

Setting Up the Table Right

Women's Representation Meets Women's Inclusion in Trade Negotiations

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ABSTRACT

This chapter looks at women's representation in multilateral trade negotiations within the context of the overall goal of achieving more gender-sensitive outcomes in trade policy. Although trade negotiations have increased in scope and scale, this has not resulted in a concomitant increase in the representation of women as experts, negotiators and diplomats. The expansion and more complex nature of trade negotiations puts greater pressure on developing nations, especially on smaller delegations, as illustrated by data from the diplomatic missions to the United Nations and the World Trade Organization in Geneva. The chapter discusses the current structure and challenges of trade negotiations, highlighting both the challenges of the career and the changing character of persons engaged in trade negotiations. Lastly, the chapter draws attention to the distinction between women participating in trade negotiations and having the interests of women reflected in trade negotiation outcomes. This distinction is particularly important if one wants to place trade policy in the context of the overall societal movement towards gender equality. In its conclusion, this chapter sets out a list of actionable advice to improve the current situation to facilitate greater contribution of trade negotiations to global gender equality.

7.1 INTRODUCTION

Over the course of the last two decades in particular, trade negotiations have increased in scope, scale and complexity, involving more experts, negotiators

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and diplomats. This has resulted in additional pressure on smaller developing countries that often have either a limited complement of staff in missions or have only non-resident representation in Geneva, which is the seat of multilateral trade negotiations at the WTO. Furthermore, the increasingly technical nature of trade negotiations can also place a strain on national expertise which is necessary to inform, backstop and support the negotiating process. The evidence confirms that trade missions from small island developing states (SIDS) and least-developed countries (LDCs) have a much lower staff complement, and in turn fewer women, than the average in the UN or the WTO missions in Geneva.¹ This can impact the ability of these economies to represent their interests in all relevant aspects of the negotiating agenda. This chapter looks at the representation of women in multilateral trade negotiations, specifically in the context of the WTO, and places it in the context of the overall goal of achieving more gender-sensitive outcomes from trade policy.

An important question is whether the gender make-up of representation has an impact on gender-sensitive outcomes emanating from trade negotiations. Recently it was recognized by the WTO members that trade has an important gender element. But the actual question is whether it has been a result of changing global norms around gender mainstreaming and gender inclusion or is a reflection of more gender-equal representation across the trade landscape – nationally and at the level of the missions in Geneva.

References to gender are present in some of the existing trade agreements,² and at the 11th Ministerial Conference held in Argentina in 2017, some WTO members, supported by the work of the International Trade Centre (ITC) and other actors, agreed to the Buenos Aires Declaration on Trade and Women's Economic Empowerment.³ Ahead of Ministerial Conference 12 (MC12), gender seemed to be one of the key topics to see significant advancement.⁴ At MC12, held in June 2022, we saw the highest number of women present at the negotiations – negotiating for food security, health and other

¹ Based on empirical research the authors have carried out. On file with authors.

² José-Antonio Monteiro, 'The Evolution of Gender-Related Provisions in Regional Trade Agreements' (2018) WTO Staff Working Paper ERSD-2018-15 <www.wto.org/english/res_e/reser_e/ersd201815_e.pdf> accessed 8 May 2022.

³ WTO, 'Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference in Buenos Aires in December 2017' (2017) <www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf> accessed 8 May 2022 (Buenos Aires Declaration).

⁴ The Joint Ministerial Declaration on the Advancement of Gender Equality and Women's Economic Empowerment within Trade signed by eighty-nine countries in November 2021 can be seen as a step forward.

themes of trade policy. Yet the term ‘gender’ was absent from the key negotiated outcomes. There was some progress made on the outskirts, and a side event, ‘Unlocking Trade for Women’s Empowerment and Sustainable Development’, discussed the operational issues of trade and gender, such as the need to ensure trade and trade agreements contribute to greater gender equality through enhancing gender-sensitive data, better gender-based reporting and greater attention to women owned micro, small and medium-sized enterprises (MSMEs). But the ‘side-ness’ of the event indicates that we have still a long way to go.

While some of the trade agreements do include gender provisions and chapters, and there is momentum to take this further, it is worth looking at the process involved in concluding a trade agreement and ask how women are represented in those trade negotiations and whether greater representation translates into more gender-sensitive outcomes. The existing research on causality is limited but we provide a framework to analyse how, and at what stages, women are part of the negotiating value chain and survey the current representation of women in trade negotiations in Geneva. We argue that, while women’s representation has a positive impact on trade negotiations, it should not be seen as a substitute for active inclusion of gender considerations in negotiated trade policy. There is a lack of literature and data on representation of women in the trade negotiation cycle, which we have sought to partly address by collecting data on the gender composition of the UN and the WTO missions and conducting confidential interviews with women and men involved throughout their careers in trade negotiations. While the names of interviewees will remain confidential, the authors have ensured geographic, gender and thematic diversity of persons interviewed.⁵

This chapter is organized as follows: Section 7.2 covers the changes in the nature of trade negotiations and how this has affected the demands on negotiators; Section 7.3 provides collected gendered data on the staff composition of the UN and WTO missions, showing diverging representation among member states; Section 7.4 highlights the importance of networks in supporting the job of a trade negotiator and how gendered socio-economic systems have historically placed women at a disadvantage for such positions; Section 7.5 binds together the altered nature of what trade negotiations are and which challenges women face in trade negotiations as a career choice. Section 7.6 highlights the importance of making a distinction between women participating in trade negotiations and the interests of women being included in trade

⁵ Details are on file with the authors.

negotiations. In Section 7.7, we analyse women's representation as a tool for gender equality. We conclude the chapter, in Section 7.8, with a set of actionable suggestions that can improve the inclusion of issues around women in trade negotiations.

7.2 TRADE NEGOTIATIONS HAVE EXPANDED IN SCALE AND SCOPE

Trade negotiations have expanded in scale, scope and depth.⁶ Trade negotiators are increasingly expected to contribute technical and multidisciplinary input and expertise and/or to be able to galvanize these technical inputs from their capital-based experts. New trade agreements tend to build on the already complex scope of agreements under the WTO or in existing bilateral agreements, hence sometimes forcing newcomers to the trade negotiation game to follow the lead that has already been set.

This is particularly the case for smaller countries which may naturally be party to less complex trade negotiations at the bilateral or regional levels. However, it is worth noting that since 2016, every WTO member has been a member of at least one regional trade agreement.⁷ This certainly signifies an explosion in the number of negotiations that would naturally have to precede completed trade agreements – both non-WTO and WTO – even though there are different levels of complexities to consider.

The vast majority of the agreements concluded outside of the WTO have been 'WTO-plus' – meaning that they go deeper than already existing trade agreements at the WTO. Quite often the 'plus' relating to discussions that also happen inside the WTO with a more limited set of countries involved in plurilaterals such as investment, elements of environment, services, gender and others.⁸ The reasons for this are rather obvious: fewer partners to negotiate

⁶ For information on size and originality of the agreements, see Wolfgang Alschner, Julia Seiermann and Dmitriy Skougarevskiy, 'Text of Trade Agreements (ToTA) – A Structured Corpus for the Text-as-Data Analysis of Preferential Trade Agreements' (2018) 15(3) *Journal of Empirical Legal Studies* 648–666. For the type of provisions and trends in enforceability, see Claudia Homann, Alberto Osnago and Michele Ruta, 'Horizontal Depth: A New Database on the Content of Preferential Trade Agreements' (2017) World Bank Policy Research Working Paper 7981 <<https://openknowledge.worldbank.org/handle/10986/26148>> accessed 8 May 2022.

⁷ WTO, 'Regional Trade Agreements Database' <<https://rtais.wto.org/UI/PublicMaintainRTAHome.aspx>> accessed 8 May 2022.

⁸ For example, Canada, the EU, New Zealand, Chile and the United States started including environment chapters in their trade agreements, but as they are driven by national policy these chapters differ in their design. It is safe to assume that should there be a WTO agreement on the environment, these chapters would have been of a more similar structure.

with; a more like-minded approach between partners; and the ability to develop agreement-specific implementation, monitoring and dispute systems. The expectation is that every WTO member will notify its trade agreements to the WTO to ensure that it does not violate the existing multilateral commitments.⁹

However, the reality can be a bit more complex given the tension between the notions of ‘globalization’ (through the WTO) and ‘regionalization’ (through regional trade agreements – RTAs) of trade liberalization.¹⁰ For the past decade – accelerated by limited success at concluding multilateral agreements (with the Trade Facilitation Agreement and recent Fisheries Subsidies Agreements being exceptions) and emergence of more plurilateral negotiations at the WTO – the balance has shifted from ‘ideological competitors’ to ‘complementary allies.’ Views on regionalization have matured from being seen as undermining trade globalization, to now being viewed as an extension of trade globalization moving the needle forward and complementing the WTO rules.¹¹ RTAs are now accepted as avenues for deepening trade liberalization and informing the scope and ambition of multilateral agreements. We are seeing this happen in the area of gender and trade, e-commerce and investment facilitation.¹²

Trade is widely seen as one of the main vessels for inclusive and sustainable growth. It permeates the United Nations Sustainable Development Goals (UN SDGs)¹³ and during the COVID-19 pandemic it was key to vaccine distribution.¹⁴ Ideological differences still persist on what ‘kind’ of trade is best

⁹ Notification of RTAs that cover goods are in paragraphs 4 to 10 of Article XXIV of GATT, trade in services is under Article V of GATS. The only exception from ‘deeper’ trade agreements than WTO is the Enabling Clause (the 1979 Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries) that gave more favourable arrangements for trade in goods between developed and developing countries.

¹⁰ For example, Sangmoon Kim and Eui-Hang Shin, ‘A Longitudinal Analysis of Globalization and Regionalization in International Trade: A Social Network Approach’ (2002) 81(1) *Social Forces* 445–471.

¹¹ For time trend analysis of key regional indicators, see WEF, ‘Regionalization vs Globalization: What Is the Future Direction of Trade?’ (15 July 2021) <www.weforum.org/agenda/2021/07/regionalization-globalization-future-direction-trade/> accessed 8 May 2022. Regionalism has been fuelling globalization and is projected to be the key force in future global trade.

¹² For example, in the case of gender there were a number of various provisions in trade agreements addressing gender inequality, some of them predating the Buenos Aires Declaration, and most going beyond the declarations. See ITC, ‘Mainstreaming Gender in Free Trade Agreements’ (2020) <<https://intracen.org/media/file/2411>> accessed 8 May 2022.

¹³ WTO, ‘The WTO and the Sustainable Development Goals’ <www.wto.org/english/thewto_e/coher_e/sdgs_e/sdgs_e.htm> accessed 8 May 2022.

¹⁴ See Reinhilde Veugelers, Niclas Poitiers and Lionel Guetta-Jeanrenaud, ‘A World Divided: Global Vaccine Trade and Production’ (Bruegel 20 July 2021) <www.bruegel.org/blog-post/>

for the environment, equality and sustainability, but there is growing recognition that it does have divergent effects on men and women.¹⁵ A growing number of RTAs now include gender chapters.¹⁶ However, these chapters are primarily persuasive in intention as in general they do not have enforcement mechanisms attached to them.¹⁷ At the same time, if one takes a deeper look at the 2017 Buenos Aires Declaration, it has pushed the needle forward by leading to the formation of an Informal Working Group (IWG) on Trade and Gender in the WTO.¹⁸ This group addresses trade and gender issues by encouraging members to exchange practices on mainstreaming gender considerations into programmes and strategies and increase gendered data collection, amongst others.¹⁹

Given this increased attention to gender in trade, one can expect that modern trade policy would become more gender-equal not only in its effects, but also in its creation.

Based on the interviews conducted for this chapter, we can conclude that in trade negotiations, women's representation has often been a proxy for 'having women's voices heard', and therefore more gender-inclusive policy proposals being created throughout the negotiations. We argue, however, that women's representation in trade negotiations, while having a positive effect, should not be confused with inclusion of issues of importance to women in the context of trade negotiations and agreements – that is, a result that leads to a more gender-equalizing effect of negotiated trade policy.

Women's representation is a necessary, but not a sufficient condition for a more gender-inclusive trade policy. Gender inclusion is a responsibility of all

[world-divided-global-vaccine-trade-and-production](#)> accessed 8 May 2022; Margaret Labban, 'Vaccine Trade Becomes a Key Factor in Global Diplomacy' (27 July 2021) <www.pharmaceutical-technology.com/pricing-and-market-access/vaccine-trade-becomes-a-key-factor-in-global-diplomacy-html/> accessed 8 May 2022.

¹⁵ For the purpose of this chapter we rely on a simplistic split of genders as 'men' and 'women' but acknowledge that the gender spectrum can be seen as far more complex. *See*, for example, the World Bank and WTO, 'Women and Trade: The Role of Trade in Promoting Gender Equality' (23 July 2020) <www.worldbank.org/en/topic/trade/publication/women-and-trade-the-role-of-trade-in-promoting-womens-equality> accessed 8 May 2022.

¹⁶ The most prominent first case was the Canada–Chile FTA, which included commitments on women's access to education, digital know-how and skills development.

¹⁷ For more details, *see* Javiera Cáceres Bustamante and Felipe Muñoz Navia, 'South America's Leadership in Gender Mainstreaming in Trade Agreements' (Chapter 12 in this book).

¹⁸ WTO, 'Informal Working Group on Trade and Gender' <www.wto.org/english/tratop_e/womenandtrade_e/iwg_trade_gender_e.htm> accessed 8 May 2022.

¹⁹ WTO, 'Trade and Gender Informal Working Group Co-chairs Present Draft Outcome Document for MC12' (23 September 2021) <www.wto.org/english/news_e/news21_e/women_23sep21_e.htm> accessed 8 May 2022.

genders, and although it is ideal to have all of these genders involved in the crafting of gender-sensitive trade policies, as a second-best option it can be assumed that men would be able to sufficiently represent the interests of women with the right tools at hand. However, in the twenty-first century, this scenario is far from ideal.

7.3 ABILITY TO PARTICIPATE IN NEGOTIATIONS VARIES

It is difficult to obtain information on women's representation in the process of trade negotiations, as quite often this information is confidential, or it is hard to estimate who is engaged in trade negotiations, and at what point. As most of the multilateral trade discussions are led by Geneva missions, we use Geneva for our data collection exercise to survey the overall picture on women's involvement in trade negotiations.

According to data we collected,²⁰ there are 182 missions to the UN in Geneva, and 175 missions to the WTO. The average size of professional staff in a UN mission is ten people, but with a wide range of one person to seventy people. Of the total staff in UN missions, 37 per cent identify as women. Remarkably, the average WTO mission – sometimes a subset of the larger UN mission – is six people, ranging from one to thirty people, and with 40 per cent identifying as women. This signals that there is similar attention, on average, given to trade representation in Geneva as there is to humanitarian affairs, human rights, health, labour and so on combined. It is worth recalling that discussions at the WTO also now cover the environment, gender, health and other topics. This is supported by the fact that in the case of 105 countries,²¹ the mission carries out a double function – meaning that the head of the delegation leads both the mission to the UN and to the WTO.

Amongst others, the following conclusions can be drawn from the data presented in Table 7.1:

- On average, the size of the WTO mission of a country is almost half the size of the UN mission. This illustrates the fact that Geneva, while being a regional UN headquarters and centre for many other discussions, is also seen as a global centre of multilateral trade negotiations;

²⁰ Data is collected from the UN blue book, official websites and sources of the WTO and WTO missions. The data was collected in September 2021, and the most recent available data is accounted as current. On file with authors.

²¹ The EU and its member states are counted as separate entities.

TABLE 7.1 *Breakdown of the staff (incl. gendered) of the UN and WTO missions in Geneva, by region and country groups*

	Separate function of UN & WTO missions	Double function of UN & WTO missions	Average size UN mission	Average share of women, UN mission	Average size WTO mission	Average share of women, WTO mission	Share of women heads of WTO delegation
Overall	58	105	10	0.4	5.7	0.37	0.3
Regional breakdown							
Asia	16	25	11.8	0.33	6.9	0.3	0.24
Europe & Northern America	14	28	14.3	0.47	6.1	0.43	0.36
Latin America & Caribbean	17	12	6.6	0.54	5.2	0.41	0.24
Oceania (including Pacific countries)	4	1	4.6	0.52	4.3	0.45	0.5
Africa	7	39	8	0.3	5	0.35	0.33
Country groupings							
OECD	12	19	17	0.49	7.7	0.44	0.29
SIDS	8	8	3.3	0.5	3.1	0.4	0.5
LDC	7	31	6.5	0.27	4.6	0.33	0.27
Developed	18	31	15	0.47	6.5	0.42	0.34
Developing	40	74	8	0.37	5.4	0.35	0.28
Industrialized	14	24	18	0.47	7.8	0.44	0.25
Emerging industrialized	13	15	11	0.44	6.4	0.38	0.04
Country income groups							
High-income	22	31	13.8	0.46	6.8	0.41	0.23
Upper-middle-income	16	26	9.8	0.43	5.8	0.38	0.43
Lower-middle-income	15	22	8.7	0.41	4.7	0.36	0.32
Low-income	5	26	6.9	0.24	5.3	0.32	0.21

Source: authors' collection of data (based on interviews and discussions with relevant stakeholders; details withheld. On file with authors).
Averages are simple arithmetic averages.

- Every two out of three missions in Geneva double as both mission to the UN and mission to the WTO, which implies that they do not concentrate solely on trade issues;
- It is no surprise that the countries of the Organisation for Economic Development and Co-operation (OECD), developed countries, industrialized countries and high-income countries have larger UN and WTO missions than other subgroups of countries;
- Women are present at a rate of under 50 per cent in both UN and WTO mission staff, but score over 30 per cent for almost all subgroups;
- Women are present less frequently than men as heads of WTO delegations in the missions of industrialized countries, with low- and high-income countries having the lowest share;
- Europe and North America have 50 per cent larger UN missions than the rest of the world, but the difference is much smaller for the WTO missions; Asia also has larger UN missions than average (18 per cent), and the largest trade missions (20 per cent larger).
- Regarding women's representation, Asia and Africa have on average fewer women present in the missions, but Latin America and the Caribbean and Asia have the lowest share (24 per cent) of women heads of WTO missions.
- Irrespective of groupings, women are on average less present in WTO missions than men.

While we are only able to collect information on the Geneva diplomatic sphere and hence may not capture the gender make-up of the capital and regional counterparts of trade diplomacy, it is still telling that women from all regions are underrepresented in Geneva, which is the epicentre of the multilateral trading system. Altogether, these facts paint a very complex picture of Geneva diplomacy. There are currently 516 active RTAs,²² with 17 RTAs notified to the WTO in the first half of 2021.²³ At the same time, the WTO itself has a complex structure with at least thirty-three active committees, councils or working groups (aside from the dispute settlement processes). As Geneva is considered a capital of trade policy, it is useful to look at the sheer number of meetings facilitated by the WTO and the UN Conference on Trade and Development (UNCTAD), which on average can reach more than 1,000 per year, with a common occurrence of 4–5 meetings a day. In addition,

²² Based on data from ITC, WTO and WCO, 'Rules of Origin Facilitator' <<https://findrulesoforigin.org/>> accessed 8 May 2022.

²³ WTO, 'Regional Trade Agreements Database' (n 7).

there are bilateral meetings, lobbying and some cross-issue meetings in other organizations such as the ITC, the World Intellectual Property Organization (WIPO) and the International Telecommunications Union (ITU), and various other discussion fora on human rights, labour rights, some aspects of disarmament, intellectual property, health and others. As a mission is assumed to generally cover all topics in Geneva, or at least have an understanding of the ecosystem, mission staff are often faced with making hard choices on which issues and meetings to follow. Many smaller missions are not able to have dedicated personnel solely focused on trade issues.

The 37 per cent representation of women in WTO missions is a score that can seem relatively close to parity. However, one should be careful in interpreting this number as an indicator for gender inclusion in resulting trade policy. The gendered effects of trade are multifaceted and require not only a multitude of experts to account for, but also a vast network during the process of negotiation to get certain concessions or commitments through. However, the presence of women in trade negotiations is an improvement to the overall 'masculinity' of trade and negotiations and is a first step to creating a more gender-inclusive trade policy.

7.4 TRADE NEGOTIATIONS NEED NETWORKS

Trade negotiations are a complex process that rely on the ability of chief negotiators and their whole team to influence the other party and ensure win-win outcomes. A fundamental component of an effective negotiating strategy is the ability to connect to institutions and expertise in their own capitals.²⁴

Quite often, negotiations are pictured as two or more parties sitting at different sides of the table having different interests. We see people sitting at the table signing papers next to each other on front pages of newspapers as a symbol of concluded trade negotiations. This image is misleading not only because people on these front pages are usually not the ones doing the negotiations, but it can also give an inaccurate message about the process of negotiation, and the diverging goals of the negotiating parties. The common goal of negotiating parties is to reach an agreement – this was confirmed by the Brexit process, where despite the diverging interests and various

²⁴ Role of negotiation scripts and national culture discussed using the example of negotiations with China: Rajesh Kumar and Verner Worm, 'Social Capital and the Dynamics of Business Negotiations between the Northern Europeans and the Chinese' (2003) 20(3) *International Marketing Review* 262–285.

difficulties, the ‘no-deal’ scenario was avoided as it was apparent that no agreement was the least preferred scenario on either side of the table.²⁵

Processes and people matter for successful negotiations. There are certainly some personal traits that can contribute to a more successful outcome at the negotiating table, such as persuasion, charisma, assertiveness and communication skills. Successful negotiators are quite often branded with such images as ‘punching above their weight’, ‘heavy hitters’ and ‘aggressive players’.²⁶ These are viewed ‘traditionally’ as male skills and characteristics,²⁷ as gendered power systems tend to assign such skills to ‘men’s jobs’, which require a generally higher level of power and fewer women tend to apply for them.²⁸ One can argue that such a traditional, and frankly inaccurate, perception of negotiation as a ‘man’s job’ could be one reason for fewer women choosing such a career. After all, if one looks at gender stereotypes, one can also say that women tend to be more collaborative in their decision making.²⁹ In addition, our interviews also show the anecdotal evidence that a higher presence of women at the negotiating table may lead to faster compromises and conclusion of the trade agreement.³⁰

However, the biggest success factor of negotiations may lie outside of the negotiating room: the connection with the capital. As described above, the negotiation process has a double location – at the negotiating table and in the capital. Achieving the ultimate goal of negotiations (conclusion of a trade agreement where both sides gain more than they lose) requires receiving guidance and expertise from the capital, approving of texts and positions and requiring quick feedback and decisions. One can assume, in most of the cases, that this will require a number of inter-agency and inter-ministry

²⁵ Jim Brunsten and George Parker, ‘UK and EU to Resume Talks in Final Push for Post-Brexit Trade Deal’ (*Financial Times* 22 October 2020) <www.ft.com/content/27d46f3b-a718-421e-b5d6-b007c08a441d> accessed 8 May 2022.

²⁶ These quotes are unattributable to the interviews, but Malhotra and Bazerman give a good overview of the key skills of a successful negotiator – and they resemble the ones we list from the interviews. See Deepak Malhotra and Max Bazerman, *Negotiation Genius: How to Overcome Obstacles and Achieve Brilliant Results at the Bargaining Table and Beyond* (Bantam 2008).

²⁷ Gill Whitty-Collins, *Why Men Win at Work... and How We Can Make Inequality History* (Luath Press 2020).

²⁸ Roxana Barbulescu and Matthew Bidwell, ‘Do Women Choose Different Jobs from Men? Mechanisms of Application Segregation in the Market for Managerial Workers’ (2012) 24(3) *Organization Science* 737–756.

²⁹ Renee Cullinan, ‘In Collaborative Work Cultures, Women Disproportionately Carry More of the Weight’ (*Harvard Business Review* 24 July 2018) <<https://hbr.org/2018/07/in-collaborative-work-cultures-women-carry-more-of-the-weight>> accessed 8 May 2022.

³⁰ The authors would welcome further research on this.

consultations, verifications and active lobbying with the business community and civil society for certain concessions. Additionally, every step involves not only political consensus, but also certain administrative steps – be it sending a memo between different ministries or associations, or just registering incoming documents. To speed up the response from the capital and overcome or make more efficient these ‘red tape’ processes, personal connections and political aptness are key for negotiators.

Historically, diplomatic and political connections in any country were in the hands of men, and this can explain the relatively lower presence of women in trade (and the UN) missions today. Changing the gender make-up of a profession can take generations. Based on the collected data on missions in Geneva, it is not a surprise that the presence of women trade experts, diplomats and negotiators is higher in countries that score better on gender equality domestically. Active encouragement of women to pursue government-related careers could help bring more women to positions where they are engaged in the negotiation process. There is evidence that even when quotas for women were introduced, women have tended to fall out of government careers³¹ – a phenomenon that is yet to be studied further. What could be the reasons for women not staying in the government positions, and can these reasons be curtailed in order to enhance women’s participation?

A first relevant factor is that trade negotiations take years. The greater the number of participating countries, the longer will be the negotiations. Overall, the trade negotiation process can be described in several steps:³²

- (1) Consultative process of negotiations;
- (2) Development of country position and possible scenarios for the concessions;
- (3) Negotiation of the process of negotiation: determination of the number of rounds, chapters to be negotiated, when and where;
- (4) Actual process of negotiation: party-to-party interaction; and
- (5) Formal conclusion: the official ‘signature’ moment, ratification in the executive body, official notification to the WTO and other trading partners.

While the beginning and end of the negotiations are set points in time, the intermediate steps can be repeated many times and span many years. These

³¹ UN Women, ‘Women in Politics: 2021’ <www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2021/Women-in-politics-2021-en.pdf> accessed 8 May 2022.

³² Based on data collected by the authors and their experience.

intermediary steps may never come to fruition – for example, in the case of the Transatlantic Trade and Investment Partnership (TTIP) – but if they do, the signature process is a huge political success.

Quite often during the process of multilateral and regional negotiations, the process is split into stages of active face-to-face negotiations in a predetermined location and time to lobby/gather feedback in the capital – requiring much travelling in between.³³

Negotiations at the WTO are premised on consensus-building with the hitherto unused option of majority voting available.³⁴ Finding a common position among 164 countries requires building alliances that are ever more nuanced and therefore require even larger networks. In the world where there are so many trade topics in many trade fora, countries are naturally drawn to build strategic alliances and partnerships, pooling resources and accessing information.

Just having women present in trade negotiations does not control for women as a population group having similar access to the benefits of trade agreements as men. Research shows that gains from trade liberalization are distributed unequally between men and women due to the systemic issues across different areas of human activity, including access to finance, skills, prohibitive laws and social norms.³⁵ Expecting a woman negotiator to be an expert not only in her field of expertise, but also in all other fields that interact with gender, or being able to forecast the gendered impact of trade policy taking into account all these dimensions, is an unrealistic assumption. Of course, every woman negotiator brings her own experience and perspective as a woman to the table, but it does not substitute for gender inclusion in the process of negotiation.

A separate remark has to be made about the effect of the COVID-19 pandemic on trade negotiations. The overall move of negotiations to virtual/hybrid format and higher reliance of government officials on computer-enabled processes had the potential to improve the general speed of interaction and reaction of the capital. At the same time, it had an ambiguous effect on the ability of negotiators to build connection and trust during the

³³ The back-and-forth between the capital and negotiation seat is quite often combined with actual physical travel. As women are traditionally left in charge of unpaid care work for children and the elderly more often than men, such a work routine could be a greater burden.

³⁴ Art. XI, WTO Agreement: Marrakesh Agreement Establishing the World Trade Organization, 15 April 1994, 1867 UNTS 154 33 ILM 1144 (1994) (Marrakesh Agreement or WTO Agreement).

³⁵ World Bank and WTO, 'Women and Trade' (n 15).

negotiations.³⁶ The pandemic definitely has opened the door to creating a more inclusive structure of trade negotiations, but it is yet to be understood how this can be successfully utilized to achieve the common goal of any trade negotiation – conclusion of trade agreements that benefit its addressees.

7.5 TO BE A NEGOTIATOR IS A CAREER CHOICE, TRADE NEGOTIATIONS ARE NOT

While it is safe to assume that having sufficient women representatives in trade negotiations is a positive development for the negotiations themselves due to women's higher propensity to achieve more collaborative interactions,³⁷ tasking women negotiators to represent the whole multitude of 'women's interests' in trade negotiations is misplaced. The larger question is how do we systemically ensure that 'women's interests' can be reflected in trade negotiations?

Trade negotiations increasingly cover more and more topics, both in the WTO and at the regional level. Independent from the type of negotiation, the interviews have indicated that expertise in the negotiating party can be split into two fields – 'generalist' and 'expert' negotiators. The generalist negotiators are often responsible for the overall process of negotiation – exchange of positions, ensuring fulfilment of the procedural code, getting a response from the opposite party. Their key skills are institutional memory and diplomatic connections that they can use to try to get a better offer from the opposing party. The more experienced the generalists in trade negotiations, the more a country can 'punch above its weight' in trade negotiations.³⁸ Where women are present in these roles, this mostly happens in countries where gender equality has been targeted internally for decades.

The 'expert' negotiator deals with the more technical side – the aspect that has been gaining in prominence – such as covering Technical Barriers to Trade (TBT), Sanitary and Phytosanitary Measures (SPS), climate change, rules of origin, environmental issues or other related issues. The complexity of these issues varies with the agreement and the countries, but it requires specialist knowledge given that the impact goes beyond the scope of diplomacy and to the heart of domestic policy development. One can think of the

³⁶ Connection and trust are key in successful negotiations. See Malhotra and Bazerman, *Negotiation Genius* (n 26).

³⁷ Eduardo Araújo, Nuno AM Araújo, André A Moreira, Hans J Herrmann and José S Andrade Jr, 'Gender Differences in Scientific Collaborations: Women Are More Egalitarian than Men' (2017) 12(5) *PLoS ONE*.

³⁸ Based on the authors' experience and empirical research.

example of the trade facilitation negotiations where many of the experts were from customs and other border agencies and not necessarily from the foreign affairs or foreign trade office. The same can be seen in the fisheries subsidies negotiations where many large countries are able to be represented by officials and experts from the agriculture, fisheries or environmental ministries. Their involvement is dynamic, and often issue-specific.

This vast scope of specialists that are involved in trade negotiations serve as a bridge to the issues to which women are ‘traditionally’ assigned, as in many countries women’s segregation by profession is still present.³⁹ So when women are present in trade negotiations, are they mostly assigned to ‘expert’ fields, or do they occupy more ‘generalist’ positions? Based on the authors’ experience, there is no clear-cut answer on that. Moreover, while women heading negotiations does indeed have the potential to lead to greater inclusion of some women’s interests in the absence of overall gender inclusion, having women specialized in certain topics can bring more tailored and specialized gender inclusion and is overall a stronger indicator of a more gender-equal society.

With the increasing complexity of issues covered by trade agreements – gender, environment, technology, IP, investment, human rights – one can be certain that there will be an increase of negotiating teams to include experts from those fields.⁴⁰ The increasing technical charge of trade agreements and growing political tensions around trade will also increase the need to bridge between expert jargon and generalists’ political messaging.

Based on the information collected in the preparation of this chapter, it became obvious that there is no common structure in the order of engaging different types of negotiators. In some cases, both ‘generalists’ and ‘experts’ are present in the negotiating room; sometimes they take turns negotiating by chapters; sometimes generalists are well-prepared and can negotiate just checking in with experts; sometimes experts are placed in the capital, with generalists consulting with them constantly.

The expansion of trade negotiation teams is not universal – as with the size of trade missions in Geneva, some countries have limited diplomatic resources for trade policy and even less financial resources.⁴¹ In many smaller countries,

³⁹ Some anecdotal evidence gathered for this chapter suggests that women play a bigger role in topics that are ‘unpopular’ or ‘marginal’, but as these topics gain attention men start being more engaged with them. This could be the case for gender, the climate and labour issues in trade agreements.

⁴⁰ For some of the conducted interviews, the negotiating party was already reaching 100 people.

⁴¹ For example: Benin removed its mission. See Simon Petit, ‘Une ambassade à Genève, un luxe? Oui, a répondu le Benin’ (*Le Temps* 28 August 2020) <www.letemps.ch/monde/une-ambassade-geneve-un-luxe-oui-repondu-benin> accessed 8 May 2022; Fiji reinstated its

or ‘latecomers’ to trade negotiations, the ‘expert’ and ‘generalist’ is often the same person, and there is sometimes a need to rely on international experts for support, paradoxically often funded by their negotiating opponents. Organizations such as the South Centre, the Commonwealth Secretariat and the Advisory Center on WTO Law (ACWL) also provide legal, technical and analytical support to developing countries as part of their mandate.⁴²

Some of these small countries and ‘latecomers’ may have a harder time catching up, facing the tension between being locked out from the integration processes and not having enough trade policy expertise at home to protect national interests. Interviews with small delegations have confirmed that such latecomers have greater difficulties crafting their own position and may quite often outsource the underlying trade analysis to experts in other countries or international institutions.

A separate remark has to be made about the importance of training of officials provided by international organizations. Training provided by the WTO, the UNCTAD, the ITC and other organizations⁴³ tend to be built on a best-practices approach, and therefore can provide a timely source of knowledge on the latest topics in trade, sometimes being the sole source of affordable expertise on such issues as gender and trade, trade and environment, or financing for trade for government officials.

7.6 WOMEN’S REPRESENTATION VERSUS WOMEN’S INCLUSION IN TRADE NEGOTIATIONS

The purpose of this chapter is not simply to discuss whether women are represented at trade negotiations – but also to highlight that women

mission in 2014 after a decade of absence. See ABC News, ‘Fiji Reinstated to the Commonwealth Following “Credible Elections”’ (26 September 2014) <www.abc.net.au/news/2014-09-27/fiji-reinstated-to-the-commonwealth-following-elections/5773330> accessed 8 May 2022; Mexico has decreased the overall size of negotiating teams as a part of austerity politics. See Mary Beth Sheridan, ‘López Obrador’s Cost-Cutting Spree Is Transforming Mexico – and Drawing Blowback from Bureaucrats’ (*Washington Post* 14 July 2019) <www.washingtonpost.com/world/the_americas/lopez-obradors-cost-cutting-spree-is-transforming-mexico-and-drawing-blowback-from-bureaucrats/2019/07/14/58187b5e-66e2-11e9-a698-2a8f808c9cfb_story.html> accessed 8 May 2022.

⁴² For further information, see ACWL, ‘Home’ <www.acwl.ch> accessed 8 May 2022; South Centre <www.southcentre.int> accessed 8 May 2022; Commonwealth <<https://climate.thecommonwealth.org>> accessed 8 May 2022.

⁴³ For example, see courses available for registration at ITC, ‘SME Trade Academy’ <<https://learning.intracen.org>> accessed 8 May 2022; UNCTAD, ‘Virtual Institute’ <<https://vi.unctad.org>> accessed 8 May 2022; WTO, ‘e-Learning Institute’ <www.learning.wto.org/> accessed 8 May 2022.

representation in trade negotiations does not guarantee that ‘women’s interests’ are included in the resulting negotiated text of a trade agreement. This puts trade negotiations into a wider context of achieving global gender equality.

Women’s representation is quite often a misleading proxy for including women’s interests. Therefore, when women’s representation is discussed, it is often intended to serve not as a role model of a particular career, but also as the channel to include women’s interests at large – to create gender inclusion in a trade agreement. It is important to recognize the difference between the two. While there are positive benefits of women’s representation on gender equality (see next section) in the negotiated trade agreement, it is not a sufficient element to ensure the gender inclusion of the negotiated outcome and that the interests of women are fully reflected. This can be ensured only when negotiation is gender-sensitive and/or gender is a part of the analysis in the process of negotiation.⁴⁴

As we discussed, the negotiation itself is a highly technical process that involves many different types of expertise, including both professional negotiators and specialists in a particular field. Women’s representation in the trade negotiations therefore depends on encouraging women to take on these kinds of jobs and to ensure the environment is supportive of growing responsibility for these women. Access to skills and training, family-friendly policies for diplomats and negotiators and mentorship are all important elements to attract and maintain women’s representation in this career.

Can we assume that the inclusion of women in trade negotiations implies that gender equality is improving as a result of what is negotiated? Trade negotiations are a success when they result with the conclusion of a trade agreement. Trade agreements in turn contain not only preferential trade terms between countries, but also better regulatory frameworks, means to liberalize

⁴⁴ Historically, gender was introduced as a part of sustainability concepts, and was first bundled into sustainability analysis of trade agreements. Right now, there are multiple frameworks available on how to incorporate gender into trade policy proposals. See ITC, ‘Mainstreaming Gender in Free Trade Agreements’ (n 12); Jane Korinek, Evdokia Moisé and Jakob Tange, ‘Trade and Gender: A Framework of Analysis’ (2021) OECD Policy Paper 246 <<https://doi.org/10.1787/6db59d80-en>> accessed 8 May 2022. There are also country-specific initiatives, for example, Canada’s gender-based analysis used for all development cooperation programmes. See Government of Canada, ‘Gender Analysis’ <www.international.gc.ca/world-monde/funding-financement/gender_analysis-analyse_comparative.aspx?lang=eng> accessed 8 May 2022, and EIGE, ‘Gender Mainstreaming’ <<https://eige.europa.eu/gender-mainstreaming>> accessed 8 May 2022.

trade and improve development outcomes. Recent data⁴⁵ shows that trade agreements are hard to implement, and developing countries are lagging behind even on implementing existing agreements and using certain preferential rates. When we take into account the social complexity of addressing gender, regional trade agreements have the potential to both improve and worsen the situation of women if the unequal distribution of trade effects domestically are not controlled for.

There is evidence that trade agreements improve gender equality – but this is dependent on agreement-specific factors.⁴⁶ This, along with the generally unequally distributed gains from trade liberalization, brings us to the conclusion that the biggest possible positive effect of a trade agreement on gender equality can be only achieved in its gender-inclusive implementation at home.

While the existing gender chapters do not have specific commitments or enforcement mechanisms,⁴⁷ they signify a huge step forward in recognizing that to control for diverging impacts on men and women, trade agreements should not be assumed to be gender-neutral, but should be actively gender-inclusive.⁴⁸ There is yet an unproven effect on gender equality of trade and gender chapters, and the high cultural sensitivity of gender issues makes it unlikely that such gender chapters can be included in all upcoming trade negotiations. Inability to have gender provisions or chapters does not automatically undermine the inclusion of issues of importance to women in trade agreements as there are other ways of incorporating them – such as adding

⁴⁵ For example, see Rohini Acharya, 'Regional Trade Agreements: Challenges and Opportunities. Proliferation of Trade Accords Has Potential to Increase Trade – and Make Trade Relations More Complex' (ITC News 20 December 2018) <<https://intracen.org/news-and-events/news/regional-trade-agreements-challenges-and-opportunities>> accessed 8 May 2022.

⁴⁶ Amelia U. Santos-Paulino, Alisa DiCaprio and Maria V. Sokolova, 'The Development Trinity: How Regional Integration Impacts Growth, Inequality and Poverty' (2019) 42(7) *World Economy* 1961–1993.

⁴⁷ For example, Articles 121–122 of the East African Community treaty endorses women roles in economic, social and political development of the region – with no specific commitments or enforcement. However, using the more general Article 6(d) that includes commitment to equal opportunities and gender equality among others, they have launched the Gender Policy that introduces gender strategies into different institutional policies that are aimed at integration. On the other hand, the Canada–Israel FTA that includes a gender chapter (Chapter 13) with provisions on cooperation in various areas that can improve gender equality (e.g. access to finance, female entrepreneurship, GBA implementation) also permits parties to have recourse on consent to the dispute settlement mechanism established under the FTA – making it, legally speaking, clearer on how to monitor and enforce advances in gender equality in FTAs.

⁴⁸ For more discussion on this, see Marie-France Paquet and Georgina Wainwright-Kemdirim, 'Crafting Canada's Gender-Responsive Trade Policy' (Chapter 14 in this book).

gender as a dimension to be considered during the analysis of the potential effects of trade agreements at the negotiation stage.⁴⁹

The existence of SDG 5 creates the sentiment and a set of indicators,⁵⁰ but there is no recipe on how it should or can be implemented in each country. There is a lingering lack of gendered data – both in trade and globally. Collection and transparency about such data can be more problematic in some societies due to cultural sensitivity but it is often as a result of the appropriate systems not being in place to capture this important disaggregated data. This disaggregated data is not only essential to ensuring that trade agreements are gender-sensitive but gives governments the means to monitor and measure the consequent impact of the agreements on women.

There is a misleading sentiment that only women should be in charge of gender-inclusion issues. While it is undeniable that there is a positive effect of having greater women's representation and women role models it is inaccurate to assume that a woman put into the lead negotiator position will automatically have the understanding of how to propose policies that are gender-inclusive on a large scale. This is why it is crucial that systemic changes are made at all stages of the trade negotiating cycle to infuse gender-sensitivity, gender-disaggregated data and gender training irrespective of which gender is leading the negotiations.

Given the uneven representation of women in negotiations and the general lack of gender mainstreaming, having women negotiators is better than having no women at all, but it does not automatically ensure greater inclusion of gender issues in trade policy.

7.7 WOMEN'S REPRESENTATION AS A TOOL FOR GENDER EQUALITY

Women have been notoriously absent in history⁵¹ and despite greater awareness and anxiety around issues of gender equality today, there is still a clear divide, with women not only earning less than men for the same job, but also

⁴⁹ One such approach is the gender-based Analysis Plus (GBA+) that allows for assessing how diverse groups of women and men experience various policy proposals. At the moment, the Canadian government is the first to implement a comprehensive GBA+ analysis of the full scope of trade agreements and its effects. For more details, see *ibid*.

⁵⁰ SDG 5: Achieve gender equality and empower all women and girls. See UNECOSOC, 'Achieve Gender Equality and Empower All Women and Girls' <<https://sdgs.un.org/goals/goal5>> accessed 8 May 2022.

⁵¹ Christine Fauré, 'Absent from History' (Lillian S. Robinson trans) (1981) 7(1) *Journal of Women in Culture and Society* 71–80.

having more limited access to basic human rights and suffering greater effects from economic and climate shocks.⁵² Much of this disparity is not only dependent on socio-economic factors, but also connected to cultural and religious factors. This makes the global advancement of gender equality not only institutionally complex, but also highly charged politically. Although it is beyond the remit of this chapter, the situation is even more dire when elements such as race, ethnicity and socio-economic status are brought into the picture.

In such a globally unequal situation, women's representation has not always been seen as an overall improvement, but rather as a 'patch' to the situation. There has even been a backlash, and scepticism regarding the competency of women placed in positions of power.⁵³ Nevertheless, the overarching positive impact of greater representation of women, specifically in trade-related activities, cannot be ignored.

First of all, role models matter, especially for roles where there is a gender bias, and more so in developing countries.⁵⁴ Having women negotiators sends a powerful signal of career possibilities (as discussed earlier, networks and influence are key components of a negotiator's job).

Secondly, women overall have different sets of skills and perspectives – partially invigorated by systemic limitations and disadvantages – and can bring different dynamics and views to the process of negotiation. While this requires further research, the anecdotal evidence that the authors collected during the interviews proves that having a sufficient number of women negotiators changes the dynamics of the process – potentially making it less charged and more efficient.⁵⁵

⁵² UN Women, 'Explainer: How Gender Inequality and Climate Change Are Interconnected' <www.unwomen.org/en/news-stories/explainer/2022/02/explainer-how-gender-inequality-and-climate-change-are-interconnected> accessed 8 May 2022; Elisabeth Reichert, 'Women's Rights Are Human Rights: Platform for Action' (1998) 41(3) *International Social Work* 371–384; Eric Neumayer and Thomas Plümper, 'The Gendered Nature of Natural Disasters: The Impact of Catastrophic Events on the Gender Gap in Life Expectancy, 1981–2002' (2007) 97(3) *Annals of the Association of American Geographers* 551–566.

⁵³ From the recent cases of biased attention on women in power one can look at the election of Ngozi Okonjo-Iweala as the head of the WTO and coverage in the media. See Euronews, 'Swiss Newspaper Apologises for "Inappropriate" Headline about New WTO Director-General' (1 March 2021) <www.euronews.com/2021/03/01/swiss-newspaper-apologises-for-inappropriate-headline-about-new-wto-director-general> accessed 8 May 2022.

⁵⁴ Maria V. Sokolova, 'On the Role of Women Trade Trainers' (Trade Experettes n.d.) <www.tradexperettes.org/blog/articles/on-the-role-of-women-trade-trainers> accessed 8 May 2022.

⁵⁵ Remarkably, based on the interviews, different tones of the negotiations seem to appear when a number of women – close to one-third – were engaged in the negotiations. On file with authors.

Thirdly, in the absence of the overall common understanding of the nexus of trade and gender, having women at the negotiation table – and involved in the negotiation process at large – provides a source of knowledge on these issues and their experiences. Women engaged as experts in the negotiations inevitably bring their gender-specific experience into policy analysis, assessing the impact of different negotiated concessions not only from the economic standpoint, but also through the gender lens. Women negotiators can also channel their knowledge into the negotiations, improving the gendered effect of negotiated policies.

All in all, while women's representation may not be the perfect tool to address gender inequality, the key benefits outlined can turn trade negotiations into a tool for better gender equality. The more gender-informed and inclusive the process of trade negotiations, the higher are the chances of more gender-inclusive outcomes.

7.8 THE WAY FORWARD

While there may have been progress, there is no doubt that improvements are needed to enhance the presence and impact of women in current trade negotiations. However, the system can also be systematically inclusive if, along with gender awareness, the appropriate incentives are provided for women to pursue diplomatic careers in trade and government positions overall.

Women's representation has a positive effect on trade negotiations in terms of both the negotiation process and the substance of negotiations. The complexity of modern trade negotiations requires experts from a variety of fields, and to secure women's representation overall it needs to be improved throughout various fields. Women can be encouraged to pursue diplomatic careers, and gender disparities (both vertical and horizontal) in other areas of government careers should be addressed – for example, through gender strategies.

But while women's representation at trade negotiations should not be a goal in itself, the inclusion of women's interests should be. A woman negotiator brings her soft and hard skills and her experiences, including her gender-specific experiences, into the negotiation process – this can improve both the process and outcome of the negotiation. However, it is a flawed logic that a woman placed at the negotiation table should be in charge of representing the interests of all women in the country. Trade touches a variety of fields of expertise and therefore has a multidimensional intersection with gender issues that are specific to each field. Representing the interests of all women in the country is only possible when these interests are included in the analysis of how the negotiated outcomes impact women who are active in these fields.

This can only be done when using appropriate tools and when gender equality is mainstreamed throughout the overall priorities and policies of the country.

Therefore, gender aspects should be included in the analysis of policy proposals during the stage of trade negotiations. This analysis can result in subsequent creation of specific chapters or provisions, or just serve as the background papers that inform the more traditional trade concessions that will have a more positive (or rather, less negative) impact on women.

Geneva remains a centre of international trade law and policy making, but there is an uneven capacity in diplomatic missions to serve all the ongoing negotiations, with much higher pressure on staff from developing and small countries. In such circumstances, countries have to prioritize among different topics that are being negotiated, and gender often is not given top priority, overshadowed by such issues as climate change, carbon offsetting, health, security and others – all issues which have a very clear gender dimension as well.

The persistent lack of data about the gendered effects of trade policy can be addressed at the multilateral level through the Trade Policy Review mechanism of the WTO⁵⁶ and through data collection initiatives such as ITC's SheTrades Outlook.⁵⁷ Including on a systematic basis a gender component in the WTO's trade policy reviews of countries will not only provide more information about the current state of play and practices, but will also educate the countries to pay attention to these issues.

We need to realize that gender inclusion is not the sole responsibility of women, but of all genders. There is no doubt that the presence of women trade negotiators improves the speed and overall structure of how trade negotiations are conducted. But charging women trade negotiators to represent women's interests for the whole economy is as much a retrograde step as having no women involved in trade negotiations. Prioritizing women's interests in trade negotiations is important. Bringing more women to the negotiating table is important. We have to be able to do both at the same time, but it has to be the responsibility of everyone.

⁵⁶ WTO, 'Amendment to the Trade Policy Review Mechanism', WT/L/1014 (27 July 2017) 1.

⁵⁷ ITC, 'SheTrades Outlook' <www.shetrades.com/outlook/home> accessed 8 May 2022.