, *Feminist Trade Policy* (Stockholm: Government Offices of Sweden, December 18, 2019), <https://www.government.se/information-material/2019/09/feminist-trade-policy/>.
- 2 World Bank and World Trade Organization, *Women and Trade: The Role of Trade in Promoting Gender Equality* (Washington, DC: World Bank, July 30, 2020), <https://openknowledge.worldbank.org/handle/10986/34140>.
- 3 For more on how this figure was calculated, see Quentin T. Wodon and Bénédicte de la Brière, *Unrealized Potential: The High Cost of Gender Inequality in Earnings*. The Cost of Gender Inequality (Washington, DC: World Bank, 2018), 21–23, <https://openknowledge.worldbank.org/handle/10986/29865>.
- 4 OECD/ILO, *Tackling Vulnerability in the Informal Economy* (Paris: OECD Publishing, 2019), <https://doi.org/10.1787/939b7bcd-en>; Jonathan Woetzel et al., The Power of Parity: How advancing women’s equality can add \$12 trillion to global growth (McKinsey Global Institute, September 1, 2015), <https://www.mckinsey.com/featured-insights/employment-and-growth/how-advancing-womens-equality-can-add-12-trillion-to-global-growth#>.
- 5 WTO, *Gender Aware Trade Policy: A Springboard for Women’s Economic Empowerment* (Geneva: WTO, 2017), https://www.wto.org/english/news_e/news17_e/dgra_21jun17_e.pdf.
- 6 Anu Madgavkar et al., “Covid-19 and gender equality: Countering the regressive effects,” McKinsey & Company, July 15, 2020, <https://www.mckinsey.com/featured-insights/future-of-work/covid-19-and-gender-equality-countering-the-regressive-effects>. See also Margaux Yost and Ella Moffat, “Women in Supply Chains: On the Frontlines of COVID’s Impact,” BSR, April 20, 2020, <https://www.bsr.org/en/our-insights/blog-view/women-in-supply-chains-on-the-frontlines-of-covid-19-impact>; “Gender equity in global supply chains,” Ethical Trading Initiative, <https://www.ethicaltrade.org/issues/gender-equity-global-supply-chains>.
- 7 Woetzel et al., *How advancing women’s equality can add \$12 trillion to global growth*.
- 8 World Bank, *Women, Business and the Law 2021* (Washington, DC: World Bank, 2021), <https://openknowledge.worldbank.org/bitstream/handle/10986/35094/9781464816529.pdf>.
- 9 World Bank and WTO, *Women and Trade*.
- 10 Nora Esposito, “Small Business Facts: Spotlight on Women-Owned Employer Businesses,” U.S. Small Business Administration Office of Advocacy, March 2019, <https://cdn.advocacy.sba.gov/wp-content/uploads/2019/03/22170128/Small-Business-Facts-Spotlight-on-Women-Owned-Employer-Businesses.pdf>.
- 11 “Trade & Gender,” World Bank, March 8, 2019, <https://www.worldbank.org/en/topic/trade/brief/trade-and-gender>; Woetzel et al., *How advancing women’s equality can add \$12 trillion to global*

growth.

- 12 Amanda Taub, “Pandemic Will ‘Take Our Women 10 Years Back’ in the Workplace,” *New York Times*, September 26, 2020, <https://www.nytimes.com/2020/09/26/world/covid-women-childcare-equality.html>; Economic Commission for Latin America and the Caribbean, “The COVID-19 Pandemic Has Caused a Setback of Over a Decade in Labor Market Participation for Women in the Region,” Press release, February 10, 2021, <https://www.cepal.org/en/pressreleases/covid-19-pandemic-has-caused-setback-over-decade-labor-market-participation-women>.
- 13 World Economic Forum, *Global Gender Gap Report 2021* (Geneva: World Economic Forum, March 30, 2021), <https://www.weforum.org/reports/global-gender-gap-report-2021/digest>.
- 14 World Bank and WTO, *Women and Trade*, 20–21.
- 15 Jane Korinek, Evdoika Moisé and Jakob Tange (2021), “Trade and gender: A Framework of analysis,” *OECD Trade Policy Papers*, no. 246 (OECD Publishing, Paris), 16, <https://doi.org/10.1787/6db59d80-en>.
- 16 World Bank and WTO, *Women and Trade*, 23, 27.
- 17 United States lawmakers were forced to address the issue of gender disparities in trade in April, for example, when two senators’ proposed inclusion of gender considerations in the GSP program halted progress toward the program’s renewal. (Doug Palmer, “Push to empower women stalls renewal of trade development program,” *Politico Pro*, April 9, 2021, <https://subscriber.politicopro.com/article/2021/04/push-to-empower-women-stalls-renewal-of-trade-development-program-2046770>.)
- 18 Caroline Criado Perez, *Invisible Women: Data Bias in a World Designed for Men* (New York: Abrams Press, 2019).
- 19 “Goal 5: Achieve gender equality and empower all women and girls,” United Nations Sustainable Development Goals, United Nations, <https://www.un.org/sustainabledevelopment/gender-equality/>.
- 20 World Bank, *Women, Business and the Law 2021*.
- 21 “Women’s Economic Empowerment,” OECD, <http://www.oecd.org/development/womens-economic-empowerment.htm>.
- 22 “ILOSTAT explorer — Dataset: SDG indicator 5.5.2,” International Labour Organization, https://www.ilo.org/shinyapps/bulkexplorer33/?lang=en&segment=indicator&id=SDG_0552_OCU_RT_A.
- 23 “About SheTrades.com,” Women and Trade Programme – ITC, <https://www.shetrades.com/en/about>.
- 24 National Board of Trade, *Trade and Gender Equality: The role of trade policy* (Sweden: NBT, February 2020), <https://www.kommerskollegium.se/globalassets/publikationer/rapporter/2020/trade-and-gender-equality.pdf>; Andre Francois Giroux, “Integrating Women in International Trade: The Canadian Approach” (presentation by the Trade Agreements Secretariat, Global Affairs Canada at a WTO workshop, Geneva, March 28, 2019), https://www.wto.org/english/tratop_e/

- womenandtrade_e/session_2_d_global_affairs_canada_wto_women_and_trade_workshop_presentation_march_28_2019.pdf; Ricardo Santana Friedli, “Chilean experience with Trade and Gender” (presentation by the General Directorate of International Economic Relations (DIRECON) from Chile at the Symposium on Preferential Trade Agreements and Inclusive Trade, UNESCAP, Bangkok, Thailand, 14–15 December, 2017), <https://www.unescap.org/sites/default/files/Roundtable%204.5%20Chilean%20Experience%20of%20Trade%20and%20Gender%20-%20Ricardo%20Santana%20Friedli.pdf>.
- 25 Ally Brodsky and Jasmine Lim, “The WTO Informal Working Group on Trade and Gender: What It Is, What It Should Consider, and What It Could Be,” CSIS, *Commentary*, March 31, 2021, <https://www.csis.org/analysis/wto-informal-working-group-trade-and-gender-what-it-what-it-should-consider-and-what-it>.
 - 26 WTO, *Gender Aware Trade Policy*.
 - 27 UN Inter-Agency Network on Women and Gender Equality Task Force on Gender and Trade, *Trade and Gender: Opportunities and Challenges for Developing Countries*, (Geneva: United Nations, 2004), https://unctad.org/system/files/official-document/edm20042_en.pdf.
 - 28 United Nations, “UN Creates New Structure for Empowerment of Women,” Press release, July 2, 2010, <https://www.unwomen.org/en/news/stories/2010/7/un-creates-new-structure-for-empowerment-of-women>.
 - 29 Directorate-General for Internal Policies, *Gender Equality in Trade Agreements* (Brussels: European Parliament, 2016), [https://www.europarl.europa.eu/RegData/etudes/STUD/2016/571388/IPOL_STU\(2016\)571388_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2016/571388/IPOL_STU(2016)571388_EN.pdf); UNCTAD, *The New Way of Addressing Gender Equality Issues in Trade Agreements: Is It A True Revolution?* (Geneva: United Nations, October 2017), https://unctad.org/system/files/official-document/presspb2017d2_en.pdf; UNCTAD, *Trade and Gender Nexus in the Context of Regional Integration: A Comparative Assessment of the East African Community (EAC) and the Southern Common Market (MERCOSUR)* (Geneva: United Nations, 2019), https://unctad.org/system/files/official-document/ditc2019d2_en.pdf; International Trade Center SheTrades, *Mainstreaming Gender in Free Trade Agreements* (Geneva: International Trade Centre SheTrades, July 7, 2020), https://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/ITC%20Mainstream%20Gender_FTA_20200707_web.pdf.
 - 30 ITC SheTrades, *Mainstreaming Gender in Free Trade Agreements*, 21.
 - 31 Margaret Spiegelman, “Casey adviser: U.S. must better analyze how trade agreements affect women,” *Inside U.S. Trade*, March 29, 2021, <https://insidetrade.com/daily-news/casey-adviser-us-must-better-analyze-how-trade-agreements-affect-women>.
 - 32 Korinek et al., “Trade and gender: A Framework of analysis.”
 - 33 World Bank, “Great Lakes Project to Help African Traders Get Their Goods and Services to Market,” September 25, 2015, <https://www.worldbank.org/en/news/feature/2015/09/25/great-lakes-project-to-help-african-traders-get-their-goods-and-services-to-market>. See also World Bank and WTO, *Women and Trade*.
 - 34 Marlon Seror et al., “Glass Barriers: Constraints to Women’s Small-Scale, Cross-Border Trade in

Cambodia and Lao PDR,” in *Trade and Poverty Reduction: New Evidence of Impacts in Developing Countries* (Geneva: WTO/World Bank Group, December 11, 2018), 148–173, <https://doi.org/10.30875/0af59e5c-en>.

- 35 Korinek et al., “Trade and gender: A Framework of analysis.”
- 36 “Employment in services, female (% of female employment) (modeled ILO estimate),” World Bank, January 29, 2021, <https://data.worldbank.org/indicator/SL.SRV.EMPL.FE.ZS>; Tara Law, “Women Are Majority of Workforce, But Still Face Challenges,” *Time*, January 16, 2020, <https://time.com/5766787/women-workforce/>.
- 37 “Women in Management: Quick Take,” Catalyst, August 11, 2020, <https://www.catalyst.org/research/women-in-management/>.
- 38 Joshua Greenstein and Bret Anderson, “Premature Deindustrialization and the Defeminization of Labor,” *Journal of Economic Issues* LI, no. 2 (June 2017), https://www.researchgate.net/publication/317123821_Premature_Deindustrialization_and_the_Defeminization_of_Labor.
- 39 World Bank, *Women, Business and the Law 2021*.
- 40 José-Antonio Monteiro, *The Evolution of Gender-Based Provisions in Regional Trade Agreements* (Geneva: Economic Research and Statistics Division, World Trade Organization, February 24, 2021), https://www.wto.org/english/res_e/reser_e/ersd202108_e.pdf.
- 41 “MSME Finance Gap,” SME Finance Forum, <https://www.smefinanceforum.org/data-sites/msme-finance-gap>; Barbara MacLaren and Diana Kolaric, *Free Trade Agreements: Monitoring Gender Impacts* (Ottawa: The North-South Institute, March 2013), 4, <http://www.nsi-ins.ca/wp-content/uploads/2013/03/2013-Gender-and-FTAs-Monitoring-Impacts-from-a-Gender-Perspective.pdf>.
- 42 UNCTAD and UN Women, *Assessing the Impact of Trade Agreements on Gender Equality: Canada-EU Comprehensive Economic and Trade Agreement* (UNCTAD and UN Women, May 8, 2020), 20, <https://www.empowerwomen.org/en/resources/documents/2020/05/assessing-the-impact-of-trade-agreements-on-gender-equality-canada-eu-ceta?lang=en>.
- 43 ITC SheTrades, *Mainstreaming Gender in Free Trade Agreements*, 4.
- 44 Sitshengisiwe Ndlovu, “AfCFTA comes with immense opportunities,” *The Herald*, January 7, 2021, <https://www.herald.co.zw/afcta-comes-with-immense-opportunities/>.
- 45 Government of the Republic of Korea and Government of the United States of America, “Free Trade Agreement between the Republic of Korea and the United States of America,” May 2018, https://www.uskoreaconnect.org/wp-content/uploads/2018/05/fta_all.pdf.
- 46 Government of Canada, “Canada-Israel Free Trade Agreement: Preamble,” 2018, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/israel/fta-ale/text-texte/preamble-preambule.aspx?lang=eng>.
- 47 Ibid.
- 48 Government of Canada, “Canada-Israel Free Trade Agreement: Chapter Twelve: Trade and Labour,”

- 2018, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/israel/fta-ale/text-texte/12.aspx?lang=eng>.
- 49 Government of Canada, “Canada-Israel Free Trade Agreement: Chapter Sixteen: Other Provisions,” 2018, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/israel/fta-ale/text-texte/16.aspx?lang=eng>.
- 50 Government of Canada, “Canada-Israel Free Trade Agreement: Chapter Thirteen: Trade and Gender,” 2018, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/israel/fta-ale/text-texte/13.aspx?lang=eng>.
- 51 “Scientists and Engineers Statistical Data System (SESTAT),” National Center for Science and Engineering Statistics, National Science Foundation, <https://www.nsf.gov/statistics/sestat/>.
- 52 “The typical STEM worker now earns two-thirds more than non-STEM workers,” Pew Research Center, January 8, 2018, https://www.pewresearch.org/social-trends/2018/01/09/women-and-men-in-stem-often-at-odds-over-workplace-equity/ps_2018-01-09_stem_1-09/.
- 53 Government of Canada, “Canada-Israel Free Trade Agreement: Chapter Nineteen: Dispute Settlement,” 2018, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/israel/fta-ale/text-texte/19.aspx?lang=eng>.
- 54 Catherine Porter, “Canada Wants a New Nafta to Include Gender and Indigenous Rights,” *New York Times*, August 14, 2017, <https://www.nytimes.com/2017/08/14/world/americas/canada-wants-a-new-nafta-to-include-gender-and-indigenous-rights.html>.
- 55 Office of the United States Trade Representative, “Agreement between the United States of America, the United Mexican States, and Canada: Chapter 23: Labor,” July 1, 2020, <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/23%20Labor.pdf>.
- 56 Tim Fitzsimons, “Footnote in new trade deal causes confusion over LGBTQ protections,” *NBC News*, December 4, 2018, <https://www.nbcnews.com/feature/nbc-out/footnote-new-trade-deal-causes-confusion-over-lgbtq-protections-n943591>.
- 57 Office of the United States Trade Representative, “Agreement between the United States of America, the United Mexican States, and Canada: Chapter 15: Cross-Border Trade in Services,” July 1, 2020, <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/15-Cross-Border-Trade-in-Services.pdf>.
- 58 Office of the United States Trade Representative, “Agreement between the United States of America, the United Mexican States, and Canada: Chapter 15: Cross-Border Trade in Services,” July 1, 2020, <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/15-Cross-Border-Trade-in-Services.pdf>.
- 59 “Employment in services, female (% of female employment) (modeled ILO estimate),” World Bank, January 29, 2021, <https://data.worldbank.org/indicator/SL.SRV.EMPL.FE.ZS>.
- 60 Office of the United States Trade Representative, “Agreement between the United States of America, the United Mexican States, and Canada: Chapter 25: Small and Medium-Sized

Enterprises,” July 1, 2020, https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/25_Small_and_Medium-Sized_Enterprises.pdf.

- 61 Adareli Ponce Hernández et al., “Amended Petition on Labor Law Matters Arising in the United States,” petition, 2021, https://cdmigrante.org/wp-content/uploads/2021/03/USMCA-Amended-Petition-and-Appendices_March-23-2021_reduced.pdf?source=email.
- 62 Gavin Bade, “Mexican workers file visa gender discrimination case under USMCA,” *Politico Pro*, March 24, 2021, <https://subscriber.politicopro.com/article/2021/03/mexican-workers-file-visa-gender-discrimination-case-under-usmca-3987776>.
- 63 Josh Zumbrun, “New North American Trade Deal Seen as Template for Deals to Come,” *Wall Street Journal*, December 14, 2019, <https://www.wsj.com/articles/new-north-america-trade-deal-seen-as-template-for-deals-to-come-11576319401>.
- 64 World Trade Organization, “WTO Electronic Commerce Negotiations: Consolidated Text – December 2020,” December 14, 2020, https://www.bilaterals.org/IMG/pdf/wto_plurilateral_ecommerce_draft_consolidated_text.pdf.
- 65 “6 things to know about women in e-commerce,” UNCTAD, October 23, 2019, <https://unctad.org/news/6-things-know-about-women-e-commerce>.
- 66 World Bank and WTO, *Women and Trade*.
- 67 “MSME Finance Gap,” SME Finance Forum, <https://www.smefinanceforum.org/data-sites/msme-finance-gap>.
- 68 World Trade Organization, “Co-convenors of e-commerce negotiations: We are heartened by progress made so far,” News release, March 16, 2021, https://www.wto.org/english/news_e/news21_e/ecom_16mar21_e.htm.
- 69 Nina M. Young, Wm. Robert Irvin, and Meredith L. McLean, “The Flipper Phenomenon: Perspectives On The Panama Declaration And The ‘Dolphin Safe’ Label), *Ocean & Coastal Law Journal* 3, no. 1 (1997), <https://digitalcommons.maine.edu/oclj/vol3/iss1/4>.
- 70 “T-TIP: Environment,” Office of the United States Trade Representative, <https://ustr.gov/trade-agreements/free-trade-agreements/transatlantic-trade-and-investment-partnership-t-tip/t-tip-9>.
- 71 See Senators Casey and Cortez Masto’s work on this topic, as referenced elsewhere, and also here: Bob Casey and Catherine Cortez Masto, “Women’s Economic Empowerment and Trade,” *Council on Foreign Relations*, December 23, 2020, <https://www.cfr.org/blog/womens-economic-empowerment-and-trade>.
- 72 Calculations by authors based on membership data sourced from “Advisory Committees,” Office of the United States Trade Representative, <https://ustr.gov/about-us/advisory-committees>; and “Industry Trade Advisory Committees,” International Trade Administration, <https://legacy.trade.gov/itac/committees/index.asp>.
- 73 “Advisory Committees,” Office of the United States Trade Representative.

- 74 Government of Canada, “Canada-Israel Free Trade Agreement: Preamble.”
- 75 Office of the United States Trade Representative, “Agreement between the United States of America, the United Mexican States, and Canada: Preamble,” July 1, 2020, https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/00_Preamble.pdf.
- 76 ITC SheTrades, *Mainstreaming Gender in Free Trade Agreements*, 16.
- 77 Office of the United States Trade Representative, “Agreement between the United States of America, the United Mexican States, and Canada: Chapter 23: Labor,” July 1, 2020, <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/23%20Labor.pdf>.
- 78 “Employment in services, female (% of female employment) (modeled ILO estimate),” World Bank, January 29, 2021, <https://data.worldbank.org/indicator/SL.SRV.EMPL.FE.ZS>.
- 79 Office of the United States Trade Representative, “Agreement between the United States of America, the United Mexican States, and Canada: Chapter 15: Cross-Border Trade in Services,” <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/15-Cross-Border-Trade-in-Services.pdf>.
- 80 ITC SheTrades, *Mainstreaming Gender in Free Trade Agreements*, 20.
- 81 Government of Canada, “Canada-Israel Free Trade Agreement: Chapter Nineteen: Dispute Settlement,” 2018, <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/israel/fta-ale/text-texte/19.aspx?lang=eng>.
- 82 ITC SheTrades, *Mainstreaming Gender in Free Trade Agreements*, 20.
- 83 Ibid.
- 84 Government of Canada, “Canada-Israel Free Trade Agreement: Chapter Thirteen: Trade and Gender.”
- 85 ITC SheTrades, *Mainstreaming Gender in Free Trade Agreements*, 20.
- 86 Government of Canada, “Canada-Israel Free Trade Agreement: Chapter Thirteen: Trade and Gender.”
- 87 Author interview with representatives of Canada Global Affairs team, April 14, 2021.
- 88 Government of Canada, “Summary of Initial GBA+ for Canada-MERCOSUR FTA Negotiations,” March 4, 2021, https://www.international.gc.ca/trade-commerce/gender_equality-egalite_genres/gba_plus_summary-acsc_plus_resume.aspx?lang=eng.
- 89 Korinek et al., “Trade and gender: A Framework of analysis.”
- 90 Calculations by authors based on membership data sourced from “Advisory Committees,” Office of the United States Trade Representative; and “Industry Trade Advisory Committees,” International Trade Administration.
- 91 “Become an Advisor,” International Trade Administration, <https://legacy.trade.gov/itac/become->

an-advisor.asp#1.

- 92 “Advisory Committees,” Office of the United States Trade Representative, <https://ustr.gov/about-us/advisory-committees>.
- 93 Korinek et al., “Trade and gender: A Framework of analysis.”
- 94 World Bank, *Women, Business and the Law 2021*.
- 95 “What is Gender-based Analysis Plus,” Government of Canada, April 14, 2021, <https://women-gender-equality.canada.ca/en/gender-based-analysis-plus/what-gender-based-analysis-plus.html>.
- 96 “Canadian Gender Budgeting Act,” Justice Laws Website, Government of Canada, April 16, 2021, <https://laws-lois.justice.gc.ca/eng/acts/C-17.2/page-1.html>.
- 97 Mary-Ann Stephenson, *A Guide to Gender-Responsive Budgeting* (UK Women’s Budget Group and Oxfam International, February 2018), <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/620429/gt-guide-gender-responsive-budgeting-280218-en.pdf;jsessionid=7D4F73B4E4A179AE11B03CDF3EA535E4?sequence=13>.
- 98 “Supplementary Framework for Assessing Gender Responsive Public Financial Management,” Public Expenditure and Financial Accountability, <https://www.pefa.org/gender>. For more on PEFA: “What is PEFA?” Public Expenditure and Financial Accountability (PEFA), <https://www.pefa.org/about>.
- 99 White House, “Executive Order on Establishment of the White House Gender Policy Council,” March 8, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/03/08/executive-order-on-establishment-of-the-white-house-gender-policy-council/>.
- 100 In the United States, research shows that among all demographic groups, single-parent families (mostly headed by single mothers) face the highest tariff burden. See Jason Furman, Katheryn Russ, and Jay Shambaugh, “US tariffs are an arbitrary and regressive tax,” *VoxEU CPR*, January 12, 2017, <https://voxeu.org/article/us-tariffs-are-arbitrary-and-regressive-tax>.
- 101 “Harmonized Tariff Schedule (2021 Basic Revision 2),” United States International Trade Commission, <https://hts.usitc.gov/?query=6202.91.03>; “Harmonized Tariff Schedule (2021 Basic Revision 2),” United States International Trade Commission, <https://hts.usitc.gov/?query=6201.91.03>.
- 102 Erhan Artuc et al., *Protectionism and Gender Inequality in Developing Countries* (Geneva: World Bank and WTO, June 2019), https://www.wto.org/english/res_e/reser_e/gtdw_e/wkshop19_e/chauvin.pdf.
- 103 Ibid, 10.
- 104 Ministry of Foreign Affairs, Chilean Government, “Canada, Chile and New Zealand sign new global agreement on trade and gender,” News release, August 4, 2020, <https://minrel.gob.cl/minrel/news/canada-chile-and-new-zealand-sign-new-global-agreement-on-trade-and-gender>.
- 105 Brodsky and Lim, “The WTO Informal Working Group on Trade and Gender.”

- 106 World Bank and WTO, *Women and Trade*, 176.
- 107 UK Department for the Environment, Food, and Rural Affairs, “Agriculture Bill Impact Assessment,” UK Parliament, October 2020, https://publications.parliament.uk/pa/bills/cbill/58-01/0202/100920%20Agriculture%20Bill%20Narrative%20Impact_Assessment_0.1.pdf.
- 108 Susan Harris Rimmer, *Gender-smart Procurement: Policies for Driving Change* (London: Chatham House, December 21, 2017), <https://www.chathamhouse.org/sites/default/files/publications/research/Gender-smart%20Procurement%20-%202020.12.2017.pdf>.
- 109 Ibid.
- 110 Interestingly, as a 2019 study on federal procurement in the United States noted, “the United States government has targeted 23 percent of its annual half-trillion dollar spend to SMEs and 5 percent of its spend to women-owned businesses.” The study found that businesses’ certifications as an SME or woman-owned business did not increase their chances of bid frequency or bid success and called for “federal accountability in contracting with women-owned supplier firms.” Barbara Orser et al., “The efficacy of gender-based federal procurement policies in the United States,” *Small Business Economics* 53, no. 3 (August 2019), https://www.researchgate.net/publication/323285248_The_efficacy_of_gender-based_federal_procurement_policies_in_the_United_States.
- 111 Rimmer, *Gender-smart Procurement*.
- 112 Ibid.
- 113 For more information on the UN Guiding Principles on Business and Human Rights, see “UN Guiding Principles,” Business & Human Rights Resource Centre, <https://www.business-humanrights.org/en/big-issues/un-guiding-principles-on-business-human-rights/>. For more information on the OECD Guidelines for Multinational Enterprises, see “Guidelines for multinational enterprises,” OECD, <https://www.oecd.org/corporate/mne/>.
- 114 For more on the recent debate regarding the definition of infrastructure, see Danielle Kurtzleben, “What is Infrastructure? It’s a Gender Issue, For Starters,” *NPR*, April 15, 2021, <https://www.npr.org/2021/04/15/987229254/biden-infrastructure-push-highlights-economic-gender-gaps>.
- 115 Anne-Marie Slaughter, “Rosie Could Be a Riveter Only Because of a Care Economy. Where Is Ours?,” *New York Times*, April 16, 2021, <https://www.nytimes.com/2021/04/16/opinion/care-economy-infrastructure-rosie-the-riveter.html?action=click&module=Opinion&pgtype=Homepage>.
- 116 Anna North, “Elizabeth Warren made a crucial point at the Democratic convention: Childcare is ‘infrastructure for families,’” *Vox*, August 20, 2020, <https://www.vox.com/2020/8/20/21376792/elizabeth-warren-dnc-convention-child-care-biden>.
- 117 Jim Tankersley, “Biden Details \$2 Trillion Plan to Rebuild Infrastructure and Reshape the Economy,” *New York Times*, March 31, 2021, updated April 15, 2021, <https://www.nytimes.com/2021/03/31/business/economy/biden-infrastructure-plan.html>. For recommendations of gender-responsive improvements to the bill, see Anneken Tappe and Alicia Wallace, “Joe Biden’s infrastructure plan could leave too many women behind,” *CNN Business*, April 18, 2021, <https://>

- www.cnn.com/2021/04/18/economy/women-infrastructure-care-stimulus/index.html. Since announcing his infrastructure plan, Biden has also announced his “care economy” plan, which, if passed as is by Congress, would include universal pre-kindergarten programs for 3- and 4-year-olds—thus reducing time constraints for mothers, who could use that time to gain trade finance education or tend to their export business, for example. For more, see Anna North and Ella Nilsen, “Biden takes aim at American inequality by investing \$1.8 trillion in families,” *Vox*, April 28, 2021, <https://www.vox.com/2021/4/28/22404411/biden-american-families-plan-inequality>.
- 118 Megan O'Donnell and Joan Lombardi, “It’s Time to Invest in Global Childcare,” Center for Global Development, March 16, 2021, <https://www.cgdev.org/blog/its-time-invest-global-childcare>.
 - 119 Daniel Magraw and Lin Qin, “Fifty Shades of Green,” *Georgetown Environmental Law Review* 32 (2020): 467–483, <https://www.law.georgetown.edu/environmental-law-review/wp-content/uploads/sites/18/2020/08/GT-GELR200016.pdf>.
 - 120 Ayesha Tandon, “Tackling gender equality is ‘crucial’ for climate adaptation,” *Carbon Brief*, December 15, 2020, <https://www.carbonbrief.org/tackling-gender-inequality-is-crucial-for-climate-adaptation>.
 - 121 Magraw and Qin, “Fifty Shades of Green”; “Issues Brief: Gender and Climate Change,” International Union for Conservation of Nature, November 2015, <https://www.iucn.org/resources/issues-briefs/gender-and-climate-change>.
 - 122 “6 things to know about women in e-commerce,” UNCTAD, October 23, 2019, <https://unctad.org/news/6-things-know-about-women-e-commerce>.
 - 123 This bill follows similar efforts in Congress, with House Majority Whip James Clyburn (D-SC) and Co-Chairperson of the Senate Broadband Caucus Amy Klobuchar (D-MN) proposing the Accessible, Affordable Internet for All Act to the House of Representatives and Senate, respectively, in early March 2021. (The goal of high-speed internet for all is largely bipartisan, though some Republicans have expressed that they would prefer to tackle the issue outside of Biden’s comprehensive infrastructure bill.) See Luis Melgar and Ana Rivas, “Biden’s Infrastructure Plan Visualized: How the \$2.3 Trillion Would Be Allocated,” *Wall Street Journal*, April 1, 2021, <https://www.wsj.com/articles/bidens-infrastructure-plan-how-the-2-3-trillion-would-be-allocated-11617234178>; Mariella Moon, “US lawmakers introduce bill to make high-speed internet available to all,” *Yahoo! Finance*, March 11, 2021, <https://finance.yahoo.com/news/accessible-affordable-internet-for-all-act-introduction-100024228.html>; Ryan Tracy and Eliza Collins, “Biden Aims for Universal High-Speed Internet in Infrastructure Plan,” *Wall Street Journal*, April 1, 2021, <https://www.wsj.com/articles/biden-aims-for-universal-high-speed-internet-in-infrastructure-plan-11617271202>.
 - 124 For more on how “traditional” infrastructure can be rethought to become more gender-inclusive, see Chapter 1 (“Can Snow-Clearing be Sexist?”) in Criado Perez, *Invisible Women*.
 - 125 Author interview with representatives of Canada Global Affairs team, April 14, 2021.
 - 126 “Informal Working Group on Trade and Gender,” World Trade Organization, https://www.wto.org/english/tratop_e/womenandtrade_e/iwg_trade_gender_e.htm.
 - 127 Informal Working Group on Trade and Gender, “Final Work Plan for Implementing Activities

under the Informal Working Group on Trade and Gender: White Paper Proposal by Canada, Revision” (white paper, World Trade Organization, Geneva, March 29, 2021), <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/INF/TGE/W1R2.pdf&Open=True>.

- 128 “Cortez Masto, Casey Introduce Legislation to Push for Women’s Rights in International Trade,” Catherine Cortez Masto: United States Senator for Nevada, June 23, 2020, <https://www.cortezmasto.senate.gov/news/press-releases/cortez-masto-casey-introduce-legislation-to-push-for-womens-rights-in-international-trade>; “Casey, Cortez Masto Introduce Legislation to Push for Women’s Rights in International Trade,” Bob Casey: U.S. Senator for Pennsylvania, June 18, 2020, <https://www.casey.senate.gov/news/releases/casey-cortez-masto-introduce-legislation-to-push-for-womens-rights-in-international-trade>.
- 129 Women’s Economic Empowerment in Trade Act of 2020, 116th Congress, 2nd Session (2020), <https://www.casey.senate.gov/imo/media/doc/Women%27s%20Economic%20Empowerment%20in%20Trade%20Act.pdf>.
- 130 For example, see the case of three women in Indonesia who have benefited from the U.S. GSP: Nina Cooper, “An Open Letter to Congress on Positive Impact of GSP on Women in Bali, Indonesia,” *Coalition for GSP*, February 17, 2021, <http://renewgsptoday.com/2021/02/17/an-open-letter-to-congress-on-the-positive-impact-of-gsp-on-women-in-bali-indonesia/?source=email>.
- 131 Doug Palmer, “Push to empower women stalls renewal of trade development program,” *Politico Pro*, April 9, 2021, <https://subscriber.politicopro.com/article/2021/04/push-to-empower-women-stalls-renewal-of-trade-development-program-2046770>.
- 132 “Gender: Definitions,” World Health Organization, 2021, <https://www.euro.who.int/en/health-topics/health-determinants/gender/gender-definitions>.
- 133 “Gender-Based Violence,” United Nations High Commissioner for Refugees, <https://www.unhcr.org/en-us/gender-based-violence.html>.
- 134 “Gender: Definitions,” WHO.
- 135 Ibid.
- 136 Gayle Nelson, *Gender Responsive National Communications Toolkit* (New York: UNDP, 2015), 7, <http://www.undp.org/content/dam/undp/library/gender/UNDP%20Gender%20Responsive%20National%20Communications%20Toolkit.pdf>.
- 137 Ibid.

COVER PHOTO MIGUEL RIOPA/AFP VIA GETTY IMAGES



1616 Rhode Island Avenue NW

Washington, DC 20036

202 887 0200 | www.csis.org