



INFORMAL WORKING GROUP ON TRADE AND GENDER

TRADE AND GENDER-RELATED PROVISIONS IN REGIONAL TRADE AGREEMENTS

The following document has been prepared by the WTO Secretariat to shed light on trade and gender-related provisions in Regional Trade Agreements (RTAs). The document has been prepared under the Secretariat's responsibility and is without prejudice to the positions of Members or to their rights and obligations under the WTO. The RTAs analysed in this document are those included on the WTO Database on Gender Provisions in RTAs, and include RTAs that are not yet in force, as well as RTAs in force but not notified to the WTO.

WTO DATABASE ON GENDER PROVISIONS IN REGIONAL TRADE AGREEMENTS

This document presents the outcome of the database, analyses in detail the gender provisions contained in regional trade agreements (RTAs) and highlights trends and disparities arising from these provisions on a global and regional scale.

Objectives of the Database

Commitments for gender equality in trade agreements are essential to implementing sustainable development objectives and ensuring that women and men can equally benefit from trade opportunities.

The Database on gender provisions in RTAs was built as a one-stop source for WTO Members, stakeholders engaged in trade and women entrepreneurs to access information on the existing gender provisions included in RTAs. The Database also intends to facilitate research on RTAs and gender equality and inform WTO stakeholders on the integration of gender issues in RTAs concluded worldwide.

Utility of the Database for WTO Members

The Database allows for a quantitative analysis of gender provisions in RTAs and a qualitative analysis of the commitments for gender equality made in these agreements. This tool can be used to evaluate how gender issues are integrated in RTAs, and how state parties intend to support gender equality and women's economic empowerment and through which mechanisms.

The Database is one of the 12 gender-responsive policy tools developed or currently being created by the WTO Trade and Gender Unit and made available to WTO Members with the objective of supporting their efforts in promoting gender equality in trade.

Information provided in the Database

The database maps the gender provisions included in RTAs.¹ It includes the RTAs notified to the WTO and available on the RTA database and those that have not been notified yet with the view to

¹ RTAs include free trade areas, customs unions and economic integration agreements on services that regulate trade rules for all signatories (bilateral and plurilateral agreements).

provide the most comprehensive information.² It also includes the gender provisions included in signed and consolidated RTAs that are not yet in force.³

The database comprises the provisions that take into account gender issues and include an explicit mention of gender, sex, women, girls, or related terminology, including the international instruments promoting women's rights, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Beijing Declaration and Platform for Action for the Rights of Women and Girls (thereafter the Beijing Platform), the Buenos Aires Declaration on Trade and Women's Economic Empowerment or the UN Sustainable Development Goal 5 on gender equality (SDG 5).

Gender provisions in the database can be filtered by: (i) the type of gender issues addressed; (ii) the implementation instruments provided; (iii) state parties and regions, and (iv) the topic of the chapter in which they are included.

The date of signature and entry into force of each RTA is indicated. A note is made if the gender provisions have been included as part of a revision of the RTA or if the RTA is not yet in force. A specific reference is also provided in case the RTA has not yet been notified to the WTO.

In addition, information about the monitoring institution responsible for the implementation of gender provisions is provided for each provision. An indication is also made for all provisions explicitly excluded from the application of the dispute settlement mechanism and information is provided if the gender provisions are tied to a specific procedure for dispute resolution.

Where relevant, additional information is provided, including whether other provisions of the RTA are related to the gender provisions.

EXECUTIVE SUMMARY

Gender issues have been increasingly integrated into RTAs over the past 25 years. Across the globe, WTO Members have made different commitments to promote gender equality and support women's empowerment in RTAs.

Gender provisions in numbers

The first gender provision dates back to 1957 and was included in the Treaty of Rome. In 1983, the second provision was negotiated in the Treaty for the Establishment of the Economic Community of Central African States (ECCAS Treaty). Ten years after, the first chapter on trade and gender issues was included in the Common Market for Eastern and Southern Africa (COMESA).

As of September 2022, out of 353 in force RTAs notified to the WTO, 101 include at least one explicit reference to gender issues. In addition, four RTAs in force that have not yet been notified include a gender provision. Five RTAs concluded but not yet in force include such provisions.

These RTAs contain a total of 331 gender provisions, including 47 not yet in force, and include 14 chapters or sections fully dedicated to trade and gender issues.

One hundred and fifty-three countries have concluded at least one RTA with a gender provision, which 147 are WTO Members and three are observers.

Substantive analysis of gender provisions

Gender provisions are vastly heterogeneous: they address a wide range of gender issues and provide for different mechanisms of implementation and enforcement.

i) Gender issues in RTAs

First, gender inequalities and discrimination against women are the most addressed issues in RTAs (214 gender provisions). Among others, these provisions promote gender equity and equal or

² Four agreements in force contained in the database have not been notified to the WTO.

³ Five agreements contained in the database have not entered into force yet.

equitable access for men and women to opportunities generated by the RTA. In addition, five RTAs provide for gender equality as one of the core objectives of the agreements.

Second, RTAs address the participation of women in economic activities (197 gender provisions). In particular, issues related to the participation and treatment of women in the workplace are vastly addressed (120 gender provisions), while fewer provisions target issues faced by women entrepreneurs (65 gender provisions). A few provisions (32) also promote women's access to productive resources, such as credit and financial services, land, and technology with the view to increase their participation in trade.

Third, several provisions focused on social issues integrate gender considerations and promote the participation of women in social life (109 gender provisions), mostly with regard to women's access to education (52 gender provisions). A few gender provisions also address issues related to gender-based violence (11 gender provisions), family-related issues (36 gender provisions) or women's access to health services (10 gender provisions).

In contrast, issues related to women's leadership, decision-making roles, political participation and cultural rights are the least addressed in RTAs (between 10 to 20 gender provisions).

ii) Implementation instruments and enforceability of gender provisions

The vast majority of gender provisions are non-binding in nature. This can be explained by three main factors.

First, gender provisions are mostly formulated with permissive language and encourage best endeavour. Only a few provisions are couched in binding language and specific obligations to support women's economic empowerment and close gender gaps.

Second, gender provisions provide mostly for implementation instruments that do not involve a specific outcome. Rather, gender issues are to be addressed through cooperation among signatories (205 gender provisions), and RTAs often provide a list of cooperative activities that can include among other: (i) experience and information sharing (61 gender provisions); (ii) gender-disaggregated data collection and research on trade and gender nexus (37 gender provisions); (iii) capacity-building programmes for women or officials (61 gender provisions); and (iv) adoption of gender-responsive policies (63 gender provisions). Several gender provisions also provide for the implementation of international women's rights instruments (66 gender provisions) or legislative reform to eliminate discriminatory treatment of women before the law (42 gender provisions).

In contrast, very few gender provisions provide for resource mobilization to support efforts to increase women's participation in trade (5 gender provisions) or conduct gender impact assessment (14 gender provisions).

Third, enforcement mechanisms for gender provisions are flawed. Although most gender provisions are under the supervision of a monitoring institution (252 gender provisions), a few are supervised by a specialized institution on trade and gender issues (36 gender provisions). In addition, monitoring institutions are deprived of the function to make recommendation or ensure the full implementation of the provisions. Except for a few RTAs, signatories do not have the obligation to report on their progress to implement gender commitments.

Furthermore, gender provisions are often explicitly excluded from the application of the dispute settlement mechanism provided in RTAs (86 gender provisions), mostly in recently concluded RTAs.

Gender provisions under a regional perspective

Gender provisions differ across the regions with regards to the type of gender issues they addressed.

In Europe and North America, RTAs with gender provisions mostly address the participation of women in the workplace and provide for equal treatment and opportunities and decent working conditions. In North-South RTAs concluded by the EU, women's access to education and family-related issues are also addressed, while those concluded by Canada and the United States mostly focus on gender equality in employment.

Gender provisions in intra-African RTAs mostly focus on women entrepreneurs and gender equality in all spheres of life. They also promote the role of women in decision-making and development.

Recent RTAs concluded by South American countries address various gender issues related to the participation of women in economic activities, in which they integrate social issues. For example, they provide for the elimination of gender-based violence in the workplace and women's access to education and leadership in male-dominated fields.

Furthermore, agreements establishing some of the larger free-trade zones include gender provisions, such as: the African Continental Free Trade Area (AfCFTA), the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the Pacific Agreement on Closer Economic Relations Plus (PACER Plus), the United States-Mexico-Canada Agreement (USMCA), the Caribbean Community (CARICOM), and the Post-Brexit Trade Agreement between the European Union and the United Kingdom.

INTRODUCTION

As of September 2022, WTO Members have notified 353 RTAs in force. They establish free-trade areas or customs unions and regulate trade between signatories with the main objective to boost trade by reducing tariffs and non-tariff barriers and increase economic growth.

Alongside provisions on trade in goods and services, most trade agreements include other considerations to increase market access and address specific priorities in their trade relations, including on sustainability and inclusivity. Most of these provisions target labour and social issues, such as access to education, food security and poverty reduction. Also, certain groups of people can be explicitly targeted in these cooperation efforts, such as women, youth, disabled and indigenous people.

RTAs provide a venue to empower women in the different economic and parallel roles they play in society, including as business owners, producers, paid workers, care providers, small-scale traders, informal traders, and consumers. For instance, RTAs enable businesses owned and/or led by women to integrate international markets at lower costs. All these rules negotiated by governments can also impact employment opportunities for women, as well as working conditions, and can affect the living standards of women in general. However, the various forms of existing gender inequalities prevent women from benefiting as equally as men from the opportunities created by RTAs.

These imbalances are taken into account, to various extent, in 109 RTAs and 331 provisions. In these RTAs, state parties acknowledge specific gender issues and, in most cases, promote gender equality and agree to take action to support women's empowerment.

RTAs provide an opportunity for WTO Members and observers to address gender issues that are specific to women in their region. Although most forms of discrimination and difficulties are shared by women worldwide, to a certain extent, RTAs provide some flexibility for state parties to tackle gender issues that are predominant in their economy.

In this context, gender provisions are heterogeneous and diverse in three main aspects:

- a. they address a wide range of gender issues with different levels of precision; some focus solely on gender issues and are devoted to address women's needs, while the vast majority address broader issues and include a reference to gender as part of a list of various considerations;
- b. they provide for different implementation instruments (e.g. cooperation efforts, adoption of domestic policies or law reform) and are formulated in wording implying different degrees of compulsion;
- c. they are considered by different enforcement mechanisms (i.e. monitoring and dispute settlement mechanisms) – if any.

These differences justify a qualitative rather than quantitative approach when examining how RTAs integrate gender issues. The number of gender provisions and the number of RTAs that contain such

provisions is not determinant in evaluating the extent of state parties' commitments made to reduce gender gaps and support women's participation in all spheres of life, including in trade.

This outcome document focuses on the substance of the different gender provisions and highlights trends and disparities arising from these provisions based on the WTO Database on Gender Provisions in RTAs.⁴

A. GENDER PROVISIONS ON A GLOBAL SCALE

The inclusion of gender provisions in RTAs is a longstanding practice spread across the world. A qualitative analysis of these provisions demonstrates that different types of gender issues are addressed in RTAs and that these agreements provide for a set of different implementation instruments. A holistic analysis of these RTAs also indicates the applicable mechanism to ensure the full implementation of gender provisions.

1 GENDER PROVISIONS OVER TIME AND ACROSS THE GLOBE

The first gender provision was concluded in 1957 with Article 119 of the Treaty of Rome on the gender pay gap. About 25 years after, the second gender provision was included in the ECCAS Treaty concluded in 1983. 11 Central African signatories agreed in this agreement to develop collective research to improve women's cultural and socio-economic situations in rural and urban areas and increase their participation in development activities. Ten years later, parties of the Treaty Establishing the COMESA concluded the first chapter devoted to women in development and business providing for several commitments for supporting women's empowerment and gender equality.

During the same period, the practice started to emerge in other regions alongside the proliferation of RTAs concluded worldwide.

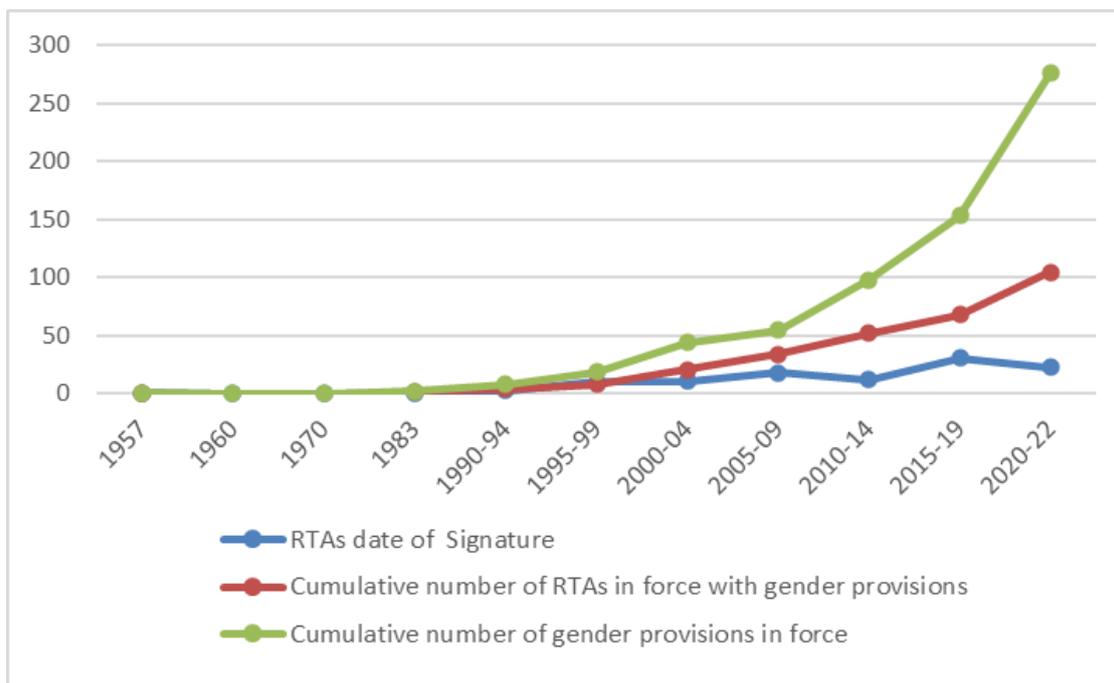
In 1995, the first gender provision concluded by a Middle East country was integrated in the EU-Israel Association Agreement and addresses equal treatment between men and women. Then in 1997, four South American countries amended the Andean Subregional Integration Agreement and included a provision stipulating for programmes dedicated to increase women's participation in economic activities. Over the course of the same year, the first RTA with a gender provision was concluded in North America between Mexico and the European Union.

In 2001, Caribbean countries revised the Treaty of Chaguaramas and mandated an institution of the Caribbean Community to establish programmes and policies to increase women's participation in social, cultural, political and economic activities, making it the first RTA with a gender provision in the Caribbean region.

A few years later, the first two provisions in Asia were included by China in its RTA with Peru in 2009.

Years after, in 2017, countries from the Pacific region concluded the PACER PLUS and included for the first time a reference to women's economic participation in a side agreement.

⁴ Laperle-Forget, L., WTO Database on Gender Provisions in RTAs, World Trade Organization, https://www.wto.org/english/tratop_e/womenandtrade_e/gender_responsive_trade_agreement_db_e.htm (last update: 23 September 2022).

Chart 1: Evolution of RTAs with gender provisions over time

Source: Author's analysis based on the last update of the database in September 2022

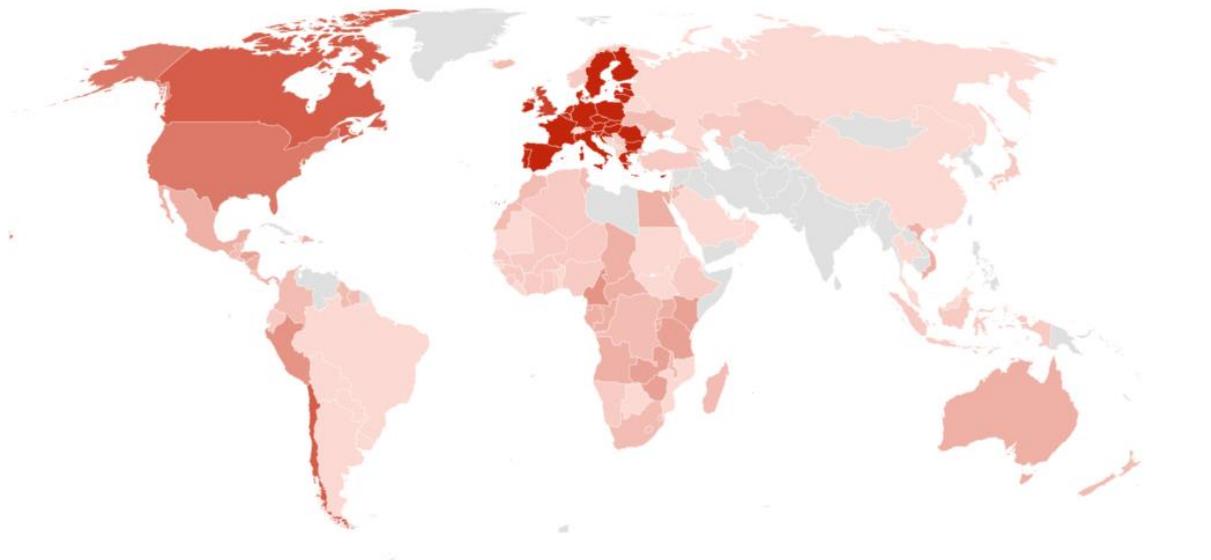
In the past five years, the number of in force provisions significantly increased with the resurgence of gender chapters in bilateral free trade agreements (FTAs). In addition, the peak observed since 2020 is mostly attributable to the entry into force of the RTAs negotiated by the United Kingdom after the Brexit which mainly replicate the text of the European Union's Agreements.

As of September 2022, 104 RTAs in force provide for gender equality or women empowerment and five RTAs are expected to enter into force soon.⁵ In total, 331 gender provisions were negotiated, including 47 that are not yet in force, and 14 chapters⁶ are dedicated to trade and gender issues.

To date, 153 countries, including 147 WTO Members and nine observer governments, have concluded at least one RTA with a provision explicitly addressing gender issues.

⁵ As of September 2022 the following RTAs did not enter into force yet: Economic Partnership Agreement between The East African Community Partner States, of the one part, and the European Union and its member States of the other part (two gender provisions); FTA between the United Kingdom of Great Britain and Northern Ireland and Australia (13 gender provisions); FTA between the United Kingdom of Great Britain and Northern Ireland and New Zealand (16 gender provisions); Pacific Alliance - Singapore FTA (four gender provisions); Chile - Paraguay FTA (12 gender provisions).

⁶ This includes Section 13.3 on Women's economic empowerment in Chapter 13 of the FTA between Iceland, Liechtenstein, Norway and the United Kingdom.

Chart 2. Countries part of RTAs with gender provisions

Source: Author's analysis based on the last update of the database in September 2022.

Although the number of gender provisions included in RTAs may indicate that state parties have considered gender issues in the negotiation process, it does not indicate the extent of the commitments undertaken in the RTAs to narrow gender gaps in trade and support women's empowerment. In fact, some countries have concluded only a few RTAs with gender provisions but have committed more strongly to addressing gender inequalities in comparison with countries that have concluded a large number of RTAs with one or two mere mentions of gender issues.

2 GENDER ISSUES ADDRESSED IN RTAS

RTAs can address various gender issues, ranging from the participation of women in economic activities, including in the labour market and in business, to social issues, political and cultural rights. The most recurrent issues addressed in RTAs regard gender-based discrimination and equality (76% of RTAs with gender provisions). The second category of gender issues addressed in RTAs regards the participation of women in economic activities (84%), mostly relating to women's working conditions and access to employment opportunities (57%). Gender-related social issues are also addressed in more than half of the RTAs with gender provisions (60%), most often with regard to women's access to education (Table 1).

RTAs also target women in specific roles, although the majority of gender provisions support women broadly. The most common examples are provisions that explicitly address issues faced by women in the workplace (120 provisions) or women entrepreneurs (65 provisions).

Some provisions also focus on issues faced by women in specific sectors, such as agriculture, fisheries or services. It is also worth mentioning that female investors are also targeted in two RTAs⁷. In addition, although scarce, a few provisions target indigenous women⁸, and women in rural⁹ or conflict zones.¹⁰

⁷ Article 8.10 of the EU-Canada Comprehensive Economic and Trade Agreement (CETA) incorporated in the Agreement on trade continuity between the United Kingdom and Canada. Similar provisions are found in a few international investment agreements.

⁸ e.g. Chapter 25 of the UK-New Zealand FTA.

⁹ e.g. Article 77 of the Revised Treaty of ECCAS.

¹⁰ Article 32 of the Association Agreement between European Union and Central America.

Table 1: Summary table of the categories of gender issues addressed in RTAs

Gender issues	Number of provisions	Number of RTAs
Gender inequality issues	214	83
Women's participation in economic and development activities	197	92
Women's participation in the workforce	120	62
Women's participation in business	65	31
Women's access to productive resources	32	21
Social issues and the role of women in social life	109	65
Women's access to education	52	41
Women's safety	29	20
Family-related issues	36	29
Social inclusion and vulnerability	13	13
Women's access to health and food security	10	8
Representation of women in decision-making roles	20	19
Representation of women in politics	10	10
Role of women in cultural life and protection of cultural rights	10	9

Source: Author's analysis based on the last update of the database in September 2022. Numbers attached to the categories do not represent a total of the sub-categories. Some provisions only broadly address gender-related social issues or women's economic participation without precisizing which areas.

2.1 Gender inequality issues

To date, 83 RTAs explicitly provide for gender equality or non-discrimination, for a total of 214 provisions. These issues are addressed with different levels of precision from one RTA to another.

Some RTAs provide for gender equality in broad terms. For example, Article 3 of the AfCFTA provides for the promotion and attainment of gender equality as part of the general objectives of the agreement. Interestingly, only five RTAs, intra-African agreements and EU treaties, include gender equality as one of the core objectives or principles of the agreement.

In contrast, most RTAs tackle certain forms of discrimination against women. For instance, RTAs can address discrimination against women in employment, occupation, and wage (e.g. Article 44 of the Association Agreement between European Union and Chile); equal access to productive resources (e.g. Article 155 of COMESA); and equal opportunities, treatment and rights between men and women, among others. For example, Article 47 of the Association Agreement between the European Union and Central America provides for equal participation and opportunities for men and women in political, economic, social and cultural life and provides for equal access to education, health, employment opportunities and political decision-making.

2.2 Women's participation in economic and development activities

To date, 92 RTAs recognize or promote the role of women in economic and development activities (197 provisions). Such provisions may refer to equal or equitable economic participation of men and women or broadly promote the enhancement of the economic condition of women (e.g. the preambles of Canada-Israel FTA and the Agreement between the United States, Mexico, and Canada (USMCA)).

Other provisions promote women's participation in specific economic activities, including in the workforce and business.

2.2.1 Women's participation in the workforce

Sixty-two RTAs address issues related to the participation of women in the workforce in 120 provisions. Most of these provisions refer to the equal treatment and opportunities of men and women in employment and occupation. However, only 17 provisions aim to tackle the gender pay gap, and 26 mention decent work for women, often in the context of the implementation of the ILO Decent Work Agenda (e.g. Article 399 of the Trade and Cooperation Agreement between European Union and United Kingdom).

Some RTAs recently concluded integrate new considerations, including the elimination of discrimination in employment on the basis of pregnancy and caregiving responsibility (e.g. Article 23.9 of USMCA) and promote flexible working conditions for reconciling family responsibilities, parental leave and childcare, and a working environment free from sexual harassment and gender-based violence (e.g. Article 21.8 of UK-Australia FTA). There are also some RTAs that explicitly provide for capacity-building and skills enhancement for women in the workplace (e.g. Article 13.3 of Canada-Israel FTA).

2.2.2 Women's participation in business

Thirty-one RTAs address issues faced by women entrepreneurs in 65 provisions. Several of these provisions promote the participation of women in business, and some specifically target sectors, such as the participation of women-owned or led businesses in fisheries, industries, or services (e.g. Article 89 of the Economic Partnership Agreement (EPA) between the United Kingdom and Kenya). Some provisions also promote business opportunities for women in digital trade, public procurement, and regional and global value chain (e.g. Article 15.3 of Brazil-Chile FTA or Article 16.22 of the UK-Australia FTA).

Provisions can also tackle specific obstacles faced by women entrepreneurs in trade, including discriminatory laws and cultural bias against women, and the lack of access to productive resources, such as technology, credit and land (e.g. Article 155 of COMESA). In addition, a few provisions in recent RTAs provide for women's leadership in the private sector, including in corporate boards (e.g. Article N *bis*-03 of Canada-Chile FTA). Other provisions promote capacity-building for women formal and informal traders, as well as digital skills for women entrepreneurs (Article 27 of the Protocol on Trade and Service of the AfCFTA or Article 10.14 of the Chile-Ecuador Economic Complementarity Agreement (ECA) No. 75)

2.3 Social issues and the role of women in social life

Currently, 65 RTAs provide for gender-related social issues in 109 provisions. Some of these provisions recognize the role of women in social life or promote the advancement of the social conditions of women in broad terms. Some other gender provisions address social issues in specific areas, such as education, safety, health and food security, family, vulnerability, and social inclusion.

2.3.1 Women's access to education

Several RTAs include provisions promoting education, and 41 especially target women in 52 provisions. Most of these provisions promote women's access to education, vocational and technical training and higher education (e.g. Article 46 of the EU-Morocco Euro-Mediterranean Association Agreement). A few aims to support women's access to financial education and trade-related knowledge (e.g. Article 42 of the EU-Egypt Euro-Mediterranean Association Agreement). Recent RTAs also promote women's education in male-dominated fields, such as mathematics, science, innovation and technology (e.g. Article 15.3 of the Argentina-Chile FTA).

2.3.2 Women's safety

Twenty RTAs address issues related to women's safety in 29 provisions. Several provisions address safe working conditions for women, while others provide for women's safety in all spheres of life.

For example, gender-based violence and domestic abuse are issues that have been addressed in RTAs since 1997, first in the Treaty of Amsterdam (European Union), then in the Agreement on Trade, Development and Cooperation between European Union and South Africa concluded in 1999. To date, 11 RTAs and 13 provisions address this issue. In addition, sexual harassment is addressed in two RTAs and three provisions (e.g. Article 21.8 of the UK-Australia FTA), and human trafficking and sexual exploitation are addressed in five RTAs and six provisions (e.g. Article 86 of the EU-Algeria Euro-Mediterranean Association Agreement).

In addition, one provision (i.e. Article 32 of the Association Agreement between European Union and Central America) addresses the security of women in conflict zones.

2.3.3 Women's access to health and food security

A few provisions address health-related issues in RTAs, and very few target women, a total of ten provisions in eight RTAs. In contrast, many RTAs provide for food security, but only two target women in this context.

Most gender provisions on health issues regard practices in the workplace (e.g. Article 14.3 of the Chile-Uruguay ECA). Also, in RTAs with the European Union, Ukraine, Moldova, and Armenia have agreed to approximate their legislation to the EU directive on safety and health at work for pregnant workers.

In addition, some other provisions promote women's access to health services such as Article 44 of the Association Agreement between European Union and Central America that promotes food and nutritional security for women, access to quality health services, maternal, sexual and reproductive health, including unwanted pregnancy.

2.3.4 Social inclusion and vulnerability

Some RTAs provide for social inclusion of vulnerable groups in the society, but only 13 target women in a provision. Some of these provisions aim to support the participation of women in the economy as part of marginal groups. For example, Article 35 of the United Kingdom-Eastern and Southern Africa States EPA provides for increasing the participation of marginal groups in the fisheries sector through the promotion of gender equality and capacity-building of women traders in this sector.

Other provisions target the enhancement of economic and social conditions of women in a situation of vulnerability (e.g. Article 8.5 of the EFTA States-Indonesia EPA or Article 15.3 of the Chile-Argentina FTA).

2.3.5 Family-related issues

Twenty-nine RTAs address family-related issues or promote the role of women as a mothers and caregiving providers in 36 provisions. Some RTAs concluded by the European Union, and African or Middle East countries provide for developing family, mother and child protection programmes (e.g. Article 82 of the EU-Jordan Euro-Mediterranean Association Agreement), while other RTAs aim to protect pregnant women from discrimination or unsafe working condition (Article 21.12 of United Kingdom-Australia FTA)

There are also a few provisions that provide for the reconciliation between household responsibility and the professional advancement of women (e.g. Article 130 of the Andean Subregional Integration Agreement or Article 15.3 of the Argentina-Chile FTA).

2.4 Representation of women in politics and decision-making roles

Twenty-six RTAs promote the role of women in politics, decision-making and leadership positions in 28 provisions.

Twenty of these RTAs provide for women's equal access to opportunities in decision-making bodies in the public and private sectors or for the representation of women's associations at decision-making levels (e.g. Article 122 of the Treaty for the Establishment of the East African Community (EAC)). Some also promote women's leadership in business and professional networks (e.g. Article 21.2 of

the UK-Japan EPA), as well as in male-dominated fields, including science, innovation, engineering, mathematics, and technology (e.g. Article 13.3 of the Canada-Israel FTA).

In addition, 10 RTAs provide for women's participation in politics, alongside their participation in economic, social and cultural life (e.g. Article 34 of the Association Agreement between European Union and Chile or Article 5 of EAC).

2.5 Role of women in cultural life and protection of cultural rights

Cultural issues are not widely addressed in RTAs, nor in gender provisions. To date, only nine RTAs provide for women's participation in cultural life. These provisions often promote or recognize the role of women in culture in a mere reference (e.g. Article 63 of the Revised Treaty of the Economic Community of West African States (ECOWAS)). Also, Annex 15-E of the USMCA includes Mexico's cultural exception to protect indigenous cultural rights consistent with gender equality and promote women's participation.

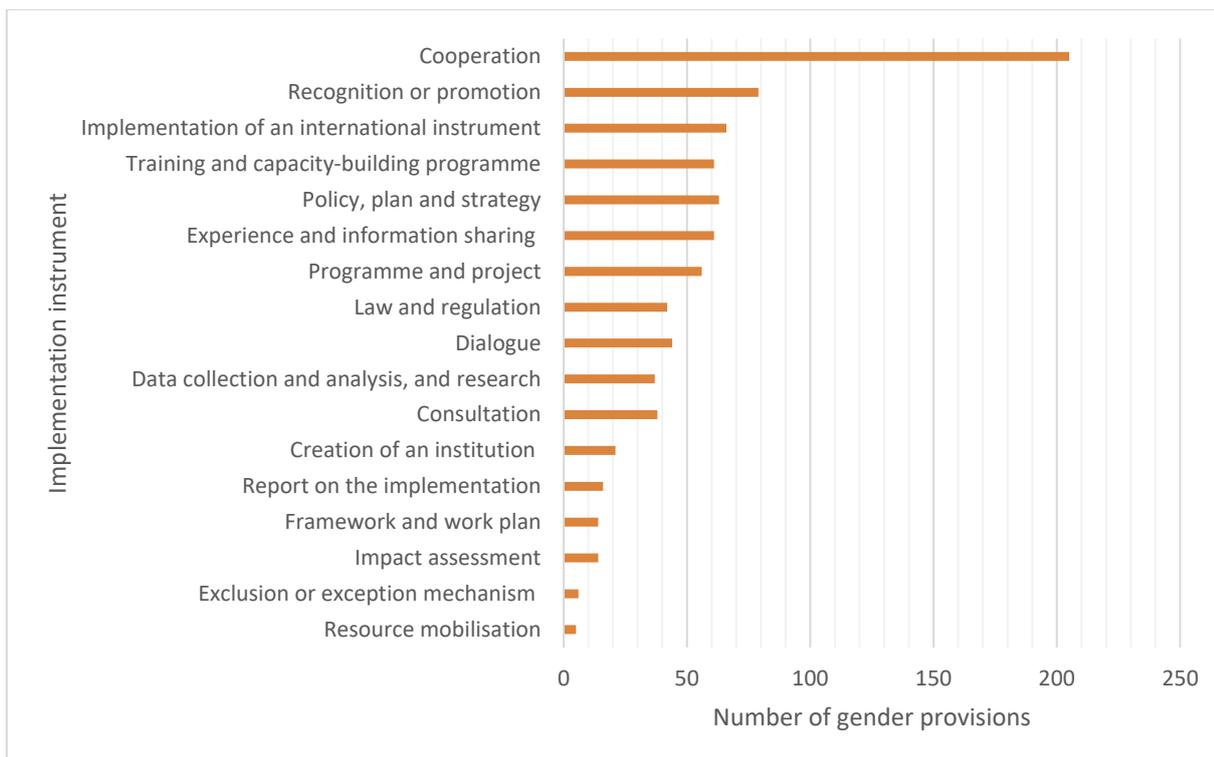
3 CATEGORIES OF IMPLEMENTATION INSTRUMENTS

Gender provisions provide for different mechanisms and instruments to address gender issues and tackle gender inequalities. Most gender provisions include multiple instruments, often combined with cooperation mechanisms.

In fact, the majority of gender provisions are to be implemented via cooperation efforts and activities (62% of gender provisions), (Figure 3). Several of these provisions indicate a list of potential activities to address gender issues without specifying which action must be undertaken or prioritized, allowing a wide discretion for state parties to implement these provisions.

In addition, in nearly one-quarter of gender provisions (24%), signatories recognize gender issues or agree to promote gender equality. 20% reaffirm state parties' commitments to implement international instruments related to gender equality.

In term of specific action points, 19% of the provisions indicate that parties have to (or could) develop policies and strategies to address gender issues or have to (or could) ensure women's access to training and capacity-building programmes. Only 13% of the provisions refer to the adoption, amendment or annulation of laws and regulations to accelerate gender equalities. In nearly 12% of the provisions, parties agreed to increase (or make effort to) gender-disaggregated data collection and analysis, and 4% of the provisions refer to conducting gender impact assessment. Lastly, only five provisions provide for resource mobilization to support parties' efforts in the area of gender equality.

Chart 3: Implementation instruments for addressing gender issues

Source: Author's analysis based on the last update of the database in September 2022.

The implementation instrument can indicate the extent of the commitment undertaken by state parties to resolve gender issues. In addition to indicating the actions to be taken, the wording of the implementation instrument indicates the nature of the obligation and can suggest the degree of compulsion. For example, an implementation instrument formulated with binding language, such as "shall" or "must" suggests a higher degree of compulsion, as opposed to "may" or "could".

Only a few gender provisions are formulated with binding language (e.g. Article 23.9 of USMCA or Article 154 of COMESA), indicating that states parties may prefer to have some flexibility with regards to addressing gender issues rather than taking legally binding engagement.

Furthermore, while most gender equality provisions refer to a positive obligation – or provide for measures that could be taken – some refer to a negative obligation whereby parties must refrain from specific actions or outcomes. The most recurrent negative obligation in gender provisions is not to discriminate against women or not to adopt measures or laws that create such discrimination (e.g. Article 8.30 of the UK-Japan EPA).

The database outlines trends that allow for the categorization of the implementation instruments.¹¹

3.1 Cooperation

To date, in 205 provisions, state parties agree to cooperate on gender issues, either in broad terms or with precision regarding the activities of cooperation and the targeted issues.

Most of these provisions (168) identify how the cooperation will take place or potential areas of activities guiding the cooperation. For example, Article 9.3 of the Chile-Vietnam FTA provides that cooperation between the parties shall include "gender issues". With more precision, Article 9.4 provides a list of potential cooperation activities, including information sharing, technical assistance, conferences, seminars and training programmes.

¹¹ The categories do not provide an exhaustive list of all the implementation instruments in the gender provisions but refer to the most recurrent ones.

Also, some provisions, such as Article 47 of the European Union-Central America Association Agreement, precisely identifies the objectives of the cooperation while allowing more discretion regarding the implementation of the cooperation activities. Article 47 provides, among others, that the cooperation shall "promote the integration of the gender perspective in all the relevant fields of cooperation, including public policies, development strategies and actions, as well as indicators to measure their impact" and "shall also help to facilitate equal access of men and women to all services and resources, allowing them to fully exercise their fundamental rights, such as in respect of education, health, vocational training, employment opportunities, political decision-making, governance structures and private undertakings".

3.2 Dialogue

Forty-four provisions indicate that gender issues should be addressed by way of dialogue between the parties, often formulated as part of the political dialogue (e.g. Article 9.4 of the Chile-Indonesia EPA or Article 86 of the EU Agreement on Trade, Development and Cooperation between European Union and South Africa). This is rather a lower commitment than cooperation or information and experience sharing, which both include dialogue but are more precise and oriented towards actions. Dialogue is often combined with other action points.

3.3 Consultation

Thirty-eight provisions provide for consultation when addressing gender issues. This may include consulting groups of women or institutions and bodies with the view to include different stakeholders in the discussion and decision-making (e.g. Article 24.3 of the United Kingdom-Australia FTA). This implementation instrument can help parties to assess the needs and interests of different groups, including women in their different roles. Combined with data collection, consultation can further support parties to develop and implement informed gender-responsive policies.

3.4 Recognition of gender issues and promotion of gender equality

Currently, in 79 provisions, state parties recognize either the existence of a situation of inequalities between men and women or promote the role played by women in society or the achievement of gender equality. 16 RTAs mention gender-related issues in the preamble, and all indicate that state parties either recognize gender issues or promote gender equality and women's empowerment (e.g. Agreement of the European Economic Area).

Recognizing and promoting a certain situation or objective is a passive action, that does not require specific action. However, most of these provisions combine the recognition of gender issues or promotion of gender equality with other implementation instruments. For example, in Article 23.9 of USMCA, state parties formally recognize the objective of eliminating discrimination in employment and promotes the equality of women in the workplace. Accordingly, state parties have to put in place policies that protect women workers from discrimination, including on wages, and provide for parental leaves.

3.5 Data collection and analysis, and research

Thirty-seven provisions make reference to improving the understanding of women's participation in economic activities. This can include improving and increasing gender-disaggregated data collection and analysis (e.g. Article N *bis*-03 of Canada-Chile FTA), conducting research (e.g. Article 18.3 of the Brazil-Chile FTA), or developing a framework to assess the constraints faced by women (e.g. Article 63 of ECOWAS).

3.6 Creation of a technical institution

Seventeen RTAs provide for the creation of a specific institution, such as a committee, commission, council or working group, to foster the achievement of their objectives related to gender equality and women's empowerment.

These institutions can be mandated to take action to address gender issues. For example, Article 17 of the Treaty of Chaguaramas provides for the Council for Human and Social Development "to establish policies and programmes to promote the development of youth and women in the

community to encourage and enhance their participation in social, cultural, political and economic activities". Also, Article 48 of the Convention governing the Economic Union of Central Africa provides for the Council of Ministers to delegate to the Commission any implementing powers necessary for the coordination of Member States' policies on good governance, human rights, social dialogue and gender issues.

These institutions can also be charged with the responsibility to support state parties in implementing their commitments. For example, Article 13.4 of the Canada-Israel FTA establishes the Trade and Gender Committee in charge of facilitating the cooperation among the parties in the areas of trade and gender issues and reporting on the implementation of the chapter on trade and gender.

In addition, state parties often have the obligation to establish a national focal point to facilitate communication among the parties and oversee liaising with the institution (e.g. Article 13.8 of the Chile-Paraguay FTA).

3.7 Exclusion or exception mechanism

Six gender provisions can be implemented through an exclusion or exception mechanism. This indicates that parties (or often one party) can derogate to certain obligations with the view to achieving an objective related to gender equality or women's empowerment. For example, the United States has included an exclusion clause to the chapter on government procurement to allow itself to continue adopting or implementing domestic programmes that promote the development of businesses owned by women, among others, in the RTAs with Peru, Chile, Morocco, Colombia, and Panama.

In addition, Mexico has included a cultural exception clause in the chapter on cross-border trade in services in USMCA to grant concessions for indigenous social use "to promote, develop and preserve languages, culture, knowledge, traditions, identity and their internal rules that, under principles of gender equality, enable the integration of indigenous women in the accomplishment of the purposes for which the concession is granted".

3.8 Experience and information sharing

Sixty-one gender provisions are to be implemented through experience and information sharing. This is an implementation instrument that goes beyond dialogue, as parties agree to build each other's capacity on trade and gender issues by exchanging on their practices.

This implementation instrument is often provided to guide cooperation activities. For example, Article 23.4 of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) provides that "parties shall consider undertaking cooperative activities aimed at enhancing the ability of women, including workers and business owners, to fully access and benefit from the opportunities created by this Agreement". These activities include information and experience sharing on programmes to build women's capacity and skills and access to market, technology and financing, women's leadership networks as well as workplace flexibility.

Experience and information sharing activities on trade and gender issues can take various forms, including through experts' meetings, seminars and workshops, trade missions, or study trips (Article 63 of the EU-Israel Association Agreement).

3.9 Framework and work plan

In 14 gender provisions, state parties agree to develop a framework or a working or an action plan to address gender issues or organize the cooperation in this area. For example, Article 45 of the European Union-Chile Association Agreement provides for the creation of a framework to "(i) ensure that gender and gender-related issues can be taken into account at every level and in all areas of cooperation including macroeconomic policy, strategy and development operations; and (ii) promote the adoption of positive measures in favour of women". Also, Article 26.1 of USMCA mandates the Competitiveness Committee to develop a work plan with regards to its functions which include providing advice and recommendation aimed at enhancing the participation of women-owned enterprises among others and to report on its achievement. This work plan has to be published by each party.

3.10 Implementation of international instruments

Sixty-six provisions address gender issues via the implementation of international instruments, most often the ILO Conventions (e.g. Article 375 of the European Union-Moldova Association Agreement).

Seven provisions recall the objectives of the Buenos Aires Declaration on Trade and Women's Economic Empowerment (e.g. Article 21.2 of the United Kingdom-Japan EPA), three the Beijing Platform (e.g. preamble of the Agreement on Trade, Development and Cooperation between European Union and South Africa), nine the CEDAW and eight SDG 5 (e.g. 25.4 of the United Kingdom-New Zealand FTA).

Some RTAs also mention regional instruments on women's rights, such as the Convention of Belém do Pará on the Prevention, Punishment and Eradication of Violence against Women (e.g. Article 18.2 of the Chile-Brazil FTA).

3.11 Law and regulation

Forty-two provisions require the adoption, amendment or annulation of laws or regulations with the view to promote gender equality or support women's empowerment. For example, Article 154 of COMESA provides that "Member States shall through appropriate legislative and other measures: [...] eliminate regulations and customs that are discriminatory against women and specifically regulations and customs which prevent women from owning land and other assets".

Some provisions also mandate state parties to promote public awareness of the national policies on gender equality by making them publicly available (e.g. Article 15.1 of the Argentina-Chile FTA). In addition, four RTAs reaffirm the right to regulate on matters related to gender equality. For example, Article 13.4 of the Chile-Paraguay FTA provides that parties reserve the right to establish, amend and enforce their laws, regulations and policies on gender equality.

3.12 Impact assessment

In 14 provisions, state parties agree to conduct gender impact assessment or to cooperate in this view. These provisions provide for the measurement of the impacts of the agreement or policies on women. For example, Article 5 of the EU-CARIFORUM EPA provides for monitoring the implementation of the agreement to ensure that the benefits for women are maximised. Replicated in the Continuity Agreement between the UK and the CARIFORUM States, this is the only RTA that provides for monitoring the impact of the agreement on women with binding language.

Other RTAs provide for gender impact assessment as part of the cooperation activities. For example, Article 47 of the EU-Central America Association Agreement provides that the cooperation "shall promote the integration of the gender perspective in all the relevant fields of cooperation, including public policies, development strategies and actions as well as indicators to measure their impact".

3.13 Policy, plan and strategy

Sixty-three gender provisions provide for developing policies or adopting plans or strategies to address gender issues or to cooperate in this view. The implementation can be either at the domestic or at the regional level.

For example, Article 10 of the Treaty on the Functioning of the European Union (TFEU) provides for policies and activities defined and implemented by the European Union shall aim to combat discrimination based on sex, among other grounds. Also, Article 2 of the Convention Governing the Economic Union of Central Africa includes in the objective that the Economic Union implement joint action and adopt common policies on gender issues. In addition, Article 13 of the Economic Agreement between the Gulf Cooperation Council (GCC) States provides for the implementation of the "General Framework of Population Strategy of the GCC States" and the adoption of policies necessary for enhancing the role of women in development, as well as the achievement of balance in the demographic structure and labour force to ensure social harmony in Member States.

Some also provide for mainstreaming gender into policies, plan or strategies (e.g. Article 18.3 of the Chile-Brazil FTA). In addition, a few provisions mandate state parties to promote public awareness

of the national policies on gender equality by making them publicly available (e.g. Article 14.1 of Chile-Uruguay FTA).

3.14 Programme and project

Fifty-six gender provisions mention the adoption and implementation of programmes or projects dedicated to supporting women's empowerment.

For example, Article 71 of the EU-Tunisia Association Agreement provides for projects and programmes to be carried out with priority for "promoting the role of women in the economic and social development process through education and the media in step with Tunisian policy on the matter" and "bolstering and developing Tunisia's family planning and mother and child protection programmes". Also, Article N-bis 03 of the Canada-Chile FTA includes in the area of cooperation the development of programmes "to promote women's full participation and advancement in society by encouraging capacity-building and skills enhancement of women at work, in business, and at senior levels in all sectors of society (including on corporate boards)".

3.15 Resource mobilization

Five RTAs provide for resource mobilisation to supporting women's empowerment. Only the European Union-Cameroon Interim EPA provides for the creation of a fund which objectives include to promoting female entrepreneurship. The four other RTAs provide more broadly for resource mobilization with the view to enhance efforts on gender equality or support state parties in implementing their commitments on gender issues. For example, Article 27 of the AfCFTA Protocol on Trade and Services provides for mobilizing resources and implement measures to improve the export of capacity of women, among other things.

Interestingly, Article 35 of the United Kingdom-Eastern and Southern Africa States EPA provides for cooperation to mobilize resources, in particular through Aid for Trade. The activities where the resources can be allocated include gender mainstreaming in access to productive sectors, "support programmes that help women improve access to all resources in particular those for trade and development" as well as the promotion of female entrepreneurship to facilitate participation in regional and global markets.

3.16 Training and capacity-building programme

Sixty-one provisions mention training programmes for women or capacity-building of state parties on trade and gender issues.

For example, Article 22.4 of the Peru-Australia FTA provides for "undertaking cooperative activities aimed at enhancing the ability of women, including workers and business owners, to fully access and benefit from the opportunities created by this Agreement. These activities may include providing advice or training, such as through the exchange of officials, and exchanging information and experience on:

1. programmes aimed at helping women build their skills and capacity, and enhancing their access to markets, science and technology, and financing;
2. developing women's leadership networks; and
3. identifying best practices related to workplace flexibility".

3.17 Report on the implementation

Sixteen provisions mandate state parties or an institution to report on the implementation of the gender provisions.

For example, Article 155 of COMESA provides that state parties shall submit the implementation activities under the chapter on Women in Development and Business to a technical committee. Also, Article 13.6 of the Chile-Paraguay FTA provides for the Committee on trade and gender to report on the implementation of the chapter on Trade and Gender to the Bilateral Administrative Commission.

Article 18.6 of the Chile-Ecuador ECA No. 75 provides for state parties to report publicly on activities carried out under the chapter on Trade and Gender.

4 ENFORCEMENT MECHANISMS FOR GENDER PROVISIONS

The enforcement mechanisms provided in RTAs are *a priori* applicable to gender provisions.

First, the majority of gender provisions are not explicitly excluded from the application of the dispute settlement mechanism provided in RTAs. Second, a monitoring institution is provided for most gender provisions. However, these provisions are formulated with language that implies a low degree of compulsion, which narrows the possibility to apply them to the enforcement mechanisms.

4.1 Monitoring and evaluation mechanisms for gender provisions

A monitoring and evaluation mechanism can foster the accountability of the parties with regard to the full implementation of their commitments on gender equality. About three-quarters of the gender provisions in RTAs (252) are under the supervision of an institution charged with the monitoring and evaluation of their implementation.¹²

The monitoring institution responsible for the gender provisions varies across RTAs (Table 2). Most gender provisions are under the supervision of the institution in charge of the whole agreement (e.g. the Commission of the Convention Governing the Economic Union of Central Africa is responsible for Article 47) or the cooperation (e.g. the Committee on cooperation of Chile-Indonesia EPA is responsible for Article 9.4).

Eight RTAs recently concluded establish a specialized institution, either a committee or working group on trade and gender (e.g. Chapter 13 of the Chile-Paraguay FTA and Chapter 21 of the United Kingdom-Japan EPA) in charge of reviewing the implementation of the chapter focusing on gender issues. Monitoring activities on trade and gender issues usually occur between three and five years after the entry into force of the RTAs. Thereafter, the specialized institutions report on the progress to the institution in charge of the whole RTA.

These specialized institutions are mandated to facilitating the communication between the parties, in addition to ensuring that the provisions are implemented. They serve as a platform to share information and experience, and coordinate cooperation activities between parties. These institutions are composed by representatives from each party. In addition, other stakeholders, including the private sector and the civil society, can be consulted and invited at meetings.

Depending on the location of the gender provisions, other specialized monitoring institutions can be responsible, including on sustainable development (e.g. the Board on Trade and Sustainable Development is responsible for Article 286 of the Association Agreement between European Union and Central America), labour (e.g. the Labour sub-Committee is responsible for Article 23.8 of United Kingdom -New Zealand FTA), or SMEs (e.g. the Committee of SMEs issues is responsible for Article 25.2 of USMCA).

In contrast, 79 gender provisions are not under the supervision of any institution.

¹² For more information about the institutional arrangements provided in RTAs, see Monteiro, J., The evolution of gender-related provisions in Regional Trade Agreements, World Trade Organization, ERSD-2021-8, pp. 38-41.

Table 2: Summary table of the institutions in charge of reviewing gender provisions

Institution	Number of gender provisions
Institution in charge of the whole agreement	94
Institution in charge of the cooperation	50
Technical institution on trade and gender issues	36
Technical institution on development and sustainability	29
Technical institution on labour	13
Other technical institution (including on inclusive trade)	7
Technical institution on trade-related issues	23
Total of gender provisions with a M&E mechanism	252

Source: Author's analysis based on the last update of the database in September 2022

Despite the fact that most gender provisions are under the supervision of an institution, the monitoring process does not necessarily ensure state parties' accountability.

First, the institution in charge with the overall supervision of the RTA may not include a gender perspective in its activity and no RTA mandates the institution to do so.

Second, no RTA empowers monitoring institutions to take measures to enforce the provisions or ensure their full implementation by the state parties. In addition, the main function of the institution is to coordinate dialogue and cooperation among the parties, rather than to conduct extensive monitoring of the implementation of the provisions and their impacts. Therefore, the review does not involve a compulsory outcome, or recommendations to the parties.

Third, in only a few RTAs do state parties formally commit to report on the implementation of gender provisions (e.g. Canada-Chile FTA and Brazil-Chile FTA), while reporting on implementation is mostly couched in permissive language. Hence, the lack of obligation to report on the progress achieved to implement gender provisions narrows state parties' accountability.

Lastly, the vast majority of gender provisions do not involve binding obligation, and several do not provide for any action point to be undertaken.

The authority of the institution to force the implementation of gender provisions is thus ineffective.

4.2 Dispute settlement mechanisms for gender provisions

The majority of gender provisions are not explicitly excluded from the dispute settlement mechanism (DSM) of the relevant RTAs. In fact, this is a trend that can be particularly observed in recently concluded RTAs and coincides with the resurgence of chapters on trade and gender issues.

Of the 331 gender provisions included in RTAs, 86 are explicitly excluded from the DSM provided in the RTAs. Most of these provisions are included in chapters devoted to trade and gender issues. In fact, only the COMESA and EAC treaties, and the Canada-Israel FTA do not exclude the chapter on women and gender issues from the scope of their DSM. However, in the case of the Canada-Israel FTA, although the provisions and their implementation could be challenged through the DSM, the consent of both parties is required.

Table 3: Summary table of the dispute settlement mechanism for gender provisions

Application of gender provisions to DSM	Number of gender provisions
Not excluded	168
Specific procedures	37
Explicitly excluded from the DSM	86
No DSM applicable	40

Source: Author's analysis based on the last update of the database in September 2022.

Twenty-three RTAs explicitly exclude from the scope of the DSM specific chapters that contain gender provisions. Of these, 10 RTAs provide for consultations between the parties to resolve any conflict arising from the chapter excluded from the DSM, such as Article N-*bis* 05 and 06 of the Canada-Chile FTA that provides that "The Parties shall make all possible efforts, through dialogue, consultations and cooperation, to resolve any matter that may arise in regard to the interpretation and application of this Chapter" and indicates that the dispute resolution is not applicable to any matter arising under the chapter on trade and gender.

It is worth noting that some RTAs, such as USMCA or UK-Australia FTA, exclude some gender provisions from the DSM provided in these agreements, but not all of them. For example, the gender provisions included in the chapter on labour are not excluded from the DSM, while those included in the chapter on competitiveness and SMEs are.

In other scenarios, the recourse to the dispute settlement mechanism is granted following a specific procedure. 37 gender provisions, mostly included in recent RTAs, are bound to such procedure. All these provisions address labour-related issues and are located in the chapter devoted to these issues.

There are two kinds of specific procedures provided by the RTAs:

- i. parties have first to engage in dialogue and consultation among themselves to resolve the conflict. If the outcome is unsuccessful, they can have recourse to the DSM;
- ii. the RTAs provide for a different DSM to resolve conflicts arising from these provisions. For example, the EU-Georgia Association Agreement provides that conflicts arising from Chapter 13 on trade and sustainable development will be resolved through government consultations, and a panel of experts can be constituted to provide recommendations and issue a report. Parties must then discuss measures to implement the report and the appropriate recommendation, and the follow-up report is monitored by a body instituted by the RTA.

As with the monitoring mechanisms, despite the fact that most gender provisions are not explicitly excluded from the DSM provided in RTAs, the low degree of bindingness of these provisions narrow their application to the DSM. Since only a few provisions are formulated with binding language and provide for specific obligations, most provisions are not likely to be adjudicated.¹³

B. GENDER PROVISIONS UNDER A REGIONAL PERSPECTIVE

Women around the globe face similar forms of discrimination and obstacles preventing them to participate in economic activities and in trade on an equal footing with men and from benefiting equally from the opportunities generated by RTAs. However, the needs and interests of women as well as the barriers they face can vary from one region to another, which in turn impacts policy makers in different ways, especially when they address gender imbalances.

These differences are outlined in RTAs, as gender provisions often address different types of gender issues and parties have agreed on different implementation instruments.

¹³ For example, the compliance of a provision that indicates that "parties may consider undertaking cooperation activities to increase women's access to education" is not likely to be challenged in a dispute resolution, even if this provision is not explicitly excluded from the scope of the DSM.

The following sections therefore provide a regional review of RTAs and highlight specific trends and gender provisions.

1 GENDER PROVISIONS IN RTAs CONCLUDED BY EUROPEAN COUNTRIES

European countries have concluded 66 RTAs with gender provisions, including 37 that have been negotiated by the European Union and 30 by the United Kingdom, the latter being mostly continuity agreements that replicate European Union's agreements.

Chart 4: RTAs with gender provisions across Europe



Source: Author's analysis based on the last update of the database in September 2022.

Gender provisions in the European Union and the United Kingdom RTAs are similar to some extent. Most address issues related to education, employment, family and safety. In contrast, none specifically targets women entrepreneurs, except for recent RTAs concluded by the United Kingdom. Also, with a few exceptions, provisions are formulated with vague and non-binding language and include gender issues in a list of various considerations. For instance, most provide for cooperation and information and experience sharing, and some provide for developing gender-responsive policies, laws and training programmes. In addition, nearly half of the provisions have no identified institution in charge of reviewing their implementation.

Despite these similarities, certain trends emerge depending on the region of the trading partners with which European countries have negotiated an RTA.

1.1 Gender provisions in intra-European RTAs

After the Treaty of Rome in 1957, no additional RTAs with gender provisions were concluded in Europe until the Agreement on the European Economic Area between the European Union, Iceland, Liechtenstein, and Norway signed in 1992.¹⁴ Thereafter, over the revisions of the EU treaties, additional gender provisions have been gradually incorporated in the TFEU and the Treaty on the European Union (TEU).¹⁵ Together, the consolidated versions of the TFEU and TEU contain ten gender provisions, in addition to the various directives promoting gender equality within the legal framework of the EU.

¹⁴ The preamble addresses equal opportunities of men and women in employment and two provisions provide for gender pay gap and the incorporation of EU directives related to gender equality.

¹⁵ For instance, the Treaty of Amsterdam includes a provision stating that "in all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women". Later, the Treaty of Lisbon includes a provision about the objective of combatting gender-based discrimination in the formulation and implementation of policies and activities of the Union.

Eastern Europe countries also concluded their first RTA with gender provisions, all with the European Union, during the 2000s.

RTAs concluded between the European Union, North Macedonia, Albania, Montenegro, Serbia, Kosovo, and Bosnia and Herzegovina contain one or two similar gender provisions whereby state parties agree to cooperate to facilitate the reform of the employment policy of the Eastern Europe country. This includes the adjustment of legislation concerning working conditions and equal opportunities for men and women. In addition, most of these RTAs provide for cooperation with the aim of ensuring that access to education in the Eastern Europe country is free from discrimination on the basis of gender.¹⁶

More recently, the Trade and Cooperation Agreement between European Union and United Kingdom signed in 2020 contain two similar provisions found in other intra-European RTAs on gender equality in education, training, and decision-making, and on the implementation of the Decent Work Agenda with an explicit mention of gender equality. These two provisions are to be implemented through cooperation and are formulated with non-binding language. Furthermore, Annexes to the Agreement regulating on the transports of goods provide for gender equality in the employment and working conditions of drivers, and the safety and health of pregnant women or nursing mothers. These two provisions are to be implemented through legislation and are formulated with binding language.

Also, in 2014, Ukraine, Georgia and Moldova – the last two in the Commonwealth of Independent States (CIS) region— concluded a RTA with the European Union.¹⁷ These three RTAs contain four similar provisions on gender equality in general and more specifically on the workplace.¹⁸ They provide for cooperation to either implement ILO Conventions - notably the Decent Work Agenda - or to share information and experience to promote gender equality. These provisions are formulated with non-binding language and are limited to a mere reference to gender equality issues.

In addition, Georgia, Ukraine, and Moldova have committed to approximate their legislation to the EU directives on equal opportunities and treatment for men and women in employment, access to and supply of goods and services, social security, and on safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding. They have between three to four years to implement these directives. The United Kingdom has also concluded bilateral RTAs with these countries that contain similar provisions, except those on the EU directives.

Of the 62 gender provisions included in intra-European RTAs, 51 are under the responsibility of a monitoring institution. Also, seven gender provisions are bound to a specific procedure for resolving dispute. In this regard, only gender provisions included in Section 13.3 on women's economic empowerment of Chapter 13 of the FTA between Iceland, Liechtenstein, Norway and United Kingdom are explicitly excluded from the DSM of this agreement. While the vast majority of gender provisions in intra-European RTAs are not explicitly excluded from the DSM, the low degree of bindingness of most of these provisions makes the recourse to the mechanism unlikely.

1.2 Gender provisions in RTAs between European and African or Middle East countries

Between 1995 and 2002, the European Union concluded eight RTAs with gender provisions with developing countries from Africa and the Middle East (i.e. Tunisia, Israel, Morocco, Jordan, Palestine, South Africa, Egypt, and Algeria).

Except for the Agreement on Trade, Development and Cooperation between European Union and South Africa, these RTAs contain between one to three provisions that refer explicitly to gender issues, and most relate to women's education and family-related issues with similar wording. In addition, the RTAs between Algeria, Lebanon, and South Africa address the issue of women's safety,

¹⁶ The United Kingdom has negotiated RTAs with these countries (except with Bosnia and Herzegovina) that incorporate the whole EU's Association Agreement – and thus these gender provisions - with a few exceptions. Indeed, the gender provisions in the EU Association Agreements referring to gender equality in employment are not incorporated in the UK-Kosovo and UK-Serbia partnership, trade and cooperation agreements, which therefore contain one sole gender provision on education.

¹⁷ Except for Ukraine which has concluded an RTA with Canada that contains a reference to gender equality, Eastern European countries are only part of RTAs with gender provisions with the European Union and the United Kingdom.

¹⁸ Additionally, the European Union-Ukraine Association Agreement provides for gender equality in education, training, and decision-making.

with regard to human trafficking and sexual exploitation, or gender-based violence. All these provisions are to be implemented via cooperation activities and are formulated with non-binding language.

Interestingly, different gender provisions are found in RTAs between the European Union or the United Kingdom and Southern and Eastern Africa countries. These RTAs provide for cooperation to improve the capacity of women traders involved in the fisheries and to develop programmes to support women entrepreneurs in agriculture, among others. In addition, the European Union-Cameroon Interim EPA includes a provision to mobilize resources via a fund that can be used to promote female entrepreneurship, among other activities.

Of the 49 gender provisions included in RTAs between these countries, almost half (23) are under the responsibility of a monitoring institution and none are explicitly excluded from the DSM provided in these RTAs.

1.3 Gender provisions in RTAs between European and American countries

Five RTAs between the European Union and Latin American or Caribbean countries address different gender issues and are worded differently. However, they are all formulated with non-binding language and provide for cooperation as the principal implementation instrument.

For example, the European Union-Mexico Economic Partnership, Political Coordination and Cooperation Agreement addresses gender-related social issues and targets women as a vulnerable group that should be considered in dialogue on social issues. It also promotes the role of women in trade, in particular in the production process.

The European Union-Chile Association Agreement rather provides for equal treatment between men and women in employment and promotes the role of women in social and economic development via cooperation activities. In addition, Article 45 of this Agreement is devoted to gender issues and provides for cooperation, policies and programmes to improve and guarantee the participation of women in political, economic and cultural and social life, and the access to productive resources. Interestingly, this provision refers to the principle of equity, which takes into consideration the different situation of men and women and allocates the necessary resources and opportunities to women to create an equal outcome for both genders. Accordingly, this provision promotes the adoption of positive measures in favour of women. At the global level, 33 provisions address gender equity or the equitable participation of women economic activities or other spheres of life.

Also, as mentioned above, the RTA between the European Union and the CARIFORUM states includes an interesting provision that imposes parties to conduct monitoring activities to ensure that the benefits for women deriving from the agreement are maximised. This obligation as it is formulated is unique to this agreement and the United Kingdom-CARIFORUM states agreement.

The RTA between the European Union and Central America is also unique to some extent with regards to the type of gender issues that it addresses. For instance, it provides for cooperation to help women in conflict zones, making it the sole gender provision to address the issue of women's safety in situation of peace disruption. In addition, this RTA provides with a unique level of precision the issue of women's health and access to health services, including maternal and reproductive health and addresses the care of unwanted pregnancy. It is also the only provision to address food security for women. Other social issues are addressed, such as women's access to justice, safety net and social services, as well as violence against women and equitable access to education. This RTA also promotes the participation of women in employment, decent work and equal wage. Multiple implementation instruments are provided to address these issues –all combined with cooperation. They include mainstreaming gender in policies, conducting gender impact assessment, developing training and capacity-building programmes as well as statistical tools and indicators, and exchanging on the implementation of ILO Conventions on equal wage and non-discrimination.

Another interesting provision is found in the CETA between Canada and the European Union and regards the inclusion of non-discrimination on the basis of gender in the fair and equitable treatment of investors. This provision is formulated with binding language and proscribes the host state to adopt or maintain measures that constitute targeted discrimination against women for investors. Similar negative obligations are included in some recent bilateral investment treaties, but in no other RTA.

A total of 44 gender provisions between European and American countries have been concluded and 39 of these are under the responsibility of a monitoring institution. None are explicitly excluded from the DSM of these RTAs, while four are bound to a specific procedure.

1.4 Gender provisions in RTAs between European and Asian or Oceanian countries

Korea, Vietnam, Singapore and Armenia (the latter in the CIS region) have concluded RTAs with the European Union and the United Kingdom. These RTAs contain similar gender provisions addressing decent work for women, non-discrimination in employment, and gender equality, all formulated with non-binding language and mere references. Turkey has also included two provisions in the RTA with Korea on cooperation on trade-related aspects of the ILO Decent Work Agenda that include gender equality and full and productive employment for women.

Furthermore, the EFTA states have concluded over 30 RTAs, but only two with gender provisions, which one of them is included in the RTA with Indonesia. It recognizes the need for improving the welfare and livelihood of vulnerable women. No action point is indicated to achieve this objective.

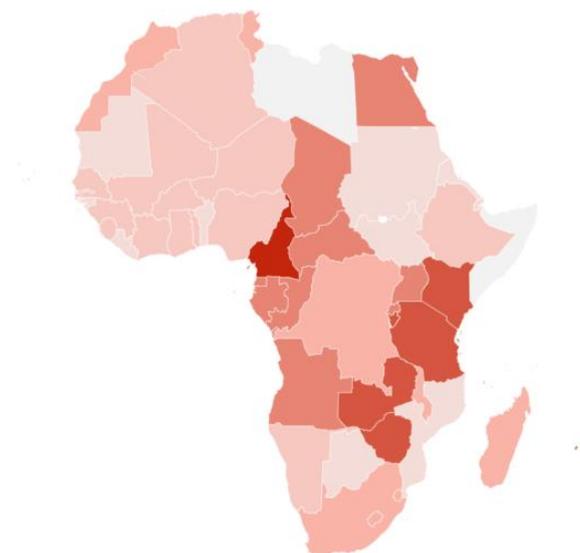
Interestingly, the United Kingdom is the first European country to have negotiated RTAs with chapters dedicated to gender issues. These RTAs were concluded with Australia and Japan, and recently with New Zealand, Iceland, Norway and Liechtenstein. These RTAs contain several gender provisions in various chapters, mostly formulated in permissive language and address a wide range of gender issues. They also contain a few specific obligations to eliminate forms of discrimination against women (see Annex A for a detailed analysis and comparison of gender provisions in these RTAs).

2 GENDER PROVISIONS IN RTAs CONCLUDED BY AFRICAN COUNTRIES

Currently, 53 African countries have concluded an RTA with gender provisions, for a total of 23 RTAs and 66 gender provisions. In addition, two RTAs contain a full chapter on women in development and businesses (the first worldwide).

Since the conclusion of the first gender provision in 1983, most African countries have included specific provisions promoting gender equality and women's empowerment in five out of eight agreements establishing the regional economic communities (RECs). Most of these RTAs were negotiated during the 1990s. In addition, the AfCFTA, ratified by 43 countries so far, contains three gender provisions. In sum, there are gender provisions in force in every African country, except in Somalia and Libya.

Chart 5: RTAs with gender provisions across Africa



Source: Author's analysis based on the last update of the database in September 2022.

Eight RTAs are concluded solely between African countries, nine with the European Union, six with the United Kingdom and one with the United States.

As mentioned above, the RTAs with the EU and African countries particularly address gender-related social issues and women's working conditions. In contrast, the gender provisions included in intra-African RTAs address a wide range of gender issues, and some are formulated with binding language and provide concrete action points.¹⁹ Several of these RTAs address gender equality issues, and three include gender equality in their core objectives or principles. These are the AfCFTA, EAC and the Treaty of the Southern African Development Community (SADC).²⁰

Gender provisions in intra-African RTAs focus more on the role of women in development and economic activities rather than in the workforce. A few provisions address social issues and the advancement of the role of women in the social sphere.

In addition, some unique gender provisions are found in intra-African RTAs. For example, the only provision defining "gender" is included in the EAC, which refers to the role of men and women in society. Also, the EAC, Article 9, provides that "in the appointment of staff and composition of the organs and institutions of the Community, gender balance shall be taken into account". Similarly, Article 21 of ECCAS provides for gender parity of staff in the Commission.²¹

Intra-African RTAs also provide for specific action points to accelerate gender equality, either to be implemented by an institution or by the parties. For example, some institutions are mandated to take into consideration gender issues in their work or ensure gender mainstreaming in all its endeavour (such as in EAC or the Convention Governing the Economic Union of Central Africa). ECOWAS also mandates the Community to increase women's access to information.

In the AfCFTA's Protocol on Trade and Services, parties agree to mobilize resources and implement measures to improve the export capacity of formal or informal female services suppliers. This provision stands out globally for three reasons: (i) only four other provisions provide for resource mobilization; (ii) a very few provisions target women exporters; and (iii) only a couple of provisions address issues related to informality worldwide.

As opposed to most gender provisions concluded worldwide, some of them included in intra-African RTAs are formulated with binding language and provide for specific obligations.

Some trends can be observed by regions regarding state parties' commitments to gender equality.

2.1 Gender provisions in RTAs concluded by Southern and Eastern Africa countries

Three regional economic communities in Southern and Eastern Africa include gender provisions in their establishing treaties: the SADC, EAC and COMESA.

First, the 16 states parties to the SADC Treaty commit to the negative obligation to not discriminate against any person on the basis of gender.

They also intend to "mainstream gender in the process of community building" as part of the objective of the Treaty. In addition, since its creation in 1992, the SADC has adopted several instruments on gender equality, including the Protocol on Gender and Development, the Gender Mainstreaming Resource Kit and the Gender Workplace Policy.

Second, the 21 states parties of COMESA and the 7 state parties to EAC have made several commitments included in the chapter devoted to supporting women's empowerment. These are the

¹⁹ For a detailed analysis of the gender provisions included in RTAs concluded by African countries, see Laperle-Forget, L. 2022. Gender Provisions in African Trade Agreements: What Commitments Are There For Reconciling Gender Equality and Trade? Tralac Trade Report No. S22TR05/2022. Stellenbosch: tralac, <https://www.tralac.org/publications/article/15567-gender-provisions-in-african-trade-agreements-what-commitments-are-there-for-reconciling-gender-equality-and-trade.html>.

²⁰ Apart from these RTAs, only the TFEU and TEU provide as such.

²¹ Although most RTAs establish institutions to manage the agreement and review its implementation, only intra-African RTAs provide for the equal participation of men and women in these institutions.

first two chapters on gender issues concluded worldwide and were concluded respectively in 1993 and 1999. In these chapters, parties do, among other:

- i. commit to adapt their legislation and adopt measures to promote the effective participation of women at all levels of socio-economic development, including in decision-making;
- ii. undertake to increase the participation of businesswomen in policy formulation and implementation;
- iii. commit to abolish discriminatory laws and practices against women, in particular those that hinder women's access to credit, finance, land and other assets. They also have to develop programmes aimed at changing the negative attitudes towards women;
- iv. commit to reform their strategy on education and training with the view to improve women's technical and industrial employment levels with vocational and on-the-job training schemes.

As opposed to the chapter on trade and gender included in other RTAs, these chapters are not excluded from the jurisdiction of the court of justice established by the treaties.

Both EAC and COMESA have adopted instruments to further promote gender equality, including the EAC Gender Equality and Development Bill and the COMESA Gender Policy.

2.2 Gender provisions in RTAs concluded by Western and Central Africa countries

Two regional economic communities in West and Central Africa include similar gender provisions in their establishing treaties: ECCAS and ECOWAS.

The 15 states parties to the ECOWAS and 11 state parties to ECCAS commit to formulate, harmonize, coordinate and establish appropriate policies and mechanisms for the enhancement of the economic, social and cultural conditions of women.

They shall take necessary measures to identify and assess the obstacles faced by women and provide a framework to address these obstacles and integrate women's concerns and needs into their policies. They also agree to strengthen cooperation and share information to further support women's empowerment at the community level.

Both ECOWAS and ECCAS have adopted additional instruments to accelerate gender equality, including the ECOWAS Gender Policy and the ECCAS Declaration on equality between men and women.

3 GENDER PROVISIONS IN RTAS CONCLUDED BY LATIN AND NORTH AMERICAN, AND CARIBBEAN COUNTRIES

The vast majority of countries in the Americas have negotiated an RTA with a gender provision for a total of 42 RTAs with gender provisions concluded across the Americas. To date, 29 (including two not yet in force) have been concluded by Latin American countries with some 115 gender provisions; 5 by Caribbean countries with 11 provisions and; 23 by North American countries with 54 gender provisions.

Chart 6: RTAs with gender provisions across the Americas



Source: Author's analysis based on the last update of the database in September 2022.

3.1 Gender provisions in RTAs concluded by South American countries

Recent RTAs concluded by South American countries – notably Chile - have attracted great attention from the international community due to their chapters devoted to trade and gender issues. In particular, since the conclusion of the bilateral FTAs between Chile and Uruguay, Argentina, and Canada, the number of new gender provisions and chapters has significantly increased globally.

Gender provisions have been gradually included in RTAs concluded by South American countries. Bolivia, Ecuador, Colombia and Peru first included a gender provision in the Andean Subregional Integration Agreements modified by the Sucre Protocol in 1997. Five years later, Chile concluded an RTA with the European Union with two gender provisions (as mentioned above). In 2006, the United States concluded bilateral RTAs with Peru and Colombia, which both provide for cooperation on the elimination of gender discrimination in employment in an annexe. These mentions were similarly integrated into the bilateral RTAs between Canada and these two countries.

A year after, Peru and China concluded an RTA providing for the adoption of a gender approach in development policies and strategies for agriculture. Chile has also included a mere reference to cooperation on gender issues in its RTAs with Turkey, Vietnam, and Thailand, concluded between 2009 and 2013.

Therefore, until recently, RTAs concluded in South America only included a mere reference to gender issues formulated with non-binding language.

The year 2016 marked a turning point in the inclusion of gender provisions in RTAs in the region. During this year, Chile and Uruguay concluded an RTA with seven gender provisions and a whole chapter devoted to these issues. In 2017, Chile concluded bilateral RTAs with Argentina and Canada, both with a chapter on trade and gender. A year later, Brazil and Chile concluded an FTA with a gender chapter.²² Chile and Ecuador also integrated such a chapter in their RTA concluded in 2020. Recently, Chile and Paraguay, as well as the Pacific Alliance (Chile, Colombia, Mexico and Peru) and Singapore concluded RTAs, again both with a chapter on trade and gender.

As of 2022, 7 RTAs with a chapter on gender issues –out of 14 worldwide— were concluded by Chile.

²² Also in 2018, Canada and Israel concluded an FTA with a similar chapter on trade and gender.

The recent RTAs concluded by Latin America address a wide range of gender issues and provide for various implementation instruments, mostly formulated with permissive language. These RTAs explicitly exclude most of the gender provisions from the application of dispute settlement, while a monitoring institution is often provided (see Annex B for detailed analysis of gender provisions included in RTAs recently concluded in Americas).

3.2 Gender provisions in RTAs concluded by Caribbean and Central American countries

As opposed to the RTAs concluded in South America, countries from Central America and the Caribbean have negotiated only a few gender provisions, apart from those included in RTAs with the European Union, which address a wide range of gender issues in the area of cooperation.

For example, the revised Treaty of Chaguaramas, concluded by 15 countries mostly from the Caribbean, mandates the Council for Human and Social Development of the Caribbean Community to establish programmes and policies to increase women's participation in social, cultural, political and economic activities.

As of 2022, only a few RTAs were concluded by Caribbean countries, thus explaining the small number of gender provisions applicable in this region (11 provisions in 5 RTAs).

Similarly, except for the Association Agreement between the European Union and Central America that provides for multiple gender issues in 12 provisions, the gender provisions included in other RTAs negotiated by these countries only contain a mere reference to gender issues in the area of cooperation. For example, the FTA between Dominican Republic, Central America and the United States, as well as the United States-Panama Trade Promotion Agreement, and Canada-Panama and Canada-Honduras FTAs provide in an annexe or a side agreement for gender equality in employment in potential areas of cooperation. Most of these provisions are under the responsibility of a monitoring institution, although formulated with non-binding language that does not involve any expected outcomes.

3.3 Gender provisions in RTAs concluded by North American countries

Numerous RTAs concluded by Canada (13 RTAs) and the United States (8 RTAs) include gender provisions. But except for the RTAs recently concluded (e.g. USMCA, Canada-Chile and Canada-Israel FTAs), most of these RTAs include one reference to gender issues in an annexe of the chapter on labour (as mentioned above concerning RTAs between Canada or the United States and Latin American countries) or mention women-owned businesses in an exclusion clause within the public procurement chapter negotiated by the United States.

In fact, in five RTAs, the United States has formulated an exclusion clause consistently with its national legislation on public procurement that grants preferential treatment for businesses owned by certain groups of the population that includes women, veterans and the disabled.²³

Furthermore, USMCA contains seven gender provisions, as opposed to its predecessor NAFTA that contained only a mere mention of gender issues in a side agreement. The preamble of USMCA refers to women's access to the opportunities generated by the agreement and their full participation in trade. In addition, the chapter on investment provides for gender equality in the corporate social responsibility clause, and the chapter on competitiveness and SMEs provides for cooperation in promoting the participation of women in SMEs. This later chapter is explicitly excluded from the DSM of this agreement, and no specific institution is identified.

The stronger commitments for gender equality are contained in the chapter on labour, which is not excluded from the DSM of the USMCA, although parties have first to try to resolve the conflict by other means. For instance, Article 23.9 provides that parties shall implement policies to protect workers against employment discrimination on the basis of sex, pregnancy and caregiving responsibilities. These policies also have to address sexual harassment, parental leave and wage discrimination. This provision is couched in binding language, as opposed to Article 23.12, which is formulated in permissive terms. For example, it provides for cooperation on the elimination of gender-based discrimination in employment and wage, and for developing tools to ensure equal pay.

²³ For more information, consult the WTO Trade Policy Review of the United States, WT/TPR/S/382/Rev.1, 27 March 2019, paragraph 26.

This provision also indicates that signatories may cooperate to promote gender-responsive labour practices to build women workers' skills, and develop programmes and policies on occupational safety and health that includes the advancement of childcare, nursing mothers, and prevention of gender-based violence. The cooperative activities can also aim to collect gender-disaggregated data. These provisions in the chapter on labour are under the supervision of the Labour Council.

It is therefore only recently that North American countries have integrated gender issues more thoroughly into their RTAs.

4 GENDER PROVISIONS IN RTAs CONCLUDED BY ASIAN, MIDDLE EAST AND OCEANIAN COUNTRIES

Countries from the Middle East, Asia and the Pacific are the regions that concluded RTAs with the lowest number of gender provisions. As opposed to the other regions, this practice is not well established and several countries in these three regions have not yet concluded gender provisions.

Chart 7: RTAs with gender provisions across Asia, Middle East and the Pacific



Source: Author's analysis based on the last update of the database in September 2022.

4.1 Gender provisions in the Middle East

Currently, 14 RTAs with 24 gender provisions were concluded by Middle East countries.

Jordan, Israel, Palestine and Lebanon have included gender provisions in RTAs with the European Union, mostly about cooperation on education and family-related issues. The FTA between Bahrain and the United States also provides for cooperation on the elimination of gender-based discrimination in employment.

In addition, the Economic Agreement Between the Gulf Cooperation Council States concluded in 2001 by six Middle East countries contains one gender provision about the enhancement of the role of women in development through the implementation of a policy. The implementation of this provision should be reviewed by the Secretariat General responsible for the whole agreement.

Therefore, except for the RTA between Canada and Israel, gender provisions in RTAs concluded by Middle East countries are scarce, and the commitment to gender equality in these agreements is rather low.

4.2 Gender provisions in Asia

Despite the fact that numerous RTAs are applicable across Asia, only 17 currently promote gender equality or support women's empowerment in explicit terms in 35 gender provisions.

Armenia, Vietnam, Singapore and Korea have concluded RTAs with the European Union and/or the United Kingdom, which most address gender issues in the labour market. Indonesia is also part of two RTAs - with the EFTA states and Chile - that contain a mere reference to gender issues formulated with non-binding language.

Furthermore, the Treaty of the Eurasian Economic Union concluded by Armenia, Belarus, Kazakhstan, Kyrgyz Republic, and the Russian Federation (from the CIS region) includes a mere reference to the protection of pregnant women and nursing mothers in the Protocol on Technical Regulation.

Some Asian countries are also part of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which contains four gender provisions, including one fully dedicated to women's economic empowerment. The preamble first recognizes the importance of promoting gender equality, and the chapter on labour provides for cooperation and information-sharing activities on the elimination of discrimination against women in employment. In addition, parties agree to cooperate to build their capacity in the area of gender equality. Lastly, the provision on women and economic growth provides for the recognition of the role played by women workers and business owners for economic development and provides for potential cooperation activities to enhance the capacity of women to benefit from the opportunities created by the agreement. This provision is explicitly excluded from the DSM, and no monitoring institution is identified in the CPTPP.

4.3 Gender provisions in the Pacific

Pacific countries have concluded only a few RTAs with gender provisions to date. In total, 6 RTAs with 41 gender provisions were concluded by Pacific countries.

In the Pacific region, eight countries are part of the PACER PLUS, which include a gender provision. Concluded in 2017, this RTA refers to building parties' capacity to implement a trade and gender development policy, the assistance needed for data collection on women engaged in the primary sectors and the establishment of a women-led garment production cottage industry.

Also, Australia and New Zealand (both parties to PACER PLUS and CPTPP) have negotiated additional gender provisions and chapters in their recent RTAs with the United Kingdom.

Therefore, only a few RTAs concluded by countries from the Middle East, Asia and Oceania provide for gender equality or explicitly support women's empowerment. Also, most of these provisions are formulated with non-binding language and with no specific action points, thus minimizing their commitments for addressing gender issues, with the exception of agreements concluded by New Zealand and Australia.

ANNEX A

SUMMARY AND COMPARISON OF GENDER PROVISIONS INCLUDED IN RECENT RTAS CONCLUDED BY UNITED KINGDOM

Some of United Kingdom's post-Brexit RTAs contain several gender provisions and a full chapter on trade and gender. To shed lights on the new commitments on gender equality made by United Kingdom, Japan, Australia, New Zealand, Iceland, Lichtenstein, and Norway. Table 1 provides a detailed analysis of these provisions and highlight new trends.

Table 1: Gender provisions in the United Kingdom-Japan, United Kingdom-Australia, United Kingdom-New Zealand, and United-Kingdom- Iceland-Liechtenstein and Norway RTAs

Preamble	The preambles of UK-Japan EPA and UK-Australia and UK-New Zealand FTAs support women's participation in the economy.
Chapters on domestic regulation and financial services	<ul style="list-style-type: none"> The four RTAs prohibit measures relating to licensing and qualification requirements and procedures that discriminate against women. They also allow temporary measures that are in favour of women and aim at accelerating gender equality. In the UK-Australia and UK-New Zealand FTAs, an additional provision provides this negative obligation concerning the authorisation for the supply of a service. These provisions are formulated with binding language and require parties to avoid discriminatory treatment against women.²⁴ These provisions are under the responsibility of a monitoring institution and are not excluded from the DSM of these RTAs. The UK-Australia and UK-New Zealand FTAs also provide for diversity in financial services that is gender-balanced. The latter FTA also indicates that parties should encourage financial services suppliers to develop remuneration policies consistently with the principle of equal pay for equal value.
Chapters on digital trade, public procurement, and SMEs	<ul style="list-style-type: none"> The UK-Australia and UK-New Zealand FTAs provide for digital inclusion of women. The latter provides for a list of cooperation activities to achieve this objective, which includes improved access to online business tools, assessment of the barriers, and share of best practices to enhance women's skills and help SMEs to adapt to digital trade. No monitoring institution is provided for these provisions. The UK-Australia and UK-New Zealand FTAs promote the participation of women in public procurement either through cooperation or mandating a working group to considerate this issue. These two FTAs also promote the participation of women-owned SMEs in trade without indicating specific implementation instrument apart from cooperation. Provisions on women in SMEs are explicitly excluded from the DSM provided in these RTAs.
Chapter on labour	<ul style="list-style-type: none"> The UK-Iceland, Liechtenstein and Norway, UK-Australia and UK-New Zealand FTAs contain a provision focusing on gender equality in the workplace. In this provision, parties commit or reaffirm their commitment to implement measures and policies to advance anti-discrimination practices, including those against pregnant women, and those related to workplace sexual harassment, gender-based violence, gender pay gaps, and flexible working arrangements, as well as improve women's access to decent work.

²⁴ It is worth noting that a similar provision is included in the Declaration on the Conclusion of Negotiations on Services Domestic Regulation by participating WTO Members.

	<ul style="list-style-type: none"> • The UK-New Zealand FTA additionally provides for cooperation activities to address unpaid care work, ensure affordable childcare, and build the capacity and skills of women workers. It also provides for cooperation to increase gender-disaggregated data, indicators and monitoring methodologies related to trade and the workplace. • These provisions are under the responsibility of a monitoring institution and specific procedures are applicable for dispute resolution provided in these RTAs.
Chapter on trade and gender	<ul style="list-style-type: none"> • The four RTAs contain chapters on gender issues similarly structured. • They all contain a provision that focuses on the recognition and promotion of certain concerns. For instance, they all recognize the importance of promoting the role of women in the economy, including workers and business owners, and the importance of cooperation to reduce the systemic barriers in trade that prevent women from participating equitably in the economy. The UK-Australia and UK-New Zealand FTAs further recognize the importance of advancing gender equality and women's empowerment for economic growth and provide with more precision the type of activities that can accelerate gender equality, such as evidence-based interventions and gender-responsive policies, as well as building the capacity of the parties in the field of gender issues. • They all contain a provision that reaffirm their commitments to the Buenos Aires Declaration on Trade and Women's Economic Empowerment. The UK-New Zealand RTA also reaffirms the commitment to implement the obligations under the CEDAW and recalls SDG 5. • All chapters contain a provision that lists the potential cooperation activities to be undertaken to advance gender equality and women's empowerment. This list is formulated with non-binding language that includes providing training, and sharing information on programmes to improve women's access to markets, technology and finance, women's leadership and workplace flexibility. The UK-Iceland, Liechtenstein and Norway, UK-Australia and UK-New Zealand FTAs also provide for sharing information in matters related to access to education, capacity-building for women entrepreneurs and access to online business tools, and on data collection, analysis and monitoring related to trade and gender. In the UK-New Zealand FTA, parties shall develop a framework for analysing gender-disaggregated data and gender focused analysis of trade policies. This FTA also supports the participation of wahine Maori in trade activities, making it one of the few RTAs that address the participation of indigenous women in economic activities. • The UK-New Zealand FTA also provides for specific obligations to fulfil and are formulated with binding language. For instance, parties shall implement and enforce their respective laws, policies, practices, and regulations that promote gender equality and improve women's access to trade and economic opportunities. They also have to promote public awareness and make available these legal instruments. Furthermore, parties recognize that they should not derogate from these gender equality laws to encourage trade and investment. Similar provisions are included in some

	<p>RTAs but in the context of labour rights or the environment. As such, this is the sole RTA that provides for gender equality.</p> <ul style="list-style-type: none"> • All chapters are also under the supervision of a specific institution mandated to facilitate the cooperation between the parties. The UK-Japan EPA establishes the Working Group on Trade and Women's Economic Empowerment that shall ensure the implementation of the cooperation activities and conditionate the monitoring and review of the provisions based on the parties' consent. The UK-Australia FTA establishes the Dialogue on Trade and Gender Equality to support cooperation activities and facilitate communication with women workers, business owners and entrepreneurs. Gender provisions are however monitored and reviewed by the Committee on Cooperation. In contrast with these two RTAs, the UK-Iceland, Liechtenstein and Norway FTA and UK-New Zealand FTAs provide for the designation of contact points on trade and gender issues to facilitate communication between the parties and with different groups of women. Gender provisions are reviewed and monitored by the Inclusive Sub-Committee or the Sub-Committee on Trade and Sustainable Development, also mandated to share the outcomes of the analysis, research and monitoring on trade and gender conducted by the parties. • These three chapters are explicitly excluded from the scope of the DSM provided in these RTAs.
Chapter on cooperation or sustainable development	<ul style="list-style-type: none"> • The UK-Australia and UK-New Zealand FTAs contain a provision in the chapter on cooperation that reaffirms their intention to cooperate on trade and gender equality or the importance to promote inclusive economic growth that includes women-led businesses. Both RTAs exclude this provision from the scope of the DSM but mandate a technical committee to facilitate the cooperation. • The UK-Iceland, Liechtenstein and Norway FTA recalls the CEDAW in the chapter on sustainable development. It also contains a provision on potential areas of cooperation, which may include gender equality and gender-impact assessment.

ANNEX B

**SUMMARY AND COMPARISON OF GENDER PROVISIONS INCLUDED IN RECENT RTAS
CONCLUDED IN AMERICAS**

Since 2016, Latin American countries and Canada have concluded several new RTAs with a chapter on trade and gender. Table 1 summarizes the new commitments for gender equality made in these RTAs and highlights new types of gender provisions.

Table 1: Gender provisions in the bilateral FTAs between Chile and Uruguay, Argentina, Brazil, Ecuador, Paraguay and Canada, between Canada and Israel, and between the Pacific Alliance and Singapore

Preamble	<ul style="list-style-type: none"> • The preamble of Chile-Uruguay, Chile-Brazil, Chile-Ecuador and Chile-Paraguay RTAs promote gender mainstreaming in international trade and gender equality in rights, treatment and opportunities. Explicit mention of women's economic empowerment is made in the Chile-Paraguay RTA. • The preamble of the Canada-Israel FTA mentions explicitly that the agreement seeks to improve women's access to the opportunities it creates through cooperation. Additionally, the Pacific Alliance-Singapore RTA recognizes the contribution of women in trade for sustainable development.
Chapters on digital trade, investment, value chains and SMEs	<ul style="list-style-type: none"> • The Chile-Brazil and Chile-Ecuador RTAs provide for cooperation to include women in electronic commerce. The Chile-Paraguay RTA contains a specific provision on digital inclusion that provides for opportunities in digital trade by removing barriers and improving women's access to these opportunities. Parties agree to cooperate on these objectives, notably by developing programmes and sharing methods on gender-disaggregated data. • The Chile-Brazil and Chile-Ecuador RTAs provide for cooperation to increase the participation of MSMEs and women in global and regional value chains. The Chile-Paraguay RTA provides for cooperation to reduce gender gaps in these areas. The Pacific Alliance-Singapore RTA provides for information sharing on entrepreneurship programmes for women in the context of facilitating the participation of SMEs in trade. • The Chile-Canada and Chile-Argentina RTAs include gender equality in the corporate social responsibility (CSR) clause related to the conduct of investors. • These provisions are explicitly excluded from the DSM provided in these RTAs - except for the provision on inclusive trade in the Chile-Ecuador RTA. They are, however, under the responsibility of a monitoring institution - except for those provisions related to CSR in which no institution is identified.
Chapter on labour	<ul style="list-style-type: none"> • The Chile-Argentina, Chile-Uruguay and Canada-Israel provide for cooperation to promote gender equality of rights, opportunities, and treatment in employment, notably through information sharing activities and collaborative research. • Chile-Brazil RTA recognizes that non-discrimination and gender equality are fundamental to inclusive and sustainable economic growth, as well as to creating employment opportunities and rising incomes. To achieve these objectives, parties have to adopt policies to remove the systemic barriers faced by women in the labour market.

	<ul style="list-style-type: none"> • These provisions are all explicitly excluded from the DSM but are, however, under the responsibility of a monitoring institution.
Chapter on trade and gender	<ul style="list-style-type: none"> • The chapters on trade and gender issues included in these eight RTAs are similarly structured and address similar gender issues and provide for similar implementation instruments. • The first provision of these chapters focuses on the recognition of certain considerations, including the importance of incorporating a gender perspective into the promotion of inclusive economic growth, and the key role of gender-responsive policies, equal participation of women in economic activities and improving women's access to productive resources for sustainable socio-economic growth. Except for the Pacific Alliance-Singapore RTA, in some RTAs, parties also recognize the importance of eliminating all forms of discrimination and violence against women. • Except for the Pacific Alliance-Singapore RTA, the chapters also reaffirm the commitments of parties to adopt and implement gender equality laws, policies and best practices and promote public awareness of these instruments. In addition, parties to the Argentina-Chile, Chile-Uruguay, Chile-Paraguay, and Chile-Ecuador RTAs reserve their right to regulate on gender equality. The Chile-Paraguay RTA further includes the publicity of the impact of these instruments on economic growth and trade policy, thus implying the conduct of an impact assessment. Parties to this RTA, as well as to the Chile-Ecuador RTA, also have to publicise their activities undertaken under the chapter on trade and gender. • Except for the Pacific Alliance-Singapore RTA (more succinct), the chapters contain a provision recalling state parties' commitments to international instruments. The Chile-Uruguay RTA does not mention a specific convention but refers to those on gender-equal pay and gender equality in employment. The other chapters all provide for state parties' commitments to implement specific conventions, such as the CEDAW, ILO Conventions 100, 111 and 156 on gender-equal pay, discrimination in employment and occupation, and workers with family responsibility, the Convention of Belém do Pará on violence against women, the Beijing Declaration, the Buenos Aires Declaration, and SDG 5. • Except for the Pacific Alliance-Singapore RTA, which is limited to the recognition of the importance of cooperation activities to support the participation of women in the economy, the other chapters contain a provision listing the cooperation activities. <ul style="list-style-type: none"> ○ These provisions contain only one binding obligation formulated as such: parties shall carry out cooperation activities to improve the capacity and skills, and conditions for women workers, businesswomen and entrepreneurs to access and fully benefit from the opportunities created by these RTAs. This obligation can be combined with the inclusive participation of women. Therefore, parties have solely committed to cooperating on gender issues. ○ The provisions indicate potential areas of cooperation in which priorities are determined by the parties. This includes that a certain number of gender issues can be addressed, such as women's leadership in male-dominated fields and participation in decision-making, women's access to finance, education, online business tools and e-commerce platform, women's participation in public procurement and regional and global value chains,

	<p>and indigenous and rural women's participation in the economic activities among others.</p> <ul style="list-style-type: none"> ○ The cooperation activities that have to be agreed upon by the parties notably include information sharing activities on data collection and analysis and programmes aimed at addressing gender issues and social inclusion for women, as well as collaborative research. <p>Except for the Pacific Alliance-Singapore RTA, the chapters provide for institutional arrangements. They create a technical institution on trade and gender issues constituted by the parties to facilitate the exchange of information, communication, and cooperation between them. As part of their functions, these institutions have to examine the implementation and operationalisation of these chapters. Some RTAs indicate the timeframe in which the review has to be conducted and whether a report has to be submitted to the institution in charge of the whole agreement. For example, the Chile-Argentina RTA provide for a period that does not exceed three years after the entry into force of the RTA (due in 2022). These institutions also have the ability to undertake consultations with the population and invite experts or other stakeholders to the meetings. In the Chile-Paraguay and Chile-Ecuador RTAs, this matter is formulated with binding language that indicates that the Committee and the parties shall provide a means of receiving and considering the views of persons or organizations with a legitimate interest in matters related to this chapter.</p> <ul style="list-style-type: none"> • Parties also have an obligation to nominate a point of contact to further facilitate the communication between the parties on issues related to the implementation of the chapters. • These chapters are explicitly excluded from the DSM, except for the chapter in the Canada-Israel RTA. The RTAs rather provide that parties shall try to resolve any matter arising from these chapters through dialogue, consultations and cooperation. In contrast, the chapter in the Canada-Israel RTA is not excluded from the scope of the DSM, but the recourse to this mechanism is conditionate to the consent of both parties
Chapter on cooperation	<ul style="list-style-type: none"> • The Chile-Uruguay RTA reaffirms that areas of cooperation and capacity-building between the parties shall include gender issues.