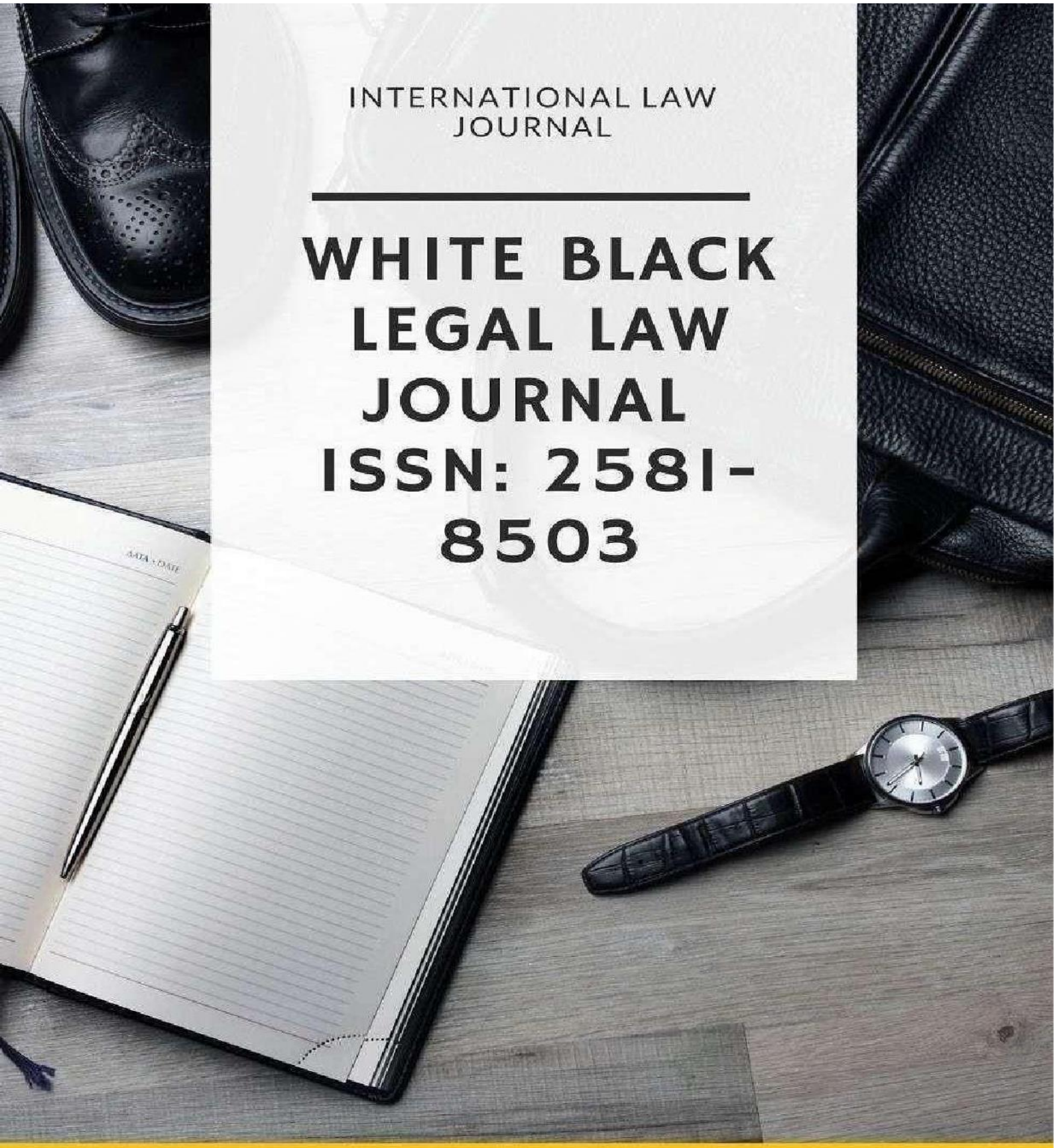


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A STUDY ON GENDER JUSTICE IN INTERNATIONAL TRADE LAW

A Doctrinal and Policy Analysis of Gender Equality, Trade Governance and Inclusive Development

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ABSTRACT

International trade law is commonly framed through principles such as non-discrimination, market access, transparency and predictable regulation. Yet trade is not experienced in a gender-neutral manner. Women participate in international commerce as workers in export industries, farmers and producers, small-business owners, informal and cross-border traders, service providers, consumers and public decision-makers. Their ability to benefit from trade is shaped by unequal access to finance, land, technology, skills, transport, care infrastructure and formal business networks. Trade liberalisation can create employment and entrepreneurial opportunities, but it can also intensify insecure work, sectoral segregation, unequal pay and barriers to market entry. This article examines the relationship between gender justice and international trade law through a doctrinal and policy-based analysis of the World Trade Organization (WTO) framework, international human rights instruments, international labour standards and gender provisions in regional trade agreements. It argues that the existing international framework recognises equality in several important instruments but does not yet provide a comprehensive, consistently enforceable system for assessing and remedying the gendered effects of trade rules. The article distinguishes formal equality from substantive equality and proposes a practical model for gender-responsive trade governance based on ex ante impact assessment, sex-disaggregated data, participation, enforceable labour protections, support for women-led enterprises and transparent monitoring. It concludes that gender justice should not be treated as a peripheral social objective; it should form part of the assessment of whether trade policy produces inclusive and sustainable development.

Keywords: Gender justice; international trade law; World Trade Organization; CEDAW; gender-responsive trade policy; regional trade agreements; women's economic empowerment; substantive equality.

CHAPTERIZATION

Chapter I — Introduction, research problem, review of literature, objectives, questions and methodology

Chapter II — Conceptual framework: gender justice and the gendered effects of international trade

Chapter III — International legal and institutional framework

Chapter IV — Critical analysis of gaps in international trade law and practice

Chapter V — Findings, recommendations and conclusion

Bibliography and selected legal materials

CHAPTER I — INTRODUCTION

1.1 Introduction

International trade connects economies through the movement of goods, services, capital, technology and data. Trade rules influence the prices consumers pay, the industries in which jobs are created, the conditions under which products are made, the opportunities available to entrepreneurs and the fiscal choices of governments. These effects are not distributed evenly across society. Gender roles, unequal access to resources and the division of unpaid care work shape the capacity of individuals to participate in and benefit from cross-border economic activity.

The expression ‘gender justice in international trade law’ refers to the use, interpretation and implementation of trade rules in ways that identify and address gender-based disadvantage and promote equal participation, protection and benefit. It is broader than the prohibition of explicit discrimination. A rule may use gender-neutral language while producing unequal practical outcomes because women and men occupy different positions in labour markets, ownership structures, supply chains and household economies. A meaningful inquiry therefore asks not only whether a trade measure formally treats people alike, but also who has the resources to use the opportunities created by trade, who bears the adjustment costs and who participates in decisions.

The World Trade Organization (WTO) system was principally designed to regulate trade relations among states through negotiated obligations. Its core agreements do not establish a general, freestanding gender-equality code. Nevertheless, trade rules interact with human rights, labour standards, domestic equality law and development policy. The WTO and other institutions have increasingly developed research, policy tools and forums concerning women’s

economic empowerment. The WTO's database on gender provisions in regional trade agreements also shows that trade agreements can address gender issues through cooperation, implementation mechanisms and dedicated provisions.[1]

1.2 Background of the Study

The expansion of global value chains has created employment for many women, particularly in manufacturing, agriculture, textiles, garments, food processing, tourism and services. Export activity can increase income, build skills and create pathways to formal employment. However, the quality of these opportunities matters. Women may be concentrated in low-paid or insecure occupations, have limited access to supervisory positions, face occupational health risks or experience difficulty combining paid work with unpaid care responsibilities. In some contexts, the competitive pressure to reduce costs can encourage reliance on low wages and precarious work.

Women entrepreneurs face a related set of obstacles. A woman-owned small or medium-sized enterprise may be less able to meet export certification requirements, obtain trade finance, access digital platforms, navigate customs processes or absorb the costs of complying with technical standards. Informal and small-scale cross-border traders may experience particular difficulty obtaining information, transport, storage, insurance and formal recognition. UNCTAD's work on trade policy through a gender lens emphasises that trade policy should account for the different roles women play as workers, producers, entrepreneurs, traders and consumers, and for the structural barriers that affect their participation.[2]

These concerns raise a legal and institutional question: how can international trade law accommodate legitimate trade liberalisation while ensuring that trade policy does not deepen existing inequalities? The issue is not whether every trade measure must produce identical outcomes for all groups. Rather, it is whether decision-makers identify foreseeable effects, preserve appropriate policy space, respect applicable human rights obligations and design supporting measures so that the benefits of trade are broadly shared.

1.3 Statement of the Problem

The central problem is the uneven integration of gender justice into international trade governance. International instruments recognise equality and non-discrimination, while trade agreements increasingly contain gender-related language. However, many gender provisions in trade agreements are framed as cooperation or best-efforts commitments, and their relationship with dispute settlement varies. Gender considerations may also be addressed in

policy statements without clear obligations to collect data, conduct impact assessments, allocate resources or provide remedies.

This creates a potential implementation gap between the normative commitment to gender equality and the practical operation of trade policy. A further difficulty is that aggregate measures of trade growth can conceal distributional effects. Increased exports or foreign investment do not, by themselves, demonstrate that women have obtained secure employment, fair remuneration, access to productive assets or a meaningful role in trade-related decision-making.

1.4 Significance of the Study

The study is significant for four reasons. First, it connects trade law with international human rights and labour standards, encouraging a more integrated understanding of states' legal and policy responsibilities. Second, it examines substantive equality rather than relying solely on facially neutral rules. Third, it identifies institutional tools—gender impact assessment, disaggregated data, consultation and monitoring—that can make gender-responsive trade policy measurable. Fourth, it offers recommendations relevant to governments, trade negotiators, international organisations, employers, civil society and women-led enterprises.

1.5 Review of Literature

The WTO and World Bank publication Women and Trade: The Role of Trade in Promoting Gender Equality examines how trade affects women and men differently in wages, employment quality, consumption and welfare. It argues that trade can support women's economic empowerment but that outcomes depend on the conditions in which trade takes place and on complementary domestic policies.[3]

UNCTAD's Looking at Trade Policy through a 'Gender Lens' synthesises country studies from Angola, Bhutan, Cape Verde, The Gambia, Lesotho, Rwanda and Uruguay. It demonstrates that the effects of trade liberalisation are not uniformly positive: women may gain access to wage employment while remaining concentrated in lower-paid work or facing limited skill development. The report argues that conventional aggregate analysis can overlook the distributional effects of trade policy.[4]

UNCTAD's later analytical work, Linking Trade and Gender towards Sustainable Development, explains the reciprocal relationship between trade and gender. Trade policy affects employment, income, working conditions, consumption and public revenue; gender inequalities, in turn, influence productivity, competitiveness and the ability of women to

participate in trade. It discusses gender-impact assessment and the integration of gender considerations into trade agreements.[5]

José-Antonio Monteiro's WTO working paper on the evolution of gender-related provisions in regional trade agreements documents the varied nature of such provisions. Some agreements contain standalone chapters, while others use cooperation clauses, labour-related provisions or references to domestic equality policies. The diversity of language and implementation arrangements makes it difficult to assume that all gender clauses have the same legal effect.[6]

UNCTAD's study of non-tariff measures through a gender lens adds a compliance perspective. Technical regulations and standards may serve legitimate objectives such as health, safety and quality, yet compliance costs can disproportionately burden women traders and enterprises where access to finance, information, skills, land or mobility is unequal.[7]

The literature provides strong evidence that trade and gender are connected and identifies useful policy tools. However, a continuing research need is to connect this evidence with the legal architecture of international trade: the extent of binding obligations, the status of gender provisions, the relationship between trade rules and human rights treaties, and the design of accountability mechanisms. This article addresses that intersection.

1.6 Research Gap

Much existing work concentrates on economic outcomes, policy guidance or the description of gender clauses in selected trade agreements. This study brings these strands together in a legal analysis of the relationship between formal trade disciplines and substantive gender equality. It focuses on the normative gap between general equality commitments and the limited or uneven enforceability of gender-related commitments in trade instruments. It also proposes a framework for translating gender equality into procedures and indicators that can be used during negotiation, implementation and review.

1.7 Objectives of the Study

To explain the concept and importance of gender justice in international trade law.

To analyse the relevant international human rights, labour and trade instruments.

To examine how WTO rules and regional trade agreements address gender-related concerns.

To identify legal, institutional and practical barriers to gender-responsive trade policy.

To propose recommendations for improving participation, monitoring, accountability and access to trade opportunities.

1.8 Research Questions

To what extent does the current international legal framework integrate gender justice into trade governance?

How do international trade rules and trade-related measures affect women as workers, producers, entrepreneurs, traders and consumers?

What are the principal weaknesses in the implementation and enforcement of gender provisions in trade agreements?

What legal and policy mechanisms could improve gender-responsive trade governance?

1.9 Research Hypothesis

The study proceeds on the hypothesis that the international trade framework contains important equality-related norms and increasingly recognises gender concerns, but the absence of a comprehensive and consistently enforceable gender-responsive framework limits the capacity of trade governance to identify, prevent and remedy unequal outcomes.

1.10 Research Methodology

This research adopts a doctrinal and qualitative methodology. It analyses primary legal materials, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Covenant on Economic, Social and Cultural Rights (ICESCR), relevant International Labour Organization (ILO) instruments, WTO agreements and selected regional trade initiatives. Secondary sources include reports and research published by the WTO, UNCTAD and other institutions. The analysis is complemented by a policy review of gender-impact assessment, data collection, consultation and monitoring.

The study is not an econometric evaluation and does not claim to establish a causal relationship between a particular trade agreement and a measured gender outcome. Its conclusions are legal and institutional in character. Country-specific conclusions should be tested against current domestic law, trade commitments, data and implementation records.

1.11 Scope and Limitations

The study focuses on international trade law and gender justice, with attention to the WTO system, human rights law, international labour standards and regional trade agreements. It does not provide an exhaustive assessment of every national trade regime or every bilateral and regional agreement. Because gender provisions vary between agreements and their implementation may change, the status and wording of any particular agreement should be

verified against the official text before publication or legal use.

1.12 Scheme of Chapters

Chapter I introduces the research problem and methodology. Chapter II develops the conceptual framework. Chapter III reviews the international legal and institutional framework. Chapter IV critically analyses gaps in the present system. Chapter V sets out findings, recommendations and conclusions.

CHAPTER II — CONCEPTUAL FRAMEWORK: GENDER JUSTICE AND INTERNATIONAL TRADE

2.1 Meaning of Gender Justice

Gender justice concerns the fair distribution of rights, opportunities, resources, responsibilities and decision-making power across genders. In the context of trade, it includes equal legal status, protection from discrimination and violence, fair working conditions, access to productive resources, meaningful participation in policy formation and the ability to benefit from commercial opportunities. It also recognises that disadvantage may be intensified by poverty, disability, ethnicity, migration status, geography, age or informality.

The concept must be distinguished from a narrow notion of equal treatment. Formal equality asks whether a rule treats similarly situated persons alike. Substantive equality asks whether the rule and its implementation address the conditions that prevent people from enjoying rights in practice. For example, a digital customs system may apply the same procedure to all traders, but traders without reliable internet access, digital literacy or access to formal business accounts may be disproportionately excluded. A substantive-equality analysis considers these underlying conditions and the proportionality of possible responses.

2.2 The Gender–Trade Relationship

Trade and gender affect each other in both directions. Trade policy can change the composition of employment, wages, prices, public revenue and access to services. At the same time, gender inequalities in education, ownership, care responsibilities and access to finance affect the ability of firms and workers to respond to new market opportunities. A trade policy that ignores these relationships may overestimate the benefits of liberalisation and underestimate adjustment costs.

The impact of trade should be considered across at least five roles: (i) workers in export and

import-competing sectors; (ii) producers and farmers supplying domestic and international markets; (iii) entrepreneurs and owners of micro, small and medium-sized enterprises; (iv) consumers affected by prices, product availability and public services; and (v) decision-makers in government, trade associations and international institutions. Each role involves different rights, risks and policy responses.

2.3 Formal Equality and Substantive Equality

International trade rules frequently employ general concepts such as most-favoured-nation treatment, national treatment, transparency and fair administration. These disciplines can constrain arbitrary discrimination between trading partners or imported and domestic products. They do not, however, automatically resolve gender inequalities within a state. A tariff schedule may be neutral as to gender while its economic effects depend on women's concentration in particular industries or on their roles as unpaid family workers.

A substantive approach does not mean that every unequal effect is unlawful or that all trade rules must be redesigned to produce identical outcomes. It means that policymakers should investigate foreseeable distributional effects, consider applicable legal obligations and adopt proportionate, evidence-based measures to reduce avoidable disadvantage. The analysis should distinguish the legal question—whether a measure breaches a specific obligation—from the broader policy question—whether the measure is inclusive and just.

2.4 Women's Work in Global Value Chains

Women are often employed in labour-intensive export industries and in parts of global value chains characterised by low margins and intense cost competition. Export expansion can provide paid employment, but the quality of employment depends on wages, hours, safety, social protection, freedom of association, maternity protection and opportunities for advancement. Where labour inspection and bargaining power are weak, export growth may coexist with exploitation.

The legal response cannot be reduced to trade sanctions. International labour standards, effective domestic enforcement, social dialogue, due diligence, transparent supply-chain practices and access to remedy are all relevant. Trade agreements may support cooperation on labour rights, but the content and enforcement of such provisions differ. Policymakers should avoid assuming that a reference to labour cooperation necessarily creates a directly enforceable individual right.

2.5 Women Entrepreneurs and Market Access

Women-owned enterprises may face unequal access to credit, collateral, public procurement, market information, trade finance, logistics, business networks and technology. These barriers can prevent firms from reaching the scale required to export or comply with international standards. Formal equality in customs or licensing procedures will not necessarily overcome these structural constraints.

Gender-responsive trade policy can include transparent customs procedures, simplified documentation for small consignments, accessible export information, targeted training, trade finance, public procurement opportunities and support for digital commerce. Such measures should be designed transparently and consistently with applicable trade commitments. Their objective is not to create arbitrary privileges but to remove barriers that prevent equal participation.

2.6 Informal and Cross-Border Trade

Informal and small-scale cross-border trade is an important source of income in many regions. Traders may move food, clothing, household goods and agricultural products across borders in small quantities. They can face unpredictable border procedures, harassment, informal payments, inadequate facilities, limited access to official information and risks to personal safety. When data collection focuses only on formally registered enterprises, the economic contribution and particular needs of these traders may remain invisible.

Trade facilitation measures can help when they make procedures simpler, more transparent and predictable. However, digitalisation alone is not sufficient if users lack connectivity, identification documents, financial services or digital skills. Gender-responsive implementation should involve traders' associations and local communities and should measure both formalisation outcomes and the costs imposed on small-scale traders.

2.7 Digital Trade and the Gender Divide

Digital trade may reduce geographic barriers by enabling small businesses to reach customers through online platforms. It can also reproduce existing inequalities where women have less access to devices, connectivity, digital skills, secure payment systems and logistics. Online businesses may face platform fees, algorithmic visibility problems, cyber harassment and difficulties accessing cross-border dispute resolution.

Trade policy discussions concerning data flows, electronic transactions, consumer protection, privacy and cybersecurity should consider whether women-led enterprises and workers can

participate safely and effectively. This requires coordination between trade ministries, digital regulators, equality bodies and small-business agencies. The gender dimension should be considered without assuming that women are a homogeneous group or that all women experience the digital economy in the same way.

2.8 Intersectionality

Gender disadvantage interacts with other social and economic conditions. A rural woman trader may face different barriers from a woman working in a multinational enterprise; a migrant worker may face different risks from a citizen with secure employment; and a woman with a disability may encounter barriers in transport, workplace design and digital services. A policy that measures only the average experience of women can hide these differences.

Where lawful and safe, data should be disaggregated by sex and relevant factors such as sector, enterprise size, geography, disability or employment status. Collection must respect privacy, confidentiality and data-protection principles. The purpose is to reveal structural barriers and improve policy, not to expose individuals to surveillance or discrimination.

2.9 Gender-Responsive Trade Policy

A gender-responsive approach integrates gender analysis at every stage of the policy cycle: setting objectives, negotiating rules, assessing impacts, implementing commitments, allocating resources and reviewing outcomes. It should begin before an agreement is concluded, when alternatives remain available, rather than being limited to retrospective reporting.

A useful assessment asks: who is likely to gain or lose; through which channels; over what period; what groups may face adjustment costs; whether existing equality and labour protections are adequate; which mitigating measures are available; and how outcomes will be monitored. The assessment should be public where appropriate and should include meaningful consultation with affected workers, women-led enterprises, unions, civil society and relevant public agencies.

2.10 Chapter Summary

Gender justice in trade is a question of both legal norms and practical capability. Formal non-discrimination is important, but it does not guarantee that women can access the resources and institutions needed to benefit from trade. Substantive equality requires evidence, participation, labour protection, access to finance and a commitment to evaluate distributional effects.

CHAPTER III — INTERNATIONAL LEGAL AND INSTITUTIONAL FRAMEWORK

3.1 Introduction

The international legal framework relevant to gender justice in trade is dispersed across trade agreements, human rights treaties, labour standards and development instruments. These bodies of law have different parties, enforcement mechanisms and legal effects. A sound analysis should neither treat them as interchangeable nor assume that a policy declaration automatically creates a binding legal obligation.

3.2 Convention on the Elimination of All Forms of Discrimination against Women

CEDAW is a central international instrument for the elimination of discrimination against women. It requires states parties to pursue the elimination of discrimination through law and policy and addresses, among other matters, employment, economic and social life, rural women and equality before the law. Article 11 addresses employment equality, while article 13 concerns economic and social life, including access to bank loans and other forms of financial credit. Article 14 addresses the particular situation of rural women.

CEDAW is relevant to trade policy because women's participation in trade depends on employment conditions, credit, productive resources, training and access to markets. A state's trade strategy should be designed and implemented consistently with its applicable CEDAW obligations. However, CEDAW is not itself a WTO agreement, and its obligations should not be inaccurately described as automatically enforceable through WTO dispute settlement. The legal relationship between a state's treaty obligations must be assessed under the relevant rules of treaty law and the particular dispute.

3.3 International Covenant on Economic, Social and Cultural Rights

The ICESCR protects rights relevant to the distributional effects of trade, including the right to work, just and favourable conditions of work, trade-union rights, social security and an adequate standard of living. Articles 2(2) and 3 address non-discrimination and the equal right of men and women to enjoy Covenant rights. Trade policies that affect employment, wages, access to essential goods or public revenue should be considered alongside the state's applicable obligations under the Covenant.

The Covenant does not prescribe a single trade policy model. Its relevance is to require states to consider the effects of economic policy on protected rights and to justify their choices

consistently with their obligations. In practice, this calls for policy coherence, assessment of adverse impacts and appropriate safeguards for vulnerable groups.

3.4 International Labour Organization Standards

ILO instruments provide a further legal and normative foundation. Relevant conventions include the Equal Remuneration Convention, 1951 (No 100), the Discrimination (Employment and Occupation) Convention, 1958 (No 111), the Workers with Family Responsibilities Convention, 1981 (No 156), and the Maternity Protection Convention, 2000 (No 183). Their applicability depends on ratification and the relevant legal context. The ILO's fundamental principles and rights at work also inform international labour governance.

These standards are relevant to export industries and global supply chains because trade-related employment should not depend on discriminatory pay, exclusion from occupations or unsafe conditions. Labour protections should be enforced through effective domestic institutions, social dialogue and remedies. Trade agreements may refer to labour standards, but the existence and scope of a trade-law consequence depends on the specific agreement and its dispute-settlement provisions.

3.5 The World Trade Organization Framework

The WTO agreements establish rules governing trade in goods, services and trade-related intellectual property, alongside dispute settlement and institutional review. Core principles include non-discrimination between trading partners and, in specified contexts, between imported and domestic products or services. These principles are central to the multilateral system but do not constitute a comprehensive code of gender equality.

The General Agreement on Tariffs and Trade 1994 (GATT 1994), the General Agreement on Trade in Services (GATS), the Agreement on Technical Barriers to Trade (TBT Agreement), the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), and the Trade Facilitation Agreement may affect the policy space and administrative conditions relevant to gender-responsive measures. The legal effect of any proposed policy depends on its design and the obligations that apply. A government should therefore avoid assuming either that all gender-responsive measures are prohibited or that a measure's social objective automatically exempts it from trade disciplines.

The WTO has undertaken work to improve understanding of the trade–gender relationship. Its publication Women and Trade, jointly produced with the World Bank, analyses how trade affects women and men in different ways and identifies opportunities for trade to support

women's economic empowerment.[8] WTO policy tools include a trade-and-gender policy questionnaire and databases concerning gender provisions in regional trade agreements and financial inclusion initiatives for women entrepreneurs.[9] These tools are valuable for policy development, but they should be distinguished from binding treaty obligations.

3.6 WTO Non-Discrimination Rules and Gender Equality

WTO non-discrimination rules primarily regulate treatment between members and, under particular agreements, treatment of imported and domestic goods or services. They should not be confused with a general guarantee of equal treatment between women and men within a domestic economy. A gender-responsive policy may be compatible with WTO rules, but compatibility requires analysis of the measure's structure, purpose, effects and the applicable agreement.

For example, a government may wish to provide export-readiness training to women-owned enterprises or improve border facilities used by small-scale traders. Such measures may be implemented through programmes, procurement, technical assistance or administrative reforms. The precise legal assessment depends on whether the measure involves subsidies, services, procurement, technical requirements or other regulated matters. Careful design and legal review are preferable to broad claims that gender measures are either always permitted or always restricted.

3.7 Regional Trade Agreements and Gender Provisions

Regional trade agreements (RTAs) have become an important setting for experimentation. Some include standalone chapters on trade and gender; others refer to women's economic empowerment, cooperation, labour, entrepreneurship, small and medium-sized enterprises or implementation of domestic equality policies. The WTO's database allows users to examine the location, subject matter and monitoring or dispute-settlement features of gender provisions.[10]

Monteiro's analysis indicates that gender-related provisions differ substantially in scope and drafting. Many focus on cooperation and information exchange, while some establish more detailed institutional arrangements. This variety matters: a declaration of shared objectives is not equivalent to a binding obligation with a clear standard, implementation deadline and remedy. Legal analysis should examine the exact text, the use of mandatory or permissive language, the parties' commitments, the role of committees and the applicability of dispute settlement.

The Global Trade and Gender Arrangement negotiated by Canada, Chile and New Zealand in 2020 is an example of a cooperative initiative designed to promote women's economic empowerment through trade. It illustrates that states can develop trade-related cooperation specifically around gender. Such initiatives may contribute to policy learning, although their effectiveness depends on resources, implementation and measurable outcomes.

3.8 Trade Facilitation and Non-Tariff Measures

The WTO Trade Facilitation Agreement aims to expedite the movement, release and clearance of goods and improve cooperation between customs and other authorities. Transparent and simplified procedures can reduce costs for small traders. Yet implementation must account for differing access to information, technology, transport and formal documentation. Gender-responsive implementation can include clear public guidance, accessible complaint channels, risk-sensitive border infrastructure and consultation with small-scale traders.

Technical regulations, standards and sanitary measures can protect public health, safety and the environment. UNCTAD's research warns that compliance costs may not be distributed equally. Enterprises with limited capital or technical support can struggle to meet certification and testing requirements, and workplace standards may not always account adequately for differences in workers' needs.[11] The answer is not to weaken legitimate safety standards, but to improve access to information, testing services, training and finance while preserving the objectives of the measure.

3.9 Sustainable Development Goals

The 2030 Agenda for Sustainable Development provides an important policy framework. Sustainable Development Goal 5 concerns gender equality and women's empowerment, while Goal 8 addresses decent work and economic growth and Goal 10 concerns reducing inequality. Goal 17 emphasises partnerships and implementation. These goals are not, by themselves, equivalent to a directly enforceable trade treaty. They nevertheless help frame policy priorities, indicators and cooperation across institutions.

3.10 Institutional Roles

The WTO provides a forum for trade negotiations, monitoring, research and policy dialogue. UNCTAD supports analysis of trade and development and promotes gender-responsive trade policy. The ILO develops labour standards and supports decent work. UN Women and other UN bodies contribute expertise on equality and empowerment. National governments remain

responsible for designing trade policy, enforcing domestic law and implementing applicable treaty obligations. Women's business associations, unions, community groups and civil society organisations contribute evidence about barriers that official trade statistics may overlook.

3.11 Chapter Summary

The international legal framework contains important equality, labour and trade norms, but these operate through different institutions and mechanisms. CEDAW and the ICESCR provide human-rights obligations for their states parties; ILO standards address labour equality and working conditions; WTO agreements regulate particular aspects of trade; and regional agreements increasingly include gender provisions. Greater coherence is possible, but legal precision is essential: policy commitments, binding obligations and enforceable remedies must be distinguished.

CHAPTER IV — CRITICAL ANALYSIS

4.1 The Normative Gap

The central weakness in the current system is not the total absence of gender-related norms. It is the fragmented character of the framework. Human rights instruments contain equality obligations, while trade agreements may include gender provisions, but there is no single comprehensive instrument that systematically requires every trade policy to undergo a gender assessment and provides a uniform remedy for adverse effects.

This fragmentation can create uncertainty about institutional responsibility. A trade ministry may negotiate market-access commitments, a labour ministry may oversee workplace standards, an equality body may investigate discrimination and a small-business agency may support entrepreneurs. Unless responsibilities are coordinated, no institution may be accountable for the combined gendered effects of a trade policy.

4.2 The Enforceability Problem

Gender provisions in RTAs range from aspirational language to more specific commitments. Cooperation clauses can be useful, especially where countries need to exchange information or build capacity. However, if a clause does not specify required conduct, timelines, resources or review mechanisms, it may be difficult to evaluate compliance. Where provisions are excluded from dispute settlement, the agreement may offer no formal adjudicative remedy for breach.

The solution is not necessarily to subject every gender-related commitment to trade sanctions.

Trade disputes can be costly and may not be the most appropriate mechanism for individual labour or equality claims. A more calibrated approach would combine clear obligations with implementation committees, public reporting, independent review, technical assistance and accessible domestic remedies. Serious and persistent breaches of binding obligations may warrant stronger consequences, depending on the agreement.

4.3 The Problem of Aggregate Trade Indicators

Governments often assess trade performance through export value, import volume, foreign investment, productivity or gross domestic product. These indicators are useful but incomplete. They do not reveal who owns exporting firms, who receives the wages, whether jobs are secure, whether women advance to management, or whether unpaid care burdens have increased. A rise in exports may coexist with wage inequality or the displacement of women-owned firms by better-capitalised competitors.

Gender-responsive evaluation should therefore combine macroeconomic indicators with measures such as women's share of export employment, wage gaps, access to finance, ownership of exporting firms, participation in trade missions, use of digital customs services, workplace safety, access to social protection and the distribution of adjustment costs. Indicators should be selected with stakeholders and interpreted in context.

4.4 Limited Participation in Trade Decision-Making

Trade negotiations are technically complex and often involve confidential or highly specialised processes. Women may be underrepresented in trade ministries, negotiating teams, business delegations, industry associations and leadership positions. Even where women are present, their participation may not reflect the experiences of informal traders, rural producers, migrant workers or micro-enterprises.

Consultation should occur early enough to influence decisions, be accessible in relevant languages and formats, and include groups likely to bear the costs of policy change. Governments should publish summaries of gender assessments and explain how stakeholder input was considered. Participation should not be measured only by attendance; it should also be assessed by whether participants can influence agendas, proposals and implementation.

4.5 Labour Conditions and Export Competitiveness

A risk arises when competitiveness is pursued through low wages, insecure work or weak enforcement of labour standards. Women may be concentrated in sectors where bargaining

power is limited and where subcontracting makes responsibility difficult to trace. A trade agreement's general commitment to cooperation may be insufficient if labour inspectors lack resources, workers cannot safely report violations or remedies are inaccessible.

A credible approach should strengthen labour inspection, freedom of association, collective bargaining, equal remuneration, occupational safety, maternity protection and protections against harassment. Public procurement, responsible business conduct and supply-chain due diligence can complement domestic enforcement. The policy objective should be to improve working conditions without imposing compliance burdens that exclude small enterprises from markets.

4.6 Non-Tariff Measures and Compliance Costs

Non-tariff measures often serve legitimate public purposes, including food safety, product quality, consumer protection and environmental protection. Their gendered impact may arise not from discriminatory intent but from unequal capacity to comply. A small woman-owned enterprise may be unable to afford laboratory testing, certification or specialist advice, even where the same requirement applies to every exporter.

A balanced response would preserve legitimate standards while expanding access to testing facilities, technical assistance, plain-language guidance and affordable certification. Regulatory agencies should examine whether procedures are unnecessarily duplicative or inaccessible and whether equivalent compliance pathways can be offered without compromising safety. Gender analysis can identify avoidable costs; it should not be used as a reason to disregard evidence-based protections.

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4.7 Digital Trade and Financial Inclusion

Digital platforms offer potential routes into export markets, but digital exclusion can reproduce older inequalities. Barriers include connectivity, digital literacy, payment services, identification requirements, platform fees, logistics and online abuse. Financial exclusion can prevent women-owned firms from obtaining working capital, insurance or trade finance. These obstacles are often mutually reinforcing.

A gender-responsive digital trade strategy should combine affordable connectivity, training, secure digital identity and payment options, transparent platform rules, accessible dispute resolution and protections against cyber harassment. Financial inclusion programmes should be evaluated by actual use and business outcomes, not merely by the number of accounts opened. Public support should be designed to avoid excessive data collection and protect

privacy.

4.8 Informal Traders and Border Governance

Informal traders may be particularly vulnerable to unpredictable procedures, harassment, extortion and unsafe border facilities. When policy focuses only on formal exporters, these traders may be excluded from consultation and support. Simplified procedures can reduce the cost of legitimate trade, but enforcement must be fair, transparent and proportionate.

Useful measures include publishing border fees and procedures, establishing accessible complaint mechanisms, training officials, improving lighting and sanitation at border crossings, ensuring safe transport and storage, and recognising the needs of traders carrying small consignments. Governments should collect data on informal trade through methods that protect participants and do not automatically expose them to punitive enforcement.

4.9 Developing Countries and Policy Space

Developing countries may face resource constraints in implementing gender assessments, collecting reliable data and supporting small enterprises. They may also experience pressure to expand exports quickly in sectors where women are concentrated in low-paid work. At the same time, broad and inflexible compliance requirements can impose disproportionate burdens on governments with limited administrative capacity.

International cooperation should therefore combine clear policy objectives with technical and financial support. Aid for Trade, development assistance and institutional partnerships can help strengthen customs systems, statistics, labour inspection and women-led businesses. Capacity-building should be demand-driven and should not substitute for domestic accountability or the participation of affected communities.

4.10 Relationship Between Trade Law and Human Rights

Trade and human rights regimes should be understood as interacting legal frameworks rather than as automatically interchangeable systems. A state may have obligations under a human rights treaty and under a trade agreement, but the jurisdiction, parties, substantive rules and remedies of each regime differ. A measure adopted to pursue gender equality should be assessed under the applicable trade rules, while the state's human rights obligations remain relevant to the overall legality and legitimacy of policy.

The principle of policy coherence requires governments to avoid treating trade growth as the sole objective. Trade policy should be considered alongside labour rights, equality, health,

social protection and sustainable development. This does not remove the need for careful treaty interpretation; rather, it supports a transparent analysis of the obligations and interests that are legally relevant.

4.11 Proposed Assessment Framework

This article proposes a six-stage gender-responsive trade assessment framework:

Screening: identify the proposed measure, affected sectors, relevant treaty obligations and groups likely to be affected.

Evidence: collect sex-disaggregated and, where appropriate, intersectional data on employment, ownership, income, compliance costs and market access.

Consultation: engage workers, unions, women-led enterprises, informal traders, rural producers and civil society before the decision is finalised.

Impact analysis: assess expected gains, adjustment costs, risks to labour rights and potential effects on access to essential goods and services.

Mitigation and implementation: adopt proportionate measures such as training, finance, simplified procedures, labour enforcement and transition support.

Monitoring and remedy: publish indicators, review outcomes periodically, provide complaint pathways and revise the policy where evidence reveals adverse effects.

4.12 Chapter Summary

The main challenges are fragmented legal obligations, uneven enforceability, limited data, weak participation and the tendency to equate aggregate trade growth with inclusive development. A practical response requires both legal precision and institutional reform. Gender-responsive trade policy should be measurable, adequately resourced and subject to review.

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CHAPTER V — FINDINGS, SUGGESTIONS AND CONCLUSION

5.1 Major Findings

International trade affects women and men differently because they may occupy different positions in employment, ownership, production, consumption and unpaid care.

The international framework contains relevant equality and labour norms, especially under CEDAW, the ICESCR and applicable ILO instruments, but these instruments have different legal effects from WTO agreements.

The WTO's core agreements do not constitute a comprehensive, freestanding gender-equality code.

Gender-related provisions in regional trade agreements vary considerably in scope, drafting, monitoring and access to dispute settlement.

Trade liberalisation can create opportunities but does not automatically deliver substantive equality or decent work.

Non-tariff measures and digital procedures can impose disproportionate compliance costs where access to finance, information and technology is unequal.

Aggregate trade indicators alone are insufficient to assess gender justice; disaggregated data and outcome-based indicators are necessary.

Meaningful participation by women workers, entrepreneurs and informal traders is essential to identifying impacts that official statistics may overlook.

5.2 Suggestions and Recommendations

5.2.1 Gender-Impact Assessments

Governments should conduct gender-impact assessments before negotiating or implementing major trade policies and agreements. Assessments should identify affected sectors, distributional consequences, possible adverse impacts and mitigating options. The results should be published in an accessible form, subject to legitimate confidentiality constraints.

5.2.2 Clearer Gender Provisions in Trade Agreements

Where parties choose to include gender provisions, drafting should identify objectives, responsible institutions, cooperation activities, timelines, resources and review procedures. Where appropriate, agreements should include reporting obligations and a process for addressing persistent non-compliance. Parties should state clearly whether a provision is subject to dispute settlement rather than leaving its legal status ambiguous.

5.2.3 Better Data and Transparency

Trade ministries and statistical agencies should collect reliable sex-disaggregated data on employment, wages, enterprise ownership, export participation, access to finance and use of trade facilitation services. Data collection should protect privacy, avoid unsafe disclosure and include informal and small-scale trade where feasible. Reports should explain both positive outcomes and unresolved gaps.

5.2.4 Labour Rights and Decent Work

States should enforce applicable labour standards in export sectors, including equal remuneration, non-discrimination, occupational health and safety, freedom of association and

protection against harassment. Labour inspection and worker complaint mechanisms should be adequately resourced. Supply-chain initiatives should complement, rather than replace, public enforcement and access to remedy.

5.2.5 Support for Women-Led Enterprises

Governments and development partners should improve women-led enterprises' access to trade finance, export credit, insurance, digital tools, market information, certification and logistics. Training should be practical, accessible and connected to real market opportunities. Public procurement and trade-promotion programmes should monitor participation and outcomes.

5.2.6 Gender-Responsive Trade Facilitation

Customs and border agencies should publish fees and procedures, simplify documentation where possible, provide accessible information and establish safe complaint channels. Border facilities should account for sanitation, lighting, safe transport and the needs of small-scale traders. Digitalisation should be accompanied by offline assistance and capacity-building.

5.2.7 Meaningful Participation

Consultation mechanisms should include women's business associations, workers, unions, rural producers, informal traders, disability organisations and other relevant stakeholders. Consultation should occur early, provide adequate information and explain how submissions influenced decisions. Representation targets may be considered as part of wider institutional reforms, while ensuring that participation is meaningful rather than symbolic.

5.2.8 International Cooperation and Capacity-Building

International organisations and development partners should support gender-sensitive trade statistics, customs reform, labour inspection, export training and financial inclusion. Technical assistance should respond to locally identified needs and should be evaluated against measurable outcomes. Cooperation should strengthen domestic capacity rather than impose a uniform model regardless of local circumstances.

5.2.9 Coordination Across Government

Trade, labour, finance, equality, agriculture, digital economy and small-business agencies should coordinate their work. Each major trade initiative should identify the institution responsible for gender analysis, implementation, data publication and follow-up. Parliamentary scrutiny and independent equality bodies can help strengthen accountability.

5.3 Conclusion

Gender justice is an essential consideration in the evaluation of international trade law because trade rules shape employment, enterprise development, access to markets, consumer welfare

and public policy choices. The evidence reviewed in this article shows that trade can expand women's opportunities, but the benefits are neither automatic nor evenly distributed. Existing inequalities in finance, technology, labour markets, care responsibilities and decision-making influence who can participate in global commerce and on what terms.

The international legal framework provides a foundation for action through CEDAW, the ICESCR, ILO standards and relevant trade instruments. The WTO and UNCTAD have also developed research and policy tools that help governments understand the gender dimensions of trade. Yet the framework remains fragmented. Gender provisions in regional trade agreements vary, and their practical effect depends on drafting, implementation, monitoring and the availability of remedies. A policy statement without data, resources and accountability may have limited impact.

The way forward is not to treat gender equality as an afterthought or to assume that trade liberalisation will itself eliminate structural disadvantage. States should integrate gender assessment into the policy cycle, improve data, involve affected communities, enforce labour protections, support women-led enterprises and build transparent monitoring systems. International cooperation should provide technical and financial support, particularly where administrative capacity is limited. At the same time, legal analysis must remain precise: binding treaty obligations, voluntary cooperation and policy aspirations are distinct and should be identified accurately.

Ultimately, gender-responsive trade governance should be judged not only by the volume of trade generated but also by whether women can participate safely and meaningfully, access opportunities, receive fair treatment and share in the benefits of economic integration. A more coherent approach can help align international trade with substantive equality and sustainable development.

TABLE OF SELECTED INTERNATIONAL LEGAL MATERIALS

Instrument / material	Relevant provisions / subject	Relevance to study
Convention on the Elimination of All Forms of Discrimination against Women (1979)	Arts 2, 11, 13, 14	Equality, employment, economic and social life, rural women

International Covenant on Economic, Social and Cultural Rights (1966)	Arts 2(2), 3, 6–8, 11	Non-discrimination, work, just conditions, social rights
Equal Remuneration Convention, 1951 (No 100)	Equal remuneration for men and women for work of equal value	Pay equality in trade-related employment
Discrimination (Employment and Occupation) Convention, 1958 (No 111)	Employment and occupational discrimination	Equality in export sectors and labour markets
GATT 1994	Arts I, III and XX, subject to treaty interpretation	Trade non-discrimination and relevant exceptions
General Agreement on Trade in Services (GATS)	Arts II, XVI, XVII and XIV, as applicable	Services trade and regulatory space
Agreement on Technical Barriers to Trade	Technical regulations, standards and conformity assessment	Compliance costs and legitimate regulatory objectives
Trade Facilitation Agreement	Publication, release, clearance and border procedures	Transparent and accessible trade processes
2030 Agenda for Sustainable Development	SDGs 5, 8, 10 and 17	Policy framework for equality, decent work and inclusion

TABLE OF SELECTED CASES

This article is primarily a treaty and policy analysis. It does not rely on a set of judicial decisions as its principal evidence. The following table identifies relevant interpretive decisions and explains their limited, contextual relevance. Their relevance should be checked against the precise legal argument in any final submission.

Case	Court / reference	Potential relevance
United States — Standards for Reformulated and Conventional Gasoline	WTO Appellate Body, WT/DS2/AB/R (1996)	Illustrates interpretation of GATT obligations and

		exceptions; not a gender case.
European Communities — Measures Affecting Asbestos and Asbestos-Containing Products	WTO Appellate Body, WT/DS135/AB/R (2001)	Illustrates treatment of health-related regulation under WTO law; not a gender case.
Brazil — Measures Affecting Imports of Retreaded Tyres	WTO Appellate Body, WT/DS332/AB/R (2007)	Illustrates analysis of public policy objectives and GATT exceptions; not a gender case.

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6. José-Antonio Monteiro, 'The Evolution of Gender-Related Provisions in Regional Trade Agreements' (WTO Staff Working Paper ERSD-2021-8, 2021).
7. UNCTAD, Neutral Policies, Uneven Impacts: Non-Tariff Measures through a Gender Lens (UNCTAD/DITC/TAB/2022/1, 2022).
8. WTO and World Bank (n 3).
9. WTO, 'Policy Tools', available at <https://www.wto.org/english/tratop_e/womenandtrade_e/policy_tools_e.htm> (accessed 20 October 2026).

10. WTO, 'Database on Gender Provisions in RTAs' (n 1).
11. UNCTAD (n 7).
12. Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13.
13. International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3.
14. Equal Remuneration Convention, 1951 (No 100); Discrimination (Employment and Occupation) Convention, 1958 (No 111), International Labour Organization.
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20. United States — Standards for Reformulated and Conventional Gasoline, Report of the Appellate Body, WT/DS2/AB/R (adopted 20 May 1996).
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22. Brazil — Measures Affecting Imports of Retreaded Tyres, Report of the Appellate Body, WT/DS332/AB/R (adopted 17 December 2007).

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AUTHOR'S NOTE BEFORE SUBMISSION

This is an expanded academic draft with a bibliography and numbered endnotes. It is not legal advice and should not be submitted without review. Before submission, the author should: (i) insert their name, affiliation and declaration; (ii) check the target journal's word limit and citation rules; (iii) verify each treaty citation and the current status of each instrument; (iv) replace endnote-style numbered authorities with true footnotes if required by the journal; (v) verify all quoted or paraphrased claims against the original publications; (vi) add country-specific examples or empirical evidence if required; and (vii) ensure the article's originality and comply with the journal's publication ethics requirements.