

Gender-Responsive WTO

*Making Trade Rules and Policies Work for Women**

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ABSTRACT

A gender-responsive trade policy can lift obstacles faced by women in trade through, for instance, financial and non-financial incentives, or by providing access to trade-related infrastructure, especially in rural areas. Trade policies can create new opportunities for women entrepreneurs and female farmers, and for women to enter the workforce, in export sectors. In light of these opportunities, the chapter seeks to explore how capabilities for women can be expanded and enforced in global trade. Among other things, the research will delve into the ability of trade agreements to contribute to gender equality. Specifically, the chapter analyses these issues from the institutional aspect of the World Trade Organization (WTO) and its role in designing gender-inclusive trade policies and monitoring such policies through the Trade Policy Review Mechanism (TPRM).

* DISCLAIMER: This chapter represents the opinions of an individual staff member and is the product of professional research. It is not meant to represent the position or opinion of the WTO or its Members, nor the official position of any staff members of the WTO. It focuses on outlining current policy trends adopted by WTO members with regard to trade and gender. This analysis is based on information provided by WTO through their Trade Policy Review (TPR), the WTO Aid for Trade Monitoring and Evaluation Exercises, their notification of their Free Trade agreements (FTAs) and Regional Trade Agreements (RTAs) to the WTO. This chapter also looks at some provisions of WTO Agreements with gender lens. In no way does it provide an interpretation of these rules and decisions. It simply provides a gender perspective on how trade rules and policies could support women, and how WTO members have actually been using them and translating them into their national trade policies, as reported in their TPRs.

2.1 INTRODUCTION

Empowering women can be the most rewarding action any government can take.¹ This resonates in the words of Rosine Bekoin, a cocoa producer from Ivory Coast: ‘I used to think I had to wear a wrap, have a baby on my back and cook for my husband. I used to beg him for money. Now we make a budget together and I’m afraid of nothing because I know how to manage my money. I am stronger. I am a leader of many people now and know I can do things on my own.’²

The more women grow economically, the more societies and economies grow. Trade can foster their empowerment by advancing gender equality through the development and implementation of gender-responsive trade policies³ as well as by implementing WTO agreements using a gendered lens.⁴ Trade rules can impact women positively only if they are implemented to respond to the specific roles and needs of women in society and in the economy.

The WTO and its members support women’s economic empowerment through various endeavours, including the Informal Working Group (IWG) on Trade and Gender established by the WTO in September 2020. Through the IWG, trade and gender related issues have been institutionalised at the organisation.

However, before achieving this institutionalisation, the WTO had evolved from a gender-blind⁵ institution to a gender-aware⁶ one in only five years.

¹ IMF, *Pursuing Women’s Economic Empowerment* (IMF 2018) <www.imf.org/en/Publications/Policy-Papers/Issues/2018/05/31/pp053118pursuing-womens-economic-empowerment> accessed 8 May 2022; UNECOSOC, ‘Meeting Coverage of the 63rd Commission on the Status of Women’, WOM/2175 (13 March 2019) <www.un.org/press/en/2019/wom2175.doc.htm> accessed 8 May 2022.

² Jez Fredenburgh, ‘The “Invisible” Women at the Heart of the Chocolate Industry’ (BBC n.d.) <www.bbc.com/future/feature/bespoke/follow-the-food/the-invisible-women-farmers-of-ivory-coast.html> accessed 8 May 2022.

³ Anoush der Boghossian, ‘Trade Policies Supporting Women’s Economic Empowerment: Trends in WTO Members’ (2019) WTO Staff Working Paper ERSD-2019-07 <www.wto.org/english/res_e/reser_e/ersd201907_e.pdf> accessed 8 May 2022.

⁴ Global Alliance for Trade Facilitation, ‘WTO’s Trade Facilitation Agreement through a Gender Lens’ (2020) <www.tradefacilitation.org/content/uploads/2020/05/2020-tfa-through-a-gender-lens-final.pdf> accessed 8 May 2022.

⁵ ‘Gender blindness’ is defined as the ‘failure to recognise that the roles and responsibilities of women/girls and men/boys are ascribed to, or imposed upon, them in specific social, cultural, economic and political contexts’. See EIGE, ‘Gender Blindness’ <<https://eige.europa.eu/thesaurus/terms/1157>> accessed 8 May 2022.

⁶ ‘Gender awareness’ is defined as the ‘ability to view society from the perspective of gender roles and understand how this has affected women’s needs in comparison to the needs of men’. See EIGE, ‘Gender Awareness’ <<https://eige.europa.eu/thesaurus/terms/1147>> accessed 8 May 2022.

Following the General Agreement on Tariffs and Trade (GATT) and with the establishment of the WTO in 1995, trade rules did not integrate gender issues, making the WTO gender blind. Until 2016–2017, gender was not considered a part of the WTO mandate. This led the organisation to exclude the issue from all its discussions, operations, and negotiations, although WTO members have mentioned trade and gender measures in their trade policy review reports in the last decades. No research was conducted on this issue,⁷ and no member of staff in the WTO Secretariat was working on it. There were no dedicated fora within the WTO. However, this changed in September 2020 with the establishment of the IWG on Trade and Gender.⁸

In 2017, a total of 118 WTO members and observers launched an informal declaration in the margins of the 11th Ministerial Conference in Buenos Aires. Members chose the informal path and used it with the purpose of integrating gender issues into the WTO, a discussion which was non-existent at the time. The same year, and as part of the negotiations on Services Domestic Regulation, Canada introduced the first gender-equality language in a WTO negotiating document. On 2 December 2021, sixty-seven members adopted the Services Domestic Regulation⁹ and for the first time added a gender-equality provision to a WTO plurilateral agreement. This provision prohibits gender discrimination when authorising the supply of a service.

This chapter is structured as follows. Section 2.2 underscores the importance of women in trade and establishes that women are key drivers of economic and sustainable growth, and that trade can support this role. Section 2.3 explores how the WTO evolved from a gender-blind organisation to a gender-aware one, looking at its various mandates and the objectives of the WTO rules. Section 2.4 analyses whether the WTO has truly transformed into a gender-aware international organisation. Section 2.5 looks at how trade policy can expand and enforce the capabilities for women in global trade, and how it can create decent working conditions for women. Section 2.6 analyses the issue from a legal perspective and explores the link between human rights, women's economic empowerment, and trade law. Section 2.7 provides

⁷ Between 1995 and 2016, only one WTO Staff Working Paper was published on trade and gender. See Hildegunn Kyvik Nordås, 'Is Trade Liberalization a Window of Opportunity for Women?' (2003) WTO Staff Working Paper ERSD-2003-03 <www.wto.org/english/tes_e/reser_e/ersd200303_e.htm> accessed 8 May 2022.

⁸ See Judit Fabian, 'Global Economic Governance and Women: Why Is the WTO a Difficult Case for Women's Representation?' (Chapter 4 in this book).

⁹ WTO, 'Declaration on the Conclusion of Negotiations on Services Domestic Regulation', WT/L/1129 (2 December 2021).

concluding remarks. In essence, the chapter will link human rights, women's economic empowerment, and trade law and explore how WTO agreements can support gender equality.

2.2 WOMEN ARE KEY DRIVERS OF ECONOMIC GROWTH

Women constitute a global economic force. The more they are involved, the more economies grow: increasing women's participation in the labour market to the same level as men's could raise some countries' gross domestic product (GDP) by up to 34 per cent,¹⁰ and closing the gender gap could increase countries' GDP by an average of 35 per cent.¹¹ This analysis from the International Monetary Fund (IMF) has been confirmed in many countries. For instance, in Egypt, women represent 50 per cent of the population; many of them are educated, but they only constitute 24 per cent of the workforce. If women were better integrated into the economy, Egypt's GDP could increase by 30 per cent.¹² Similarly, in Peru, the correlation between higher per capita income and better gender equality has been noted since 2000. As Peru has increased its per capita income, gender inequality has decreased, as measured by the gender inequality index.¹³ The massive entry of Peruvian women into the world of labour, largely due to a shift in the role of women in society, has been an important driver of growth as well as of economic and human development.¹⁴ More recently, according to the United Nations Development Programme (UNDP), limiting women's employment could

¹⁰ Katrin Elborgh-Woytek, Monique Newiak, Kalpana Kochhar, Stefania Fabrizio, Kangni Kpodar, Philippe Wingender, Benedict Clements, and Gerd Schwartz, 'Women, Work, and the Economy: Macroeconomic Gains from Gender Equity' (2013) IMF Staff Discussion Note SDN/13/10, fn 6 <www.imf.org/external/pubs/ft/sdn/2013/sdn1310.pdf> accessed 8 May 2022.

¹¹ Raquel Fernández, Asel Isakova, Francesco Luna, and Barbara Rambousek, 'Gender Equality and Inclusive Growth' (2021) IMF Working Paper WP/21/59 <www.imf.org/en/Publications/WP/Issues/2021/03/03/Gender-Equality-and-Inclusive-Growth-50147> accessed 8 May 2022.

¹² Presentation by Abla Abdel Latif, PhD, Executive Director and Director of Research of the Egyptian Center for Economic Studies (ECES) at the International Women Entrepreneurs Summit in September 2018 organised by SAWDF (South Asian Women Development Forum). See SAWDF, 'International Women Entrepreneurs Summit 2018' <<https://sawdf.org/portfolio-item/international-women-entrepreneurs-summit-2018/>> accessed 8 May 2022.

¹³ Statement by the WTO Ambassador of Peru at the meeting of the Informal Working Group on Trade and Gender. See WTO, 'Informal Working Group on Trade and Gender' (26 February 2021) <www.wto.org/english/tratop_e/womenandtrade_e/iwg_trade_gender_e.htm> accessed 8 May 2022.

¹⁴ Ibid.

reduce Afghanistan's GDP by an additional 5 per cent and would constitute an immediate economic loss of up to USD 1 billion.¹⁵

Women's contribution to the economy also impacts job creation, economic diversification, innovation, entrepreneurship, poverty reduction, and development. Even if they own or lead micro and small businesses, women entrepreneurs create jobs, for themselves and often for other women. According to a WTO survey on women entrepreneurs' knowledge gap on trade, in South Asia, East Africa, and Latin America, 57 per cent of workers employed by micro companies owned and led by women are female.¹⁶ Also, according to the survey, 50 per cent of women entrepreneurs were motivated to develop their businesses to create jobs for others and 41 per cent of women created their businesses in order to be their own bosses.¹⁷

Women tend to be more involved in the services sector, thus fostering diversification. In low- and lower-middle-income countries, women make up about 40 per cent of workers in the services sector and in upper-middle- and high-income countries, they represent almost 70 per cent of the services sector workforce.¹⁸ Some countries have included women's economic empowerment in their new economic diversification strategies, recognising women's key role in the economy. In particular, Saudi Arabia has undertaken ninety major human rights reforms over the past few years and women's empowerment constitutes a large share of these reforms, focusing on promoting female employment and women's political rights.¹⁹ As a result, over the last four years, the rate of female unemployment in Saudi Arabia has

¹⁵ UNDP, 'Afghanistan Socio-Economic Outlook 2021–2022: Averting a Basic Needs Crisis' (1 December 2021) <www.undp.org/publications/afghanistan-socio-economic-outlook-2021-2022-averting-basic-needs-crisis> accessed 8 May 2022.

¹⁶ WTO, 'Assessing Women Entrepreneurs' Knowledge Gap on Trade in East Africa, South Asia, and Latin America' (unpublished survey 2019–2020. On file with author). More than 800 women entrepreneurs were surveyed in Latin America, South Asia, and East Africa between 2019 and 2020.

¹⁷ *Ibid.*

¹⁸ World Bank and WTO, 'Women and Trade: The Role of Trade in Promoting Gender Equality' (2020) <www.wto.org/english/res_e/booksp_e/women_trade_pub2807_e.pdf> accessed 8 May 2022.

¹⁹ Presentation of Saudi Arabia at the 23 June 2021 meeting of the Informal Working Group on Trade and Gender of the WTO on Vision 2030. See Permanent Mission of the Kingdom of Saudi Arabia to the WTO, 'Vision 2030, an Economic Diversification Strategy and Women's Economic Empowerment' (23 June 2021) <www.wto.org/english/tratop_e/womenandtrade_e/230621_saudi_arabia.pdf> accessed 8 May 2022; see also Kingdom of Saudi Arabia, 'Vision 2030, an Economic Diversification Strategy and Women's Economic Empowerment' <www.vision2030.gov.sa> accessed 8 May 2022.

decreased by 13.9 per cent²⁰ due to the engagement of the female workforce.²¹

Women can drive innovation. Globally, female entrepreneurs are 5 per cent more likely than men to be innovative.²² Also, when trained in new technologies, they tend to use them more than men to manage their businesses.²³ In Europe, 15 per cent of innovative start-ups are founded or co-founded by women.²⁴

Women also contribute to poverty reduction as most women reinvest their income in their families. For instance, according to a survey by the WTO, in South Asia, East Africa, and Latin America, women reinvest their disposable incomes first in their business, second in their household expenses such as rent, food, education, and health, and third in the overall family income.²⁵

Women entrepreneurs are the backbone of any economy. They represent approximately 30–37 per cent (8–10 million) of all micro, small, and medium-sized enterprises (MSMEs) in emerging markets.²⁶ In Brazil, Russia, India, China, and South Africa (BRICS), on average, women represent 25 per cent of business owners.²⁷ In Nigeria, women represent 41 per cent of micro-business

²⁰ In 2021, women represented about 30 per cent of the total Saudi workforce in the private sector. General Authority for Statistics (GASTAT), Kingdom of Saudi Arabia, Labor Market Statistics Q4 of 2021. See General Authority for Statistics (Saudi Arabia), 'Saudi Unemployment at 11.0%, Overall Unemployment at 6.9% in Q4/2021' (2021) <www.stats.gov.sa/sites/default/files/LMS%20Q42021E.pdf> accessed 8 May 2022.

²¹ From 9 per cent in July 2020 to 7.4 per cent in January 2021. Kingdom of Saudi Arabia, 'Vision 2030' (n 19).

²² Global Entrepreneurship Monitor, 'GEM Global Report 2016/17' (GERA 2017) <www.gemconsortium.org/report/gem-2016-2017-global-report> accessed 8 May 2022.

²³ ADB, '2019 Asian Development Bank Annual Report' (ADB 2019) <www.adb.org/sites/default/files/institutional-document/650011/adb-annual-report-2019.pdf> accessed 8 May 2022.

²⁴ European Innovation Council, 'EU Launches Women TechEU Pilot to Put Women at the Forefront of Deep Tech' (13 July 2021) <https://eic.ec.europa.eu/news/eu-launches-women-techeu-pilot-put-women-forefront-deep-tech-2021-07-13_en> accessed 8 May 2022.

²⁵ WTO survey, 'Assessing Women Entrepreneurs' Knowledge Gap on Trade in East Africa, South Asia, and Latin America (2019–2020)' (unpublished). On file with author.

²⁶ IFC, 'IFC Annual Report 2010: Where Innovation Meets Impact' (IFC/World Bank 2010) <www.ifc.org/wps/wcm/connect/16494d0c-77b8-474a-bafd-f8f8a928ff8c/AR2010_English.pdf?MOD=AJPERES&CVID=iYNAdVZ> accessed 8 May 2022.

²⁷ WTO average count on current and available data from the Sixth Economic Census released by the Indian Ministry of Statistics and Programme Implementation (January 2013–April 2014), Mastercard Index of Women Entrepreneurs Report 2018, and from the Second Eurasian Women Forum, September 2018. See Government of India, 'All India Report of Sixth Economic Consensus' (2016) <<https://msme.gov.in/sites/default/files/All%20India%20Report%20of%20Sixth%20Economic%20Census.pdf>> accessed 8 May 2022; MasterCard, 'Mastercard Index of Women Entrepreneurs (MIWE) 2018' (2018) <https://newsroom.mastercard.com/wp-content/uploads/2018/03/MIWE_2018_Final_Report.pdf> accessed 8 May 2022.

owners, with 23 million female entrepreneurs operating in the country. Nigeria has one of the highest female entrepreneurship rates globally.²⁸

2.3 IS THE WTO REALLY GENDER BLIND?

Six hundred-odd pages of the WTO rulebook that governs international trade is gender neutral. Some would say that it is gender blind.²⁹ The WTO agreements make no explicit mention of terms such as ‘gender’, ‘gender equality’, or ‘men and women’. Despite this silence, one cannot assume that the WTO is entirely gender blind. In fact, it has an implicit legal base and an explicit mandate to work on gender equality in trade. This is discussed in the following sections.

2.3.1 *An Implicit Legal Basis: The Objectives of the GATT and WTO*

The Preamble of the GATT provides that trade should be ‘conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income’.³⁰ Similarly, the preamble of the Marrakesh Agreement establishing the WTO (WTO Agreement) stipulates that trade should be ‘conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income ... while allowing for the optimal use of the world’s resources in accordance with the objective of sustainable development’.³¹

The concept of sustainable development was described in the 1987 Brundtland Commission Report as ‘development that meets the needs of the present without compromising the ability of future generations to meet their own needs’.³² The Report further adds that ‘[p]overty is not only an evil in itself, but sustainable development requires meeting the basic needs of all and extending to all the opportunity to fulfil their aspirations for a better life. A world in which poverty is endemic will always be prone to ecological and other catastrophes’.³³ According to the United Nations (UN), sustainable

²⁸ PwC Nigeria, ‘Impact of Women on Nigeria’s Economy’ (PwC 12 March 2020) <www.pwc.com/ng/en/publications/impact-of-women-on-nigerias-economy.html> accessed 8 May 2022.

²⁹ EIGE, ‘Gender Blindness’ (n 5).

³⁰ First recital, Preamble, General Agreement on Tariffs and Trade 1994, 15 April 1994, 1867 UNTS. 187, 33 ILM 1153 (GATT 1994).

³¹ First recital, Preamble, Marrakesh Agreement Establishing the World Trade Organization, 15 April 1994, 1867 UNTS 154, 33 ILM 1144 (Marrakesh Agreement or WTO Agreement).

³² World Commission on the Environment and Development, ‘Our Common Future’ (1987) (Brundtland Report), Section 3 ‘Sustainable Development’ Article 27.

³³ *Ibid.*

development includes notions of inclusivity and resilience. To be achieved, inclusive and equitable economic growth, social inclusion, and environmental protection would need to be combined.³⁴ Some mistakenly interpret sustainable development as merely linked to the protection of the environment, but, as described above, it is a combination of issues that makes for sustainable development.

These definitions put women at the centre of sustainable development and directly link the WTO's sustainable development objectives to women's economic empowerment, giving the WTO an implicit legal basis to work on trade and gender. However, until 2016, the WTO never took the opportunity to connect gender equality with trade.

2.3.2 *An Explicit Legal Basis: The Aid for Trade Initiative and the WTO Technical Assistance Plans*

Gender equality has been part of Aid for Trade since its inception. The Aid for Trade initiative was created at the Hong Kong Ministerial Conference in 2005.³⁵ In 2006, the Aid for Trade Task Force composed of WTO members was set up to operationalise the initiative and frame its objectives.

The final report of the Task Force, released in July 2006 and presented to the General Council, provides that 'Aid for trade should be rendered in a coherent manner taking full account . . . of the gender perspective and of the overall goal of sustainable development'.³⁶ The report stipulates that donors and partner countries jointly commit to the 'harmonization of efforts on cross-cutting issues, such as gender equality'.³⁷ In fact, it provides an explicit and broad mandate for gender equality to be included in the Aid for Trade initiative.

Gender is thus an inherent part of Aid for Trade, with the IWG on Trade and Gender recognising its essential role in women's economic empowerment by establishing it as one of its four work pillars.³⁸

³⁴ UN, 'The UN Sustainable Agenda' <www.un.org/sustainabledevelopment/development-agenda/#:~:text=Sustainable%20development%20has%20been%20defined,to%20meet%20their%20own%20needs> accessed 8 May 2022.

³⁵ WTO, 'Hong Kong Ministerial Declaration', WT/MIN(05)/DEC (22 December 2005) para. 57.

³⁶ Aid for Trade Task Force, 'Recommendations of the Task Force on Aid for Trade', WT/AFT/1 (27 July 2006), Section F.2 Guiding Principles.

³⁷ Ibid para. 42.

³⁸ WTO, 'Interim Report Following the Buenos Aires Joint Declaration on Trade and Women's Economic Empowerment', WT/L/1095/Rev.1 (25 September 2020).

In addition, the Biennial Technical Assistance and Training Plan 2018–2019 gave the mandate to the WTO Secretariat to develop a training module on trade and gender for WTO members and government officials.³⁹ The subsequent Biennial Technical Assistance and Training Plan 2020–2021 further confirms the integration of gender into the WTO training programmes.⁴⁰

It is interesting to note that whereas trade and gender is a plurilateral issue in the WTO, the WTO Technical Assistance Plans are adopted multilaterally within the WTO Committee on Trade and Development by all WTO members. This shows a further institutionalisation of the issue in the WTO.

2.4 HAS THE WTO TRANSFORMED INTO A GENDER-AWARE ORGANISATION?

The issue of gender was first introduced into the WTO in 2016 due to the influence of non-state actors and the political impetus of former WTO Director-General Roberto Azevêdo.

WTO members formalised their relationships with non-governmental organisations (NGOs) when they established the organization.⁴¹ Article V:2 of the WTO Agreement gives a legal basis for relations with NGOs and provides that ‘the General Council may make appropriate arrangements for consultations and cooperation with non-governmental organizations concerned with matters related to those of the WTO’. In 1996, the General Council adopted the Guidelines for Arrangements on Relations with Non-Governmental Organizations, framing this cooperation.⁴² The Guidelines describe NGOs as ‘a valuable resource’ that ‘can contribute to the accuracy and richness of the public debate’.⁴³ Over the years, NGOs have influenced the agenda of the WTO. The introduction of the issues of cotton or fisheries subsidies in the WTO is a typical example of such influence. NGOs have also supported the WTO in integrating trade and gender into its work.

³⁹ WTO, ‘Biennial Technical Assistance and Training Plan, Revision 2018–19’, WT/COMTD/W/227/Rev.1 (23 October 2017), Section 3.3.1. The plan provided that ‘Trade-Related Technical Assistance (TRTA) is a core function of the WTO’. It stipulates that the purpose of the WTO trade-related technical assistance is ‘to enhance human and institutional capacity to take full advantage of the rules-based Multilateral Trading System’. It also gives the WTO Secretariat the mandate to set up and conduct a training module on trade and gender.

⁴⁰ WTO, ‘Biennial Technical Assistance and Training Plan, Revision 2020–2021’, WT/COMTD/W/248/Rev.1 (1 November 2019).

⁴¹ Article V:2, Marrakesh Agreement.

⁴² WTO, ‘Guidelines for Arrangements on Relations with Non-governmental Organizations’, WT/L/162 (23 July 1996).

⁴³ *Ibid.*

In 2015, the NGO Women at the Table, working on ‘structural barriers faced by women and preventing them from benefiting the world’s economic, political and social development’, created the International Gender Champions network (IGC) in collaboration with then US Ambassador and UN Director-General in Geneva.⁴⁴ The IGC is a ‘collaborative network of senior female & male decision-makers who drive systems change’ and today includes more than 300 international ‘gender champions’, including the Secretary-General of the UN, the heads of most international organisations, NGOs, ambassadors, and leaders in the private sector.⁴⁵ In order to focus its work, the IGC is organised in various thematic groups. The IGC Trade Impact Group was formed with the aim of pushing the integration of gender issues in the WTO. The Trade Impact Group is itself composed of some WTO members (developed and developing), the WTO, and other international organisations, as well as NGOs. It was created in 2017, the year of the WTO’s 11th Ministerial Conference (MC11). Taking this opportunity, the group drafted a declaration to be launched at MC11. This informal instrument was eventually presented unofficially at the margins of MC11 in December 2017 and endorsed by 118 WTO members and observers. The informal path was chosen because of the sensitivity of the issue for some members and because it was not supported at the multilateral level. In fact, the Buenos Aires Declaration⁴⁶ is a simple ‘PDF’ document without the WTO logo or any specific official WTO symbol.⁴⁷ Despite this informality, it served as a platform to introduce discussions on gender into the WTO through thematic workshops organised by the organisation, and its members and external stakeholders. After two years of discussions and exploration of the issue, members decided to institutionalise it in the WTO, by establishing the IWG on Trade and Gender on 23 September 2020.⁴⁸

Through their work within the IWG on Trade and Gender, WTO members committed to make trade work better for women and be more inclusive. They ran successful rounds of thematic discussions introducing

⁴⁴ See Women at the Table, ‘Home’ <www.womenatthetable.net/> accessed 8 May 2022.

⁴⁵ See International Gender Champions, ‘About’ <<https://genderchampions.com/about/#:~:text=The%20International%20Gender%20Champions%20>> accessed 8 May 2022.

⁴⁶ WTO, ‘Joint Declaration on Trade and Women’s Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017’ <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf> accessed 8 May 2022.

⁴⁷ Document symbols are used to formalise a document and attribute it to a WTO body or committee and to WTO members multilaterally, plurilaterally, or individually. It formalises decisions and various types of communications between WTO members.

⁴⁸ WTO, ‘Interim Report Following the Buenos Aires Joint Declaration on Trade and Women’s Economic Empowerment’, WT/L/1095/Rev.1 (25 September 2020).

the issue of trade and gender equality in the WTO for the first time. They designed and implemented the first work plan in the WTO on trade and gender based on four pillars: gender-responsive policy making; a gender lens applied to the WTO; research and analytical work; and Aid for Trade. They supported the introduction of gender-equality language in plurilateral trade negotiations.⁴⁹ Moreover, they further strengthened WTO members' experience and expertise in inclusive policy making.⁵⁰ They have, in sum, institutionalised gender issues in the WTO.

In June 2022, during the WTO's 12th Ministerial Conference (MC12), members negotiated and adopted a paragraph in the MC12 Outcome document⁵¹ recognising the importance of women's economic empowerment and the work of the WTO on this issue, at the multilateral level. That means gender issues are now considered a part of the WTO work as a whole. Also, the Co-Chairs of the IWG on Trade and Gender released a joint statement⁵² acknowledging that the WTO's work on trade and gender is in line with its objectives, as stipulated in its Preamble, and recognising the achievements made since the MC11 by WTO members as a basis for future work. In addition to the Interim Report establishing the IWG Group on Trade and Gender and Aid for Trade, these texts give WTO members an additional and stronger legal basis to work on trade and gender.

In parallel to this process, former WTO Director-General Roberto Azevêdo, who became an International Gender Champion in 2016, made a commitment to gender equality in trade and in the WTO Secretariat. In June 2017, he appointed the first WTO Trade and Gender Focal Point to lead this work in the organisation, who, in October 2017, launched the first WTO Trade and Gender Action 2017–2019 focusing on four key objectives: facilitating WTO members' work on trade and gender; conducting research; delivering training on trade and gender for government officials and raising awareness on the trade and gender nexus. The WTO is currently working on the basis of its second Action Plan 2021–2026.

The WTO gender focus was therefore built in an unusual way: from total informality to institutionalisation and driven by one NGO.

⁴⁹ Declaration on the Conclusion of Negotiations on Services Domestic Regulation, WT/L/1129, 2 December 2021.

⁵⁰ Progress Report on WTO members and observers technical work on women's economic empowerment (INF/TGE/R/1), 9 November 2021.

⁵¹ MC12 Outcome document, Paragraph 13 of WT/MIN(22)/24 – WT/L/1135, 17 June 2022

⁵² The Statement on Inclusive Trade and Gender Equality from the Co-Chairs of the Informal Working Group on Trade and Gender (WT/MIN(22)/7).

2.5 HOW CAN TRADE POLICIES HELP?

2.5.1 A Gender-Responsive Trade Policy Can Lift Obstacles Faced by Women in Trade

WTO members have mostly focused their gender-related trade policies on eighteen different categories of policy interventions.⁵³ In practice, many WTO members have focused their gender-related trade policies on providing financial and non-financial incentives to the private sector and women-owned/led MSMEs, lifting financial and procedural obstacles.

Access to finance is one of the keys to women entrepreneurs integrating into international trade. Without finance, women entrepreneurs cannot trade.⁵⁴ Lack of finance hinders their ability to cover trade-related costs such as specialised IT systems, skilled staff in customs procedures, standards compliance, packaging, trade agents, and trade finance.

Financial incentives set up by governments in the area of trade are therefore essential. In many cases, governments have established special quotas for women-owned companies to secure their access to such incentives.⁵⁵ Others have established specific 'women's funds' to provide affordable finance to women-owned companies or start-up enterprises led by women.⁵⁶ Through

⁵³ (1) Trade exports in the circular economy in support of women's economic activity and livelihood; (2) Data collection leading to informed policies; (3) Assessing the impact of trade, trade policies, and trade agreements on women; (4) Promoting female entrepreneurship; (5) Fostering women's participation in the economy; (6) Combating the impacts of COVID-19 on women; (7) Female leadership institutions and decision-making; (8) Gender chapters and provisions in free trade agreements and regional trade agreements; (9) Applying gender lens to trade and WTO; (10) Development aid and Aid for Trade targeting women; (11) Standards and gender; (12) Capacity building; (13) Financial and non-financial incentives to the private sector and women-owned/led MSMEs; (14) Agriculture and fisheries; (15) Government procurement; (16) standards; (17) Services; and (18) Trade strategies.

⁵⁴ Alisa DiCaprio, Ying Yao, and Rebecca Simms, 'Women and Trade: Gender's Impact on Trade Finance and Fintech' (2017) ADBI Working Paper Series No. 797 <www.adb.org/sites/default/files/publication/389186/adbi-wp797.pdf> accessed 8 May 2022; Hanan Morsy, 'Access to Finance: Why Aren't Women Leaning In?' (IMF – *Finance & Development Magazine* March 2020) <www.imf.org/external/pubs/ft/fanddd/2020/03/pdf/africa-gender-gap-access-to-finance-morsy.pdf> accessed 8 May 2022; Hanan Morsy, 'Access to Finance – Mind the Gender Gap' (2017) EBRD Working Paper No. 202 <www.ebrd.com/publications/working-papers/access-to-finance> accessed 8 May 2022.

⁵⁵ WTO, 'Trade Policy Review – Pakistan', WT/TPR/S/311 (17 February 2015); WTO, 'Trade Policy Review – The Maldives – Minutes of the Meeting', WT/TPR/M/332/Add.1 (7 June 2016) 37.

⁵⁶ WTO, 'Trade Policy Review – Report by the Secretariat – Southern African Customs Union', WT/TPR/S/324 (30 September 2015) 356.

these support programmes, governments aim at facilitating access to credit for women's business activities, provide rural women with opportunities to access value chains, and help women to compete in regional and international markets. These incentives often take the form of credit guarantees, securities, grants, loans, or subsidised financing. Those financial schemes are often accompanied with other types of assistance for women small-scale entrepreneurs, such as with marketing or training in business management.⁵⁷

Other incentives are non-financial and can take the form of simplified industrial or business licence processes for MSMEs and female entrepreneurs, preventing women from facing approval delays motivated by gender-biased behaviours,⁵⁸ as these constitute an additional trade cost for women. Non-financial incentives also include skills training on business and financial management aiming at building women's capacity to export and expand in regional and international markets.⁵⁹ Government could also go as far as setting up an online platform for businesswomen to market their products and support their access to international markets.⁶⁰

Moreover, Aid for Trade can lift infrastructure obstacles faced by women especially in rural areas. While the Aid for Trade Initiative helps governments to build their trade capacity, access global markets, and increase their exports, it can also support women's economic empowerment by lifting some of the obstacles they are facing, especially with regard to trade-related infrastructure.

Lack of access to electricity can prevent female entrepreneurs or farmers from expanding their businesses, especially in rural areas. Faced with such problems, some resort to generators which increases their trade costs even further.⁶¹ Aid for Trade has been addressing this issue, especially regarding women's needs through the creation and improvement of infrastructure. For example, Canada, an Aid for Trade donor, supports Burkina Faso in electrifying its rural areas, using solar energy. The project targets the development of businesswomen, the increase of production, the improvement of processing and storage options in specific sectors, such as onion production, and chicken

⁵⁷ WTO, 'Trade Policy Review – Report by the Secretariat – India', WT/TPR/S/313 (28 April 2015) 161–162.

⁵⁸ WTO, 'Trade Policy Review – Report by Egypt', WT/TPR/G/367 (16 January 2018) 7.

⁵⁹ WTO, 'Trade Policy Review – Report by the United States', WT/TPR/G/350 (14 November 2016) 24.

⁶⁰ WTO, 'Trade Policy Review – Separate Customs Territory of Taiwan, Pehghu, Kinmen and Matsu – Minutes of the Meeting', WT/TPR/M/377/Add.1 (28 January 2019).

⁶¹ Interviews conducted by WTO trade and gender focal point with Women entrepreneurs from South Asia (December 2020). On file with author.

and fish livestock farming, which are female-led sectors. Women's groups were also involved in the project to ensure that it fits their needs.⁶²

However, these types of projects are still rare. Donors and partner countries have been gradually and continuously integrating gender into their Aid for Trade objectives. In 2022, 92 per cent of developing countries and 90 per cent of donors (both bilateral and multilateral) have integrated women's economic empowerment as a priority in their national or regional development plans and objectives or trade-related development aid.⁶³ Both groups are therefore at a par, similarly to 2019, as revealed by the Aid for Trade Monitoring and Evaluation (M&E) Exercise in 2019.⁶⁴ Aid for Trade funding is also aligned with developing countries' priorities and objectives on women's economic empowerment, contrary to the last decade, when there was a clear disconnect between these objectives and the programmes with regard to gender. For example, when identifying constraints faced by women, four out of the six top obstacles are commonly acknowledged by both donors and recipients of Aid for Trade. These four aligned constraints are: access to finance, informal employment, access to digital services, and poor access to information.⁶⁵

2.5.2 A Gender-Responsive Trade Policy Can Create New Opportunities for Women

Some WTO members have created specific opportunities for women entrepreneurs through their trade policies. Government procurement policies can support women entrepreneurs. In fact, government procurement represents around 15 per cent of GDP in most economies and women entrepreneurs are underrepresented in this market⁶⁶ as only 1 per cent participate in it. To increase market access to government procurement opportunities for women's businesses, some governments have set up preference schemes for women

⁶² Marianne Musumeci and Kaori Miyamoto, 'Strengthening the Gender Dimension of Aid for Trade in the Least Developed Countries' (Enhanced Integrated Framework 25 June 2019) <<https://trade4devnews.enhancedif.org/en/news/strengthening-gender-dimension-aid-trade-least-developed-countries>> accessed 8 May 2022.

⁶³ Aid for Trade Global Review, *Empowering Connected, Sustainable Trade*, Chapter 4, <www.wto.org/english/res_e/booksp_e/aid4trade22_e.pdf> accessed 28 September 2022.

⁶⁴ Anoush der Boghossian, 'Women's Economic Empowerment: An Inherent Part of Aid for Trade' (2019) WTO Staff Working Paper ERSD-2019-08 <www.wto.org/english/res_e/reser_e/ersd201908_e.htm> accessed 8 May 2022.

⁶⁵ Aid for Trade Global Review, *Empowering Connected, Sustainable Trade* (n 63).

⁶⁶ WTO, 'Workshop on Enhancing the Participation of Women Entrepreneurs and Traders in Government Procurement' (25 June 2018) <www.wto.org/english/tratop_e/womenandtrade_e/programme_workshop_e.htm> accessed 8 May 2022.

entrepreneurs. The quota allocation is on average about 20 per cent, and sometimes focuses on rural women. However, some of these quotas often include other vulnerable groups such as young or disabled people. Other countries generally prohibit gender-based discrimination in their government procurement laws when contracts are allocated. Some give preference to companies that implement gender equality or wage equality policies.⁶⁷

Governments could use the work conducted by the International Standards Organisation (ISO) on defining women-owned companies internationally to foster women entrepreneurs' participation in their government procurement markets.⁶⁸

Trade policies can also create opportunities for women to enter the workforce. Most WTO members include women's economic empowerment and their integration in the job market as a key priority in their national trade, investment, economic, and development strategies. They often highlight the means needed to achieve this goal. In Nigeria, for instance, the government fostered women's participation in the construction sector, where a labour shortage was identified.⁶⁹ Similarly, in Zambia, women were encouraged to work in the male-dominated mining sector.⁷⁰ Some policies target reduction in the number of women leaving the workforce because of childbirth;⁷¹ others look at improving women's working environment or increasing female

⁶⁷ WTO, 'Trade Policy Review – Report by Paraguay', WT/TPR/G/360 (2 August 2017) 20, 21; WTO, 'Trade Policy Review – Report by Guyana', WT/TPR/G/320 (28 July 2016) 3; WTO, 'Trade Policy Review – Report by the Gambia', WT/TPR/G/365, (21 November 2017) 6, 9, 13; WTO, 'Trade Policy Review – Report by the Secretariat – Southern African Customs Union' (n 56); WTO, 'Trade Policy Review – Report by Iceland' WT/TPR/G/361 (30 August 2017) 7, 8; *see also* WTO, 'Trade Policy Review – Report by Mozambique', WT/TPR/G/354, 7 (29 March 2017); *see also* WTO, 'Trade Policy Review – Report by Chile', WT/TPR/G/315/Rev.1 (7 October 2015) 17, 18; *see also* der Boghossian, 'Women's Economic Empowerment' (n 64).

⁶⁸ ISO, 'IWA 34:2021, Women's Entrepreneurship – Key Definitions and General Criteria' <www.iso.org/standard/79585.html> accessed 8 May 2022.

⁶⁹ WTO, 'Trade Policy Review – Report by Nigeria', WT/TPR/G/356 (7 May 2017) 11.

⁷⁰ Lusaka Times, 'Mines Are Battling to Attract Skilled and Experienced People – Chamber of Mines' (23 June 2017) <www.lusakatimes.com/2017/06/23/mines-battling-attract-skilled-experienced-people-chamber-mines/> accessed 8 May 2022; Dale Benton, 'Global Mining Industry Suffering a Major Skills Shortage Problem, Chamber of Mines Finds' (*Mining* 17 May 2022) <<https://miningglobal.com/supply-chain-and-operations/global-mining-industry-suffering-major-skills-shortage-problem-chamber-mines-finds/>> accessed 8 May 2022; WTO, 'Trade Policy Review – Zambia – Minutes of the Meeting', WT/TPR/M/340/Add.1 (19 September 2016) 18; Fitsum Weldegiorgis, Lynda Lawson, and Hannelore Verbrugge, 'Women in Artisanal and Small-Scale Mining: Challenges and Opportunities for Greater Participation' (IISD 12 May 2018) <www.iisd.org/publications/report/women-artisanal-and-small-scale-mining-challenges-and-opportunities-greater> accessed 8 May 2022.

⁷¹ WTO, 'Trade Policy Review – Report by Japan', WT/TPR/G/310 (9 and 11 March 2015) 15.

leadership.⁷² Some members added trade objectives targeted to women's economic empowerment, by tackling low skills in trade and addressing the restricted access of women entrepreneurs to export opportunities.⁷³ Sometimes, the objective of women's economic empowerment is indirectly underlined by focusing on trade strategies in specific sectors where women work, such as tourism and fisheries. Often, national entrepreneurship strategies focus on specifically supporting women entrepreneurs and small businesses, including companies owned and led by women. These plans also associate greater economic opportunities for women with private sector development.

Trade policies can create export opportunities for women through training. Women entrepreneurs face a knowledge gap in trade rules and proceedings. In South Asia, Latin America, and East Africa, only 50 per cent of women entrepreneurs received training on trade generally, and only 35 per cent received training on trade regulations and customs procedures.⁷⁴ Some members have set up capacity-building programmes for female farmers to understand the Sanitary and Phytosanitary (SPS) requirements and be able to comply with them while exporting their products.⁷⁵ Through such training and policies, not only can women export their products, but they can also diversify their productions, from commodities to value-added products and gain new markets. Hence, trade can help them in scaling up their businesses through economic diversification. One example is female mango producers, who were trained by the Enhanced Integrated Framework (EIF), as they were not only able to export their raw products by complying with SPS requirements, but were also able to produce value-added products such as mango juice, jam, and dried mangoes.⁷⁶ In 2018, the Gambia reported as part of its Trade Policy Review that its policies were focusing on 'providing access to

⁷² Ibid; WTO, 'Trade Policy Review – Report by United Arab Emirates', WT/TPR/G/338 (27 April 2016).

⁷³ Der Boghossian, 'Women's Economic Empowerment' (n 64).

⁷⁴ WTO, 'Assessing Women Entrepreneurs' Knowledge Gap on Trade in East Africa, South Asia, and Latin America' (unpublished survey 2019–2020. On file with author). More than 800 women entrepreneurs were surveyed in Latin America, South Asia, and East Africa between 2019 and 2020.

⁷⁵ WTO, 'Trade Policy Review – Report by the Gambia' (n 67).

⁷⁶ EIF, 'Delivering Change in Mali: Investing in Women and Beyond' (*Trade for Development News EIF* October 2016) <<https://enhancedif.org/en/publication/2016-10/delivering-change-mali-investing-women-and-beyond>> accessed 8 May 2022, link no longer active; see also Mike Knowles, 'Mali Mango Project Is "Bearing Fruit"', 2 June 2017 <www.fruitnet.com/eurofruit/mali-mango-project-is-bearing-fruit/172388.article> accessed 19 May 2023.

both local and global value chains to producers with special focus on meeting the required quality and sanitary and phytosanitary standards'.⁷⁷

2.5.3 *A Gender-Responsive Trade Policy Can Balance the Scale in Favour of Women by Reducing Gender Discrimination*

Some trade policies have had the result of socially empowering women. Within the trade policy review in 2015,⁷⁸ and in order to foster women's participation in its workforce, Japan announced the opening of its services sector to foreign housekeepers 'with a view to promoting women's participation in society, meeting their need for assistance for housework, and encouraging medium- to long-term economic growth'.⁷⁹ As a direct consequence, Japan has transformed unpaid care and domestic work into paid work.

In its procurement policy, the Swiss government has conditioned the allocation of contracts by only selecting companies that have an internal wage equality policy.⁸⁰ The government also conducted investigations to ascertain whether these internal policies were actually implemented. In 2018, following over 100 controls that were conducted, half of the companies reviewed were found to engage in no discrimination and 12.5 per cent were in violation of their own wage-equality policies.⁸¹ In fact, following these investigations, half of the companies at fault reviewed the implementation of their policies, resulting in an increase of their female workers' wages.

Some trade policies that do not primarily target women's economic empowerment have resulted in better working conditions for female employees, and even better social laws based on gender equality. For instance, in the Philippines, the Information and Communication Technology (ICT) and Business Process Outsourcing (BPO) sectors are booming. According to the Philippines Statistics Authority, more than 55 per cent of workers in the BPO sector are women, working in medical transcription industries, data processing, and call centre activities.⁸² This export services sector benefited

⁷⁷ WTO, 'Trade Policy Review – Report by the Gambia' (n 67) 13.

⁷⁸ WTO, 'Trade Policy Review – Japan – Minutes of the Meeting, Addendum', WT/TPR/M/310/Add.1 (9 and 11 March 2015) 122.

⁷⁹ *Ibid.*

⁸⁰ Patric Aeberhard at the WTO Workshop. See WTO, 'Workshop on Enhancing the Participation of Women Entrepreneurs and Traders in Government Procurement' (n 66).

⁸¹ *Ibid.*

⁸² WTO, 'Trade Policy Review – The Philippines – Minutes of the Meeting, Addendum', WT/TPR/M/368/Add.1 (28 May 2018) 114.

from the government's favourable trade policy (for instance, IT buildings were declared vertical economic zones). In the past, the Philippines' labour laws prohibited women from working night shifts and in 2011, and because the BPO sector contributes greatly to the national economy and as female BPO employees were dealing with customers located in different time zones, the government abolished the prohibition and added new requirements for companies, such as sleeping/resting quarters, mandatory transport services for women doing night work, catering in particular to those with children, spaces for nursing mothers allowing them no less than 40 minutes of lactation breaks, and the inclusion of breastfeeding programmes as part of the companies' development plans.⁸³

2.6 APPLYING A GENDERED LENS TO TRADE LAW: THE LINK BETWEEN HUMAN RIGHTS, WOMEN'S ECONOMIC EMPOWERMENT AND TRADE LAW

This section examines the links between human rights, women's empowerment, and trade law, and demonstrates how WTO rules can have a real impact on women's lives. It will focus on two examples that demonstrate this link and also show that some of the WTO rules are grounded in women's reality, even if it was not the initial intention of the negotiators of these rules.

The first example relates to the WTO's Agreement on Agriculture.⁸⁴ WTO agreements can support women's economic empowerment in agriculture and consequently strengthen food security. Women are the guardians of food security. They play a critical role in agriculture not only as subsistence farmers, but also as farm workers in export crops, suppliers, and/or vendors to informal food markets, and cross-border food traders. They are therefore key players in the domestic/local food supply chain but also in regional/international value chains.

On average, women represent 42 per cent of the agricultural labour force in developing countries.⁸⁵ In the Southern Africa Development Community (SADC) region, according to the SADC Food Nutrition Security Strategy 2015–2025, women contribute to 60 per cent of total food production and

⁸³ Ibid.

⁸⁴ Agreement on Agriculture, 15 April 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1867 UNTS 410 (Not reproduced in ILM).

⁸⁵ ILO, 'World Employment Social Outlook – Trends for Women 2017' (2017) <www.ilo.org/wcmsp5/groups/public/-dgreports/-inst/documents/publication/wcms_557245.pdf> accessed 8 May 2022.

perform more than 70 per cent of agricultural work.⁸⁶ In developed countries (upper and middle income countries), female farmers represent less than 20 per cent of the female workforce.⁸⁷ In the European Union, according to Eurostat, the number of women in agriculture has grown and women manage about 30 per cent of European farms (96 per cent of farms are family run). In some other European countries, this number is close to 50 per cent.⁸⁸

Female informal cross-border traders play a key role in food security, as they mostly trade essential food products. In the SADC region, they contribute up to USD 20 billion annually to the region's trade.⁸⁹ Through their export activities, they bring their products to places where food is scarce. In West Africa, informal cross-border traders in food products represent about 30 per cent of the regional trade.⁹⁰

Women represent two-thirds of the world's 600 million poor livestock keepers and, according to the International Livestock Research Institute (ILRI),⁹¹ in most developing countries, more than 80 per cent of livestock products are sold in informal food markets, when alternative food sources do not exist for consumers.

Despite their essential role in agriculture, female farmers remain underpaid or even unpaid informal workers, they are excluded from training

⁸⁶ SADC, 'Food and Nutrition Security Strategy 2015–2025' (2014) 13 <www.resakss.org/sites/default/files/SADC%202014%20Food%20and%20Nutrition%20Security%20Strategy%202015%20-%202025.pdf> accessed 8 May 2022.

⁸⁷ ILO, 'Employment in Agriculture, Female (% of Female Employment) (Modelled ILO Estimate)' (29 January 2021) <<https://data.worldbank.org/indicator/SL.AGR.EMPL.FE.ZS>> accessed 8 May 2022.

⁸⁸ Eurostat, 'Farm Indicators by Agricultural Area, Type of Farm, Standard Output, Sex and Age of the Manager and NUTS 2 Regions' (22 February 2021) <https://ec.europa.eu/eurostat/databrowser/view/EF_M_FARMANG__custom_636393/bookmark/table?lang=en&bookmarkId=f146257b-e328-43b7-b338-48c769ab000f> accessed 8 May 2022; Also cited in a European Parliament study. See Ramona Franić and Tihana Kovačiček, 'The Professional Status of Rural Women in the EU' (2019) Study requested by the European Parliament FEMM Committee <[www.europarl.europa.eu/RegData/etudes/STUD/2019/608868/IPOL_STU\(2019\)608868_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2019/608868/IPOL_STU(2019)608868_EN.pdf)> accessed 8 May 2022.

⁸⁹ Southern Africa Trust, 'The Experiences and Challenges of Women in the SADC Region: The Case of Trade and Agriculture Sectors' (January 2018) <https://media.africaportal.org/documents/Experiences_and_challenges_of_women_in_SADC.pdf> accessed 8 May 2022.

⁹⁰ Antoine Bouet, Kathrun Pace, and Joseph W Glauber, 'Informal Cross-Border Trade in Africa: How Much? Why? And What Impact?' (2018) FPRI Discussion Paper <www.ifpri.org/publication/informal-cross-border-trade-africa-how-much-why-and-what-impact> accessed 8 May 2022.

⁹¹ International Livestock Research Institute, 'Why Women Are Essential in Livestock Development – and Why Livestock Are Essential in Women's Lives' <www.ilri.org/knowledge/stories/why-women-are-essential-livestock-development-and-why-livestock-are-essential> accessed 8 May 2022.

opportunities, and their access to resources and land ownership is impeded, contrary to men.⁹² Women do not have the same advantages as men in agriculture. *Inter alia*, they lack access to reproductive resources and inputs. In Guatemala, for instance, they lack access to seeds.

One relevant provision in the WTO Agreement on Agriculture,⁹³ Article 6.2, if applied with a gender lens, can support female farmers in accessing these essential resources. Article 6.2, otherwise known as the ‘development box’, provides flexibility to developing countries to give their poor farmers input subsidies. According to the UN Food and Agriculture Organization (FAO), if women had access to reproductive resources to the same level as men, they would increase their production by 20–30 per cent.⁹⁴ Understanding the key role women play in food security, giving them this opportunity would strengthen the fundamental right to food. In 2016, to respond to emergency situations, the Gambia used this flexibility and provided bags of fertiliser to female farmers.⁹⁵

The second example is the WTO Trade Facilitation Agreement (TFA) as it can support poverty reduction through training and by fostering women entrepreneurs’ exports. If applied with a gender lens, the TFA could indirectly support women’s skills development, thus contributing to poverty reduction.

The TFA helps WTO members to digitalise their customs procedures.⁹⁶ Such a commitment would allow women entrepreneurs to reduce their trade-related costs by avoiding face-to-face interactions with potential gender-biased customs officials that would delay processing their export permits. A 2012 United States Agency for International Development (USAID) survey showed that Indian women wait, on average, 37 per cent longer than men to see the same customs official when trading at the border.⁹⁷ As a consequence of these delays, women often compensate for their losses by imposing higher prices on

⁹² World Bank, ‘Breaking the “Grass Ceiling”: Empowering Women Farmers’ (6 March 2018) <www.worldbank.org/en/news/feature/2018/03/06/breaking-the-grass-ceiling-empowering-women-farmers> accessed 8 May 2022.

⁹³ The Marrakesh Agreement establishing the World Trade Organization and its Annexes (December 2017) 1–550.

⁹⁴ FAO, ‘The State of Food and Agriculture 2010–2011’ (2011) <www.fao.org/3/i2050e/i2050e.pdf> accessed 8 May 2022.

⁹⁵ WTO, ‘Trade Policy Review, Report by the Gambia’ (n 67) 54.

⁹⁶ Agreement on Trade Facilitation (2017) Articles 7, 10 and 12. *See* WTO, ‘Agreement on Trade Facilitation’ <www.wto.org/english/docs_e/legal_e/tfa-nov14_e.htm> accessed 8 May 2022.

⁹⁷ USAID, ‘Women in Cross-Border Agricultural Trade’ (2012) USAID Policy Brief No. 4 <www.agrilinks.org/sites/default/files/resource/files/EAT_PolicyBrief_WomenCrossBorderAgTrade_Oct2012_FINAL.pdf> accessed 8 May 2022.

their goods and thus increasing their wage gaps. In an ideal world, such a provision would have the desired effect of simplifying and helping women entrepreneurs through the maze of red tape and gender discrimination.

Using online processes could support them and prevent face-to-face interactions, as filling in a form online is less time-consuming than meeting customs officials in person in an office that can be located far from their homes. But the gendered digital divide still persists. In 2019, the proportion of women using the internet globally was 48 per cent compared to 58 per cent of men.⁹⁸ Also, when women have access to technology, it is often outdated. In addition, women face a general knowledge gap on trade rules and do not know where to find the trade-related information. Hence, to make the trade facilitation provisions fully work for women, it is important for governments to set up training programmes to enhance women's IT skills and their knowledge of trade rules. The TFA combined with adequate policies would have a multiplier effect by allowing women to be trained and to enhance their skills, thus reducing the trade costs they face and leading to poverty reduction.

There is another provision in the TFA that can support women. The *de minimis* provision is actually grounded in the reality of women entrepreneurs as they tend to run smaller businesses as compared to male entrepreneurs. Article 7.8.2(d) of the TFA establishes 'a *de minimis* shipment value of dutiable amount for which customs duties and taxes will not be collected'.

Various international agreements, such as the Revised Kyoto Convention by the World Customs Organization, incorporate this provision to facilitate trade.⁹⁹ It is currently also considered by WTO members in their negotiations on e-commerce in support of small businesses. In fact, this provision would be useful for women entrepreneurs engaged in exports, who are often trading small parcels given the nature of their businesses. For instance, many women entrepreneurs work in the garment and handicraft sectors, and women dominate the handicraft sector. In India alone, this sector employs more than 7 million people, most of whom are disadvantaged women.¹⁰⁰ More globally,

⁹⁸ ITU, 'Bridging the Gender Divide' (July 2021) <www.itu.int/en/mediacentre/backgrounders/Pages/bridging-the-gender-divide.aspx> accessed 8 May 2022.

⁹⁹ The International Convention on the simplification and harmonization of Customs procedures (as amended) (WCO 2008) (Revised Kyoto Convention) Article 4.13 <www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv/kyoto_new/gach4.aspx> accessed 8 May 2022.

¹⁰⁰ Business Standard, 'Indian Textile & Handicrafts Industry Is the Largest Employment Generator after Agri: Ajay Tamta' (*Business Standard* 9 November 2017) <www.business-standard.com/article/news-cm/indian-textile-handicrafts-industry-is-the-largest-employment-generator-after-agri-ajay-tamta-117110900180_1.html> accessed 8 May 2022.

87 per cent of sellers on Etsy – an international e-commerce platform that sells handicraft and vintage products – are women.¹⁰¹ The platform connects 2.1 million sellers with 39.4 million buyers.¹⁰² In this sector, dealing with small parcels is a daily task. Also, many women entrepreneurs, while formally established, trade informally. They call it the ‘suitcase export’. They export small amounts of their goods to their networks abroad, mostly to friends and family, who sell their products for them. This sort of trade may grow in the context of the COVID-19 pandemic and its aftermath as the global small parcels market is expected to more than double from 103 billion parcels in 2019 to between 220 and 262 billion parcels by 2026.¹⁰³

Lastly, women entrepreneurs mostly own or lead micro-businesses. The WTO Regional Surveys 2019–2020 data shows that 46.3 per cent of them have fewer than ten employees and 27 per cent between eleven and thirty employees.¹⁰⁴ Looking at bigger firms, only 4.6 per cent of women entrepreneurs employ between 51 and 100 staff and less than 5 per cent of business-women employ more than 100 workers. Only 3.3 per cent of women entrepreneurs own companies with more than 100 employees. This is also the case in developed countries. For instance, in Canada, 92.7 per cent of women-owned firms employ fewer than twenty staff members.¹⁰⁵

2.7 CONCLUSION

After improving her skills as a cocoa farmer, Rosine Bekoin said: ‘When I started the programme, I was shy. I did not believe in myself or that I could do anything impactful. The school built my confidence. I had to re-value myself as a woman . . . to see myself with equal rights as men . . . I keep telling my daughters that education will be what sees them through in life and

¹⁰¹ Etsy, ‘Celebrating Creative Entrepreneurship around the Globe’ (Etsy Global Seller Census Report 2019) (2019) <https://extfiles.etsy.com/advocacy/Etsy_GlobalSellerCensus_4.2019.pdf> accessed 8 May 2022.

¹⁰² Etsy, ‘Unlocking Opportunity – Annual Report 2018’ (2018) <[http://s23.q4cdn.com/775204224/files/doc_downloads/2018-Annual-Report-\(1\).pdf](http://s23.q4cdn.com/775204224/files/doc_downloads/2018-Annual-Report-(1).pdf)> accessed 8 May 2022.

¹⁰³ Cathy Morrow Roberson, ‘Global Parcel Volumes Expected to Double by 2026 on e-Commerce Boom’ (2020) *Journal of Commerce* <www.joc.com/international-logistics/global-parcel-volumes-expected-double-2026-e-commerce-boom_20201012.html> accessed 8 May 2022.

¹⁰⁴ WTO, ‘Assessing Women Entrepreneurs’ Knowledge Gap on Trade in East Africa, South Asia, and Latin America’ (n 16).

¹⁰⁵ Women Entrepreneurship Knowledge Hub, ‘The State of Women’s Entrepreneurship in Canada 2021’ (June 2021) <<https://wekh.ca/research/the-state-of-womens-entrepreneurship-in-canada-2021/>> accessed 8 May 2022.

offers them true independence.¹⁰⁶ For the last ten years, Rosine has been cultivating a small plot, yielding two crops annually. The next adventure for her is to build a factory, creating jobs for others and lifting her community.

Empowering women is a risk-free endeavour. As described in this chapter, women give back, either as work and income providers, often for other women, or as caretakers of their families and communities.

Trade is central to women's empowerment, not just as an agent of economic development but also as a provider of economic opportunities. Trade policy, instruments, and rules are linked to other issues and policies that are crucial for women's economic and social growth, such as infrastructure, education and capacity building, entrepreneurship, transport and mobility, workplace environment and safety. As seen in the chapter, trade policies can influence positive social development for women.

Sustainable development is at the centre of economic priorities, today more than ever before, and governments have realised that women are part of the answer, as they evolve from simply acknowledging it to taking action. Similarly, as this chapter has shown, the WTO is changing and is now working towards making trade work for women.

¹⁰⁶ Fair Trade Africa, 'I Am Back as a Woman' (4 September 2020) <<https://fairtradeafrica.net/i-am-coming-back-as-a-woman/>> accessed 8 May 2022.