

GENDER INCLUSION IN CHILEAN FREE TRADE AGREEMENTS

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Abstract

Trade liberalization has been one of the key elements of the Chilean economic development strategy over the last decades. Within this policy, Chile has become pioneer in the inclusion of a gender-perspective by the addition of gender-related chapters into free trade agreements with Uruguay, Canada and Argentina, and in the Pacific Alliance and APEC's work. In this article we analyze the legal texts of the agreements to understand how Chile has incorporated gender within its trade policy agenda. Through visualizing this topic, these chapters may become stepping-stone towards a gender-oriented trade policy. However, their non-binding characteristics -not subject to dispute resolution mechanisms- suggest that their inclusion reflects governments political will, with no or little legal or economic relevance.

Key Words

Gender, free trade agreements, trade policy, international negotiations, Chile

Introduction

There is a growing literature regarding the linkage between trade, trade policy and gender, particularly their impact on poverty and labor markets (Brussevich, 2018; Busse & Spielmann, 2006; Çagatay, 2001; Fatema, Li, & Islam, 2018). The understandings that trade may affect in different ways men and women and how it may reduce the gender gap have raised studies concerning the gender impact on international economic relations.

As UNCTAD (2014) states, gender represents a system of norms and practices that ascribe particular roles, characteristics and behaviors to males and females (p. 14). These differences structure economic, social and political power relations within the market, society and the household; understanding economy as a “gendered structure”. Nevertheless, the relationship between trade and gender is complex, as “gender disparities tend to impact trade, and trade impacts the relative economic position of men and women” (UNCTAD, 2019, p. 5) . This has not been deeply analyzed, especially in Latin America. In this context and in order to promote sustainable development, governments and international organizations have procured to include the gender perspective within their policies formulation.

Increasing women participation in economic activities would help reduce poverty and boost income levels, women’s economic participation suggests more jobs and economic autonomy (Novta & Wong, 2017; WTO, 2017b). From here, trade policy could be considered an important instrument to increase women participation. For this reason, the way trade reforms are designed and implemented is relevant, as they can improve gender-equalizing trends or even aggravate existing gender gaps. In fact, the incorporation of gender perspective in the formulation and implementation of public policies has become a worldwide priority, not being trade policy different.

One way countries are including gender on their trade policy agenda has been through its inclusion in FTAs. As described by Zarrilli (2017b), the new free trade agreements include gender considerations for reasons such as: i) that more women are part of policymaking than before; ii) an increasing number of women are trading in international markets, and they own or manage export firms; iii) advocacy campaigns have contributed to highlight and raise the relevance of gender equality issues at many levels; iv) there is an increased awareness regarding the gender dimension of trade policy, as a result of research work; v) and widespread belief that trade can be instrumental to long-lasting development only if it is more inclusive and its benefits are more equally shared.

Chile has based its economic development process on its integration into international markets. A threat to the trading system represents a risk to its economic strategy and ability to deliver domestic policy goals in many areas (Ciuriak, 2018, p. 4), including gender gap reduction. In Chile, women are 28% less likely than men to have equal opportunities, as the Gender Gap Index shows, where Chile has not improved its score (0.7) between 2014 and 2018 (Statista, 2019). Therefore, analyzing the impact that trade policies have on gender is crucial to understand the drivers for development (López & Muñoz, 2018). In the context of gender visibility and the need to reduce the gender gap, the General Directorate of International Economic Relations (DIRECON) included a gender perspective approach in its agenda, supported by Michelle Bachelet's second administration (2014-2018). In this context, Chile became a pioneer in the inclusion of gender-perspectives into trade agreements, up to now in the Free Trade Agreements signed with Uruguay, Canada and Argentina; also the work with the Pacific Alliance and the Asia-Pacific Economic Cooperation Forum (APEC).

Taking into consideration the gender-related chapters, the main questions leading this research are How Chile has incorporated the gender-perspective into its trade agreements? How this topic has been addressed in the chapters negotiated with Uruguay, Canada and Argentina? For this research, a qualitative methodological approach is used in order to analyze how Chile has incorporated the

gender-perspective into trade agreements and the differences among them. Primary and secondary sources will be analyzed, particularly, through the analysis of declarations and legal texts, and in-depth, semi-structured interviews with key stakeholders from the public sector. Legal texts are compared in order to examine the development of gender inclusion in Chilean Free Trade Agreements. Interviews were conducted to complement text analysis; interviewees were informed that participation was voluntary and that results were going to be published anonymously.

This article is divided into three sections. After this introduction, the first section reviews the relevant literature regarding trade and gender. Then, the inclusion of gender in the progressive agenda led by Michelle Bachelet is studied, and how trade policy became an instrument to reduce gender inequality, with special emphasis on the inclusion of gender in Chilean Free Trade Agreements with Uruguay, Canada and Argentina, and in the agendas of the Pacific Alliance and the Asia-Pacific Economic Cooperation Forum (APEC). The paper concludes with some final remarks.

Gender & Trade: a literature review

The relationship between trade and gender has two implications, on the one hand, trade affects women and men differently, considering their position in the economy, so it affects women's empowerment and wellbeing; and on the other hand, gender inequality impacts trade performance and competitiveness of countries (UNCTAD, 2014, 2019; Zarrilli, 2017b). Therefore, trade is not gender neutral; in fact, there is a complex relationship between trade and gender.

Authors such as Van Staveren (2007) claim that trade impacts positively or negatively, depending on indicators such as the pattern of trade, the sectoral distribution of exports and import competition, labor market policies, institutions, gender division of labor in households, cultural

patterns, among others. Trade can affect gender in three levels (macro, meso and micro); at the macro-level, the analysis of the gender division of the labor force between the reproductive sector and the productive market sector is considered; at the meso-level, institutions are considered; and the micro-level considers an in-depth analysis of the gender division in different stages, mainly within the household.

The United Nations Conference on Trade and Development (UNCTAD) has led the debate and research on gender topics; therefore its publications are presented. As UNCTAD (2014) argues, for example, at the macro level, gender gaps in markets may attenuate if the expanding sectors are more female-intensive than the contracting sectors; at the meso level, public provision of social services, that commonly favor women, may be undermined if the loss of government revenue from reduced tariffs leads to cuts in services such as education and health; lastly, at the micro level, female household spending control may be extended or reduced, taking into consideration if trade liberalization generates or destroys sources of independent income for women (p. 33). A permanent deficit is that gender-disaggregated data are missing in various cases; therefore there is a prevalent need and more research is required.

Trade alters the distribution of resources and income between different groups of men and women, and gender bias affects women in the different roles they play in the economy, such as workers, producers, traders, consumers, users of public services and tax payers. Understanding economy as a “gendered structure” is the first step to acknowledge the gendered power relations that underpin various institutions. For example, recognizing how important the unpaid household-based work of caring for others is to a market-oriented economy. Therefore, the interdependence between non.-market and market activities, and the gender division must be understood in order to undergo a gender-aware economic analysis (UNCTAD, 2014).

Trade policies can have a significant but distinctive impact on women and men as trade can affect economies by altering employment patterns, the structure of production, income and relative prices of goods and services. Trade can open new markets for women's products and provide formal employment, offering women more opportunities. However, trade can also negatively affect women by disrupting female-intensive sectors (UNCTAD, 2017). In fact, as stated by Villup (2017), women face constraints that prevent them from benefiting from trade fully, such as:

- Women's asymmetric responsibilities;
- Their reproductive and motherhood roles;
- Gendered social norms;
- Labor market segregation;
- Lower skills and lack of training for better jobs;
- Lack of public services to assist women in their household tasks;
- Restricted access to information;
- Consumption patterns;
- Poverty.

UNCTAD (2017b) argues that empowering women "has a catalytic effect on social and economic development" (p. 13); from this perspective, it is important to mainstream gender considerations into trade and economic policies, so we are able to maximize the benefits of trade reforms on economic development and help dealing with negative impacts (Villup, 2017). Authors such as Girón (2009) highlights that it is not easy to include the gender perspective in an economic agenda where there is a predominant vision of an economic development based on macroeconomic indicators that do not consider human development based on gender and cultural diversity.

To assess the impact of each policy on women's and men's wellbeing; is fundamental to formulate and implement trade policy in a gender-sensitive manner. If we consider for example gender equality in labor market, as UNCTAD (2011) states, the evidence shows that international trade tends to increase formal but low-skilled, value added, and labor-intensive jobs in developing countries; which are mainly occupied by women¹. In fact, women workers are particularly employed by the export-oriented industry because they have lower bargaining power regarding their working conditions and wages. In summary, as Fontana (2016) states, the liberalization of goods does not automatically increase employment opportunities for women, as this is highly dependent on the sector that expand or contract in each country.

Specifically, in the case of women entrepreneurs, they lack access to capital, marketing skills and technical training, as they are part of small-scale activities, and the creation of jobs for women in labor-intensive manufacturing can be generally poor in quality, limited to some industries and with few opportunities for advancement². Therefore, women's participation in labor market does not mean an improvement in women's social rights or access to decision-making/financing (Villup, 2017). In many developing countries, women have increased their participation in traditional, non-tradable, low-productivity services (restaurants, personal services, etc.) (Villup, 2017). According to the UN Inter-Agency Network on Women and Gender Equality (IANWGE), this sector has become the first employer of women globally, attracting them from the agricultural sector.

For example, the Mexican Free Trade Agreement with North America and EU that created three times as many jobs (797,000 net) for women than men in the goods sector; or in Lesotho, where the export-intensive sectors increased over a period of 30 years, increasing also the paid employment

¹ The increase in the share of women employed in wage work in a given sector is known as "femenization of labor" (UNCTAD, 2014, 2019).

² The decline in the share of female employment in any given sector or industry is known as the "defeminisation of labor" (UNCTAD, 2014, 2019).

for women in more formal sectors (Villup, 2017). On the other hand, according to a study presented in an International Gender and Trade Network (IGTN) Latin America Chapter research project in 2007 that involved Brazil, Argentina, Chile, Colombia, Mexico and Uruguay; there are cases in which the expansion of international trade activities has not incorporated female employment, nor had it helped to break sex segregation (Azar, A., & Salvador, 2007). Therefore, trade impact on female employment is still not clear in different contexts.

Hence, trade policies must be responsive to gender differences and considerations. In order to do this, some authors state that an ex-ante assessment can be conducted in order to design policies that will favor women's wellbeing and empowerment, especially if those policies can also mitigate the disparities that already exist between women and men. In other words, in addition to the assessments of the risks and benefits of trade for a country, it is necessary to analyze the potential impacts on specific segments of the population (Zarrilli, 2017a).

The Trade and Gender Toolbox approach represents the first attempt to evaluate the impact of trade reforms on women and gender inequalities before the reforms are implemented. It focuses on four main steps, first, identifying the main existing gender inequalities in the economy of the selected country; second, evaluating the impact of trade on the different sectors and critical sector for women; then, monitoring indicators; and finally, synthesizing the evolution of trade openness and gender inequalities in a specific measure (UNCTAD, 2017). This approach is projected for policymakers involved mainly in trade negotiations, practitioners working on gender equality, and government officials.

Some of the benefits of incorporating the gender perspective into trade policies are understanding the specific opportunities and challenges that trade policy present to women and men; designing and implement policies to maximize opportunities; facilitating the integration of women into more

dynamic economic sectors; mitigating gender disparities; and enabling women's empowerment and well-being (UNCTAD, 2013). This way, commitments on gender equality and women's empowerment are given importance and meaning.

UN members agreed at the Fourth UN World Conference on Women in Beijing (1995) that they would guarantee that national policies that are related to regional and international trade agreement should not have a conflicting impact on women's economic activities and roles, and also to establish the necessary mechanisms to enable women to contribute to the formulation of policies and programs³. The UN Secretary-General's High-Level Panel of Women's Economic Empowerment⁴ has explored seven drivers of change to address systemic barriers to women's economic empowerment; which act as recommendations for transformative actions; also highlighting macroeconomic policies as crucial for women's economic empowerment (UNCTAD & UN Secretary-General's High-Level Panel on Women's Economic Empowerment, 2017):

- Tackling adverse norms;
- ensuring legal protections and reforming discriminatory laws;
- recognizing, reducing and redistributing unpaid work and care;
- building assets – digital, financial and property;
- changing business culture and practice;
- improving public sector practices and procurement; and
- strengthening visibility, collective voice and representation.

On the multilateral trade arena, there were many members that argued the WTO should deal only with trade-related issues that imply trade distortions, but not with social issues. On the contrary, NGO community argued that the WTO should be gender-sensitive as it contributes to economic

³ Strategic objective F.1, and 165 (k) refer to this argument.

⁴ Established in 2016.

growth and poverty reduction, and women make up 70% of world's poor share of population (Villup, 2017).

In the 5th Cancun Ministerial (2003), the North-South Institute suggested that the WTO could ensure policy coherence in international efforts to promote gender equality in three ways (Villup, 2017). First, concern for policy coherence is based on preparing new rules and agreements, and on the implementation of the existing agreements. Second, gender-related measures could be part of the WTO's trade-related capacity building programs. Lastly, it could be ensured that the WTO Secretariat has the capacity to undertake gender analysis of trade rules.

Although it was not included in the trade negotiation agenda, at the 11th WTO Ministerial Conference held in Argentina in 2017, 118 WTO members and observers agreed to support the Buenos Aires Declaration on Women and Trade, which seeks to foster and remove barriers to women's economic empowerment. Here, members will share information regarding what has worked in their attempts to collect gender-disaggregated economic data, so that women's participation in the economy is encouraged. Besides, members are supposed to examine their policies including the gender perspective, so they are able to work together in order to increase women's participation in the world economy (WTO, 2017a). WTO members are supposed to report their progress in 2019.

As presented, there is a growing concern on identifying the impact that trade and trade policies may have over gender gaps. This issue has led international organizations and governments to incorporate a gender-based perspective within their trade agendas. A particular case of analysis is Chile, which has included gender into its Free Trade Agreements negotiations, visualizing this topic and reflecting its importance. However, there are not concrete measures within the agreements and the chapters are not subject to dispute resolutions mechanisms.

Gender inclusion in Free Trade Agreements, Chilean case

Trade liberalization has been one of the key elements of Chilean economic development strategy over the last decades. Started during the military regime (1973-1990), with the implementation of unilateral liberalization policies and an active participation in the GATT's multilateral trade negotiations, liberalization has not only been continued by all democratic governments after but complemented with the subscription of preferential trade agreements. This has led to the establishment of an open economy, with an applied tariff below 1%, and an extensive preferential agreements network with 26 economies representing 63% of world population and 86% of global GDP (DIRECON, 2019). Despite the relevance of this policy in the economic development strategy, the inclusion of gender perspective has been a late comer. For instance, as described by Pey (2004) on the occasion of the negotiations of the Free Trade Agreement between Chile and United States, both negotiations processes and their implementation had lacked of a gender-based evaluation.

Gender became an explicit component of trade policy during Michelle Bachelet's second government (2014-2018), within a progressive agenda with special emphasis on gender equality. The relevance of this topic during her administration was based on two main elements: women's role as supporters of the economy and the lack of information, discussion, proposals and institutional participation. The Ministry of Women and Gender Equity was created in 2016 in order to create policies and programs that will benefit women, trying to eliminate all kinds of gender discrimination. Before this Ministry, the National Service for Women (Sernam because of its name in Spanish) was created in 1991 aimed at promoting equal opportunities between men and women (Ministerio de la Mujer y la Equidad de Género, 2019) . Besides, the General Directorate of

International Economic Relations (DIRECON), responsible for trade policy formulation and implementation, included a gender-perspective approach in its work agenda, identifying the relevant spaces where gender-sensitive measures could be addressed. For this, in 2016, a Gender Department was established responsible for follow-up of gender topics, enhancing internal gender policies and managing the programs to promote and support women participation in international trade (López & Muñoz, 2018).

One of the main problems that the Gender Department had to work with, as government officials argue, was the lack of understanding regarding how gender will be defined and how public policies will be approached. To tackle this problem, DIRECON's gender approach included a Management Upgrade Program (PMG for its acronym in Spanish) implemented in 2016 with the objective of transversally incorporating the gender-perspective within public institutions and their areas of work. Different working areas were identified within the institutions, including: gender-based impact assessment within existing work agenda; formulation and implementation of a gender-based trade promotion policy; and the inclusion of gender perspective within trade negotiations and trade agreements. To contribute to the design of public policies, DIRECON conducted Scans of Women Exporters in 2017 and 2018; which identified that only 4.2% of the total export businesses are led by women, representing only 1.5% of Chilean exports (DIRECON, 2017). In order to identify the factors that may explain this lack of participation, focus groups with businesspersons and entrepreneurs were held. Some of the factors considered were access to financing opportunities, data, and capacity building, among others.

Policies to tackle barriers for women so they can benefit from trade liberalization were implemented in two areas. On the one hand, ProChile, the governmental trade promotion agency, "included gender perspective and specific programs aimed to boost women participation in international trade" (López & Muñoz, 2018). In this context, MUJEREXPORTA was launched, a

program aimed to help businesswomen to engage in export activities. Beginning in 2017, through training and promotion actions, the program has benefited more than 800 businesswomen in the promotion of their products overseas. The focus of the program are enterprises own or led by women, assuming that through them, positive spillovers will flow to other women. On the other hand, DIRECON included gender in the trade negotiations agenda, demonstrating the importance of gender inclusion for the Chilean government.

Within this context, the opportunities of negotiations with like-minded countries led to the creation and inclusion of gender chapters within Free Trade Agreements. This represented a shift in the way gender equality issues were previously considered within trade agreements, as reference to gender issues had been made in the preambles of agreements or only addressed as a cross-cutting issue (Zarrilli, 2017b).

Chile has led the inclusion of chapters on gender within bilateral free trade agreements, with Uruguay, Canada and Argentina. The agreements were subscribed with Uruguay in 2016, with Canada in June, 2017, and with Argentina in November, 2017. In this context, the parties sought to stimulate women's participation in international trade, recognizing the relevance of having a gender perspective in the promotion of an inclusive economic growth. However, it must be considered that specific aspects within each country conducted them to subscribe gender-related chapters.

In the case of Uruguay, they were initiating a process bilateral free trade agreements negotiation outside MERCOSUR and found in Chile a reliable partner with whom begin this kind of agreements. Both government coalitions had a progressive agenda in place, which gave gender issues a prominent position within their public policies, therefore the inclusion of a gender chapter in their bilateral FTA become a natural process. The chapter recognizes the importance of gender

mainstreaming in order to achieve economic growth, as well as the importance of gender equality policies in supporting economic development (Zarrilli, 2017b).

In the case of Canada, three aspects should be considered to understand the inclusion of the gender perspective. First, Canada's development of a progressive trade agenda (PTA) as a response to the global rise of anti-globalization populism and the concentration of trade gains at the top of the income scale, while leaving women, among others, behind. This PTA protects not only the open trade system, but also domestic policy goals, as free trade and equitable domestic policy need to advance together, in tandem (Ciuriak, 2018). This PTA translates into strong provisions in bilateral, regional and multilateral trade initiatives and agreements in areas such as environment protection, workers' rights, and gender equality. Besides, the idea is to maintain an open and transparent process and dialogue with civil society and stakeholders, such as SMEs, women-owned enterprises, non-governmental organizations and indigenous people. PTA is supposed to evolve as Canada participates in negotiations in different circumstances. Second, along with complementary trade policy views, the maturity of the 1997 Chile-Canada FTA, allowed the parties to re-negotiate the agreement, adding new topics. Third, an imitation process has been developed when negotiating trade agreements, where new dispositions included in previous FTAs tend to replicate in the following treaties.

In the case of Argentina, the change of government coalition towards a free-trade oriented one, allowed both countries to initiate negotiations towards an FTA. The inclusion of gender as a chapter had already become part of Chilean negotiations template, and it was accepted by Argentinean authorities as part of the negotiation package of the bilateral FTA, also considering the internal debate on gender policies, so it was seen as an opportunity to advance in this agenda.

Therefore, the inclusion of gender chapters highlights the instrumental role that gender policies may have towards a sustainable socioeconomic development, and reinforce the parties' commitment to effectively implement their normative, policies and good practices towards gender equality and equity (D'Elia, 2017). These chapters recognize that trade is an instrument for development and for women's increased participation in international and domestic economies; in a way that sustainable economic development is ensured.

These three agreements were accomplished in a short period of time, and as mentioned, an important imitation process is held, being the first agreement a template for following ones, hence they share the same structure. Overall, the sections contained in the agreements are: "General Provisions", "International commitments", "Cooperation activities", "Trade and Gender Committee", "Consultations", "Non-application of Dispute Resolution", "Relation to the Agreement on Labor Cooperation", and "Definitions" (Table 1). In fact, the agreements do not only share the structure, but the legal texts are identical in content in most parts. This is not new to trade agreements, which are usually negotiated using common templates.

It is very interesting to highlight that the chapters contain some mandatory elements, but none of them require a change in domestic regulations, as they mainly refer to cooperation activities, not needing regulatory changes for their implementation. The chapters (within their General Provisions) confirm gender commitments acquired within multilateral conventions, such as, equal pay for equal work, maternity protection, and the adaption of family and professional life. Nevertheless, dispute resolution cannot be used to strengthen the commitments. Therefore, the influence of these chapters lies on the outcomes from cooperation exercises and how the committee is supposed to follow and support it.

First, within the “General Provision”, the agreements share a common objective, addressed in the first paragraph of each chapter:

“The Parties acknowledge the importance of incorporating a gender perspective into the promotion of inclusive economic growth, and the key role that gender-responsive policies can play in achieving sustainable socioeconomic development. Inclusive economic growth aims to distribute benefits among the entire population by providing equitable opportunities for the participation of women and men in business, industry and the labor market”.

The second paragraph refers to:

“Achieve gender equality and empower all women and girls. The Parties reaffirm the importance of promoting gender equality policies and practices and building the capacity of the Parties in this area, including in non-government sectors, in order to promote equal rights, treatment and opportunity between men and women and the elimination of all forms of discrimination against women”.

In the case of Canada and Argentina, as stated by a high level government official, both agreements “recall Goal 5 of the Sustainable Development Goals in the United Nations 2030 Agenda for Sustainable Development”, which had been omitted from Chile-Uruguay FTA, as the SDG where just being implemented at the time the agreement was negotiated.

Besides, there is a big difference between the agreements within “General Provisions”, specifically between the FTA with Canada and the agreements with Uruguay and Argentina, as the former reaffirms the obligations in the Agreement on Labor Cooperation and the OECD Guidelines for Multinational Enterprises, which are not included in the other FTA’s as neither Uruguay nor Argentina are part of OECD or have the Agreement on Labor Cooperation. Nevertheless, the FTA

with Argentina recognizes that increasing women labor participation, decent jobs, and economic autonomy contribute to sustainable economic development.

An interesting difference within the agreements can be found in their second section, “International Agreements”. The three chapters refer to international agreements, but the one with Uruguay only refers to an overall commitment towards the effective implementation of international agreements. Canada and Argentina explicitly include the CEDAW⁵ Convention, and Argentina (the latest agreement to be signed) also includes references to International Labor Organization (ILO) conventions N°100 (on remuneration equity), N°111 (on work and occupation discrimination), and N°156 (on workers family responsibilities). As explained by a high level government official, this shows the quick evolution of gender chapters, which in a couple of years showed the need to include specific references to relevant international gender-related agreements, and for instance the current negotiations with Brazil are recalling the Belen do Para Convention⁶ as well. In this way, FTA’s may signal the importance of various international treaties towards the accomplishment of a general well-being objective.

When comparing Chile-Uruguay, Chile-Canada, and Chile-Argentina’s chapter on gender, they include almost identical provisions for “Cooperation Activities”. This may be the core of the chapters as these activities can be beneficial for women, considering areas such as skills enhancement; financial inclusion, agency and leadership; access to science, technology and innovation; entrepreneurship; and regarding how trade and gender provisions will be treated in the relevant chapters of the agreement (articles 14.3, N bis-03, and article 15.3 respectively). Nevertheless, the chapters do not include a specific program on cooperation, not defining budgets, baselines, targets, objectives, measurements or other relevant characteristics to enforce the

⁵ UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).

⁶ Inter-American Convention on the prevention, punishment and eradication of violence against women.

cooperation. In this sense, cooperation activities are subject to the will of in-office administrations to develop in both parties.

As usual in various international agreements, a Trade and Gender Committee is established in each chapter to manage the possible outcomes of the agreement in areas such as potential cooperation activities, exchange information, discuss joint proposals, and to manage any other related topic that may arise in the future. This Committee is supposed to meet at least once a year and it should review the implementation of the chapter after two years (Ciuriak, 2018, p. 11-12; Zarilli, 2017). Regarding the “Consultations” section, the three chapters state that the parties will make all necessary efforts to solve any issues that may arise regarding chapter’s application and interpretation, through consultations and dialogue.

The Chile-Canada chapter on gender is the only one containing the sections on “Relation to the Agreement on Labor Cooperation” and “Definitions”. In the first case, it states that if there is any inconsistency between the chapter and the Agreement on Labor Cooperation or its successor, the latter will prevail to the extent of the inconsistency. Regarding “Definitions”, the Agreement on Labor Cooperation and the Agreement on Environmental Cooperation are defined and contextualized.

The most important article to be examined is the final provision within the chapters, the “Non-application of Dispute Resolution”. Amongst international treaties, one of the most important characteristics of trade agreements has been their enforceability. This has been possible due to the existence of Dispute Resolution Mechanism that could use the annulment of trade preferences as a leverage mechanism to ensure parties compliance. As stated in Article 14.6 (Chile-Uruguay), Article N bis-06 (Chile-Canada), and Article 15.6 (Chile-Argentina), none part may submit any complaints to the Dispute Resolution Mechanism arising from any aspect derivate from this chapter.

This exclusion of the Dispute Mechanism leaves the chapters' commitments as mere voluntary actions of the parties, not being possible for the other party to ensure their implementation.

Therefore, the effective implementation of "International Agreements" (Article 2) or the implementation of "Cooperation activities" (Article 3) are left to the willingness of the parties (and incumbent administrations), as the non-compliance with them is not subject to any kind of retaliation. In fact, the chapter is left aside of any kind of Dispute Resolution Mechanism. From here it can be argued that although the main impact of gender chapters' inclusion into FTAs may not be on trade relations, it reflects Chilean government's willingness to incorporate and visualize this topic, by including the gender perspective within its trade policy agenda.

This is very similar to the evolution of environmental and labor clauses within trade agreements, which at the beginning were included as side-agreements of FTA and they are now becoming substantial part of trade negotiations agendas. We may also refer to trade in services, which although included at the multilateral level since the Uruguay Round (1986-1994), at the 1990's not every economy wanted to include them in their bilateral treaties. Now-a-days, almost every agreement includes not only a trade in services chapter, but also specific services related chapters such as financial services, telecommunication services, movement of businesspersons, digital trade, amongst others. Therefore, it is not unlikely to see new agreements including gender-related chapters, and soon after this chapter being fully incorporated into the treaties.

In summary, these chapters: recognize the importance of gender perspective incorporation into the promotion of inclusive economic growth and also that gender-responsive policies can help in the achievement of socioeconomic development; refer to Goal 5 in UN 2030 Agenda for Sustainable Development (Canada and Argentina); reassure existing commitments to adopt, implement and effectively maintain gender-quality regulations, policies and best practices; ask every party to

domestically promote the knowledge regarding gender-equality policies, regulations and practices; and reassure the importance of promoting the elimination of all forms of discrimination against women.

In the case of Canada, it reaffirms the commitments made in Article G-14 bis on CSR and the parties’ commitments to the OECD Guidelines for Multinational Enterprises (create a National Contact Point). Besides, these chapters reassure commitments regarding effectively implement the obligations under the UN Convention on the Elimination of all Forms of Discrimination against Women, and other obligations acquired under international agreements referring to gender equality or women’s rights; entail the parties to engage in different cooperation activities designed to improve the conditions for women to access and benefit completely from the opportunities derived from the agreement. They also list the cooperation activities that the parties should engage in, considering their interests and available resources; and establish a Trade and Gender Committee of representatives from the government institutions responsible for trade and gender (Ciuriak, 2018, p. 11-12; Zarilli, 2017). Below, table 1 is presented as a summary of the agreements comparison.

Table 1. Comparison of Chile’s chapters on gender

	Uruguay	Canada	Argentina
General Provisions	Common objective: importance of incorporating gender into the inclusive economic growth and the key role of gender-responsive policies	Common objective: importance of incorporating gender into the inclusive economic growth and the key role of gender-responsive policies	Common objective: importance of incorporating gender into the inclusive economic growth and the key role of gender-responsive policies
	No Goal 5 of SDGs	Goal 5 of SDGs	Goal 5 of SDGs

	No OECD member	Agreement on Labor Cooperation and the OECD Guidelines for Multinational Enterprises	No OECD member
	6 paragraphs	7 paragraphs	5 paragraphs
International commitments	Overall commitment towards the effective implementation of international agreements	CEDAW Convention	CEDAW Convention and ILO Conventions (N°100, 111, 156)
	1 paragraph	2 paragraphs	1 paragraph
Cooperation Activities	Identical provisions: skills enhancement; financial inclusion, agency and leadership; access to science, technology and innovation; entrepreneurship	Identical provisions: skills enhancement; financial inclusion, agency and leadership; access to science, technology and innovation; entrepreneurship	Identical provisions: skills enhancement; financial inclusion, agency and leadership; access to science, technology and innovation; entrepreneurship
	Cooperation activities are subject to governments' will	Cooperation activities are subject to governments' will	Cooperation activities are subject to governments' will
	6 paragraphs	7 paragraphs	6 paragraphs
Trade and Gender Committee	It should discuss potential cooperation activities, exchange information, discuss joint proposals, and manage administrative future topics	It should discuss potential cooperation activities, exchange information, discuss joint proposals, and manage administrative future topics	It should discuss potential cooperation activities, exchange information, discuss joint proposals, and manage administrative future topics
	10 paragraphs	10 paragraphs	9 paragraphs

Consultations	Parties will solve, through consultations and dialogue, issues that may arise regarding chapter's application and interpretation	Parties will solve, through consultations and dialogue, issues that may arise regarding chapter's application and interpretation	Parties will solve, through consultations and dialogue, issues that may arise regarding chapter's application and interpretation
	1 paragraph	1 paragraph	2 paragraphs
Non-application of Dispute Resolution	Chapter is excluded from the Dispute Resolution Mechanism	Chapter is excluded from the Dispute Resolution Mechanism	Chapter is excluded from the Dispute Resolution Mechanism
	1 paragraph	1 paragraph	1 paragraph
Relation to the Agreement on Labor Cooperation	Not included	If there is any inconsistency between the chapter and the Agreement on Labour Cooperation, the latter will prevail	Not included
		1 paragraph	
Definitions	Not included	Definitions regarding the Agreements on Labor Cooperation and on Environmental Cooperation	Not included
		2 paragraphs	

Source: Authors' elaboration based on FTA legal texts (Ministry of Foreign Affairs, 2016, 2017a, 2017b).

It must be highlighted that along with the inclusion of gender chapters within bilateral trade agreements, Chile has also actively participated in the incorporation of this agenda in regional cooperation schemes such as the Pacific Alliance and the Asia Pacific Economic Cooperation Forum (APEC).

In the framework of the Pacific Alliance, during its Xth Summit (2015), gender was officially established as a transversal working issue within the Alliance, and a Gender Working Group was established. In 2016, the XIth Summit held in Chile, through its Presidential Mandate included three specific points related to gender: i) to promote the incorporation of gender perspective in the programs and activities of the Alliance; ii) to implement and develop positive actions like programs that look to incorporate leader women in the export processes; and iii) develop virtual platforms that promote a gender and trade dialogue between member countries. In 2017, the Working Group was replaced by a Technical Group within the Alliance institutional framework (López & Muñoz, 2018). Today, the Group is part of the institutional framework, established as Gender and its objective is "to develop a strategy that incorporates the gender perspective as a transversal element within the works of the Pacific Alliance" (Alianza del Pacífico, 2017).

Regarding APEC, Chile will host the Forum meetings in 2019; therefore, it defined the priorities for the Forum within this year. The country decided to establish four priorities: Digital Society; Integration 4.0; Women, SMEs and Inclusive Growth; and Sustainable Growth. These will be the main topics that the 21 APEC economies will discuss during "Chile's Year". The third priority incorporates a gender-perspective within the Forum, linking women with inclusive growth. The relevance of this inclusion is that countries priorities tend to signal the way for the future work within the region. Therefore, Chile is signaling the region that women is an upcoming topic that shall be reviewed and discussed, and best practices and policy cooperation amongst these economies within this topic shall be addressed.

Final Remarks

In Chile, Michelle Bachelet defined gender topics as a priority of her second presidential term (2014-2018). Gender perspective has been included in foreign affairs, as well as in trade policy, where Chile has led new approaches. The country pioneered the incorporation of gender in its trade policies, including both trade negotiations and trade promotion. This has been reflected in the inclusion of a gender-related chapter in the three latest bilateral trade agreements negotiated by Chile, with Uruguay, Canada and Argentina. These trade and gender chapters consider trade as an engine for economic growth, so improving women's access to opportunities and removing their barriers enhance their participation in national and international economies, contributing to sustainable and inclusive economic development, competitiveness, prosperity and society's well-being.

Nevertheless, the chapters have deficiencies as: (a) instead of including specific gender-related standards that could affect trade under the agreements, reference is made to the implementation of gender equality commitments included in global conventions; (b) milestones or specific goals are not included; (c) dispute-settlement mechanisms do not apply; (d) the harmonization of gender-related legislation between the parties is not mandated; (e) and potential impacts of trade liberalization pursued under the agreements on women's well-being and economic empowerment are not addressed (Zarrilli, 2017b).

We state that the voluntary enforcement of these chapters may undermine its trade objective. Although, legally there is no way to ensure the parties' compliance, the mere inclusion of a gender related chapter is not only a stepping stone towards guaranteeing that trade may benefit women and men equally as it visualizes this topic, but it can even mean a milestone towards gender equity.

First, the inclusion of the chapter is recognition of the relevance of incorporating a gender perspective within trade negotiations. Ciuriak (2018) argues that compared to CP-TPP, which only mentions gender as part of a cooperation agenda, the Canada-Chile chapter on gender is a huge step forward in gender equality. The same conclusion can be made regarding Uruguay and Argentina and also when comparing them to previous agreements signed by Chile, where gender was not even mentioned. These chapters take into consideration the relevance of the nexus between trade and gender and the importance for countries to take actions towards allowing women benefit from trade liberalization. They identify ways to enhance women participation in international trade, as well as the relevance of sound public policies that may be directed to use trade as a tool for achieving gender equity.

Second, the evolution of the chapter's negotiation, as recognized in the three agreements signed by Chile, allows to identify and precise the relevant elements in the trade and gender relationship. As reviewed, Chile-Uruguay's agreement is much more general than upcoming agreements, with specific reference to international agreements (such as SDG, CEDAW or ILO conventions) are included. In this way, as new chapters are negotiated, more specific issues are encompassed within the agreement, allowing best policies to be formulated.

Third, the evolution of agreements must be taken into consideration. Although at this point gender-related chapters are not subject to dispute resolution mechanisms, agreements do evolve. For instance, Chile-Canada is the re-negotiation of an agreement first signed in 1997. This evolution must be considered for each agreement, and in general for trade negotiations. As new topics arise, they are commonly first included as side agreements or non-enforceable chapters (which is the case of gender chapters). But, once the topic is assumed by the international community as relevant, new agreements are more likely to completely include these topics. As it was mentioned before, this was the case of environmental or labor clauses within trade agreements, and even trade in services.

Chile has become a pioneer in the inclusion of gender into trade agreements, highlighting the relevance of the trade and gender nexus, and the importance that trade may have to achieve gender equity and therefore sustainable development. However, it must be stated that only considering cooperation towards the achievement of these goals, the chapters' lack of enforcement, being explicitly excluded from the Dispute Resolution Mechanisms, reduce their expected outcome, as all activities are set to the willingness of incumbent administrations in the different countries.

Nevertheless, the recognition of gender as a relevant issue within the trade relationship between economies, and how trade may positively affect gender gaps, shall be emphasized. As the international community is becoming more aware of the relevance of incorporating gender-perspective within trade negotiations, these chapters become stepping-stones towards building international commitments that will allow the achievement of this goal.

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