The role of regulation and MNEs in ensuring equal opportunities for women[+]

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Government policy and private sector practice have the ability to spread gender equality, which can have an impact on growth and development. Over the past years, an upsurge has been observed in trade agreements that carve out space for gender issues in their agendas. The same is not true for international investment treaties. Foreign direct investment inflows can lead to more opportunities for women in the job market but may also exacerbate disparities. This paper aims to address and compare the role and effect of gender provisions in trade and investment agreements, and to shed light on additional policies that may be needed to ensure that governments and multinational enterprises address gender constraints.

Keywords: bilateral investment treaty, foreign direct investment, gender, inclusion, investment, multinational enterprises, trade, trade agreement, women

1. Introduction

This paper provides an overview, from a legal perspective, of gender provisions and chapters in trade agreements and investment treaties and the role of domestic policies and multinational enterprises' (MNEs') policies in contributing to women's empowerment and gender equality. Although it would be natural to believe that a rise of trade and investment in the economy would lead to more opportunities for women, studies consistently show that trade and investment policies are not gender neutral. That means that although the current trade and investment paradigms are supposed to increase growth, decrease inequalities and promote employment, evidence shows (especially in developing countries) that a more globalized economy and a boost of foreign direct investment by MNEs may increase inequalities, "especially across sectors, income, gender and social groups" (Sengupta, 2013, p. 2).

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As a result of the negative impact that may come with economic growth, sustainable development objectives are increasingly being considered in domestic and international trade as well as in international investment policymaking. This paper aims to provide a legal and gender perspective on trade and investment provisions, with a focus on Sustainable Development Goal 5 as defined by the United Nations: achieving gender equality and empowering women and girls by 2030.[1]

1.1 Trade and investment as sustainable development drivers

Trade and investment are key drivers of economic development. They can be instrumental for sustainable economic growth and job creation. However, are opportunities equally created for men and for women? Are trade and investment policies gender sensitive? Enhancing women's equality and economic empowerment is not only a UN human right and a Sustainable Development Goal, but the removal of explicit and implicit barriers to women's economic inclusion has a multiplier effect on the economy. According to a McKinsey Global Institute report (2015), $12 trillion could be added to global GDP by 2025 by advancing women's equality. To that end, the public, private and social sectors need to act to close the gender gap in work and society.

Gender equality – herein meaning women's inclusion – is a critical determinant of development. Achieving gender equality is complex: it requires levelling the playing field as well as working with community leaders and those with power and influence in the economic, political and social spheres. Although other forms of classification exist, gender policies are commonly categorized as gender sensitive, gender neutral and gender blind (table 1). Gender-sensitive policies indicate gender awareness, and account for the different social roles of men and women as well as for their different needs (WHO, 2010). Gender-neutral policies are not aimed specifically at men or women and are assumed to affect both equally. Gender-blind policies refer to policies that do not perceive the existence of different roles, needs, or responsibilities between men and women, and as a result fail to realize that policies, programmes and projects can have different impacts on men, women, boys and girls.[2]

Table 1: Categorization of gender policies

Gender-sensitive	Gender-neutral	Gender-blind
Indicate gender awareness	Do not explicitly target men or women	Ignore different roles or needs
Account for different social roles that lead to different needs	Assumed to affect both men and women equally	Fail to recognize different impacts on men and women

Source: United Nations, Gender Terms Explained. https://www.un.org/esa/sustdev/csd/csd15/lc/gender_terms.pdf.

[1] https://www.un.org/sustainabledevelopment/gender-equality.

[2] https://www.un.org/esa/sustdev/csd/csd15/lc/gender_terms.pdf.

The Glossary of Terms for Sustainable Development Goal 5 clarifies that gender equality does not mean that women and men are the same, but that rights, responsibilities and opportunities should not depend on birth as male or female. Gender equality therefore means equal rights, responsibilities and opportunities for all. It is a question of human rights and a condition for people-centred sustainable development.[3]

Trade and investment policies do not exist in isolation. They interact with each other and with other policy areas, such as environmental, labour, industrial and social policies. However, the link among these policies is not necessarily clear. Unlike the multilateral trading system (where correlations to other policy areas are more evident), the current international investment regime has no evident link to other policy areas.

In fact, although international investment law and international trade law are related in the sense that they are both branches of international economic law, the way they are structured is very different. International trade law is largely regulated by an international organization – the World Trade Organization (WTO) – and its covered agreements, with horizontal norms for its members (currently a total of 164). By contrast, international investment law is fractional and broadly defined within bilateral investment treaties (BITs) between developed and developing countries – currently totalling almost 3,000, according to the United Nations Conference for Trade and Development (UNCTAD) Investment Policy Hub.[4]

Despite the divergent legal structure of the two international systems, gender is a crucial consideration when designing trade and investment policies and agreements with a focus of inclusive growth, as policies and treaties affect people differently. Globally, often because of discriminatory regulations and conditions, women entrepreneurs and employees face inequality of job opportunities, lack of social support and, in some cases, violence and harassment.

In the international investment arena, the private sector can play an active role in promoting gender equality, and investment by MNEs can be conducive to creating more employment opportunities for women. As previously reported by UNCTAD, MNEs have enabled more women in more countries to enter the formal sector, through their companies or affiliates, which has resulted in higher standards of living and better social outcomes (Sengupta, 2013). However, a rise in investments by MNEs risks increasing gender inequality when, for instance, "the jobs created for women remain confined to low-paid activities or occur in the informal sector, if adequate employment and working conditions are lacking, or when upgrading of skills is insufficient for women to remain employed" (UNCTAD, 2014, p. vii).

3 https://nacoesunidas.org/wp-content/uploads/2017/06/Glossario-ODS-5.pdf.

4 https://investmentpolicy.unctad.org/international-investment-agreements/model-agreements.

One of the premises of this paper is that gender-responsive domestic and international policies and agreements combined with gender-sensitive investment policies by MNEs may contribute to a better reality for women in the economic force.

1.2 Mainstreaming gender in trade and investment negotiations

There has been an upsurge in discussions on gender mainstreaming lately, but what does that mean? In July 1997, the United Nations Economic and Social Council (ECOSOC) defined the concept of gender mainstreaming as follows:

> Mainstreaming a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies, or programs, in any area and at all levels. It is a strategy for making **women's as well as of men's** (*emphasis added*) concerns and experiences an integral part of the design, implementation, monitoring, and evaluation of policies and programs in all political, economic, and societal spheres, so that women and men benefit equally, and inequality is not perpetuated. The ultimate goal of mainstreaming is to achieve gender equality (ECOSOC, 1997).

The UN identifies gender equality as the overarching and long-term development goal, "while gender mainstreaming is a set of specific, strategic approaches as well as technical and institutional processes adopted to achieve that goal".[5] Gender mainstreaming means integrating the gender equality goal in domestic and international public and private organizations, in both central and local bodies.

Gender mainstreaming, therefore, requires that gender perspectives be embedded in the development of public policy, in the legal and economic research, in the allocation of resources and planning, and in the implementation and monitoring of social programmes and projects. The implementation of a gender-mainstreaming approach to trade and investment agreements also requires transparency about women's accountability and participation in decision-making processes.

2. The role and effect of gender provisions in trade agreements and bilateral investment treaties

The future of the international economic order is contingent on the ability of governments and the private sector to distribute the benefits of economic growth equally to all (Ala'i and Amaral, 2019). Until now, this has not been the case.

[5] https://www.unwomen.org/en/how-we-work/un-system-coordination/gender-mainstreaming.

Historically, women and men have faced different challenges and have been given different opportunities in the business environment. The path to achieving gender equity is complex and requires the acknowledgement of the role that decision makers in the public and private sectors can play in overcoming long-standing practices that set women and girls back.

This section explores whether and how gender provisions are being included in international trade and investment agreements, and the different ways gender concerns are being addressed (or not) by policymakers.

2.1 Gender provisions in trade agreements

The discussion on the inclusion of gender-related provisions in trade agreements is not recent. The first gender-related provision appeared in 1957 in the treaty establishing the European Economic Community (Treaty of Rome), which defined under Article 119 that "each Member State shall during the first stage ensure and subsequently maintain the application of the principle that men and women should receive equal pay for equal work".[6] Since then, and notably in recent years, gender-related provisions have appeared in many regional trade agreements (RTAs) (Monteiro, 2018).

Over the past four decades, as many countries around the world have adopted a more aggressive approach towards trade liberalization with market-opening policies aimed at accelerating economic growth, accessing new markets and further developing the domestic industry, there was very little concern (or no concern at all) for gender matters. Due to this lack of concern or awareness, presumably, the common perception was that the effects of macroeconomic policies towards economic liberalization, including trade policies, provided equal opportunities for men and women. That perception was not correct.

Research and reports from the International Trade Centre (ITC),[7] the WTO,[8] the World Bank[9] and UNCTAD,[10] for example, have shown that trade policy and its instruments, such as negotiations and agreements, have affected women and men differently. Indeed, according to the World Trade Organization and the World Bank's Women and Trade joint report issued in 2020, even though no country imposes tariff or non-tariff measures based on gender, a closer look at trade policies reveals their disproportionate effects on women in terms of wages, consumption, welfare,

[6] https://ec.europa.eu/romania/sites/romania/files/tratatul_de_la_roma.pdf.

[7] http://www.intracen.org/itc/women-and-trade.

[8] https://www.wto.org/english/tratop_e/womenandtrade_e/womenandtrade_e.htm.

[9] https://www.worldbank.org/en/topic/trade/brief/trade-and-gender.

[10] https://unctad.org/en/Pages/DITC/Gender-and-Trade.aspx.

and the quality and quantity of jobs available to them (World Bank and World Trade Organization 2020). The notion that trade policies and trade agreements were gender neutral was a common belief, and very little space was dedicated to that discussion in the international arena. That has changed.

The debate on whether existing provisions in international trade agreements are gender sensitive, gender neutral or gender blind was largely developed over the past years. Along with that discussion, the debate on whether countries need to focus on a whole agreement approach towards gender mainstreaming (and whether it is possible to accomplish this) is also being increasingly explored.

According to a recent study, the number of regional trade agreements (RTAs) with gender-related provisions has grown significantly since 2016 (Monteiro, 2018). Increasingly, trade agreements include a chapter dedicated to trade and gender, which mostly covers issues ranging from cooperation activities to institutional arrangements, including the establishment of a trade and gender committee and consultations procedures. Other gender-related provisions can be found spread throughout the text of an RTA – in the preamble, in chapters on labour, on investment, on cooperation, on sustainable development, or on small and medium enterprises (SMEs). For example, the 2019 United States–Mexico–Canada Agreement (USMCA) includes explicit provisions on gender in its labour chapter when referring to cooperation and discrimination in the workplace.[11]

Furthermore, in spite of the increasing number of gender provisions and specific chapters on trade and gender in RTAs and free trade agreements (FTAs), the commitments made to address gender through those instruments are not bold enough since they are mostly aspirational provisions. Chile and Uruguay stand out, as they have been negotiating gender chapters in trade agreements that recognize the importance of gender mainstreaming for achieving inclusive economic growth. Yet, although the trade agreements negotiated by these countries generally advance the objective of gender equality and are gender responsive, some provisions are particularly detrimental to this goal. For example, although the chapter on trade and gender in the recent trade agreement between Chile and Canada[12] includes some exemplary provisions on awareness promotion and cooperation, the chapter is excluded from the scope of the agreement's dispute settlement chapter (table 2).

[11] https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/23-Labor.pdf.

[12] https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/chile-chili/fta-ale/2017_Amend_Modif-App2-Chap-N.aspx?lang=eng&_ga=2.144598006.2146702353.1568666812-2050347739.1568666812.

Table 2: Relevant provisions in Canada-Chile FTA's Trade and Gender Chapter

General provisions (Article N bis-01)	Obligation to promote awareness of gender equality legislation, policies and practices.
Cooperation activities (Article N bis-03)	Obligation to implement cooperation activities to improve the capacity and conditions for women in the workplace; activities should be designed in collaboration with the private and public sectors as well as labour unions, academic institutions and NGOs.
Trade and Gender Committee (Article N bis-04)	Establishment of Committee with representatives from each Party's agency responsible for trade and gender tasked with ensuring the implementation of the Chapter's provisions; obligation to review implementation of the Chapter within two years of the Committees first meeting; obligation to develop a transparency mechanism for activities implemented under the Chapter.
Agreement on Labour Cooperation (Article N bis-07)	Where there are inconsistencies with the Agreement on Labour Cooperation and this chapter, the Agreement prevails.
Consultations and dispute resolution (Article N bis-06)	Recommendation to resort to dialogue, consultations and cooperation to resolve issues that arise under the Chapter Disputes arising under this chapter are excluded from the scope of the chapter on Institutional Arrangements and Dispute Settlement Procedures in the Agreement.

Source: Canada-Chile Free Trade Agreement, Appendix II – Chapter N bis–Trade and Gender.

When there is no specific chapter on women and trade, gender-related provisions are often tied to other cross-cutting (and also aspirational) issues such as environment and labour (as in the case of the USMCA[13]). Many, if not all gender-related provisions, are couched in the language of best endeavours and cooperation language, are spread in different parts of an agreement – e.g. in the preamble, in a side letter, in annexes, in chapters – and more importantly, they are not enforceable. In fact, there is no common template for gender provisions in a trade agreement and gender provisions have never been challenged before the WTO dispute settlement body.

In December 2017, 121 WTO members gave their support to the Declaration on Trade and Women's Economic Empowerment, which seeks to foster women's economic empowerment and eliminate barriers for women in trade. The declaration is not binding, but there is value in the large number of countries that joined forces to recognize the importance of the issue. Pursuant to the 2017 declaration, supporting WTO members have committed to a series of seminars covering gender-based analysis of trade policy, women's participation in public procurement and international value chains, gender in trade agreements, and bridging the gender-based digital divide. Moreover, at least six[14] WTO members have used the Trade Policy Review

[13] https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/23-Labor.pdf.

[14] The six WTO members are: the European Union (WT/TPR/G/357), Iceland (WT/TPR/G/361), Gambia (WT/TPR/G/365), Montenegro (WT/TPR/G/369), Philippines (WT/TPR/G/368) and Colombia (WT/TPR/G/372).

Mechanism to highlight progress on trade and gender issues, which seems to indicate that the topic is gaining traction and attention among WTO members.

Institutionally speaking, the WTO is well equipped to assist in this matter. As a multilateral institution, the WTO currently has a central role to play not only in the revival of global trade negotiations but also in the protection and enhancement of women empowerment. It recently nominated a Trade and Gender Focal Point, with the mandate to identify and plan the WTO's role in matters relating to trade and gender. Undoubtedly, trade negotiations and trade agreements are effective tools for raising awareness of gender-related concerns and the need for enforceable rules that can help remove barriers to women's economic participation.

The ultimate goal should be mainstreaming gender in trade agreements through a comprehensive agreement. Greater thoughtful engagement is needed from national governments and global institutions charged with global governance on this issue, most notably the WTO. That said, a gender-mainstreaming approach in trade agreements can succeed only if policymakers comprehend the distinct realities women face globally and how these realities vary from nation to nation.

2.2 Gender provisions in bilateral investments treaties

There are clear linkages through which trade and investment policies and agreements can affect gender dynamics. Sengupta (2013, p. 2) categorizes the linkages as the following: "(i) work sphere affecting employment and incomes, terms of employment, work conditions; (ii) access to resources (land, water, credit, technology); access to basic services (e.g., health, education); (iii) home situation affecting care work, unpaid work, within household inequality/empowerment; (iv) migration, including both domestic and international, and of both men and women; (v) women as consumers; and (vi) affecting the policy space for gender-friendly policies and social policies".

Unlike trade agreements, very few BITs currently include gender provisions. Out of almost 80 model agreements published online by UNCTAD's Investment Policy Hub,[15] only six explicitly address gender, albeit through broad provisions that refer o "fair and equitable treatment" between men and women.[16] All of the agreements that mention gender were adopted in the last six years, showing a positive trend in this regard. Nonetheless, others from the same time period did not include such protections, which shows that there is still room for growth.[17] A few others make

[15] https://investmentpolicy.unctad.org/international-investment-agreements/model-agreements.

[16] The Model BITs that mention gender were signed by Morocco, Belgium-Luxemburg, Netherlands, Slovakia, India, and Serbia.

[17] https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/4786/download.

reference to international agreements, such as the Organisation for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights,[18] suggesting that companies abide by certain standards of responsible business, by implementing policies that address various issues, including gender.

Among the few examples of countries that have submitted model BITs containing gender provisions is the Netherlands, with the most recent version of the Government's model BIT recently published by UNCTAD's Investment Policy Hub platform.[19] Amid the interesting changes introduced, the 2019 model includes a commitment to promote equal opportunities and participation for women and men in the economy. The preamble recognizes the importance of gender equality in international trade and investment policies and Article 6, paragraph 3 of the Netherlands Model Investment Agreement states the following (emphasis added):

> The Contracting Parties emphasize the important contribution by women to economic growth through their participation in economic activity, including in international investment. They acknowledge **the importance of incorporating a gender perspective into the promotion of inclusive economic growth**. This includes removing barriers to women's participation in the economy and the key role that gender-responsive policies play in achieving sustainable development. **The Contracting Parties commit to promote equal opportunities and participation for women and men in the economy**. Where beneficial, the Contracting Parties shall carry out cooperation activities to improve the participation of women in the economy, including in international investment.

The model also addresses gender issues in Article 9 (Treatment of investors and of covered investments) and Article 20 (Constitution and functioning of the Tribunal) of the Agreement.

The Dutch model BIT is relevant because it sets the scene for a new generation of international investment agreements and it highlights the importance of incorporating a gender perspective in the promotion of inclusive growth and equal opportunities between men and women. Previously, when investment agreements mentioned gender equality, they mostly focused on gender equality in arbitral dispute resolution and the gender division among arbitrators. This seems to be changing, but the impact of investment treaties and foreign direct investment on gender equality are notions that need to have more concrete ground in international investment treaties.

[18] http://www.oecd.org/daf/inv/mne/ResourceDocumentWeb.pdf.

[19] https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/5832/download.

A similar trend is observed with regard to BITs. Of the 2,899 BITs signed to date, only six mention gender in the text of the agreement.[20] Interestingly, there is little correlation between the countries that addressed gender in their model BITs and the countries that signed BITs that addressed gender. Whereas Brazil stood out as one of the few countries whose recent model investment agreement did not address gender, the government addresses the issue in most of its recently signed investment cooperation and facilitation treaties. Conversely, whereas Morocco's 2019 model BIT addressed gender, its most recent BIT – signed with Japan in August 2020 – does not.

3. The impact of MNEs' investment policies on gender issues: a legal perspective

The private sector can have a very active role in promoting gender equality, and investment polices by MNEs can be conducive to creating more employment opportunities for women. Whereas in section 2 this paper discussed the role of international trade and international investment agreements accorded by nations in promoting gender equality through gender chapters or provisions, the present section looks at the perspective of private sector gender policies, and more specifically the role of MNEs. Indeed, one of the assumptions of this paper is that women-responsive international policies (and agreements/provisions) combined with gender-sensitive private sector investment policies can positively affect the opportunities of women in the economic force.

In this sense, maximizing the benefits for women in terms of investment by MNEs requires action from both the public and private sectors, at the national and the international levels. Domestically, legal reform and enforcement of gender policies by local governments in the countries where an MNE operates is crucial. That is discussed in section 3.1. For its turn, and with a focus on the private sector role, section 3.2 provides concrete examples of how multinationals address g ender issues at the international level, and specific MNEs' local gender policies that have had positive outcomes for the past few years.

3.1 The role of domestic policies

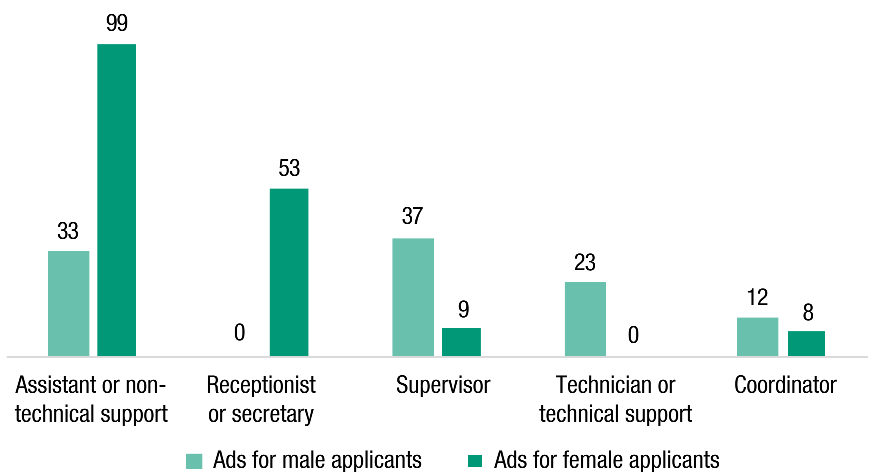
Legal frameworks around the world have vastly improved in terms of the rights afforded to women, but there is still much room for growth. Research shows that legal reform leads to smaller gender gaps and higher investments, among other

[20] The BITs that mention gender were signed between Moldova and the United Arab Emirates, Rwanda and the United Arab Emirates, India and the Kyrgyz Republic, India and Belarus, Belarus and Hungary, and Hungary and Cabo Verde.

societal and economic benefits (Hyland; Djankov; Goldberg, 2019). Yet, 45 per cent of countries have legislation in place that limits women's decisions in the workplace (World Bank, 2020). By removing regulatory barriers, governments can grant women legal rights in the workplace, and, in turn, domestic economies can fully reap the benefits of globalization.

In recent years, countries have introduced legislation to address gender disparity, including laws addressing sexual harassment in the workplace, banning discrimination by creditors on the basis of sex and prohibiting gender-based discrimination in employment (World Bank, 2020). Neverthel ess, to see a positive impact in society, enforcement of these laws is crucial. Although Mexican law prohibits employment discrimination on the basis of sex, for example, many online job postings specify a gender preference, based on the job responsibilities (Hyland; Djankov; Goldberg, 2019). Most gendered roles called for male applicants, reserving supporting roles for women. For example, while advertisements for Home Depot Inc. target men to be sales associates, VF Outdoor Services' executive assistant advertisements target women with "excellent presentation" and "emotional intelligence". In some cases, companies offered women lower salaries than men for the same role. Following an analysis carried out by Bloomberg, the companies made it clear that the postings were not in line with their policies and the issues related to discrimi natory hiring practices had been addressed internally. This is indicative of a disconnect between domestic policies and corporate policies and the realities faced by women in the workplace.

Figure 1: Companies target men for leadership roles and women for administrative work



Source: Green, J. and Stillman, A. (2019). Multinational Companies Reveal Gender Bias in Job Ads. Bloomberg, September 3. *https://www.bloomberg.com/news/articles/2019-09-03/multinational-companies-reveal-gender-bias-in-job-ads.*

Gender needs to be mainstreamed in the design and implementation of national trade policies. Gender-based analysis helps governments analyse policies and regulations, assess their impact on inclusion and make proper adjustments prior to their adoption (Steger, 2019). Gender-based policymaking and monitoring will require greater resource allocation to the agencies charged with gender affairs. In response to the global crisis caused by the COVID-19 pandemic, a joint statement[21] signed by Business 20, Labour 20, and Women 20 urged the G20 to address the disparate impact of the pandemic on women's health and employment. One of the measures suggested in the statement was to include women in decision-making processes. To ensure that the concerns of women are appropriately addressed, it is crucial to have inputs from women who are active in both the public and the private sectors. Another joint statement,[22] signed by UN Women and Women 20, highlighted the need to carry out gender-responsive impact reviews, in order to establish investment priorities that address the pandemic's disproportionate effects on women.

Governments should implement sensitivity training of key technocrats charged with formulating, implementing and monitoring trade and economic policies and their gendered impact. Stakeholders from civil society and the private sector can help design trade policies and measure their impact. As shown by the experience in Mexico, governments must follow through and ensure that these policies are enforced. Finally, governments should promote greater inclusion of gender provisions in FTAs and BITs.

3.2 How multinationals address gender issues

The actions of MNEs have a significant impact on global practices and norms (Koveshnikov, Tienari and Piekkari, 2019). Investing in women and gender issues can benefit companies as well as the communities where they have operations. The examples in the previous section highlight one of the issues that MNEs face. Although on paper they may be taking part in the global movement to address gender issues companies must ensure that this participation is engrained in the company-wide culture, not just at the headquarters or among senior leadership.

A recent study showed that although MNEs are taking steps towards eliminating the gender gap at their headquarters, when compared with domestic firms in developing countries, multinationals display a larger gender wage gap (van der Straaten, Pisani and Kolk, 2019). This further highlights the need for MNEs to ensure that their initiatives have a positive impact on the host economies where they carry out their operations.

[21] https://www.b20saudiarabia.org.sa/wp-content/uploads/2020/04/B20-L20-W20-final-statement-v1.pdf.

[22] https://www.unwomen.org/en/news/stories/2020/7/press-release-un-women-and-w20-call-to-recognize-women-as-drivers-of-recovery-and-resilience.

As an example of corporate best practice, ExxonMobil, one of the world's largest oil and gas companies, claims to pay women and men equally for equal work, reporting a 3.9 per cent gender pay gap for its companies in the United Kingdom, where the national average was 17.9 per cent (ExxonMobil, 2018). According to the company's Gender Pay Gap Report, some of the main challenges faced by the company are posed by the traditionally male-dominated industry and the limited talent pool for female graduates in science, technology, engineering and mathematics (STEM). In the United States, women account for only 21 per cent of graduates in engineering and engineering technologies and 15 per cent of employees in engineering and architecture occupations (Catalyst, 2020). Moreover, women working in STEM are more likely to occupy lower-paying jobs than men. ExxonMobil's action plan includes investing in STEM education, with a particular focus on girls and young women.

Invest ing about $500 million per year in women-owned businesses has resulted in benefits for the local communities as well as profit for the MNE. Linda DuCharme, president of Exxon's Global Services Company, explained that from a business perspective it makes sense: the initiative lowers costs and improves competition (Welsh, 2018). However, the impacts on the community – mainly more stability – is also in the interest of the company, as its presence is usually long term. The company partners with WEConnect, an organization that helps women entrepreneurs around the world with funding, training and support. Through meetings with community leaders and government officials, ExxonMobil identifies women-owned businesses in the region hat participate in its supply chain to help them become economically empowered.[23] For example, in Mexico, the company that transports the fuels and lubricants for the company is women-owned (Welsh, 2018).

In 2012, ExxonMobil and the UN Foundation published *A Roadmap for Promoting Women's Economic Empowerment*. The report analysed interventions aimed at economically empowering women, to identify those that were most successful. Nine actions were identified as proven to increase the productivity and earnings of women in developing countries, depending on their particular situations (ExxonMobil and United Nations Foundation, 2013). On the basis of the evidence, the report concluded that when assessing the effectiveness of an intervention, one of the main determinants was the categories of women likely to be affected. For example, whereas "poor entrepreneurs" may benefit from micro savings, business training and credits are more beneficial to "non-poor entrepreneurs".24 Certain design adjustments also proved effective, such as the ability to use mobile phones

[23] https://logichem.wbresearch.com/exxonmobil-address-gender-imbalance-supply-chains-weconnect-strategy-ty-u.

[24] The Report categorized women into four groups based on different factors, including revenue: very poor (<$100/month)); poor (>$100/month); non-poor (>$5000/month); young women (15-24 year-old women who are typically poor or very poor).

to conduct financial transactions, apply for jobs and access information. Eliminating the need to conduct these activities in person gives the women more autonomy, as it helps them overcome mobility constraints that hinder their ability to become economically empowered.

Another MNE whose policies on gender equality is worth highlighting is Unilever, which achieved gender balance across management globally in 2020. With this achievement, Unilever's workforce is closing the gender gap, with women accounting for 50 per cent of management positions globally, up from 38 per cent in 2010; and a non-executive board that is 45 per cent women (Unilever, 2020).

Among the company policies towards gender equality is an initiative challenging harmful social norms and gender stereotypes "to unlock women's potential" (Unilever, 2017). According to Unilever's statements, the company aims to drive change in four main ways: (i) by using its influence as one of the world's biggest advertisers – and changing the way it markets products, advocates and partners with others for change across the industry; (ii) by building a diverse business and value chain, in which women are empowered and visible as role models for change; (iii) by developing sustainable-living brands that advance gender equality and women's empowerment; and (iv) by ensuring that everyone, including men, is part of the movement to build positive cultural change (Unilever, 2017).

The top management of Unilever believes that when women are empowered, society and the economy benefit, grow and thrive. That seems to have made a great difference with regard to gender policies within the company over the past years. Throughout its documents, Unilever (2017) highlights priority areas for accelerating gender equality and women's empowerment in the private sector:

> (i) be gender aware, by ensuring they have the right information and data in place to inform policies
>
> (ii) be gender active, by having the right policies and practices in place that respect women's rights and empower professional and personal development
>
> (iii) be the new norm, by ensuring that harmful norms are not perpetuated through outdated business practices, while actively promoting more positive portrayals of women along the value chain to challenge stereotypes.

These advances helped the company move from sixth place in 2019 to second place in 2020 under Forbes' annual ranking of Best Employers for Women. Based on surveys distributed among American men and women working for businesses with more than 1,000 employees, the ranking aims to highlight companies that have made progress in their quest for gender equality. This year, the surveys were conducted as COVID-19 began to spread in the United States, and the responses captured employees' feelings at the time. Among the initiatives highlighted were

Table 3: Proven interventions for women's economic empowerment

High-Fertility Agrarian Economies	Declining-Fertility Urbanizing Economies
Very poor entrepreneurs • Micro savings • Bundles services • Rural electrification	Poor entrepreneurs • Micro savings • Bundled services
Poor farmers • Micro savings • Land rights/land titling • Rural electrification	Non-poor entrepreneurs • Savings • Credit • Business training
Poor entrepreneurs • Micro savings • Bundled services • Rural electrification	Wage workers • Savings • Childcare
Non-poor farmers • Savings • Land rights/land titling • Credit	Young • Micro savings • Demand-driven job services • Conditional cash transfers
Young • Micro savings • Rural electrification • Demand-driven job services • Conditional cash transfers	

Source: ExxonMobil; United Nations Foundation, 2013.
https://corporate.exxonmobil.com/-/media/Global/Files/womens-opportunity/weoi-roadmap-for-economic-empowerment.pdf.

flexible work arrangements available to employees at Unilever. The company's head of diversity and cross-cultural marketing pointed out that although the benefit was in place prior to the pandemic, the situation accelerated its adoption (Forbes 2020). Studies have shown that women were disproportionately affected by the global pandemic (Madgavkar et al 2020). Not only are women more l ikely to have been laid off as a result of this year's economic crisis, but they are more likely to decide to leave their jobs to be able to tend to household needs, such as helping their children navigate remote learning (LeanIn.org and McKinsey & Company 2020). By providing flexible work schedules and paid leave companies can help their women employees address their personal and professional needs without having to sacrifice one or the other. Finally, ensuring that women remain in the workplace is not only beneficial for them but also for their employers and their colleagues. Senior-level women can increase company profits by almost 50 per cent and they are more likely to promote inclusion in the workplace (Dixon-Fyle et al. 2020).

Other MNEs have introduced policies towards increasing gender equality that are worth highlighting, including Visa, Nestlé, Natura, Caterpillar UK, Bank of America and Prudential, among others. Visa was named Best Employer for Women by Forbes magazine in 2018 mainly owing to initiatives like equal opportunities and equal pay, and programmes such as the Return to Work initiative to encourage and support women re-entering the workforce after taking time off to have a family.[25] After conducting surveys among farmers in countries like Brazil and India to assess supply c hain equality, in 2019 Nestlé launched its Gender Balance Acceleration Plan to put further emphasis on increasing the proportion of women in the group's top 200 senior executive positions from around 20 per cent currently to 30 per cent by 2022. The company's plan focuses on bold leadership, empowering culture and enabling practices.[26] In 2018, Natura signed its adherence to the UN Women's Empowerment Principles (WEPs). As part of this initiative, Natura assumed a corporate strategy towards women's empowerment and established the public goal of having 50 per cent of leadership positions (management and positions above) held by women by 2020. The rate in 2018 was 32 per cent in Brazil and 27 per cent of Natura's global operations.[27] Caterpillar UK, excluding Northern Ireland, compiles data yearly for the United Kingdom (UK) Gender Pay Gap Report, which includes the data of three Caterpillar UK legal entities: Caterpillar UK Ltd., Perkins Engines Company Ltd. and rogress Rail Services UK Ltd. According to the 2019 report[28], Caterpillar UK overall figures reflect a 2.9 per cent pay gap (men being paid more than women).[29] Finally, Bank of America deserves some attention as they were the 2019 Catalyst Award winner[30] because of the Investing in Women initiative.[31] The Bank has mandatory diverse hiring guidelines to recruit a wider range of job candidates and continuing conversations and employee surveys to make sure careers are on track.

Of course, a deeper dive into an MNE's specific actions – such as these – may open room to discuss the eventual need for improvement. The intent in this short section was to showcase MNEs whose policies already have a significant impact on global private sector practice and norms, and whose communities, and especially women, already benefit from the cultural and regulatory chan ge within the MNEs.

[25] https://usa.visa.com/about-visa/diversity-inclusion.html.

[26] https://www.nestle.com/csv/global-initiatives/global-youth-initiative/gender-balance-women-empowerment.

[27] https://www.natura.com.br/blog/mais-natura/natura-adere-aos-principios-de-empoderamento-feminino-da-onu.

[28] http://s7d2.scene7.com/is/content/Caterpillar/CM20200616-cfde9-769aa.

[29] https://www.caterpillar.com/en/careers/apply-now/gender-pay-gap-reporting.html.

[30] https://www.catalyst.org/research/bank-of-america-investing-in-women/.

[31] https://about.bankofamerica.com/en-us/partnering-locally/reaffirming-our-investment-in-women.html#fbid=x4DbGlIEu7o.

4. Concluding remarks and policy recommendations

Gender inequalities continue to deprive women and girls in their ability to exercise their educational and professional choices to their full potential. The existence of gender-blind laws, social practices, traditions and stereotypes that reproduce unequal relationships between women and men reinforces the need to discuss the role of gender in society and to integrate it into all political and economic debates.

Following the path in progress for international trade agreements, the incorporation of gender provisions in BITs furthers engagement in the promotion of women's empowerment in the private and public sectors. These provisions should address issues such as equal opportunities for men and women in supply chains and closing gender pay gaps. Governments should ensure their enforceability.

The issue is not just about ensuring that women can exercise their basic human rights; systematic integration and mainstreaming of the gender perspective are crucial for the implementation of the entire 2030 United Nations Agenda for Sustainable Development, offering a solid path to achieve the inclusive, sustainable and lasting economic growth.

Public and private trade and investment policies and regulations are of fundamental importance to further women's economic empowerment, creating opportunities for employment, entrepreneurship and inclusive growth. To balance the effects of improving international investment flows and economic liberalization, governments and private stakeholders (i.e. MNEs) should incorporate a mandatory gender perspective in their trade and investment policies, as well as in their international and domestic commitments.

Gender-based analysis may help governments prevent the adverse effects of new trade and investment measures, including through the adoption of compensatory social policies. Ensuring the inclusion of international gender standards in trade and investment negotiations among public and private stakeholders is also extremely important to secure a positive outcome for women and girls.

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