

# Gender Mainstreaming in the Multilateral Trading System

A handbook for policy-makers and other stakeholders

Mariama Williams



NEW GENDER MAINSTREAMING SERIES ON DEVELOPMENT ISSUES

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other stakeholders**

**Mariama Williams**



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## *Gender Management System Series*

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# Abbreviations

ACP	African, Caribbean and Pacific states
ASCM	Agreement on Subsidies and Countervailing Measures
AFTA	ASEAN Free Trade Area
AGGI	Ad-hoc Advisory Group on Gender Integration
AIDS	Acquired Immunodeficiency Syndrome
AMS	Aggregate measure of support
AOA	Agreement on Agriculture
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of South-East Asian Nations
ATC	Agreement on Textiles and Clothing
BITs	Bilateral investment treaties
CARICOM	Caribbean Community
CBD	Convention on Biological Diversity
CBTPA	Caribbean Basin Trade Partnership Act
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CGIAR	Consultative Group on International Agricultural Research
COMESA	Common Market for Eastern and Southern Africa
CTD	Committee on Trade and Development (WTO)
CTE	Committee on Trade and Environment (WTO)
DSB	Dispute Settlement Body
DSU	Dispute Settlement Understanding
EC	European Community
ECOWAS	Economic Community of West African States
EFTA	European Free Trade Agreement
EPZ	Export processing zone
EU	European Union
FAO	Food and Agriculture Organization
FAO-IU	FAO's International Undertaking on Plant Genetic Resources
FDI	Foreign direct investment
FTAA	Free Trade Area of the Americas
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GDI	Gender Development Index
GDP	Gross Domestic Product
GMO	Genetically modified organism
GRAIN	Genetic Resources Action International
GSP	Generalised System of Preferences

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HDI	Human development index
HIV	Human Immunodeficiency Virus
HRD	Human resource development
HSA	Household survey analysis
ICFTU	International Confederation of Free Trade Unions
IFAD	International Fund for Agricultural Development
IFI	International financial institution
IGO	Inter-governmental organisation
ILO	International Labour Organization
IMF	International Monetary Fund
INSTRAW	United Nations International Training and Research Institute for the Advancement of Women
IST	Industrial science and technology
LDCs	Least developed countries
LFS	Labour Force Survey
LLDCs	Landlocked developing countries
MAI	Multilateral Agreement on Investment
MERCOSUR	Southern Common Market
MFA	MultiFibre Agreement
MFN	Most Favoured Nation
MIA	Multilateral Investment Agreement
MNC	Multinational corporation
MNE	Multinational enterprise
MTA	Multilateral Trade Agreement
MTS	Multilateral trading system
NAFTA	North American Free Trade Agreement
NARO	National Agricultural Research Organisation
NFICs	Net food-importing countries
NGO	Non-governmental organisation
NICs	Newly industrialising countries
NTAEs	Non-traditional agricultural exports
NTB	Non-tariff barrier
NTC	Non-trade concern
OAU	Organisation of African Unity (now the African Union)
ODA	Overseas Development Assistance
OECD	Organisation for Economic Cooperation and Development
PBR	Plant breeders' rights
QUAD	US, Japan, EU and Canada
QUINT	US, Japan, EU, Canada and Australia
S&DT	Special and differential treatment
SADC	Southern African Development Community
SAP	Structural adjustment programme
SASG	Special agricultural safeguard
SLC	Survey of Living Conditions

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SMEs	Small and medium-sized enterprises
SPS	Sanitary and Phytosanitary
STE	State trading enterprise
TBT	Technical barriers to trade
TNC	Transnational corporation
TOT	Terms of trade
TPRM	Trade Policy Review Mechanism
TRIMs	Trade-Related Aspects of Investment Measures
TRIPS	Trade-Related Aspects of Intellectual Property Rights
TRQ	Tariff rate quota
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNIFEM	United Nations Development Fund for Women
UPOV	Union for the Protection of New Varieties of Plants
VAT	Value-added tax
VER/VRA	Voluntary export restraint
WFP	World Food Programme
WHO	World Health Organization
WHO/AFRO	World Health Organization Regional Office for Africa
WIEGO	Women in the Informal Economy, Globalizing and Organizing
WTO	World Trade Organization
WTOA	World Trade Organization Agreements

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## Foreword

Trade liberalisation is a global phenomenon that few countries remain unaffected by. A rules-based multilateral trading system (MTS), as is obtained under the World Trade Organization (WTO), is recognised as ultimately being in the interest of small and vulnerable countries. However, there are concerns about the negative impacts that some of them are currently experiencing. The Commonwealth is therefore working to ensure that the benefits of globalisation and trade liberalisation are shared more widely among its diverse members – developing and developed countries, continental and small states. As the Doha Development Agenda suggests, equity in the MTS is in everyone’s interest.

As part of this effort, the Commonwealth is implementing a programme of assistance for its developing country members. This includes working to ensure country representation to the WTO in Geneva; technical support for Commonwealth developing country ambassadors in Geneva; capacity-building in trade policy formulation, implementation and negotiation; and skills training to negotiate national interests effectively in the WTO. The Commonwealth is also committed to understanding the impacts of trade liberalisation on different segments in the society, particularly women and other vulnerable groups.

The Commonwealth Secretariat’s programme on gender and multilateral trade issues emerged as a direct response to the Sixth Meeting of Ministers Responsible for Women’s/Gender Affairs, held in New Delhi in 2000. At their meeting, Ministers expressed “serious concern over some of the negative impacts of globalisation and trade liberalisation, particularly on weak and vulnerable economies and especially on women and children”. They “recommended that governments should use gender analysis in the negotiation and implementation of liberalisation processes”.

The production of this manual on gender and multilateral trade complements other activities being undertaken by the Commonwealth Secretariat in this area. These include: (i) collaboration with the Commonwealth Business Council to support a network of Commonwealth business women; (ii) work with Women in the Informal Economy, Globalizing

and Organizing (WIEGO) on their global markets programme to produce action-oriented research to enhance the value of women's work in the informal economy; and (iii) capacity-building for Commonwealth governments on mainstreaming gender into multilateral trade.

Work on gender and trade liberalisation in the Commonwealth Secretariat involves the collective effort of a number of individuals and groups. The work leading up to and the publication of this manual was made possible through funding from the Trade and Investment Access Facility. Members of the reference group and participants at the Symposium on Global Trade and Multilateral Agreements: Gender, Social and Economic Dimensions – held at the Pacific Islands Forum Secretariat, Suva, Fiji, 12–14 February 2003 – also contributed to the thinking behind it. We are particularly indebted for extensive comments on and corrections to specific sections of the draft document to: Elisabeth Tuerk, Center for International Environmental Law (CIEL); Sophia Murphy, Institute for Agriculture and Trade Policy (IATP); Cecilia Oh, Third World Network (TWN); Daniela Perez Gavida, International Gender and Trade Network (IGTN), Geneva; and AhnNga Tran-Nguyen, United Nations Conference on Trade and Development (UNCTAD).

Our special thanks to Tina Johnson, who worked on the adaptation of the manuscript to a handbook, and to Guy Hewitt, who co-ordinated the project. We would also like to thank our colleagues Indrajit Coomaraswamy, Pierre Berthelot and Roman Grynberg for their support in our efforts to mainstream gender into the Commonwealth Secretariat's trade programme, and Donna St. Hill for her more recent but invaluable involvement in the co-ordination of the project.

Finally, and most importantly, we are deeply indebted to the author, Mariama Williams, our gender and trade adviser. Her knowledge of the subject area and commitment to making the global trade agenda more equitable has been an inspiration to us all.

This publication is part of the Commonwealth's contribution to gender mainstreaming in key development issues.

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## Preface

The institutional framework of the multilateral trading system (MTS) has adapted over time to meet the specific needs of the process of global integration and the specific values and ideological shifts that accompany that process. Globalisation and trade liberalisation are often assumed to be universally beneficial and gender, class and race neutral. The view that policy measures are gender blind in orientation and gender neutral in effect (i.e. have similar or identical impacts on men and women) is commonly held by economic policy decision-makers. It has also carried over into trade policy-making and is deeply embedded in the formulation, negotiation and implementation of trade agreements such as the Uruguay Round/World Trade Organization Agreements (WTOA).

Yet trade liberalisation has different effects on women and men because of their different access to and control of economic and social resources, decision-making and participation. Trade rules and the MTS designed to enforce them thus have serious implications for national economic policies that attempt to promote sustainable human development, poverty eradication and the social and economic empowerment of men and women.

Over the course of the last 20 years, Commonwealth countries have made numerous commitments to and expended significant amounts of national resources on the elimination of gender-based discrimination and the promotion of gender equality. However, there is a great deal of concern that some of the advances of the last two decades may be seriously threatened if significant care and attention is not paid to the implementation of trade agreements. These concerns arise from the fact that, while the manifestations of globalisation and the ever-increasing push towards rapid trade liberalisation may present new options for some women and men, they may at the same time cause the loss of livelihood, employment and business for others. This reality cannot be ignored or neglected.

The social dimension of trade policy and trade liberalisation is now a common topic in many official trade fora. However, this discussion is proceeding with little or no atten-

tion to the different needs, constraints and interests of women. At the same time, it is increasingly recognised that simply paying attention to general targets and commitments of poverty eradication or sustainable development will not solve the problems of gender discrimination and the lack of economic and social advancement that still plague the lives of millions of women in developing countries.

There therefore needs to be an integrated framework for a sustainable, pro-poor and gender-sensitive approach to trade policy-making. However, a major part of the silence around gender, trade and investment at the level of governance of the trading system would appear to be a lack of understanding of the conceptual, empirical and policy links between gender and trade. Paradoxically, along with the view that trade policies are gender blind there is also an underlying popular viewpoint among some trade scholars and trade policy decision-makers that trade liberalisation has unambiguously benefited women in terms of widespread employment. However, emerging evidence shows that trade liberalisation can have both positive and negative effects on women's economic and social status.

A simple scan of the small but growing empirical literature on the relationship of trade and investment to gender-related issues in Africa, Asia and the Caribbean will reveal that trade reform policies – taken broadly to include measures that liberalise imports of goods and services as well as those to promote exports – generate complex and often contradictory effects on women's access to employment, livelihood and income. In some cases, trade reform/liberalisation has been associated with rising employment and entrepreneurial opportunities for women. However, in other cases the same phenomenon may exacerbate existing gender inequalities and thus worsen women's economic and social status. These different results may occur in the same economy at the same time for different groups of women, or may occur at different phases of the trade liberalisation process in the same country.

It is therefore important that policy-makers concerned with poverty eradication, social equity and gender equality improve their understanding of the gender dimensions of trade policy. They need to take steps to create gender-sensitive trade rules, as well as to develop complementary mechanisms to offset the negative effects and set in place policies, programmes and



projects that will promote improvement in the lives of women and men in society.

This reference manual is intended to serve as an information and training tool for policy-makers and inter-governmental and civil society organisations interested in building and enhancing their knowledge of the important linkages between trade and investment policy and gender equality objectives and priorities. It also presents recommendations on the key issues as well as the identification of strategies that could be utilised by different stakeholders.

Chapter 1 reviews the main features of the contemporary multilateral trading system (MTS) as well as the inter-linkages between this and globalisation. It also explores how the trade system is governed and looks at issues of transparency and participation. Chapter 2 lays out the contextual and overarching issues relevant to gender and trade. It examines the role that gender plays in the governance of international trade at the regional and multilateral levels. Finally, it offers a tentative framework for a sectoral analysis of gender and trade.

Chapters 3–6 provide an introduction to the implementation of World Trade Organization (WTO) agreements in key sectors: the Agreement on Agriculture (AOA), the General Agreement on Trade in Services (GATS) and the agreements on Trade-Related Aspects of Investment Measures (TRIMs) and on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Each chapter then explores in detail the gender dimensions of the agreement under discussion. Finally, Chapter 7 proposes a set of strategies and recommendations for integrating gender equality issues and concerns at the national, regional and multilateral levels. Throughout the text are boxes, case studies and technical and historical analysis to assist the reader towards a more comprehensive understanding of the issues raised. Most chapters also include pointers for further discussion and key questions for policy-makers and other stakeholders.

The manual is presented in a manner that allows for flexibility in use. Those trade officials, trade negotiators, civil society activists and researchers who are already familiar with the sectoral issues may simply go to the section in each chapter that focuses on gender. Readers with gender expertise, but who are not very exposed to trade issues, will find a fair amount to

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build their knowledge base and enable them to become more conversant with this area. A glossary provides expanded definitions and elaborations of the main technical terms used in the text. An outline of the structure and decision-making processes at the WTO, issues of particular importance to developing countries and an indication of how gender has been handled in regional trade agreements can be found in the appendices. These also provide a model for civil society consultation.

Many of the modules that formed the basis for chapters in this manual were outputs of the International Gender and Trade Network (IGTN) research and economic literacy programmes and first appeared in article format or as primers on its website (see [www.igtn.org](http://www.igtn.org)).

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## Executive Summary

Trade liberalisation agreements are part of an intricate web of macroeconomic reform involving the re-tuning of export promotion and social, fiscal and labour market policies. These policies impact on gender relations, human development and poverty dynamics by re-arranging relations of power and access to resources between men and women. In general, however, trade negotiators and trade policy-makers have focused on market access and paid little attention to the social and infrastructural needs of different groups in the economy. For example, in the discussion of services liberalisation, critical services such as water, energy and health care are likely to be liberalised without adequate attention to how this will affect access, availability and cost to the poor. Since women shoulder primary responsibilities for household and community management, this has implications for their paid and unpaid work and overall time burden as well as their health and morbidity.

Yet gender has not been a significant variable in the agenda setting, rule-making or enforcement of trade policy. Despite the proliferation of non-trade concerns in current global trade negotiations – including food security, public health, rural livelihoods, environment and labour standards and animal welfare – gender has not been integrated as a cross-cutting issue in either these discussions or the substantive areas of trade policy and trade agreements. There is also very little attempt to link gender equality and gender mainstreaming objectives with commitments to trade and export promotion agendas.

Effective participation in decision-making in the governance of the multilateral trade system (MTS) requires an understanding of the priorities and objectives of the key issues being negotiated and how they are related to short, medium and long-term strategic gender interests. It is therefore important to identify the critical issues that policy-makers, trade negotiators and project managers who are concerned with women's social and economic advancement should be aware of. Broadly speaking, these fall into two categories: (i) the substantive content of trade liberalisation; and (ii) participation and governance issues.

## Gender and the Substantive Content of Trade Liberalisation

Trade liberalisation is associated with specific gender opportunities, constraints and challenges around access to inputs, markets, skills training, credit, labour mobility/rigidity and survival strategies. These are apparent in the most visible features of trade liberalisation and trade policy reform: increased imports, export promotion and market access provisions.

Two important effects of import liberalisation are budgetary impacts due to the revenue effect of decreased tariffs, and dumping and overabundance of cheap imports (especially agricultural products). These have different gender implications. For example, a decline in government revenue is likely to cause to a shift in government expenditure away from the social sector or an increase in other taxes such as the value added tax (VAT). In either case, the impact will be felt more heavily by women, who have primary responsibility for the household and are thus more highly dependent on government services. Dumping and the overabundance of foreign-produced goods have contrary impacts for women. On the one hand, this makes household items and food cheaper and therefore increases the spread of the household budget. On the other hand, however, it may have negative impacts on the domestic agriculture market share of small producers who in many countries are women. Additionally, it poses significant long-term risks for national food security.

Export promotion impacts on domestic regulations and may cause re-allocation of resources, land, etc. from the food-producing sector to the cash crop or export-oriented sector. It also influences the nature, size, rate and scope of business development, especially in the tourism and services sectors. Thus government policies in all sectors have implications for women's access to land, credit and technology. Whether the net effect is positive or negative depends on how gender-sensitive governments' export-promoting policies and programmes are.

Market access provisions and programmes impact on costs, availability and usability of marketing information and technical assistance. Again, the overall impact depends on the gender sensitivity of government programmes. The nature and delivery of market information (written, highly scientific *versus*

transmission by radio and other popular mass delivery methods) and whether there is assistance to upgrade production will also determine whether or not increased market access benefits women.

Overall, trade liberalisation and the reform of trade policies and measures it causes have also been implicated, to different degrees in different countries, with the scaling down of training, extension services and investment in rural infrastructure; the removal of agricultural subsidies; cheaper imports; the promotion of cash crops; decreased public investment; and privatisation and commercialisation of land, natural resources and some services.

All of these have gender implications. For example, the promotion of cash crops is likely to alter the gender division of labour and management of household resources since, traditionally, women may have managed food production and men cash crop production (with women's labour). It will mean more work for women and also introduce food and welfare insecurity.

A much clearer picture of the linkages between trade liberalisation and gender can be seen through a sectoral analysis that looks at the different benefits, costs, challenges and constraints of trade liberalisation for men and women (e.g. in agriculture, services, investment and intellectual property). Focus should be placed on: the role of existing gender biases; structural inequality and discrimination in relation to women's and men's roles in the household and in the labour market (including responsibility for childcare, functioning of the household, and elder and community care); gender inequalities in access to and control of productive resources such as land, credit and technology; and the gender-based challenges, constraints and opportunities of liberalisation in the sector of investigation.

### **Agricultural trade liberalisation and gender**

The critical areas of concern in the debate on agriculture from a gender perspective are food security, food sovereignty and sustainable livelihoods. Food security is intertwined with the loss of domestic agricultural production, with impacts for nutrition and caloric intake of rural families. Loss of sustainable livelihoods is linked to import penetration and the loss of preference in international agricultural markets.

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A critically important aspect in examining trade liberalisation in developing countries is the gendered nature of agricultural production, processing and marketing/sales. A typical – though not necessarily endemic – feature in many Commonwealth countries is that men specialise in cash crops while women are to be found mainly in the production of the domestic staple. Women also tend to have greater involvement in the processing and sale of domestic food items. With regard to marketing and sales, men may tend to dominate the wholesale and intermediate trade while women are in retail.

Many women farmers are increasingly losing domestic markets to cheap food imports from the North. This puts a downward pressure on local prices and, along with the removal of subsidies, creates extreme hardship for women farmers as well as women in their roles as providers of family well-being. In these cases, women must increase time spent in home food processing since there is inadequate income to purchase foodstuffs. On a more positive note, some women have been integrated into micro- and small enterprise in village markets where they buy and sell farm products like milk, maize, beans and vegetables. Further, many women will find new job opportunities in the growing horticultural and other non-traditional agricultural sectors.

In many African countries, critical variables for increasing the benefits of trade liberalisation for women farmers are: state-run depots and enterprises that enable women to go outside their villages to secure better prices while maintaining their domestic responsibilities; extension services that provide programmes and services focused on women farmers in terms of language, outreach and delivery of information; price support for inputs such as fertilisers, irrigation systems and water; price controls on basic food items; and repackaging of technical information on standards and monitoring into easily understood language and transfer of such information via radio as opposed to technical seminars or briefing documents.

### **Investment and gender**

Foreign investment has an impact on employment patterns and on the nature, size and growth potential of small and medium-sized firms in host countries. Many such businesses are

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women-owned and operated. Its impact on taxation/tax revenue has implications for public expenditure and thus the availability of different types of infrastructure and social services. Its impact on the exchange rate has implications for domestic and import prices. The rapid acceleration in the de-regulation of foreign direct investment also has implications for women's health and morbidity.

Gender-friendly investment policies in the context of partial or complete liberalisation of investment must be designed to remedy the issues of transaction costs, imperfect information, market inter-linkages and asymmetry of property rights that women entrepreneurs face. Gender biases that lock women out of potential areas for the expansion of investment opportunities and markets due to the infusion of foreign investment should also be explicitly remedied. Promoting gender equality will mean the need for some form of subsidies or grants for local and women-owned businesses.

### **Intellectual property rights and gender**

Gender equity issues in Intellectual Property Rights (IPRs) arise not only in terms of widely recognised structural inequalities between men and women in access to resources such as land, credit and technical assistance but also in terms of the issues of food security and public health. Patents and other IPR instruments have significant implications for agriculture (access to seeds, food security, livelihoods and nutrition) and transfer of technology. Likewise, protection of plant varieties impacts on traditional knowledge and access to genetic resources.

It is therefore critical that governments pay particular attention to creating gender-sensitive IPR rules and mechanisms. Such an approach could pivot around the key areas of impact assessment studies/research on the role of IPRs in and on the economy, agriculture and women and men. Particular attention should be paid to mapping of genetic resources; documentation of traditional knowledge and local innovation; and examining the current market structure for seeds (purchase relative to re-use).

Education/training programmes should be geared to promoting better education for women in order to facilitate their adoption of new technology and improved environmental

management. There also needs to be support and assistance regarding biodiversity/conservation including: establishing technical rights banks that purchase core privately developed IPR-covered technology in essential areas (such as food) for the purpose of increasing access to wider groups; assistance to help conservation, management and improvement of plant genetic resource for food and agriculture; national/regional germ plasm programmes; and support for the informal system for breeding and saving (seeds, etc.) in rural areas that is dominant in the South.

Other related activities include support and assistance regarding the transfer of technology such as capacity-building for scientific knowledge; programmes and policies to improve the access of women and other small farmers to environmentally friendly fertilisers; programmes and policies to ensure that women and other small farmers have access to safe and affordable germ plasm; and recognition, protection and compensation for the knowledge, innovation and practices of farmers and traditional communities.

### Services and gender

The critical concerns regarding the General Agreement on Trade in Services (GATS) from a gender perspective are its impact on access to and availability of public services, such as health care and education, and natural resources such as water and energy. Other pressing issues include its impact on government's ability to regulate the quality of health care and the nature of the employment of women in the growing services sector. The increasing mobility of women workers in health care and education is also a cause for concern, not only regarding the impact on the sending economies but also in relation to the terms and conditions of work and the overall benefits that the women receive.

Due to their responsibilities for the household, women have a higher dependency than men on access to clean sanitation, potable water, good roads and transport. Research shows that in many countries women and children shoulder the main responsibility for collecting, storing and distributing essential goods, such as water and fuel, within the family and community. Lack of easy access, therefore, imposes a tremendous



burden on women as they are often required to expend substantial amounts of time and energy in meeting these responsibilities.

The critical issues in health care focus on quality and affordable access for men and women as well as for girls and boys. Other issues include the employment of women and their over-representation in specific sub-sectors of the health care industry (e.g. nursing). The establishing of hospitals or clinics in a foreign country and the outsourcing of medical transcription services can have significant employment dimensions for women workers. The movement of health care professionals and students for medical education and the spread of cross-border services such as telemedicine raise the issue of equity in access with very specific gender and class dimensions. Two areas of greatest concern are the potential switching of resources from local health needs to catering for foreigners in high tech, high value specialised health care units and an exacerbation of the current trend of a declining role for the state in providing primary care. It is now recognised that women are likely to be over-represented among those suffering from untreated injuries/diseases, malnutrition/hunger and illiteracy/innumeracy.

As with health care, education is a critical variable in the promotion of a dignified life. Hence the liberalisation of this sector poses similar dilemmas in terms of access to education at primary, secondary and tertiary levels. The role and continued viability of the state in providing education that would meet the needs of all citizens, but most especially the poor, is a continuing source of concern. Women tend to be most lacking in access to education and training, hence the role of the state and its ability to provide affordable education for both girls and boys are critical.

A number of gender issues arise in the high growth tourism and travel-related sector. In terms of formal sector employment, this is an area of increased jobs and income for many women and may raise their income and improve their financial autonomy. In some cases, however, these jobs are characterised by sub-standard conditions of work, low pay, lack of benefits and the absence of human resource development. This raises serious concerns about women's longer-term prosperity.

In the informal sector, some women in some countries may

gain a measure of economic independence from their participation in activities such as washing clothes, petty trading, cooking and childcare as well as producing local handicrafts and marketing them in informal markets linked to the tourism trade. There is a need for specific programmes to assist women to become more involved in increasingly higher value activities such as wholesaling craft and handicrafts in urban centres (now primarily a male activity in some countries).

Tourism may create greater access to basic services (roads, water, electricity and sanitation) or it may reduce such access if services are diverted to hotels and resorts or there are restrictions on access to local resources due to tourism development. Increased revenue from the tourist sector into the government coffers may be available for the promotion of social development. Tourism also impacts local prices (land and food) as well as the exchange rate.

Overall, whether or not liberalisation of the tourist and travel-related sector impacts negatively or positively on men and women depends on governments' ability and willingness to use fiscal and monetary measures to ensure that there is social development linked to increased tourism development. Governments will also have to take proactive measures to promote better jobs and working conditions at all levels of the tourism sector as well as put in place special policies to promote women's involvement at the higher and more lucrative levels of the industry.

The use of women's bodies to sell travel destinations is a growing and controversial issue. In its most benign manifestation, gender differences are manipulated in order to 'feed the fantasy of the male tourist'. Increasingly, however, women are directly exploited as sexual playthings and earners of foreign exchange in prostitution and now the new explosion of sex tourism. This is an area for strong government enforcement and protection of the rights of women and children.

### **Labour rights and gender**

Key areas of concern regarding labour rights from a gender perspective include the abuse of women workers in export processing zones, home-based production and the informal sector linked to industrial agriculture, manufacturing and service

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activities. The question of labour rights and conditions also emerges with the growing trend of the migration of primarily female health care workers and teachers between the South and the North and within the South.

In general, labour laws should be reformed and repealed where necessary in order to prevent or eliminate abusive working conditions. There is also a great need to modify labour laws and practices to ensure that women's gender-specific needs are adequately addressed. This may include strong enforcement and better regulation of foreign and domestic corporations in the export sector to protect workers' rights.

Complementary to this is the need for support and assistance to micro- and small businesses, especially women-owned enterprises, to enable them to offer better working conditions for themselves and the workers they hire. This should include training on occupational health and safety practices as well as improving their knowledge of national labour laws in this area.

## **Gender, Participation and Governance**

The relative roles, influence and contribution of men and women in national and international economies play an important but often unrecognised role in the setting of trade rules, the kinds of assumptions on which these rules are based and the consequent diagnosis of development and social issues that follows. This also affects the issue of who decides and who is consulted in the decision-making process surrounding WTO provisions as well as provisions at national and regional levels.

Other issues in the area of general governance include the lack of gender analysis and consultation with women's groups and community-based organisations in: (a) determining national priorities for trade negotiations; and (b) formulating the substantive advocacy positions of governments and NGOs. This is especially significant in the areas of trade policy reviews, dispute settlements and technical assistance. In addition, effective and meaningful co-ordination among sector ministries such as health, education and agriculture are critical to developing an informed gender-sensitive approach to trade policy-making. This should involve significant participation of national and regional gender machineries in the decision-making process of trade negotiation frameworks.

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Overall, avenues for mainstreaming a gender perspective and analysis into trade policy decision-making include:

- the emerging spate of social and environmental impact assessments of trade agreements, among which a gender impact assessment also has validity;
- the trade policy review process undertaken at the multi-lateral level by the WTO's Trade Policy Review Division, and the preparation of national inputs for this process;
- the explicit development focus of the Doha Development Agenda;
- the debate about access to public and essential services, food security and the 'development box';
- advocacy for gender mainstreaming within the key sectors, ministries and inter-governmental fora that deal with trade policy;
- technical assistance/trade capacity-building programmes (WTO, UNCTAD, World Bank, etc., regional and bilateral);
- the special and differential treatment (S&DT) framework;
- technical assistance and capacity-building for trade policy at national, regional and WTO levels;
- discussions around Mode IV of the GATS (movement of natural persons).

## Strategies and Recommendations

### Maximising the positives and minimising the negatives from trade liberalisation

In order to maximise the gains from trade liberalisation and promote the social and economic empowerment of women, there should be an emphasis on:

- programmes to promote men's and women's access to resources including technology and equipment;
  - education, skills and training for men and women to take advantage of new opportunities and openings;
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- re-thinking and reconstituting the provision of government services (day care, health care, subsidisation of basic services, etc.), in order to help women meet their multiple obligations;
- gender-sensitive and gender equity oriented modification of trade rules and other policy areas;
- programmes and policies to remove or offset the information bias that women face relative to men in terms of credit, government services and technology.

In order to minimise the negative effects of trade liberalisation on women's social and economic well-being, there should be an emphasis on:

- surveys and assessments to determine the exact nature and causes of negative impacts on men and women;
- proactive measures in the areas of job training/skills development and upgrading;
- supportive measures to bolster women's access to credit and technical and marketing knowledge;
- grants and low interest loans to small enterprises disadvantaged by trade liberalisation;
- modification of trade measures to limit the negative impact on disadvantaged groups.

Trade liberalisation can create institutional and legal changes in entitlements, rights and responsibilities and access to assets and government services. In order to ensure these do not undermine the social and economic empowerment of women and men, there should be an emphasis on:

- reforming/repealing laws that are injurious to women's short-term and long-term interests;
- creating provisions in intellectual property rights laws that recognise women's contribution to, need for and interest in traditional knowledge, access to seeds and other resources, and technological transfer.

## Enhancing participation at national, regional and international and regional trade fora

### *National level*

In order to enhance, build and create greater participation in the formulation and implementation of trade policy at the national level, specific initiatives are required. These should focus on:

- a more active role for all stakeholders in determining negotiation mandates and in the regular monitoring of progress;
- wider and deeper inter-agency collaboration, especially between social sector ministries and the Trade Ministry;
- wider civil society involvement in debates via national consultations;
- policy reform/institutional reform in local trade policy formulation and implementation;
- discussion and plans of action on what is needed for effective competition of poor households and businesses: credit, land, education and health services;
- an assessment of the effects of liberalisation on each sector;
- support for research on the impact of trade liberalisation;
- better sequencing of trade reform measures at the national level;
- comprehensive economic/trade literacy training for broad cross sections of society, starting with key economic decision-makers in government, the private sector and civil society;
- comprehensive review of opportunities and constraints in the economic structure;
- assessment of the changing nature of national competitiveness.

### *Regional level*

In order to facilitate the process of gender mainstreaming in WTO member states, regional trade fora should ensure that:

- gender analysis and a gender perspective are incorporated in all policies, projects and programmes;
- regional agreements are used as a conduit for members to share experiences with integrating gender and improving access of women to decision-making processes;
- gender impact assessments of policy, programmes and project proposals are implemented at all stages from design and decision-making through to action and evaluation;
- a coherent and effective policy framework and institutional process for gender mainstreaming is developed;
- the development and functioning of strong independent/autonomous women's leadership and professional organisations is supported in member states;
- the collection of sex-disaggregated data is prioritised.

### *International level*

Measures to integrate gender into trade negotiations at the international level include:

- establishing an independent focal point to monitor the coherence and contradiction between the policies and practices of the WTO, IMF and World Bank with regard to the programmes and operations of specialised UN agencies such as FAO, World Food Programme (WFP), WHO, etc., and in favour of sustainable economic development;
- undertaking a gender impact assessment of all trade agreements, whether at the multilateral, regional, national or bilateral level;
- resources and training for the collection and analysis of sex-disaggregated trade and trade-related data (formal channels for such an endeavour could be bilateral or multilateral support programmes through UNIFEM, UNDP, INSTRAW or the NGO community);
- integrating gender equality and gender mainstreaming goals and commitments into trade and other macroeconomic policies (implemented through gender-sensitisation training with the WTO Secretariat and Geneva-based missions);

- establishing gender-aware and gender-sensitive technical assistance and capacity-building programmes.

### The role of inter-governmental organisations

Inter-governmental organisations (IGOs) such as the United Nations and Commonwealth Secretariat can play an important and sustained role in advancing gender analysis, a gender perspective and gender mainstreaming into the trade policy-making environment. Policy-oriented interventions in this area could focus on:

- gender impact assessments of trade liberalisation and export promotion;
- proactive programmes to facilitate the integration of gender analysis and a gender perspective in national, regional and multilateral trade negotiations;
- support and assistance to help regional organisations undertake research and develop gender-sensitive policies and mechanisms;
- facilitating closer collaboration and partnership between sector ministries on intersecting trade-related issues;
- promoting and encouraging gender mainstreaming in government ministries dealing with trade and related areas as well as at the WTO, Geneva-based missions and regional trade organs (including the gender composition of trade delegations and high-level technical staff at the WTO itself);
- mainstreaming gender in technical assistance/trade capacity-building programmes (WTO, UNCTAD, World Bank, etc., regional and bilateral);
- gender appraisal of the area of special and differential treatment (S&DT);
- advocacy for and assistance with the inclusion of gender specialists in trade negotiation teams set up for national, regional and international negotiations;



- helping to provide gender-awareness training to gender focal points in Ministries of Trade and in regional trade organisations.

There is a need for research and documentation on the impact of trade and trade policies on women and men. A useful intervention might be designing a framework for – and undertaking – gender-aware policy appraisals of trade policy for different groups of countries. IGOs can also undertake or facilitate micro-level studies such as beneficiary assessments and public incidence analysis applied to the area of gender and trade (especially with regard to tariff-induced changes in budget allocation). Gender-sensitisation and analysis training should be provided to a broad cross section of stakeholders, followed up by on-going monitoring of implementation and processes for lesson-learning and capacity-building. Support should be provided for actions arising from research aimed at publicising findings and at achieving gender equity.

IGOs can train and promote awareness among producers of statistics regarding gender concerns in society. They can also assist countries in the collection of gender-sensitive trade statistics; develop trade-related gender statistics and indicators; and enhance existing database capacity to produce more equity and gender impact studies. Another intervention that could be considered to help facilitate participation and public education on trade and gender concerns is engendering public policy debates. This includes actions to institutionalise consultation and participation in, as well as gender analysis of, all policies of government at national and local levels as well as on-going media programmes enabling women's input in national policy debates. Training of civil society, particularly women's organisations, in evaluation methodology could be facilitated by an on-going or irregular series of hands-on workshops, etc., aimed at developing the understanding, use and development of social, gender and environmental indicators. These could also become community-based projects used to map and determine the assets and needs of the community as well as set internal parameters for assessing progress over time.

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# 1. Multilateral and Regional Trading Arrangements and Globalisation

## Introduction

The current multilateral trading system (MTS) is the most coherent it has ever been. It is rooted in rules written over 50 years ago under the General Agreement on Tariffs and Trade (GATT 1947). However, it is more comprehensive and more rigorous than its progenitor. Since 1986 it has been under extensive renovation, culminating in a new construction that extends trade agreements to services, intellectual property and investment and a new governance architecture. Overseen by the World Trade Organization (WTO), it is legalistic with binding rules underpinned by a powerful dispute settlement process.

Broadly speaking, the MTS refers to the activities of trading entities at the global level. There is a fundamental recognition that trading activities create winners and losers, and that each entity will seek ways to maximise gains and offset losses. Sometimes these activities may result in disputes between trading partners, leading to confrontation and conflict. In previous times, such conflicts were settled through the processes of diplomacy, emissary and wars. Since the 1940s, however, there has been an attempt to construct a systemic and orderly process for international trade. This has included setting up a framework for negotiating trade rules based on the exchange of concessions around market access among a wide cross-section of countries. Critical to this has been a tendency at the multilateral level to promote fewer and fewer restrictions on the cross-border flow of goods and services. This 'trade liberalisation' (also increasingly referred to as 'trade intensification') is grounded in the ideology of free trade (see box 1.1). Its aim is to reduce the so-called three pillars of trade protection: (1) market access; (2) export support; and (3) domestic support.

The rules of engagement and governance of the MTS are

*The rules of ... the MTS ... have an important influence on social and economic activities and outcomes at the local level, and on individual men and women, households, families and ... businesses.*

set by the nation states, which play dual roles as actors in and facilitators of the system. Other actors in the MTS are importers, exporters, investors, workers (paid and unpaid, in the formal and informal sectors) and consumers. Although these actors are often portrayed as classless and genderless agents, they have distinct class and gender attributes that impact on their access to capital, credit, technology and other critical resources necessary for successful involvement in international trade. The MTS is ostensibly about the operation of and the interaction among national markets at the global level, but its rules are implemented nationally. It thus has an important influence on social and economic activities and outcomes at the local level, and on individual men and women, households, families and small, micro, medium-sized and large businesses.

#### **Box 1.7 Contesting Ideologies: Free Trade, Protectionism and Fair Trade**

In trade policy-setting, different interest groups support two diametrically opposed ideologies: free trade or protectionism. A third faction favours the middle ground of fair trade.

*Free trade*, which emerged in the 1800s, argued in favour of minimal or zero trade restrictions. The major proponents of this view, Adam Smith and David Ricardo, argued that international trade would bring mutual gains for all if two conditions were in place:

1. each country specialised in producing and selling the goods that it could produce more efficiently relative to another country (the law of comparative advantage), a sort of international division of labour;
2. there was a free and unregulated flow of goods among and between countries.

Over time, the free trade view has gained ascendancy.

**Box 1.7** (continued)

*Protectionism*, the conventional wisdom (mercantilism) of the 1700s, argued in favour of protecting the domestic market via tariffs and quotas. Today, protectionism is in retreat but there are at least two strands of 'new' protectionism:

1. The *neo-mercantilists* represent a business-academic alliance that advocates a kind of sectoral protectionism or strategic trade policy in which countries identify and protect those industries that are vital to their international competitiveness (e.g. the textile industry in the US). This has led to the proliferation of non-tariff barriers, in particular voluntary export restraint agreements, and the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement.
2. *Internationalist-populist* protectionism also seeks to protect national interests, but those of artisans, family farmers and small entrepreneurs rather than large capital. It advocates a sort of global localisation, i.e. each country should promote its own agriculture and industrial development based as much as possible on local resources. International trade should complement, not be the focal point, of this strategy and be the means to prosperity for all.

*Fair trade* rejects the absolutism of both free trade and protectionism in favour of a middle position. This view promotes and encourages trade but is open to imposing restrictions on imports, especially in the areas of agriculture and infant industry. Today's variant also emphasises more equitable and just trading relationships and processes that provide for more favourable terms of trade between developing and developed countries. Proponents support and develop programmes and approaches that will deliver better prices to local producers in specific product areas.

*GATS and TRIPS are very important because they extended multi-lateral trade agreements into areas never before considered, and thus also altered the legal structure of the agreement and commitments.*

## **The Contemporary Multilateral Trading System (MTS)**

The World Trade Organization Agreements (WTOA) were the final outcomes of the Uruguay Round of GATT Negotiations (1986–1994). The Marrakech Declaration (1994) established the World Trade Organization (WTO) to oversee and implement the set of new trade agreements as well as to enforce the dispute settlement process regarding members' rights and obligations (Appendix 1 outlines the institutional and governance framework of the WTO).

The Uruguay Round Agreement has three main components:

- the updated multilateral trade agreements (GATT 1994);
- the General Agreement on Trade in Services (GATS);
- the Trade-Related Aspects of Intellectual Property Rights (TRIPS).

GATS and TRIPS are very important because they extended multilateral trade agreements (MTAs) into areas never before considered, and thus also altered the legal structure of the agreement and commitments. While GATS extended the MTAs into services (and in a limited way to investment), the TRIPS agreement and some provisions within GATS extended it into the areas of domestic regulatory standards as opposed to the traditional realm of foreign policy.

The formal WTOA are comprised of these extensions and modifications, plus a Trade Policy Review Mechanism (TPRM). In addition, there is a set of plurilateral agreements in four sectors (civil aircraft, government procurement, dairy products and bovine meat). These are applicable only to members who take on the obligations. The Uruguay Round also created an expanded and greatly empowered dispute settlement mechanism to legitimate and make binding these extensions on all members.

GATT 1994 is quite extensive and includes understandings in six areas:

- other duties and charges;

- state trading enterprises (STEs);
- balance of payment provisions;
- custom union and free trade areas;
- waivers of obligations and modifications;
- tariff schedules (and manner of implementing these schedules).

Other agreements in the areas of goods cover:

- agriculture (AOA);
- sanitary and phytosanitary (SPS) measures;
- textiles and clothing (ATC);
- technical barriers to trade (TBT);
- trade-related investment measures (TRIMs);
- anti-dumping;
- customs valuations;
- pre-shipment inspection;
- rules of origin;
- import licensing;
- subsidies;
- safeguards.

Market access commitments in financial services, basic telecommunications and maritime transport are under GATS, while information technology is under GATT 1994.

It has been nine years since the WTO came into force and began its oversight of the implementation of the Uruguay Round Agreements. Four ministerial meetings have been held (Singapore 1996, Geneva 1998, Seattle 1999 and Doha 2001). During that time, it has been increasingly clear that there are stark differences between the WTO and the GATT (see box 1.2). The implications of these differences for development and social objectives are slowly being realised.

**Box 1.2 Differences between the WTO and the GATT**

Some of the important differences between the World Trade Organization (WTO) and the General Agreement on Tariffs and Trade (GATT) include:

- The WTO is a permanent negotiation forum as opposed to GATT's process of periodic rounds of negotiation.
- WTO negotiations have so far used the concept of a 'single undertaking' which obligates members to implement all but a few provisions; countries cannot pick and chose which agreements they will implement.
- The provisions are legally binding.
- The rules and dispute settlement judgments are enforceable by trade sanctions.
- Some provisions have significant implications and restrictions on governments' ability to employ domestic regulations even within their own economies.
- There is more visible and pronounced participation by transnational corporations (TNCs) (e.g. in drafting the text of the TRIPS agreement and GATS).
- The Dispute Settlement Bodies (DSBs) seem to function as 'quasi-permanent' rule-making bodies outside the General or Ministerial Councils.
- All countries have the same rights and obligations regardless of their level of development.
- There is an emphasis on market access over developmental objectives.
- Special and differential treatment (S&DT) for developing countries has been weakened and will potentially be eliminated. It is now primarily confined to special time frames and technical assistance for implementing the provisions of the agreement.

## Bilateral and Regional Trading Arrangements

The MTS is facilitated by a network of bilateral, regional and quasi-regional arrangements on aid, development and trade co-operation assistance. These include the Lomé Convention (now the Cotonou Agreement) between the European Union and African, Caribbean and Pacific states (EU-ACP), the African Growth Opportunity Agreement and the Caribbean Basin Initiative (now the Caribbean Basin Trade Partnership Act-CBTPA). They also include an increasingly complex array of preferential trade agreements, ranging from limited ones on free trade such as the North American Free Trade Agreement (NAFTA) between the US, Canada and Mexico, to the more integrated economic unit of the EU.

For the most part, these arrangements are modelled after the prototypes laid down by the North. In many instances, especially those within the Free Trade Area of the Americas (FTAA) negotiations, they are more restrictive and encompassing than those existing at the multilateral level. Thus these regional arrangements not only complement but also sometimes drive the global trade liberalisation process.

The major developed countries in their various formations at the regional level, as well as the G-7, the 'Quadrilaterals' (QUAD) of the Canada, the EU, Japan, and the US, and the Organisation for Economic Cooperation and Development (OECD), are the main agenda setters. The developing countries individually and in their coalitions – as the G-77, the G-24, etc., supported by the United Nations Conference on Trade and Development (UNCTAD) – form another layering of texture since they play the dual roles of the governed as well as participants in rule-making.

## The MTS and Globalisation

The development of the trade regime – its particular orientation, the rules that are set and the process of governance and enforcement – is critically and inextricably intertwined with a broader system of global governance and international economic policy-making. It is consistent with, and indeed is a key facilitator and promoter of, the process of globalisation or global integration. The WTO works in the context of a global-

*The major developed countries in their various formations at the regional level, as well as the G-7, the 'Quadrilaterals' (QUAD) of the Canada, the EU, Japan and the US, and the Organisation for Economic Cooperation and Development (OECD), are the main agenda setters.*



isation framework that includes the International Monetary Fund (IMF) and the World Bank. These are complemented by a network of regional banks which have a development focus but which are inextricably tied to the trade liberalisation agenda.

Globalisation is a multifaceted phenomenon and has political and social as well as economic dimensions. In simple terms, it marks the increasing interdependence of economies through the integration of production processes. Its political aspects include the spread of a neo-liberal paradigm that gives primacy to the market and creates an enabling environment for it, for example:

- reducing the power and scope of the state to regulate market activities;
- commercialisation and privatisation (and, in later stages, deregulation);
- the promotion of Western-style democracy world-wide.

Social aspects include the spread of American values throughout the world and the ability of people to connect through the Internet, chat rooms, satellite conferences, etc. and engage in various forms of real time communication.

The system of global governance, whether in finance, trade or investment, has been evolving over time. Economic globalisation, as a historical process, is marked by different phases of integration of national economies. Each phase is distinguished, in most cases, by:

- the nature of the expansion of the major powers;
- the dominant economic arrangement;
- the nature of the competitive process (driven by the dynamics of technical change);
- the nature of economic policy shifts;
- the political and institutional arrangements and rule-making.

Together these reflect the features of, driving force behind and systemic governance and enforcement mechanisms of the globalisation phenomenon. Thus the character and features of

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globalisation may differ during different historical periods. Associated with this character shift will be the creation of a particular formal or informal trading system.

*Children make packaging for Nestlé products in New Delhi, India*

INTERNATIONAL LABOUR ORGANIZATION/  
M. CROZET

### Features and characteristics of contemporary globalisation

Typically, globalisation as a historically continuous process includes a number of mechanisms and processes:

- A predominant power oversees the process. The US assumed that role from Britain. The US would seem to act in concert with G-7 but has the primary military power (albeit at times it tries to act as part of a multinational force, such as in Kosovo and Afghanistan).

*A gender division of labour ... confines women to the private (domestic) sphere and, when necessary, incorporates them into the labour force at cheap wages for exploitation of their 'special skills'.*

- There are agreements that foster the orderly exchange of production input and output, e.g. the multilateral trading system from GATT to the WTOA.
- Rules to promote the free flow of capital, e.g. the OECD investment guidelines, TRIMs and the abortive attempt to establish a Multilateral Agreement on Investment (MAI).
- There is a segmented labour market with an international division of labour based on unequal exchange between the global North and the global South. Traditionally, Northern countries specialised in manufacturing and exporting high value-added goods using expensive labour while the Southern countries specialised in producing and exporting natural resources and primary commodities using cheap labour. The breakdown of this strict segmentation is proving to be a serious problem in trade negotiations. The North, as a group, is interested in rules that protect their emerging areas of competitive advantage (high technology, biotechnology and services). This is being resisted by those developing countries (such as Brazil, India, the Asian tigers, etc.) with significant interests/stakes in these areas.
- There is a gender division of labour based on patriarchal ideology. This systematically confines women to the private (domestic) sphere and, when necessary, incorporates them into the labour force at cheap wages for exploitation of their 'special skills'. The latter is particularly true for the many developing countries that are wedded to the low-wage growth strategy that relies strongly on female labour in commercial agriculture, manufacturing and low-end services.

## **The MTS, Economic Development and Social Outcomes**

The implementation of trade liberalisation increasingly requires the creation of new national institutional frameworks as well as the re-writing of domestic legislation (see, for example, the TRIPS agreement). These costs impose another layer of burden on developing countries, which are operating with greatly constrained budgets and human resources. In addition,

### **Box 1.3 Linkages between the MTS, Trade Liberalisation and Globalisation**

1. Globalisation is the integration of economies into a more borderless world.
2. The 'bricks and mortar' of globalisation is the movement of goods, services and investment into and out of countries.
3. This movement is facilitated by the reduction and elimination of border measures.
4. The MTS, geared to trade liberalisation, provides the negotiation spaces to bring about this reduction/elimination.
5. The MTS promotes wider and deeper integration by:
  - decreasing tariffs;
  - decreasing non-tariff barriers;
  - pushing for behind the border measures and supportive policies such as competition policy, harmonisation of product standards and protection of intellectual property rights.

while trade reform implemented at the national level in order to satisfy WTO obligations may increase trade in some areas (for some countries), it may decrease trade in other sectors of the same economy. It sometimes introduces intense foreign competition that leads to loss of domestic market share for some economic actors. Overall development and social objectives may be sacrificed for market access agreements that either do not materialise or do not yield the desired results. This often complex and contradictory aspect of trade policy changes has serious implications for economic development priorities and objectives as well as poverty eradication and gender equality targets and outcomes.

Theoretically, by reducing artificial obstacles to the entry and exit of goods and services, trade liberalisation could create

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a more competitive environment including price competition. This leads to rising export shares abroad and so expands employment and business activity in the domestic economy. This then brings about: (a) rapid economic growth; (b) a favourable change in the demand for and wages of workers in the production of export-oriented goods and services; and (c) the availability of a wide assortment of consumer goods at relatively low prices.

However, empirical evidence shows that there is no automatic link between trade liberalisation and growth. There are at least two stumbling blocks to be reckoned with:

1. Trade liberalisation has two sides: (i) the elimination of restrictions on imports; and (ii) increased exports. Unfortunately, import liberalisation seems to be the dominant side in many developing countries. While a country can control how fast it liberalises its imports, it cannot determine how fast its exports will grow. Thus trade liberalisation may simply result in more imports that increase the trade deficit and put pressure on the balance of payments, leading to worsening external debt that further constrains growth.
2. Growth is a function of at least three factors: (i) price of existing imports, which is constrained by the fact of declining terms of trade; (ii) the available infrastructure and the human and business capacity to exploit new export opportunities; and (iii) market access. Market access is usually constrained by high tariffs and non-tariff barriers in the North on precisely the goods the South would like to export (e.g. agricultural products and textiles).

Thus unbridled trade liberalisation is not wise. Other factors must be considered, including its timing, sequencing and scope; strengthening local enterprises and farming; and building human capital, technology and export capacity. Ultimately, countries must develop and retain the ability to make strategic choices in terms of finance and investment.

There is a continuing impasse in trade negotiation around the issues of implementation and special and differential treatment (S&DT) for developing countries. This shows the difficulty of ensuring that trade liberalisation automatically promotes economic development in poor and middle-income

developing countries. The Doha Development Agenda (proclaimed by the Doha Ministerial 2001) would seem to set the MTS on the path to resolving this dilemma. The critical test, however, will be how developmental questions around intellectual property rights (IPRs), investment and competition policy are resolved by the time of the Cancun Ministerial (2003).

## Governance of the MTS

### Transparency and participation

A well functioning international trading system is in the interest of all countries. However, the agenda of this new trade regime is increasingly encroaching on social objectives and priorities. This is a bone of contention in the current debate on the governance of the trading system and its role in the ongoing global integration process. Many members of the WTO, policy-makers, scholars and activists are raising the issues of equity, rights, transparency and sustainable development as critical values and objectives on which the trade system should be based. For developing countries in particular, equity is about the imbalance in rights and obligations in WTO agreements as well as in access to resources and control of decision-making processes and mechanisms. The 'right' that they support unreservedly is the right to development, while transparency means changing the opaque and inherent systemic bias (that works in favour of the more wealthy countries) in the decision-making process of the WTO.

For many members of civil society knocking at the door of the WTO, equity is about the elimination of poverty and better income distribution. It is also about gender balance in decision-making, in access to and control of economic resources, and in shouldering the burden of adjustment to economic shocks and dislocations due to trade reform designed to conform to WTO trade agreements. They are concerned about human rights: civil, cultural, economic, political and social. For them, transparency and participation mean accountability and democratic participation of all governments as well as civil society in the formation and implementation of trade rules.

*Many members of the WTO, policy-makers, scholars and activists are raising the issues of equity, rights, transparency and sustainable development as critical values and objectives on which the trade system should be based.*



*Protestors dressed as turtles outside the 1999 WTO Ministerial Conference in Seattle*  
STEVEN SHULTS

## Key questions about governance

Governance in the context of the MTS revolves around at least five broad issues of agenda setting, rule-making, recognising and remedying structural and other imbalances, enforcement and accountability. The following questions need to be asked:

**Agenda setting:** Who sets the substantive context, inputs (policy briefs, research, consultations, position papers) and contours of negotiations? What (and whose) are the predominant values, goals and objectives being upheld? Are (and how are) the participation, substantive and advocacy positions of different groups within countries as well as between countries at different levels of development factored into and included in negotiating parameters and frameworks?

**Rule-making:** What is the basis for it? What are the formal and informal processes of negotiations and participation in the process? What are the procedures for ensuring fairness, democracy and accountability?

**Recognising and remedying structural and other imbalances:** What is the nature and extent of structural and other imbalances in the system, as it evolves at the national, regional and global levels? What mechanisms exist at each level to assess these? How does the system respond to and correct identified imbalances?

**Enforcement:** What are the enforcement mechanisms and processes for weighing claims and counter-claims, arbitrating conflict and enforcing judgments? What are the procedures for ensuring fairness, democracy and transparency?

**Accountability:** What systemic processes are available to promote careful and proactive gender sensitivity in the design of trade rules? What processes are available for monitoring and assessing the negative effects related to the implementation of trade rules on the day-to-day lives of children, men and women?

### **Box 1.4 Distinctive Trends Influencing the Governance of International Trade**

There are at least eight distinctive trends that give rise to and determine the specific changes in the nature and mechanisms of the global governance of international trade:

1. The internationalisation of production (global restructuring).
2. Rapid technological change in information, micro-, bio- and telecommunications technologies.
3. Trade liberalisation accompanied by attempts to remove all restrictions on foreign direct investment (FDI).
4. The rise and extreme mobility of financial capital as a global player and its resulting strong influence on national policies.
5. The increasing power of transnational corporations (TNCs).
6. The restructuring and de-limiting of the economic and social policy reach of the nation state.
7. The formation of regional trade and economic blocks across many groups of countries.
8. The increasing feminisation of the global labour market.

These aspects of governance of the MTS are critically dependent on the institutional framework that makes, implements and oversees trade rules and practices. This framework includes the WTO, national trade decision-making machineries, regional trade agreements and mechanisms, plurilateral agreements such as the Cotonou Agreement, regional development banks and international financial institutions (IFIs) such as the World Bank and the IMF. It has adapted over time to meet the needs and requirements of the global integration process and the accompanying values and ideological shifts (see box 1.4).



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## 2. Gender and the Multilateral Trading System (MTS)

### Introduction

Gender inequality persists around the world. Yet many countries have made great strides over the last twenty to thirty years towards reducing the gender bias that has limited economic development and been a stumbling block in the social and economic progress of women. Women are now employed across all sectors of the economy in many countries, though they tend to predominate in certain sectors and types of occupations. Some women also now have more access to education and training, better access to health care and a wider variety of livelihood options. This has been partly due to the rising importance of trade in addition to the removal of customary, legal and social constraints on women's mobility and access to economic, social and cultural resources.

The new manifestations of globalisation and the push towards greater trade liberalisation may thus present new options for women and men and generate export earnings for debt payments. However, they may also cause loss of livelihoods, employment and businesses. Many developing countries are experiencing severe social consequences from intensive and extensive trade liberalisation. Gender equality implications of globalisation and trade liberalisation arise because these phenomena do not eliminate existing inequalities in access to resources, power and decision-making between men and women in society. This is a reality that must be confronted directly or else much of the tremendous investment in promoting the social and economic advancement of women will have been in vain (see box 2.1).

Initially, the linkages between the trade liberalisation policy of the WTOA and the social dimensions of developing countries' economies were at best treated with benign neglect or at worst ignored or denied. However, there is now a spate of

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**Box 2.1 Gender Dimensions of the Links between the MTS, Trade Liberalisation and Globalisation**

The consequences of trade liberalisation and globalisation have included:

- Many women have moved from unpaid household and subsistence agriculture to the paid economy and there has been an increasing female share of employment.
- More women have industrial jobs (though without significant changes in gender inequality in terms of pay, authority and career advancement).
- There has been an increase in flexible and casual labour and irregular work. Women, more so than men, lack employment security.
- Women continue to have primary responsibility for household and childcare and are still the family welfare provider of last resort.
- There is increasing demand for women's labour, at the same time as:
  - attempts to strengthen the homemaker stereotype;
  - unequal burden of domestic work;
  - marginal position of women in the labour market.
- There is continued occupational segregation by sex: (a) horizontal segregation (the distribution of women and men across occupations, e.g. women as maids and men as truck drivers); (b) vertical segregation (the distribution of men and women in the job hierarchy in terms of status and occupation, e.g. women as production workers and men in a supervisory capacity).
- Foreign direct investment (FDI) has meant more employment for women.

reports, some commissioned by the WTO itself, which have recognised and validated these links. This has resulted in – at least at the level of rhetoric – an apparent re-focusing on the

goals and objectives of economic development, including its social components. Evidence of this can be found in the widely touted Doha Development Agenda (DDA), the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement on public health and access to medicine, and somewhat belated attention to the over one hundred implementation concerns of developing countries (the so-called ‘implementation problems’). However, there is still no significant official recognition, at either national, regional or international levels, of the different impacts of trade liberalisation on women’s economic and social status relative to men’s.

This is partly due to unwillingness and foot dragging in accepting that there are social and human development costs to trade liberalisation. However, a major part of the great silence around the gender dimensions of trade liberalisation is the belief among trade officials, negotiators and technical staff that trade policy is gender blind in its orientation and gender neutral in its effects. This misguided belief is supported by at least two dominant myths:

1. Trade liberalisation will automatically reduce poverty and poverty reduction will benefit women and men equally.
2. Market access promotes development and achieving development will improve the conditions of men and women equally.

It is only by exploding these myths that serious attention will be paid to devising strategies and remedies in the context of a trade agenda to significantly improve the lives of women, men and children. This requires an approach that recognises the interconnections between trade and other macro-level policies and processes. Trade liberalisation is an intricate web of cross and behind the border provisions and social, fiscal and labour market policies. These policies impact on gender relations, human development and poverty dynamics in the economy through a complex set of transmission mechanisms that determine access to resources at all levels of the economy. Any attempt to reconfigure the dynamics set in motion by trade liberalisation from the perspective of gender equality will therefore not be successful unless it also challenges the sub-national, national, regional and multilateral formulation and decision-making of trade policy.

*A major part of the great silence around the gender dimensions of trade liberalisation is the belief among trade officials, negotiators and technical staff that trade policy is gender blind in its orientation and gender neutral in its effects.*

*Trade rules should be constrained and bound by existing international agreements that promote human – including women’s – rights and ecological sustainability.*

From a gender perspective what is important is that trade policies, programmes and mechanisms:

- promote sustainable human development;
- enhance social policies that protect the poor and promote the economic and social advancement of women and men;
- take into consideration differences in countries’ needs, nature and scope of businesses, activities, constraints and ability to compete;
- recognise and develop mechanisms and processes that seek to overcome the special constraints that women face in the economy due to gender biases and gender inequality.

There is therefore a need for an integrated framework for sustainable, gender-sensitive human development-based trade policy. Trade rules should be constrained and bound by existing international agreements that promote human – including women’s – rights and ecological sustainability. The institutional framework and core principles of the trade system should support and promote fairness, transparency, democracy and participation by civil society in trade rule-making, negotiations, monitoring and dispute settlements.

## **The Gender Impact of Trade Policy**

As noted above, it is generally assumed that trade policy and trade liberalisation are gender neutral in their formulation and impact. Trade decision-makers are seemingly unaware of the important place of the unpaid (care) economy in the productive economy and in market activities. Furthermore, there is very little recognition that the low-wage growth strategy inspired by trade liberalisation depends on the incorporation of female labour into the formal and informal sectors of the economy.

Trade intensification in the context of economic reform, the continuing impact of structural adjustment policies (SAPs) and nine years of WTO-led liberalisation are associated with:

- The comparative advantage of developing countries based on their supply of cheap labour. Increasingly this consists of



female labour that is systematically underpaid. If maintained, this strategy is likely to trap both the women workers and the countries that depend on a low-wage growth strategy in a perpetual swirl of debt and dependency.

- A rise in women's labour force participation in manufacturing in Asia, Latin America and the Caribbean and in commercial agriculture in Africa and Latin America. However, the conditions of work are not always as desirable as they should be. The opportunities for economic and social advancement are also not always as readily apparent as conventional wisdom would predict.
- The introduction of new and cheaper products (food and household items). This may widen the choices available to households and hence lead to a reduction in women's unpaid work. However, where it displaces local enterprises it may simply increase the work of women who must seek ways to offset loss of household income.
- A multilateral framework that tends to define most social

*A dressmaker in the  
Maldives*

INTERNATIONAL FUND FOR AGRICULTURAL  
DEVELOPMENT (IFAD)/H. WAGNER

*Women activists and feminist researchers working on issues of gender and sustainable development have begun to challenge ... the argument that globalisation and liberalisation are unambiguously beneficial to all groups in society.*

and environmental regulations as ‘trade barriers’. Hence trade liberalisation policies may have powerful impacts on poverty eradication programmes. Conventional wisdom argues in favour of a positive impact on poverty, linked to the job and income-creating possibilities of increased trade. However, trade diversions and distortions may in some cases prove to be stronger than job creation. This could result in losses in market share (in the domestic market or abroad), triggering business closures or restructuring and loss of livelihood for some formal and informal actors.

- Loss of revenue from tariff reduction and the elimination of some licensing requirements that could trigger shortfalls in government budgets, leading to further reductions in government spending on social services and poverty eradication programmes.
- Changes in domestic labour legislation, social insurance programmes and policies as well as the promotion of new forms of regulation. Such changes will not simply be confined to the business sector but will have important impacts on men and women in households, communities and social institutions.

Women activists and feminist researchers working on issues of gender and sustainable development have begun to challenge, theoretically and empirically, the argument that globalisation and liberalisation are unambiguously beneficial to all groups in society. These challenges are part of the broad agenda of engendering macroeconomic policies so as to promote gender equality and the economic empowerment of women.

The work of activists is grounded in the empirical findings of case studies on the impact of SAPs on women. Structural adjustment led to welfare loss and “strained women’s time and effort beyond acceptable limits” (Bifani-Richard, 1999). It also resulted in non-reciprocal trade liberalisation in many countries that was not accounted for in the Uruguay Round negotiations. The resulting WTOA created a broadening and deepening of trade liberalisation, thus imposing even more hardship on particular sectors and groups of women in developing countries.

Research shows that trade liberalisation impacts on

### **Box 2.2 The Effects of Globalisation from a Gender Perspective**

The likely positive effects may include:

- acquisition of new skills;
- higher income;
- new opportunities for women and men;
- wider reproductive choices (Bifani-Richard, 1999).

The likely negative effects may include:

- more informalisation of work;
- devaluation of women's work;
- heightened gender stereotyping of employment;
- increasing burden for women (paid and unpaid labour);
- further marginalisation of women.

women's social and economic status in at least four important ways:

1. It affects women's employment status and may increase their income. However, without complementary measures (such as day care, access to transportation, ensuring proper health and occupational safety standards, etc.), it imposes a burden on time availability/use as well as on women's health and morbidity.
2. It has increased the employment of women in the industrial sector and in commercial agriculture as well as offering work opportunities via subcontracting and home-based work in the manufacturing and services sectors. However, this is not always benign or entirely beneficial, as it tends to occur under poor conditions of work and pay and often entails violations of women's rights.

*It has been argued that gender-based institutional biases that affect women's access to credit and training opportunities create bottlenecks and inefficiencies ... [that] may ultimately result in export promotion schemes not having the desired outcomes.*

3. It may open the way for cheap (subsidised) foreign goods to enter the local markets, dislocating women farmers and micro-entrepreneurs. Trade in second-hand clothing or prepared/fast food replaces dress-making and informal, small, local food establishments.
4. It may lead to cuts in social expenditure when governments experience reduced revenue due to reductions in tariffs. Most of the programmes that are cut or eliminated are those that benefit women and girls. Governments often try to offset declining revenues with the imposition of other taxes such as the VAT, which is more burdensome for women because of their responsibility for household purchases.

When policy-makers are not aware of existing gender biases and inequalities and how these affect women's access to resources and credit, trade policies may have counterproductive outcomes. It has been argued that gender-based institutional biases that affect women's access to credit and training opportunities create bottlenecks and inefficiencies, especially with regard to supply response in agriculture and food production. This may ultimately result in export promotion schemes not having the desired outcomes.

### **A Gender Analysis Approach to Trade Liberalisation**

A gender analysis approach seeks to identify the key mechanisms and pathways through which globalisation and liberalisation impact on women and men differently in terms of social burden, earnings, employment, poverty, survival/livelihood and wealth-generating strategies. Emphasis must be placed on the impact on men's and women's roles in the household, the family and the community as well as in the various markets. It must also take into consideration constraints on women's time, mobility, access to different types of work and access to credit, education and resources such as land and capital.

The starting point must be an understanding that it is women's unpaid, undervalued and unrecognised labour in social reproduction that is the lifeblood of all economies. This includes the production and maintenance of labour, the care of



the elderly, the nurturing of the sick and the maintenance of community via volunteer activities, etc. In other words, women's labour in the household and community is central to the process of accumulation and, along with natural resources, is the effective ingredient in the so-called 'magic' of the market.

There must also be explicit recognition that women more often than men:

- face a coercive and oppressive gender division of labour;
- need greater access to public services;
- lack control over labour and income;
- lack control over their bodies;
- lack access to and control over physical space;
- lack access to and control over political intangible resources (information, technology and influence);
- lack access to and control over productive resources (land, equipment, credit and housing).

Trade agreements involve measures, rules and practices that push import liberalisation and export promotion. Both sides of these agreements have implications for women as the primary caretakers of the household, family and community. They impact very directly, and in different ways, on women's time burden, nutritional status, health/morbidity and potential for social and economic advancement compared to men's.

Good practice that promotes benefits for women and men from trade liberalisation must start with trade and development co-operation policies that have poverty elimination and the promotion of gender equality as explicit objectives. These policies must be centred in a gender-aware model of the economy that specifically incorporates the reproductive and informal sectors. Access to paid employment should be used as one of a range of measures of, and tools for, good gender-sensitive trade liberalisation practices. This means that attention must be paid to the institutional factors that affect the supply of, and demand for, women's and men's labour (see box 2.3).

*Good practice that promotes benefits for women and men from trade liberalisation must start with ... policies that have poverty elimination and the promotion of gender equality as explicit objectives.*

### **Box 2.3 Institutional Factors Affecting Labour Force Supply and Demand**

These include:

- *Men's and women's time allocation* on productive (commercial or subsistence agriculture or formal employment) and reproductive (household/family and community) activities.
- *Women's lack of both bargaining power and control over household resources*, including land and income.
- *Women's and men's different access to, use and control of technology*. The economic activities of women are constrained by technological disparities, including lack of access to equipment and machines.
- *Gender bias in the labour market* that restricts women to particular job types and classifications, resulting in women dominating traditionally 'female' work areas such as clerical work, nursing, etc. and being found mainly in low-skilled jobs.
- *Women's limited access to education and skills training* makes it difficult for them to maintain or increase their productivity. The areas in which women dominate are likely to be the areas of most intensified global competition (textiles, garments and agriculture). These are also areas experiencing rapid technological advances.
- *Information bias* whereby greater information such as agricultural extension techniques, credit, etc. is given to/ accessible by men.
- *The inter-sectoral mobility of resources*. It is usually more difficult for women to move their activities/livelihoods between sectors such as agriculture and manufacturing.

### Import liberalisation and gender

Trade expansion in many developing countries has been driven by import growth. The 1999 UNCTAD Trade and Development Report provides evidence that rapid trade led to trade deficits in the South as exports stayed flat or did not keep pace with rising imports. Thus the average trade deficit of the South is higher by 3 per cent than the 1970s and the average growth rate is lower by 2 per cent (FAO, 2000). The effects may be positive, negative or contradictory for different households within the same economy. For example, cheaper imports may displace local production that was an important source of livelihood for some households. There may be a loss of traditional market domain such as vegetable and food production, marketing and distribution.

The budgetary implications of trade are another important area for teasing out the link between gender and import liberalisation. A key tool for import liberalisation is to decrease or eliminate cross-border taxes on goods and service. The revenue impact of tariff elimination or reduction is likely to have a pronounced effect on the allocation of public expenditure. This will affect the flow of resources and the provision of basic social services. Gender issues arise in terms of whether the resources go into industries or sectors dominated by men or women. It is important to know which business sectors or groups are supported and which sectors suffer the most from changes in government spending or offsetting tax measures such as VAT as a result of loss of tariff revenues. The implications for men and women at the level of the household also have to be examined.

### Export promotion and gender

The most obvious impact of trade intensification on women as a group relative to men is the heavy reliance of export promotion strategies on the labour of women in commercial agriculture, export processing manufacturing and, increasingly, in the data entry/coding aspect of the export services enclaves.

Trade policy that focuses on export promotion by altering domestic regulations and forcing factor re-allocation may also affect women's access to and control over resources such as

*Cheaper imports may displace local production that was an important source of livelihood for some households [and] there may be a loss of traditional market domain such as vegetable and food production, marketing and distribution.*

land, credit and technical assistance. A case in point is the shift from food production to cash crop export production. This tends to impact negatively on women's access to land and common property resources as well as their labour time. In addition, the increasing penetration of multinational corporations (MNCs) in food and agriculture is creating serious survival and sustainable livelihood issues for women farmers and women in family farming entities.

As it is assumed that trade rules and policies have their primary impact only at the level of the formal economy, not much attention is paid to how they impact on the informal economy.



*Loincloth street vendors  
in Togo*

INTERNATIONAL LABOUR ORGANIZATION/  
P. DELOCHE

However, the expansion of export production, particularly in manufacturing, has been associated with the expansion of informal sector activities and homeworking, drawing directly on women's labour. Moreover, even when trade agreements create jobs for women, there is bound to be some direct impact on unpaid work. It cannot be assumed that when women find work in export processing zones (EPZs) or in commercial agricultural production, their time spent on unpaid work will decrease.

Whether the current trade regime is good or bad for women as a group, relative to men as a group, is still a matter of debate. Some studies posit a pronouncedly positive effect of export promotion on women in terms of increased employment.

#### **Box 2.4 Positive and Negative Effects of Trade on Women's Employment**

In certain types of manufacturing – clothing, light electronics, etc. – women have gained increased employment opportunities, especially in export processing zones (EPZs). Countries that are heavily dependent on female labour in this sector include the Dominican Republic and Bangladesh. This has prompted some researchers to conclude that women are benefiting more than men from trade in terms of increasing numbers of jobs and access to paid work. However, in some countries women workers have been dislocated by the process of trade. For example, the clothing and textile industries in South Africa lost close to 40,000 jobs between 1996 and 1997 (McQuene, 1998). This was a result of the reduction in duties on clothing and textile and the relocation of production facilities to neighbouring states where wages were lower and trade unions were weaker. Additionally, research findings indicate that women have become more vulnerable to temporary, part-time work without proper health and safety safeguards or trade union rights. Women workers both in EPZs and agro-industry face hazardous working conditions, high levels of insecurity and more intensified work schedules.

*It cannot be assumed that when women find work in export processing zones (EPZs) or in commercial agricultural production, their time spent on unpaid work will decrease.*

*Though often presented as a technical and neutral issue, the market access debate has significant gender equality dimensions. Market access is seemingly the 'holy grail' of trade negotiations.*

Other studies, however, argue in terms of a strong negative impact on women in terms of:

- an increasing social reproduction role, even as their labour market roles expand;
- health hazards created by employment;
- the long-term unsustainability of wages and income;
- the reinforcement of gender segregation and gender stereotyping of occupations and industries in which 'women's jobs' have lower pay and less secure tenure than 'men's jobs'.

It might be the case that trade expansion/intensification via export promotion leads to less than desirable outcomes for both women and men when it is untempered by social and human development considerations. More specifically for women, the results may not be necessarily beneficial when women's needs and concerns are not factored into trade policies. These include corrective measures (e.g. improved access to credit and technical assistance) to cover the special disadvantages that women may face that block their ability to take advantage of opportunities unleashed by trade. This must be in the context of balanced and equitable trade rules that support sustainable, social and gender equity-based development.

### **Market access and gender**

Another area that remains relatively unexplored in the broad area of trade liberalisation, regardless of the sectoral aspects, is the ubiquitous search for market access that colours and dominates trade negotiations at the global and regional levels. Though often presented as a technical and neutral issue, the market access debate has significant gender equality dimensions.

Market access is seemingly the 'holy grail' of trade negotiations. This is because it is believed that expanding the markets for goods and services will: (i) enable economies of scale production; (ii) enhance specialisation via efficient utilisation of resources (such as market information); and (iii) promote movement of capital. Ultimately, market access is expected to increase production, increase the number and quality of goods

### **Box 2.5 Market Access and Access to Information**

In Uganda's fishing and horticultural sectors, female producers were found to prefer radio to other methods of delivery such as newspapers, seminars or training. This is because: (a) more women than men owned and listened to radio (even as they performed other, primarily household, tasks); and (b) women lacked reading skills and had difficulty interpreting technical written information. When women producers did not have access to marketing information, they suffered in terms of lack of knowledge about the availability of loans and know-how in accessing them and other funds. Lack of knowledge also impacts on the quality and standards of production as well as the ability to implement cost-effective techniques.

*Source:* Sengendo and Tumushabe, 2002.

and services available, increase employment, promote income growth and improve the standard of living.

Whether or not market access alone can deliver on all that is expected of it depends on a number of factors, such as the nature and conditions of domestic production (including physical capital stock and human capital). However, there are also gender dimensions to seemingly 'technical' market access conditions. Such conditions include requirements on product quality, health regulations (for the protection of plant and animal life), distribution channels, price data, information on import and export procedures, and documentation and the nature and extent of domestic support (subsidies). The gender equality dimensions of market access are twofold:

1. *At the level of international trade agreements:* Market access burdens that are imposed may impact on female producers differently than men in terms of implementation at the national level. They have an impact on the cost, availability and usability of marketing information and technical assistance. They may also work against women as workers if the major product sectors facing lack of market access to a WTO member economy are dominated by females.

*Women's empowerment is linked to their ability not only to earn a consistent income but also to control the expenditure, savings and investment decisions around this income.*

2. *At the level of the domestic economy:* Market information on the availability and access of investment funds, grants and loans may be more known to male than to female producers. Likewise, information on market sources and prices, security and tax information may not be as available to female as to male producers. It depends on the method of information delivery and how accessible the information is. Differences in access to and utilisation of information (verbal or written) is very pronounced for men and women (see box 2.5).

### **Trade Liberalisation and Women's Well-being<sup>1</sup>**

Women's well-being is inextricably linked to: (a) the sustainability of their income and wages; (b) the degree of their participation in leadership and decision-making in the household and society (empowerment); and (c) positive changes in the social relations of gender that reduce or eliminate gender biases and gender-based victimisation. Trade may contribute positively or negatively to these factors depending on the nature of the changes it brings about in macroeconomic and social policies in the economy.

*Income/wage sustainability.* In most economies women experience severe wage discrimination that causes their earnings to be substantially lower than men's. In general the evidence shows that this is true in manufacturing, agriculture (especially the non-traditional sector) and the low tech aspect of the service industry. Where countries have focused on a low wage strategy and the employment of women, there is a persistency to women's low earnings. In countries where the focus is on the creation of higher value production with progressively improving working standards, however, there is the possibility for women's wages to rise.

*Empowerment effect.* Women's empowerment is linked to their ability not only to earn a consistent income but also to control the expenditure, savings and investment decisions around this income. Many researchers have noted that it is associated with increases in the proportional household expenditure on

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<sup>1</sup> This section draws heavily on Joekes, 1999.



women's and children's health and education. This in turn enhances human development in later generations.

It has also been noted that in some places women do not control the income they earn as it is retained by their employer for rent. Portions of their earnings may also disappear into pooled income of the household and other familial obligations without the wage earners' having any say in the matter. There may or may not be a significant empowerment effect if there is no corresponding shift in the household bargaining structure.

*Social status and gender relations.* Researchers have also observed that the nature of women's waged employment – whether it is contractual or non-contractual – has important implications for women's status in the household and, by extension, the community:

- contractual employment has the possibility of relieving young women from domestic labour obligations in the household;
- an independent income can increase women's autonomy in personal matters such as choosing a husband and deciding when or if to get married;
- access to employment can reduce the level of domestic violence;
- access to employment can mean that girls are seen as assets to their families rather than as liabilities.

Overall, access to contractual employment can be the effective ingredient in enhancing women's self esteem, autonomy and power.

A cautionary note, however, is that many of these positive contributions can be quickly eradicated by changes in production and trade decisions linked to liberalisation. This is especially so if there is little opportunity for deepening women's skills and knowledge base. In such cases, women do not have skills that they can transfer to other sectors in the economy when firms or industries leave or suffer a downturn due to ever-changing 'trade winds'.

Trade liberalisation and globalisation have also intensified competition among women. At the national level, the manu-

*Trade liberalisation and globalisation have also intensified competition among women. At the national level, the manufacturing sector previously tended to hire poor women with little education but the newly emerging modern services sector seeks to hire educated and middle-class women.*

facturing sector previously tended to hire poor women with little education but the newly emerging modern services sector seeks to hire educated and middle-class women. Regionally, trade blocks such as the North American Free Trade Agreement (NAFTA) may lead to trade diversion from one country to another. This results in a loss of income in the country from which the business entity has shifted operations, while it creates employment for women in the receiving country (see box 2.6). Furthermore, the growing instability and marginalisation that accompanies trade liberalisation and globalisation is directly associated with the rise of sex trafficking.

#### **Box 2.6 Effects of Trade Liberalisation on the Textile and Clothing Sectors**

The North American Free Trade Agreement (NAFTA) has severely impacted on Canadian and Caribbean women workers in the textile and clothing sector. In 1995 Jamaica was the largest exporter of underwear to the US (40 per cent of US imports). However, by the third quarter of 1996 (approximately two years after NAFTA came into force) Jamaica's exports to the US had declined by 12 per cent while Mexico's NAFTA access had grown by 40 per cent with 10 per cent share of the US market (King, 1996; cited in Wedderburn, 1998). Yet another example is the re-location of South African clothing enterprises into other areas in southern Africa to take advantage of cheaper labour.

At the global level, it would seem that women workers in Africa are losing local textile and clothing markets due to competition from cheap clothing from Asia. Likewise, there is inter-regional competition as some garment firms move out of the Caribbean region altogether to relocate in places such as Bangladesh. With the gradual phase out of the Multifibre Agreement (MFA) and full liberalisation of clothing and textiles (as envisioned under the Agreement on Textiles and Clothing), many countries now benefiting from the MFA will be at a severe disadvantage.

## Gender and Working Conditions

The potential impact of trade on wages and workers' health and safety has been raised in a number of trade fora by labour organisers, the International Labour Organization (ILO) and some Northern governments. Gender equality concerns also arise in the discussion of labour standards in the MTS.

Undeniably, women are increasingly at high risk of working in exploitative and hazardous conditions. Yet the set of ILO core labour standards that is at the centre of the debate does not pay attention to the fact that women workers face particular gender-related problems. These core standards are generally taken to include the seven ILO conventions that have been most highly ratified by countries: (i) freedom of association (87, 1948); (ii) effective recognition of the right to collective bargaining (98, 1949); (iii) suppression of all forms of forced (29, 1930) or (iv) compulsory labour (105, 1957); (v) the effective abolition of child labour (minimum age for employment) (138, 1973); (vi) combating discrimination in employment and occupation in all its forms (111, 1958); and (vii) remuneration for work of equal value (100, 1951).

A gender approach to the issue of exploitation and unfair treatment of labour in the global economy should focus attention on issues such as maternity and paternity leave, non-discrimination in the workplace, freedom from sexual harassment and sexual discrimination, reproductive rights and access to childcare. Women workers are also concerned about gender-based issues such as menstruation leave, breast feeding times, negotiations on equal skills and knowledge for women and men workers, gender-sensitivity training for men and women, women's leadership development and family welfare. Many women consider these to be basic workers' rights.

NGOs, including many women's organisations, have advocated for a wide variety of strategies to deal with the threats to labour rights from trade intensification. Strategies range from outright resistance, such as occurred around SAPs, to promoting corrective measures in bilateral trade arrangements. These include side bars on labour standards in regional agreements and provisions on respect for workers in the Generalised System of Preferences (GSP) adopted by the US and the EU. However, labour standards are no panacea. The

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*Due to the assumption that globalisation and trade liberalisation are gender neutral, gender has not been a significant variable in the agenda setting, rule-making or enforcement of trade policy.*

problem is not so much lack of standards but enforcement and implementation. Currently, most labour standards that have been ratified by countries are not observed in the production process. Hence there are no guarantees that such measures, *per se*, will automatically improve the conditions of workers, especially women.

In addition, labour standards in WTO agreements would only apply to trade-related activities and there is no automatic extension of such rights to workers in the non-trade sectors of the economy. This is particularly relevant for developing countries' economies where economic dualism already exists. The export and manufacturing sectors may not be the areas most in need of improvement. Such standards may tend to heighten disparities between urban and rural workers in countries where the worst offences of exploitation and deprivation are found on plantations and in mines, the construction industry and small service firms working for the domestic market.

Moreover, labour standards will not obviate the "problems with regulating women's work that is hidden in homes or small sweatshops and the informal sector where labour standards are lowest" (Petrat and Chaowilai, 1997). They will also not address the wider issues of property rights and access to education. Also, labour standards focus attention on sanctioning governments but not the corporations that are the major actors in the international trade system.

The bottom line is that labour standards in multilateral trade agreements "are not enough for women" (Petrat and Chaowilai, 1997). What is critically important is to determine a process that blocks the selective use of such measures against developing countries based on nothing else but the self-interests of Northern governments. The discourse must be removed from narrow preoccupations with 'market access' and 'market contestability' to focus on the fundamental assertion of basic human rights and dignity.

## **Gender and Participation in the Governance of the MTS**

Due to the assumption that globalisation and trade liberalisation are gender neutral, gender has not been a significant variable in the agenda setting, rule-making or enforcement of

trade policy. Despite the proliferation of non-trade concerns – for example, food security, public health, rural livelihood, the environment and labour standards – gender has not been integrated as a cross-cutting issue either in these discussions or in the substantive areas of agreements. There is also very little attempt to link gender equality objectives and gender mainstreaming with trade and export promotion agendas.

### **Box 2.7 UN Mandates Related to Multilateral and Regional Trading Arrangements**

The Platform for Action, adopted at the UN's Fourth World Conference on Women (Beijing, 1995), specifies several actions by governments that are relevant to multilateral and regional trading arrangements. These include:

- Seek to ensure that national policies related to international and regional trade agreements do not have an adverse impact on women's new and traditional economic activities (para 165k).
- Ensure that all corporations, including transnational corporations, comply with national laws and codes, social security regulations, applicable international agreements, instruments and conventions, including those related to the environment, and other relevant laws (para 165l).

The Beijing +5 document, adopted in July 2000, places responsibility on multilateral organisations as well as governments for achieving equality goals. It states that:

- Organisations of the United Nations system and the Bretton Woods institutions, as well as the World Trade Organization, [and] other international and regional inter-governmental bodies . . . are called upon to support government efforts . . . to achieve full and effective implementation of the Platform for Action (para 49).

*The need to develop gender-sensitive economic policies and decision-making is enshrined in the Beijing Platform for Action, which most governments who are members of the WTO have endorsed.*

At the same time, the relative roles, influence and contribution of men and women in national and international economies play an important but often unrecognised role in: (a) the setting of trade rules; (b) the kinds of assumptions on which these rules are based; and (c) the diagnosis of development and social issues that follows. This also includes the issue of who decides and who is consulted in the decision-making process surrounding WTO provisions as well as provisions at national and regional levels.

The need to develop gender-sensitive economic policies and decision-making is enshrined in the Beijing Platform for Action, which most governments who are members of the WTO have endorsed (Strategic objectives F.1, para 167 and F.4(b) para 176, UN, 1995). (See also box 2.7.)

### **The role of gender in agenda setting and trade rule-making**

The substantive content and outcomes of trade negotiations are permeated by male-centred assumptions (e.g. male head of household, male farmers/workers/entrepreneurs). They also reflect gender-biased ideas about the nature of households, the relative importance of different sectors of the economy to national production and growth, and a single-minded focus on the productive and formal economy. This has led to the undervaluation of the reproductive (household) and informal sectors.

Trade negotiations have focused on market access and paid little attention to the social and infrastructural needs of different groups in the economy. For example, in the discussion of services liberalisation, critical services such as water, energy and health care are likely to be offered on the liberalisation block without adequate attention to how this will affect access, availability and cost to the poor. Since women shoulder primary responsibilities for household and community management, this has implications for women's paid and unpaid work and overall time burden.

Other issues in the area of general governance include the lack of a gender analysis and gender-sensitive perspective in trade policy deliberations at the national level. Women's

groups and community-based organisations are very rarely consulted when national priorities for trade negotiations are being determined or the substantive advocacy positions of governments and NGOs are being formulated. This is especially the case in the areas of trade policy reviews and dispute settlement.

In reviews under the Trade Policy Review (TPR) Mechanism, there is no attempt to integrate gender analysis. Although technically TPR looks at the direction and practices of trade policies rather than impacts, there are cases where impacts are considered. For example, particular attention is paid to how price controls affect resource shifting. Most TPR issue areas are narrow and exclude questions of gender bias and gender inequality. Yet these are legitimate concerns that can be discussed in the preparation of such reports, for example, what the effects are on employment patterns of women and on income generation (see Chapter 7).

### Building a gender equality perspective into the trade policy environment

The first line for participation in the governance of the trade system is to hold governments accountable at the national level for their commitments to gender equality and gender mainstreaming. This means that gender analysis and a gender perspective should be an integral part of the trade policy-making environment. Effective and meaningful co-ordination

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*A merchant in Bangkok, Thailand*

INTERNATIONAL LABOUR ORGANIZATION/  
P. DELOCHE

*Effective and meaningful co-ordination among sector ministries – including health, education and welfare as well as agriculture – should be part of an informed gender-sensitive approach to trade policy-making. This should involve significant participation of national and regional gender machineries in trade negotiations and decision-making and in setting gender policy.*

among sector ministries – including health, education and welfare as well as agriculture – should be part of an informed gender-sensitive approach to trade policy-making. This should involve significant participation of national and regional gender machineries in trade negotiations and decision-making and in setting gender policy. They should prepare gender briefing documents aimed at influencing trade policies at the national, regional and multilateral levels.

There are a few instances where such activities have begun to occur:

- The EU gender resolution 1995 (EU Council of Development Ministers). This obligates EU development co-operation policies and programmes to encourage and support changes in attitudes, structure and mechanisms at every level in order to reduce gender inequality. The gender resolution is supposed to underlie the African, Pacific and Caribbean-European Community (ACP-EC) partnership agreement.
- The Southern African Development Community (SADC) has some formal recognition of gender in its policies and programmes (see Appendix 3 on regional trade organisations and gender).
- There are on-going attempts to introduce gender analysis and a gender perspective into the Free Trade Area of the Americas (FTAA) negotiations.
- Work is on-going on the preparation of gender policy for the Common Market for East and Southern Africa (COMESA).

At the global level UN Agencies such as the Food and Agriculture Organization (FAO), UNCTAD, the development fund for women (UNIFEM) and the ILO have been paying increasing attention to gender and trade. Women's rights activists in the health, food security and reproductive rights sectors must also weigh in on the trade debate. They should focus on the particular manifestations and linkages of trade to their sector while at the same time paying attention to the broader issues of women's economic and social well-being. National gender machineries and women's groups and other civil society actors interested in gender equality should likewise be proactive in the review of trade policies (see box 2.8).



### **Box 2.8 Integrating Gender into Trade Policy Decision-making**

Avenues for integrating a gender perspective and analysis into trade policy decision-making lie in:

- the emerging spate of impact assessments of trade agreements (along with the social and environmental impact assessment, a gender impact assessment has validity);
- the review of trade policy by the WTO's Trade Policy Review Division (see Chapter 7);
- the explicit development focus of the Doha Development Agenda;
- the tremendous debate around public and essential services, which opens up the area of social justice and equity in the trade agenda;
- advocacy for gender mainstreaming within the key sectors, ministries and inter-governmental fora that deal with trade policy;
- technical assistance/trade capacity-building programmes (WTO, UNCTAD, World Bank, etc.);
- the special and differential treatment (S&DT) framework.

*Key to improving the participation of women and integrating gender analysis and a gender perspective in trade policy-making is to establish who the critical voices are in the formulation of national trade policy.*

Key to improving the participation of women and integrating gender analysis and a gender perspective in trade policy-making is to establish who the critical voices are in the formulation of national trade policy. This includes asking what the gender distribution is of trade delegations/high level technical personnel in the Ministries of Trade, Geneva Missions, at the regional secretariats and at the WTO. At the national level, it is important to know which ministries and who in these ministries prepare reports and take part in trade policy and related decision-making. The role of women's/gender machineries in these processes should be ascertained, and whether gender experts are involved in discussions at all levels.

## A Tentative Framework for a Sectoral Analysis of Gender and Trade

The following tentative framework for a sectoral analysis of gender and trade policy and trade liberalisation is based on three fundamental gender realities:

1. Women's and men's traditional roles in society place different constraints on their time and hence their ability and availability to respond to changing opportunities in the trade environment.
2. There are gender disparities in access to and control of ownership of assets and productive resources.
3. The nature of production in different sectors of the economy is gendered.

Given these three fundamental realities, it is then important to raise the following questions:

- Where are women and men located at the point of introduction of trade liberalisation or change in trade policies? What mechanisms and measures are incorporated into the policy changes to account for these differences?
- What were the expected results of the changes in trade policy? Were these results generated?
- What mechanisms and measures are needed to return to the expected trajectory?

These realities and questions, plus a number of other subsidiary and sector specific questions, can be integrated into the matrix illustrated in tables 2.1 and 2.2. The next three chapters examine these issues in the context of the key sectors of agriculture, services and investment.

**Table 2.1 Situational Analysis of Women and Trade Policy (A)**

<b>Situational analysis of men's and women's roles and economic and social status</b>	<b>Constraints</b>	<b>Challenges</b>	<b>Opportunities</b>
In particular with regard to: <ul style="list-style-type: none"> <li>– unpaid labour time</li> <li>– labour market activity/location</li> <li>– access to:               <ul style="list-style-type: none"> <li>land</li> <li>credit</li> <li>education</li> <li>information</li> <li>technology</li> </ul> </li> </ul>	Lack of adequate reading skills  Time  Health status	Keeping up with productivity improvements  Technical upgrades	New marketing opportunities such as organic farming
<p><b>Critical questions:</b></p> <p>What is the nature of the change in trade policy/trade reform?</p> <p>What are the different sectoral effects (agriculture, services, etc.)?</p> <p>How do export promotion schemes promote or otherwise impact on women's formal and informal labour time?</p> <p>How does the change in trade policy impact on women's and men's constraints, challenges and opportunities?</p> <p>What is the overall impact on women's and men's:</p> <ul style="list-style-type: none"> <li>time burden?</li> <li>nutritional status?</li> <li>health/morbidity?</li> <li>education/training?</li> <li>income?</li> <li>employment?</li> </ul>	Land ownership  Credit bias  Technology	Dismantling of barriers Removal of import duties  Access to land  Ability to expand production  Informal traders Micro enterprise and small business Standards and technical regulations	Expansion of exports  Removal of import duties  Market access abroad  Employment  Availability/access to technical assistance  Trade facilitation

**Table 2.2 Situational Analysis of Women and Trade Policy (B)**

<b>State</b>	<b>Care economy</b>	<b>Access/ ownership of assets</b>	<b>Market</b>
<p>Policies impact on rights and responsibilities</p> <p>(Custom/law on inheritance, land title, credit Government services: support for input prices; price control on basic food; water, sanitation, irrigation, extension services; tariff and non-tariff barriers; export promotion)</p>	<p>Unpaid work Social reproduction</p> <p>(Food security, childcare, elder care, volunteer activity)</p>	<p>Land, credit, education/training, skills upgrade, technology, common property resources, services: water, energy and government programmes, such as extension services</p>	<p>Labour/credit market/input market (Price/consumption Production/productivity Employment)</p>
<p>Trade liberalisation policies Market access policies Change in export/domestic subsidy Tariff reduction</p>	<p>Trade liberalisation policies</p>	<p>Trade liberalisation policies</p>	<p>Trade liberalisation policies</p>
<p>Effect/response of trade liberalisation policies Changes in:</p> <ul style="list-style-type: none"> <li>- structure of consumption</li> <li>- structure of production</li> <li>- employment</li> <li>- income</li> <li>- distribution of services</li> <li>- pattern of trade</li> </ul>	<p>Effect/response to trade liberalisation policies</p>	<p>Effect/response to trade liberalisation policies</p>	<p>Effect/response to trade liberalisation policies</p>
<p>Net effect (+/-1; better or worse off)</p>	<p>Net effect (+/-1; better or worse off)</p>	<p>Net effect (+/-1; better or worse off)</p>	<p>Net effect (+/-1; better or worse off)</p>
<p><i>Critical questions</i></p> <ul style="list-style-type: none"> <li>• What is the nature of women's and men's access to and participation in government services? Why?</li> <li>• How does the change impact upon this?</li> </ul>	<p><i>Critical questions</i></p> <ul style="list-style-type: none"> <li>• What is the nature of the task allocation within the household (micro-level), community and industry?</li> </ul>	<p><i>Critical questions</i></p> <ul style="list-style-type: none"> <li>• What is the status of women's access to land, credit, etc.?</li> <li>• Does trade liberalisation worsen or improve this?</li> </ul>	<p><i>Critical questions</i></p> <ul style="list-style-type: none"> <li>• Where were women and men located at the point of the change?</li> <li>• What are the relative price and employment effects of the change?</li> </ul>

**Table 2.2** (continued)

<b>State</b>	<b>Care economy</b>	<b>Access/ ownership of assets</b>	<b>Market</b>
<ul style="list-style-type: none"> <li>• What complementary or supplementary measures are being put in place to improve the position of the group or sector most disadvantaged by the changing policy?</li> </ul>	<ul style="list-style-type: none"> <li>• (a) What is the nature of women's and men's time availability?</li> <li>• (b) How does trade liberalisation impact on women's and men's time allocation?</li> <li>• What is the degree of flexibility and mobility?</li> </ul>	<ul style="list-style-type: none"> <li>• Who benefits and gains from the changing allocation of resources?</li> </ul>	<ul style="list-style-type: none"> <li>• (a) What new opportunities are offered?</li> <li>• (b) Are women able take advantage of them?</li> <li>• (a) What is the supply response of women farmers?</li> <li>• (b) What are the constraints on responding to market signals?</li> <li>• What measures can be put in place to mitigate negative effects and promote positive effects?</li> </ul>

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## 3. Agricultural Trade Liberalisation

### Introduction

Agriculture is a vital source of food and health for men, women and children in all economies, and most food that is produced is consumed locally (see box 3.1). It is also a source of livelihood and economic security for countless men and women farmers, a source of employment for farm labourers, and indirectly sustains and contributes to other sectors of the economy such as manufacturing and tourism. Agriculture is also critically important for the preservation of genetic resources and biodiversity. As such, it is key to the food security needs, rural development and environmental sustainability of many developing countries.

#### **Box 3.1 Snapshot of Agriculture and Agricultural Trade**

Most food is produced for local consumption (90 per cent in the South), while only a small portion of world food production is traded globally:

- 17 per cent of wheat;
- 11 per cent of coarse grain (maize, barley, oats, etc.);
- 6 per cent of rice;
- 30 per cent of soybean (grown mainly for processed food and animal feed).

Only a few commodities are raised primarily for export (e.g. coffee, cocoa).

*Source:* Murphy, 2002

*Women have traditionally been involved in agriculture at all levels and it continues to be a critical variable in their lives in developing countries. Many women make their livelihood from home farm production or in commercial agriculture.*

Women have traditionally been involved in agriculture at all levels and it continues to be a critical variable in their lives in developing countries. Many women make their livelihood

*This period of trade liberalisation in agriculture foreshadows dramatic change in the lives of men and women in developing countries. The changes may be most dramatic for those in the least developed countries (LDCs), as well as for women as a group relative to men as a group.*

from home farm production or in commercial agriculture. In Africa agriculture is of particular importance to improving women's lives and "the agricultural export sector (plantation and small farms) accounts for the bulk of women's trade-related activity" (Fontana *et al.*, 1998).

Cross-border trade in agriculture has a long history. It can contribute to the food security needs of some economies by complementing local production as well as providing alternative sources of nutrition and dietary choices. It can also improve the opportunity for employment. Because of the special nature of agriculture, it was not subjected to the discipline of global trade rules until 1994 with the Agreement on Agriculture (AOA), part of the Uruguay Round of trade agreements. Even before that, though, the agriculture sector and its relationship to trade had been the subject of intense reform under structural adjustment programmes (SAPs) over the last two decades. The AOA is also associated with a set of sanitary and phytosanitary (SPS)<sup>2</sup> and technical barriers to trade (TBT) rules as well as numerous regional trade agreements. The combined effect of these has been a trend towards the lessening of preference for some agricultural products previously protected under plurilateral agreements such as the Lomé Convention. This period of trade liberalisation in agriculture foreshadows dramatic change in the lives of men and women in developing countries. The changes may be most dramatic for those in the least developed countries (LDCs), as well as for women as a group relative to men as a group.

Agricultural trade liberalisation, especially as enshrined in the AOA, involves the systematic reduction or elimination of non-tariff barriers such as import quotas and disciplines on government support of both exports and domestically consumed production. This process of reducing or eliminating these traditional pillars of agricultural protection will be further intensified with the conclusion of the continuing AOA negotiations.

In theory, agricultural trade liberalisation should increase growth and income within each country and result in a wide range of assorted benefits. These include increased employment, lower food prices and enhanced access to technology.

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<sup>2</sup> These refer to food safety and animal and plant health measures.



However, more often than not, liberalisation in developing countries means an infusion of cheap imports that compete with domestically produced food. In addition, new regulations and standards on food safety that are used restrictively affect access to foreign markets as well as resource utilisation. Access to the markets of developed countries depends on the capacity to produce large quantities of a given product that meet very specific standards. It also depends on having access to a supply chain, usually controlled by large transnational corporations (TNCs). In practice, reducing trade barriers has not been sufficient to generate new demand for developing country exports. At the same time, there are no significant changes in the capital base of small farmers (access to land, water, credit, seeds and animal stock). Thus in many countries access to food is seriously threatened and concerns around food security and food self-sufficiency are heightened.

*A farmer picks cabbage leaves on a family plot in Zimbabwe*

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT (IFAD)/H. WAGNER



*Many economies suffer from over-reliance on a few products, under-capitalisation of the agricultural sector, inadequately trained farmers and lack of access to technology and inputs. In many places where women have been the dominant food producers, their needs have been ignored in favour of export-oriented farmers.*

This chapter focuses on the specific ways in which current agricultural trade liberalisation policies impact women and men in their differing cultural, economic and social circumstances. Through a selective review of current practices and policies, it tries to differentiate those approaches that are likely to produce gender equality outcomes from those that are not.

## **The Nature of Agricultural Trade Liberalisation**

Although agriculture is the lifeblood of many developing countries' economies and a significant source of income and foreign exchange in the economies of others, it is often not treated with the same level of attention as manufacturing and services. This has meant that many economies suffer from over-reliance on a few products, under-capitalisation of the agricultural sector, inadequately trained farmers and lack of access to technology and inputs. Agricultural trade has been facilitated by extra-territorial agreements that allow agricultural imports into developed markets with little or no border taxes or on a privileged basis. This has been so, for example, with a number of export items under aid, trade and development co-operation agreements between former European colonial powers and many developing countries. In many places where women have been the dominant food producers, their needs have been ignored in favour of export-oriented farmers.

In other parts of the world, however, a great deal of attention is paid to a powerful farming sector that commands a large share of government resources in the form of domestic and export subsidies. These farmers are then able to sell their products on the global market at minimal cost, undermining the price structure and domestic and foreign market shares of developing countries. This has engendered a tug of war over preferences and support for agriculture between trading partners. This war continues quite independent of the recognition that the majority of agricultural trade is dominated by TNCs that exercise undue market power.

Today the main problems in agriculture trade from a negotiating point of view are:

- export subsidies by developed countries such as the EU, Japan and the US;

- restrictions on inflows of agricultural product;
- agricultural market distortion;
- food security;
- earning a decent livelihood from the land;
- use of natural and genetic resources.

In principle, any attempt to generate rules for improving trade in agriculture should be expected to directly address these problems. That was presumably the intent behind the first comprehensive attempt to expand the global trade discipline to agriculture. However, because of the conflicting nature and complex domestic and international power dynamics of agricultural trade, much of what was actually achieved in the AOA did not go far enough in ending the most restrictive and negative practices in the North.

**Table 3.1 Patterns of Trade for Grain Production/ Export**

Grain	Share of world production	Export dominance
Wheat	China – 109 metric million (mm) EU – 99 mm India – 70 mm US – 63 mm	US is largest exporter
Corn	US – 2/3 of world production China – 14% (2nd largest) EU – 12% Argentina – 12% Hungary – 2% South Africa – 1%	
Rice	Asia – 90%	Largest exporters are: Thailand Vietnam US India Pakistan
Transnational corporations (TNCs)	Grain production is dominated by the big three: Cargill, Continental and Louis Dreyfus (increasingly ADM is emerging as an important player, at least in coarse grains). These companies dominate 85–90% of global trade.	

*After six years of agricultural liberalisation attempts, the lives of many farmers in developing countries have become increasingly difficult. Their ability to make a decent living from the land is under threat, with widespread and rising food insecurity.*

TNCs hold dominant market power over much of the grain market and farm interests in the US, EU and Japan (see table 3.1). They exert a powerful influence over government policies in the sector. The multitudinous small farmers in the South, however, do not have a similar history or similar levers of control. In addition, many of the mechanisms in place such as the amber, blue and green boxes (see box 3.2) simply maintained the status quo. The net result is that after six years of agricultural liberalisation attempts, the lives of many farmers in developing countries have become increasingly difficult. Their ability to make a decent living from the land is under threat, with widespread and rising food insecurity.

### **Global Agricultural Trade and the Agreement on Agriculture (AOA)**

The AOA focuses on reducing the so-called three pillars of trade protection: (1) market access; (2) export support; and (3) domestic support. There are different types of legal rights and obligations concerning these areas according to whether a country falls into the category of ‘developed’ or ‘developing’, with sub-categories of LDC (29 WTO members) and net food importing countries (NFICs).

#### **Market access**

Market access is blocked by measures that either restrict the amount of a product that can enter a foreign market or impose a penalty on the price. These measures include quotas, variable import levies and voluntary export restraints. Measures promoting market access under the AOA include:

- Tariffication (conversion of non-tariff market access barriers into tariffs). The new tariff rates were to generate levels of protection equivalent to or less than the levels of protection achieved under previous market access restrictions. They were to be bound as maximums and targeted reductions were set in place.
- Tariff rate quotas (TRQs). This is a compromise in place of full tariffication when that would have led to prohibitively

high tariffs (and no imports). Instead, a fixed minimum quantity of imports are allowed in at an accessible rate in order to keep them to at least the pre-tariffication levels. Quantities above this so-called 'TRQ threshold' are taxed at a higher rate. TRQs are usually set for the most domestically sensitive products. Hidden protectionism in the administration of TRQs, however, has led to under-filled quotas.

Market barrier access ploys in play with the implementation of the AOA include:

- Tariff dispersion (the variations of different levels of tariffs across products) and tariff escalation (tariff peaks and mega tariffs on particular goods and commodities groups). For example, the EU targets grains, sugar and dairy products, which have tariff peaks of 500 per cent. The US targets sugar, peanuts and dairy products that may have tariff peaks of up to 350 per cent. Tariffication may thus end up as even more protective than the old measures being replaced.
- Use of safety valves such as the special agricultural safeguard (SASG) mechanism of the AOA. SASG is meant to protect certain products from floods of imports. In such a case a government can raise tariffs on an emergency basis. 38 WTO members have the right to use SASG, but the EU and the US are the heaviest users.

In general, developing countries are said to have the highest bound average tariff rates. South Asia, the Caribbean and sub-Saharan and North Africa are all reported to be above the global average of 62 per cent. However, this must be weighted against the tariff peaks of the EU and the US and their utilisation of the market access barriers highlighted above.

Developed countries committed to cutting average unweighted tariff levels by 35 per cent over six years and developing countries by 24 per cent over ten years. LDCs were not required to undertake reduction commitments.

### Export support

Export subsidies in agriculture are payments that make up the difference between the world price and some guaranteed price

for domestic farmers. These, along with export credit and food aid, generally distort world commodity prices. Because of this problem, the AOA attempted to define and impose disciplines on the use of such subsidies.

A sort of dual track system has emerged with: (i) actionable subsidies (that generate challenges under the dispute settlement mechanism); and (ii) non-actionable (quasi-legitimate) subsidies. About 25 countries have been allowed to subsidise exports, though developing countries were largely restricted to subsidies for marketing and transportation. The understanding is that export support expenditures were to be capped and would be cut over the implementation period. However, existing export support payments were kept in place through the use of the green box (see box 3.2).

There is a commitment to reducing targets based on a 1986–1988 baseline. Developed countries have to cut expenditure outlays by 36 per cent and quantities of subsidised exports by 21 per cent over six years. Developing countries are committed to 24 per cent and 14 per cent over ten years. LDCs are not required to reduce subsidies. However, few developing countries can provide export subsidies and domestic support.

### Domestic support

Domestic support consists of direct payments to farmers for crops that are exported or consumed domestically. Under the AOA, domestic support was reduced over the six-year implementation period by a specific percentage. Programmes that were designated for reduction were classified in the so-called amber box (see box 3.2), and the total amount of money involved is referred to as the aggregate measure of support (AMS). However, a number of domestic support programmes were excluded from any reduction commitment. These were classified in either green or blue boxes.

Domestic support is often accompanied by export subsidies and tariffs that keep domestic prices high. The impact of these subsidies on trade depends on the types used. They range from discretionary policy, the most restrictive, to decoupled payment (i.e. paying farmers to stay on the land, enhance environmental quality, etc.), the least restrictive.

Under the special and differential treatment (S&DT)

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### **Box 3.2 AOA Domestic Support and Export Subsidy Categories**

Different types of domestic support to agriculture are placed under the AOA in one of three 'boxes' depending on what effect they are seen to have on trade.

*Amber box:* policies that are viewed as trade distorting and are subject to reduction commitments under the Uruguay Round Agreements. They include payments directly linked to prices or quantities such as market price supports, input subsidies and direct per unit payments. Reduction commitments are 20 per cent over six years for developed countries (1986–88 baseline) and 13.3 per cent over ten years for developing countries (with no reduction requirement for LDCs). Examples include US support for dairy, peanuts and sugar programmes; exemption of investment subsidies for low income or resource poor producers; and support for reducing market costs and to provide subsidies for internal and external transportation of exports. (The second and third examples are part of S&DT.)

*Blue box:* policies designed to limit production. These include crop set-asides or payments linked to fixed areas of production or numbers of livestock. The big users of the blue box are the EU and a handful of others, including Norway, Switzerland and Japan. A very few developing countries have blue box programmes in place. The US ended its use of production-limiting incentives with its 1996 farm legislation.

*Green box:* policies that supposedly do not distort trade or are minimally distorting. They are of two kinds:

- (i) decoupled payments to farmers and domestic food aid programmes; and
- (ii) programmes that pursue policy goals laid out in the AOA such as environmental protection, research and disaster relief.

framework, developing countries received special time frames, different target reductions and different exemptions. They can subsidise transportation and marketing of exports. They can also maintain tariffs on certain products of particular importance for food security. Subsidies for foodstuffs to the rural and urban poor are also exempted from domestic support provisions (Beierle, 2002). LDCs are required to bind AMS support levels but not required to reduce them.

### AOA negotiations

Article 20 (AOA) mandates a review of agricultural negotiation and a continued process of reform. Current issues on the agenda include:

- Reduction and elimination of export subsidies, export credit and state trading enterprises (STEs).
- More rigorous discipline on domestic support and possible expansion of green box policies.
- Furthering the expansion of market access by:
  - discipline on food aid (to control its use as a promotional tool);
  - conversion of non-tariff barriers into tariffs;
  - minimum access/reform of tariff rate quota;
  - comprehensive binding ('bound' tariffs are duty rates that are committed in the WTO and are difficult to raise);
  - more tariff reductions;
  - elimination of tariff escalation;
  - elimination of transitional safeguards.
- Better operationalisation and strong S&DT for developing countries.
- Focused discussion on the so-called cross-cutting (non-trade concern) issue of food security. Some developing countries are arguing for the creation of a development and/or food security box that would exempt certain measures and policies from WTO discipline. This would include those aimed at enhancing food security and production

capacity, sustaining employment for rural people, regulating cheap imports and stopping the dumping of cheap subsidised imports on developing countries.

Many of these issues were addressed at the Doha Ministerial Conference (see box 3.3).

### **Box 3.3 Agricultural Liberalisation and the Doha Ministerial Declaration**

The Doha Ministerial Declaration (paragraphs 13 and 14) reconfirmed the commitment to agricultural liberalisation programmes in terms of: (a) substantial improvement in market access; (b) the phasing out of all forms of export subsidies; and (c) substantial reduction in trade-distorting subsidies. The Declaration further agreed that special and differential treatment (S&DT) for developing countries "shall be an integral part of all elements of the negotiations". It also confirmed that non-trade concerns "will be taken into account in the AOA negotiations". Finally, Doha established a time-table for the AOA negotiations: modalities for further commitments, including provisions for S&DT to be established no later than 31 March 2000, comprehensive draft schedules based on those modalities to be established no later than the Fifth Session of the Ministerial (the Cancun Meeting) and conclusion of the Doha Agenda by 31 December 2004.

*In the real world of WTO trade politics, developing countries usually find that they have accepted commitments to reduce their own market access barriers ... but in return do not receive significant changes in the market access barriers of the major players.*

## **The AOA and Developing Countries**

Currently, developing country negotiators focus their strategy around gaining access to developed countries' markets. To this end they push for reduction of market access barriers such as quotas. Market access is a double-edged sword, however, since in the trade game based on reciprocity there has to be some exchange. In an ideal world any resulting exchange would be even-handed and mutually beneficial to both sides. However, in the real world of WTO trade politics, developing countries usually find that they have accepted commitments to reduce



*The AOA impacts on a broad subset of factors including price, employment, government services, food security, gender equality and women's empowerment.*

their own market access barriers (mainly reduction of tariffs and elimination of quotas), but in return do not receive significant changes in the market access barriers of the major players.

A very sharp and unfavourable distinction to the majority of developing countries is that developed members of the WTO were able to inflate the baseline from which cuts to support and tariffs were made. The result is that, for example, the EU final tariff binding for 2000 is almost 66 per cent above the actual tariff equivalent for 1989–93. For the US it is 75 per cent higher.

The other distinction is in the area of special and differential treatment (S&DT). Developing countries received special time frames, different reduction targets and different exemptions. However, they face a host of problems with implementing the agreement even within the context of their five and ten year implementation lag. This is because many of them had already been locked into a process of agricultural liberalisation under SAPs that the AOA simply accelerated and deepened. By the end of the 1990s, many developing countries economies were already being inundated with cheap heavily subsidised agricultural imports from the North.

For many developing countries, the AOA impacts on a broad subset of factors including price, employment, government services, food security, gender equality and women's empowerment. Table 3.2 presents a snapshot overview of some of the most widespread impacts as documented in a number of research case studies, most importantly the FAO 14 country case study and others surveyed by Madeley (2001). The box presents a summary of the seven most distinct results for which there are numerous similar outcomes (food security and gender equality are dealt with separately below).

There are other impacts, however, for which the evidence is not yet consolidated. These include:

- little change in the volume of exports;
- little diversification of exports;
- little change in the destination of exports;
- undermining of the goal of providing reliable and affordable food supplies;



*African women with their maize crop*

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- exacerbation of volatility;
- decrease in public stockholding;
- dumping.

With regard to diversification of exports, an FAO study conducted in 1999 revealed that 12 of the countries experienced an increase in the value of exports while five experienced a

**Table 3.2 Agricultural Trade Liberalisation: Nature of Changes and Case Study Examples**

Areas	Nature of changes	Examples
1. Prices	<ul style="list-style-type: none"> <li>a. Decreased price of domestic crops (reasons: imports and dumping)</li> <li>b. Increased price of farm inputs</li> <li>c. Increased price of food crops</li> <li>d. Decline in world price of exports</li> </ul>	<ul style="list-style-type: none"> <li>a. Ghana</li> <li>b. India – edible oils</li> <li>c. Madagascar – rise in the price of major food crops especially rice</li> <li>d. Kenya, Sierra Leone and Uganda – decline in price of export crops</li> </ul>
2. Terms of Trade (TOT)	Worsened between outputs and inputs	Uganda – TOT for food producers fell
3. Export promotion/ food security	Shift away from food crops to cash crops	<ul style="list-style-type: none"> <li>Benin – increase in land for cotton &gt; food insecurity</li> <li>Uganda – emphasis on traditional and non-traditional agricultural exports (NTAE) &gt; decline in food production (undermined food security)</li> </ul>
4. Corporatisation/ concentration of agriculture	<ul style="list-style-type: none"> <li>a. Increased penetration by TNCs</li> <li>b. Concentration of farms</li> <li>c. Marginalisation of small producers</li> <li>d. Loss of land of local farmers/rising landlessness</li> </ul>	<ul style="list-style-type: none"> <li>India, Philippines, Uruguay, Cambodia and Mexico</li> <li>Cambodia – ten years after liberalisation 10–15% of farmers are landless</li> <li>Uganda – market power concentrated in the hands of a few traders</li> </ul>
5. Employment/ livelihood/ unemployment	Widespread job losses (estimated at 30 million in developing countries) that seem to outweigh job gains	<ul style="list-style-type: none"> <li>India – 3 million edible oil producers</li> <li>Sri Lanka – about 300,000 (due to drop in the production of onions and potatoes)</li> <li>Zimbabwe</li> </ul>
6. Environment	<ul style="list-style-type: none"> <li>Soil degradation/loss of biodiversity (due to agro chemicals)</li> <li>Increased vulnerability of watershed/depletion of water resources</li> </ul>	Philippines
7. Government services	Reduction of government support for farmers: investment in agriculture, research and extension, control of prices, marketing assistance and subsidies on imports	<ul style="list-style-type: none"> <li>Philippines – reduced support for irrigation, post harvest facility and farm to market roads</li> <li>Uganda – eliminated government extension programmes, non-support for crops, etc.</li> </ul>

decline. For most countries there was no significant diversification of products or destination. FAO (2000) has argued that this could be due to supply constraints that limited countries' ability to respond to new market opportunities. However, additional explanations can be found in: (a) the gendered nature of

supply response; (b) the lag in the implementation of market access commitments by the North; and (c) the fact that the trade liberalisation model failed to factor into the equations the overwhelming dominance and market power of TNCs that control agricultural trade.

## Food Security

The issue of food security has figured prominently in discussions around trade liberalisation since the development of the AOA. Food security used to mean 'avoiding hunger' but today it has taken on other dimensions. There are at least two different views on how it relates to trade and how best to ensure it:

1. Food security is about the availability and accessibility of food and the stability of food supply, food safety and preference. It can be ensured by relying on foreign agricultural products. These are available in most cases at much lower cost (including food aid, often used as a promotional tool). In this view there is no automatic need for national food self sufficiency or security.
2. Food security is a very broad issue involving questions of self-sufficiency and national security. In this view, it should be ensured through the use of S&DT and policy flexibility in order to increase domestic capacity in the production of food. Furthermore, food staples should be exempted from liberalisation.

Trade impacts directly on food security since it brings in food that cannot be locally grown. It is also a source of foreign exchange that can be used to buy imports. It impacts indirectly on food security because agriculture contributes to export revenue. Trade also expands agricultural production, attracts new investments and drives productivity, all leading to economic growth. In the long run, however, a drop in prices may lead to a decrease in local production, ultimately resulting in prices reverting to higher levels. Rising world prices require an increased share of foreign exchange expenditure on imported goods. Low prices and farm support by the QUAD generate surplus production. A reduction in price supports and other forms of trade liberalisation may dry up food aid supplies.

*Numerous case studies on the impact of liberalisation of agriculture in developing countries show that it is increasing food insecurity.*

Reduction of tariffs may lead to lower domestic prices for food, making those whose livelihoods depend on strong prices for agricultural products the most vulnerable to food insecurity.

Numerous case studies on the impact of liberalisation of agriculture in developing countries show that it is increasing food insecurity. In the FAO study mentioned earlier, the cost of food imports in all 14 of the countries rose significantly (ranging from 30 per cent to 168 per cent). The increase in the cost of food imports outweighed the benefits of increased export sales, leaving 11 of the 14 countries reviewed worse off from a food security (and balance of payments) perspective. India, for example, which had been self sufficient in edible oils, became a large importer of these oils (1998–99). In Kenya, trade liberalisation led to increased food imports, food dumping and increases in the price of farm inputs. In Uganda, where subsistence crops such as millet were replaced by cash crops such as bananas and maize, malnutrition is increasing. In Zimbabwe also, cash crops substituted for food crops, creating food shortages. Similar results obtained in Ghana.

Indirect and cross sector impacts of liberalisation were also observed to have a negative impact on food security. For example, in countries where textiles and footwear were liberalised and imports flowed into the domestic market, domestic producers of resources such as cotton lost market share. Food insecurity tended to increase among workers in both areas.

### **Gender Issues in Agricultural Trade Liberalisation**

Women are responsible for half of the world's food production and produce between 60 and 80 per cent of the food in developing countries (see box 3.4). They often manage this on marginal land, with simple or no tools and with very little access to fertiliser or extension training. Up until the early 1990s, most women were still able to make a decent livelihood in subsistence agriculture. However, countless numbers of women are increasingly losing ground to the encroachment of cheap food imports from the North. Evidence of this can be seen in the WTO EU-US Banana dispute (see box 4.3) and the impact of EU, US and Canadian imports on the livelihood of African, Asian and Caribbean women farmers in the vegetable and

dairy sectors. In addition, the privatisation and transformation of land to cash crop export agriculture is affecting women's access to land and land tenure in many countries. The increasing role of TNCs in food and agriculture is creating serious survival and sustainable livelihood issues for women farmers and women in family farming entities.

### **Box 3.4 Women's Dominant Role in Agriculture**

**In South-East Asia women provide up to 90 per cent of labour in rice cultivation. In Thailand women are extensively engaged in agriculture, including about 50 per cent of field crop cultivation, horticulture, plant protection and harvesting. Almost 80 per cent of soil improvement is undertaken by women (Rengam, 2001). Almost all the work in food processing, mulberry tree cultivation and silkworm raising is carried out by women. In Pakistan 80 per cent of livestock is managed by women. In Kenya women are 75–89 per cent of the agricultural labour force (receiving about 40–60 per cent of the benefit). Women are also responsible for roughly three-quarters of the food production.**

*The increasing role of TNCs in food and agriculture is creating serious survival and sustainable livelihood issues for women farmers and women in family farming entities.*

Thus cross-border trade, which was expected to promote food security and the economic empowerment and survival of the poor and women, may actually be more of a threat in some cases. Many women cannot afford adequate chemicals, fertiliser and other farm inputs. In Kenya, for example, increased food imports and dumping, coupled with an increase in the price of farm inputs, left women worse off at the end of the 1980s than they had been in 1981. Fortunately, some rural women had been integrated under SAPS into micro- and small enterprise in village markets where they bought and sold farm products like milk, maize, beans and vegetables.

In Uganda trade liberalisation policies led to the closing of local state trading enterprise (STE) depots. Although lack of access to the STEs impacted on both men and women, it had a disproportionately detrimental effect on women. Due to their greater mobility, men were able to travel outside their villages to sell products. Women's domestic responsibilities and lesser

*The extent to which policy-makers integrate a gender perspective and analysis into the trade policy decision-making process is nowhere more critical than in the agricultural sector.*

mobility, however, meant they were captives to their local markets where they were forced to sell products at lower prices. Trade liberalisation also led to switching into export crops, which caused land speculation and loss of common property resources. Women as a group have a higher dependence on such resources than men.

Women thus have much at stake in the conceptualisation, design and implementation of agricultural trade reform and trade policy. If and how trade liberalisation is implemented can have dire short-term and long-term consequences for both their immediate survival and their strategic interests. The extent to which policy-makers integrate a gender perspective and analysis into the trade policy decision-making process is nowhere more critical than in the agricultural sector.

The tentative framework for a sectoral analysis presented at the end of Chapter 2 can be applied in the case of agricultural liberalisation. In particular, the three gender realities and the related guideline questions they raise can be discussed under four broad areas of concern: (1) gender roles and responsibility for social reproduction; (2) gender disparities in access/control and ownership of assets; (3) the gendered nature of agricultural production, processing and marketing/sales; and (4) gender-based constraints of liberalisation.

### **Gender roles and responsibility for social reproduction**

Women in many countries still have the disproportionate responsibility for childcare, functioning of the household, and elder and community care. This responsibility imposes a tremendous burden on women's time, health and morbidity.

### **Gender disparities in access to and control and ownership of assets**

Women's and men's access to and control and ownership of tangible resources (such as capital, machinery, land, transportation and storage facilities) as well as intangible ones (such as extension services, training and information about marketing and production) are critically important. These determine

their ability to expand production, switch into more high value crops or areas as well as increase productivity in existing sectors and sub-sectors.

In many countries women's control and use of land is determined by their relationship to males in terms of marriage, divorce or widowhood. This also impacts on their social security. Where women's access to land is conditioned on customary rights, this access is at best uncertain, shifting with changes in women's marital status and life cycle changes. Even when women have access to land as in Togo, for example, they tend to have smaller plots – on average 0.96 hectares as compared to 2.16 for men (FAO, 1995). Women in sub-Saharan Africa farm smaller plots of land, of poorer quality and at a greater distance from home. This also seems to be true in South and South-East Asia.

Women's ability to exploit land use for productivity improvements is constrained by lack of access to credit, machinery and technology. Female-run farms are also less well capitalised, receive smaller allocations of fertilisers and equipment (92 per cent of women farmers in Kenya use only hand cultivation, compared to 62 per cent of men) and are virtually excluded from most formal credit markets. In Burkina Faso all fertilisers were found to be concentrated in male-controlled crops.

In the case of agricultural extension services and training, the World Bank found significant gender bias against women in Africa, especially sub-Saharan Africa, and parts of Asia. Findings from Kenya, Malawi, Nigeria, Tanzania and Zimbabwe show that there is a greater likelihood that extension workers will provide services to male than female farmers. Also, 93 per cent of extension workers in Africa are men. Extension services are particularly important as they are the way that poor farmers acquire productivity-enhancing training and information. Researchers posit that a possible reason for this gender bias may be the fact that women have less education and have smaller plots and poorer quality land. This situation highlights a vicious cycle wherein gender inequality generates and perpetuates gender bias and asymmetries.

In Africa, where agricultural exports dominate total exports, asset deprivation is injurious to women. Irrigation, potable water and electrification are assets that have high rates of

*Women's ability to exploit land use for productivity improvements is constrained by lack of access to credit, machinery and technology. Female-run farms are ... less well capitalised, receive smaller allocations of fertilisers and equipment ... and are virtually excluded from most formal credit markets.*



*Women ... tend to be found in labour-intensive activities where simple tools are more pervasive.*

return but most women do not have access to or control over them. Limited property rights to land prevent women from benefiting directly from export production. Women may also be less equipped to enter significantly into export production due to lack of knowledge of changes in demand, inability to undertake investment in new seeds and cultivation methods and inability to adopt new technology.

### **The gendered nature of agricultural production, processing and marketing**

The gender division of labour in agriculture has three important aspects related to trade liberalisation: (i) production; (ii) processing; and (iii) marketing and sale of agricultural commodities.

In the area of agricultural production, a typical (though not necessarily endemic) feature is that men in many developing countries specialise in the production of cash crops while women are to be found mainly in the production of domestic staples. It is not unusual to find that women are in food production, household maintenance and care provision services. This is typically true in Tanzania, for example, where women constitute 80 per cent of unpaid family workers (FAO, 1994). Thus women may spend up to 16 hours a day in the combined work of agriculture and household production. In Kenya and Zaire, although there is no neat dichotomy between men's cash crops and women's food crops, women farmers are disadvantaged in relation to men because they focus on own food production and have less access to farm support services and crucial inputs. In Uganda, the female intensity of production in agriculture has been estimated at 75 per cent (Elson, Evers and Gideon, 1997).

In many countries in North and East Africa and in Asia, men are found in capital-intensive mechanised production and activities such as land preparation, harvesting and irrigation. Women, on the other hand, tend to be found in labour-intensive activities where simple tools are more pervasive: broadcasting seeds, fertilising, weeding, harvesting, processing and transportation. Women also tend to be more involved in manual activities such as threshing, winnowing, cleaning, sorting,



grading and bagging (FAO, 1994). In parts of Africa women do 90 per cent of hoeing and weeding and 60 per cent of harvesting and marketing (Blackden and Bhanu, 1998).

Women also tend to have a greater involvement in processing and sale of domestic food items. In addition, there is a definite gender pattern in marketing and sale of agricultural products. In Tanzania, for example, while men tend to dominate in maize, wholesale and intermediate trade, women are to be found in retail, where there are small margins and the volume of trade is lower (Gammage *et al.*, 2002). Women also tend to produce vegetables and fruits while men produce grains (which have a higher value and are more durable).

*Harvesting peanuts in India*

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M. CROZET

*Women ... may be unable to increase labour input and productivity in response to price changes due to constraints that limit their supply response.*

### **Gender-based constraints associated with liberalisation**

It is generally argued that trade liberalisation will generate a positive supply response in agriculture. However, the empirical data does not support this. It is speculated that the reason for the weak (inelastic) supply response lies in the net impact of liberalisation (removal of price support and erosion of tariffs and non-tariffs barriers) on food prices. These are generally lowered in relative terms, leading to a decline in the supply of food. Gender inequalities within households and in food production are potentially powerful explanatory variables. Specifically, it is believed that women (especially in Africa where this has been disproportionately observed) may be unable to increase labour input and productivity in response to price changes due to constraints that limit their supply response. Researchers suggest at least four distinct sets of constraints at work here:

1. Gender inequalities in access to productive resources limit the scale of women's response.
2. Rigidities in time and task allocation limit the elasticity of female labour supply.
3. There are weaker producer incentives for women, who are unable to control the proceeds of their labour.
4. Women lack access to credit, storage and transport facilities for foodstuffs. This means that they sometimes have to sell products at lower prices than men who can speculate on regional and temporal price fluctuations, selling in more distant markets and at times of relative shortage.

### **Gender Implications of the AOA Provisions**

Undoubtedly, previous attempts at liberalising agricultural trade have had tremendous impacts on the lives of women and men. It remains to be seen whether the issues on the agenda of the current round of negotiations and the consequent implementation results will exacerbate the negative effects or improve the positive ones. Under the AOA, agricultural liberalisation turns on a number of key issues:

- the three pillars of protection (market access, export subsidy and domestic support);
- tariff reduction and reductions in related government support services such as STEs;
- the scope for export promotion measures in the sector in terms of extension services and price controls;
- non-food concerns and food security, which are critical entry points for improving women's livelihood options.

It is important to understand the gender implications of these variables if one is to devise policies and programmes that promote women's economic empowerment and gender equality. The rest of this section will therefore attempt to highlight some of these implications.

*From the perspective of women farmers and other small farmers, market access is at best illusory and at worst detrimental to their economic livelihood.*

### Gender and market access

From the perspective of women farmers and other small farmers, market access is at best illusory and at worst detrimental to their economic livelihood. Therefore it needs to be qualified by careful assessment of the domestic economy and the different constraints, needs and interests of men and women, and of small farmers *versus* large farmers. This may also include the need to develop ways of supporting and fostering the continued sustainability of women and small farmers, as well as a viable policy on food security.

There is also a need to undertake a gender mapping of the institutional framework for market access (at international, national and production and export levels) across and within all the sectors (agriculture, services, etc.) and the nature and scope of its gender sensitivity.

### Gender and domestic support

The provision on reducing domestic support to agriculture will present problems for small farmers and women farmers who rely on, or could benefit from, some kind of assistance from government. Some governments have provided subsidies for credit, fertilisers and water. Women are disproportionately

*The provision on reducing domestic support to agriculture will present problems for small farmers and women farmers who rely on, or could benefit from, some kind of assistance from government ... Women are disproportionately affected by the elimination of subsidies, the drying up of credit and import surge.*

affected by the elimination of subsidies, the drying up of credit and import surge (underwritten by domestic subsidy in exporting countries). For example, when South Africa promoted subsidies for its food producers, hence lowering the cost of production in the country, this resulted in cheap imports such as eggs flooding the Kenyan market. While consumers – including housewives – benefited from the cheap imports, the many Kenyan women who raised and sold poultry and eggs lost markets and income (Sparr, 2002a).

### **Tariff reduction**

There are two broad effects of tariff reduction that have a disproportionately negative impact on women relative to men. The first is the budgetary impact of loss in tax revenue, which may be a significant proportion of government revenue. This loss is likely to be offset by cuts in government expenditures or increased taxes elsewhere. In the former case, the social sector will probably be the target for a lopsided amount of cuts. As noted elsewhere in this manual, women have a high dependence on social services. In the latter case of tax increases, the trend is toward value added taxes (VAT). These have been shown to have a stronger impact on the poor, the majority of whom are women.

The second impact of tariff reduction is on the domestic product market as it will encourage import surge. For example, due to market conditions in Senegal, women had switched from growing subsistence crops to exclusively growing tomatoes. They had also taken out micro-credit loans to start tomato paste businesses. However, when the government lowered tariffs on food imports as part of trade liberalisation, cheap foreign tomatoes flooded the market. The women could not pay back the loans and did not have their traditional food to feed their families. They thus ended up in worse economic shape than when they had started out (Women's Eyes on the Bank; cited in Sparr, 2002b).

### **Reduction in government services**

*State trading enterprises (STEs):* When the government closed STE depots in Uganda, for example, producers had to go out-

side their villages to secure better prices. Due to their workload, women were unable to do this and so had to sell products at lower prices in their home village.

*Extension services:* As noted above, these are critically important for women farmers who are in need of information, counselling and training in farming and irrigation techniques to increase yields and minimise labour input into production. They could also benefit from training in quality standards and opportunities in the export market.

*Prices support for inputs:* Support for fertilisers, irrigation systems and water is critical for women farmers. Access to such support needs to be broadened, and the ability of developing countries to use such tools should not be narrowly circumscribed by trade agreements.

*Price controls on food:* Likewise, governments must be able to introduce and maintain price controls on essential food items that are critical to the needs of the poor.

### The promotion of export crops

Export promotion policies and programmes that are not gender-sensitive may have a negative impact on women's access to resources such as land, credit, extension services, information and technology. Focusing on export crop promotion and reallocating resources into this area may leave domestic food production at risk. In addition, since many export crops require intensive capital and land usage, women producers may be marginalised or face loss of land or water unless adequate attention is paid to ensure that this is not the case. In Kenya, for example, "smallholders growing export vegetables were found to own twice as much and better quality land those that did not, and their land was also more likely to be irrigated" (Kabeer, 2003).

On the other hand, it should be noted that women in Latin America seem to have gained in terms of the opening up of employment in non-traditional, commercial agriculture in areas such as horticulture, fruits, ornamental plants, shellfish, etc. The consequent modernisation of agriculture with new technological features has "created a large demand for female

*Extension services ... are critically important for women farmers who are in need of information, counselling and training in farming and irrigation techniques to increase yields and minimise labour input into production.*



*A smallholder waters her plot in Ghana*

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labour in activities such as reaping, harvesting, processing and packing” (Bifani-Richard, 1999). Women also make up a large proportion of the workforce in non-traditional agricultural exports (NTAEs) in sub-Saharan Africa.

### **Non-trade concerns**

The widening of the agriculture trade discussion to include the so-called non-trade concerns – food security, sustainable livelihoods, rural development, etc. – presents a key entry point for the integration of a gender analysis. These areas are generally of critical importance to women in their multiple roles as farmers, farm workers, unpaid farm labourers and caretakers of households and communities.

## Gender and technical requirements

There are potential employment issues arising from loss of market associated with a change in or newly imposed sanitary and phytosanitary (SPS) requirements on an export sector. However, the main challenges of SPS and technical barriers to trade (TBT) from the point of view of gender equality are:

- differences in access to local and international marketing information;
- additional cost to production of implementing SPS and TBT requirements;
- differences in access to investment funds for upgrading to meet technical standards;
- women producers may be constrained by problems of information flow (see box 2.5).

Women in Uganda, for example, tend to rely on male counterparts as a way of engaging in organic farming because of its highly technical nature and the need for intensive training, as well as the high cost of formal certification of a farm as organic (Sengendo and Tumushabe, 2002).

It is fair to say that the initial responses of governments in many developing countries to SPS and TBT will be to emphasise the regulatory aspects. It is rarely the case that an empowerment approach, which would be more likely to be beneficial to women, will be attempted.

## Pointers for Further Discussion

As with most other sectors, a gender-aware and gender-sensitive approach to agricultural trade liberalisation identifies the key mechanisms and pathways through which trade liberalisation impacts on women and men differently. These must necessarily include attention to the following:

- social and reproductive adjustment;
- employment/wage levels;
- poverty eradication;

*The widening of the agriculture trade discussion to include ... non-trade concerns – food security, sustainable livelihoods, rural development, etc. – presents a key entry point for the integration of a gender analysis.*



- economic power – profitability and market share;
- overall economic and social well-being.

Given this initial perspective, it is important to identify the differential benefits, costs, challenges and constraints of agricultural trade liberalisation. Focus should be placed on:

- gender inequalities and reciprocities in labour;
- the role of existing bias;
- structural inequality and discrimination in relation to women's and men's roles in the household;
- women's and men's location in the labour market;
- gender inequalities in access to productive resources: land, credit and technology.

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## 4. Services Trade Liberalisation

### Introduction

A service is “a product of human activity aimed at satisfying a human need which does not constitute a tangible commodity” (Sinclair, 2000). It thus includes such areas as education, energy, finance, health, insurance, transport, travel and tourism. According to UNDP (1999), international trade in services is about 60 per cent of global value added as a percentage of Gross Domestic Product (GDP) and employment. It is 68 per cent of the value added for high-income countries and 38 per cent for low-income countries (cited in Crosby and Vielma, 2000). Cross-border trade in services in 1999 was US\$1,350 billion, which was equivalent to 20 per cent of total cross-border trade. As a result of their growing importance world-wide, services have been incorporated into the multi-lateral trade framework under the General Agreement on Trade in Services (GATS). They are also increasingly being incorporated into regional processes.

While trade rules for goods have a long history, those for services are new, very complicated and plagued by a general lack of available data for assessing their scope and impact. More importantly, trade in services possesses characteristics that make it different from goods and so warrant more careful deliberation and attention in the liberalisation process. For example, services may be consumed within the national border via the right of establishment (commercial presence). This is part of the privatisation, deregulation and commercialisation agenda and hence has implications for a country’s development strategies as well as for how resources are allocated. While trade liberalisation in services in either multilateral or regional agreements is not explicitly a privatisation agreement, it is undeniable that in order for a service to be liberalised it must first be privatised. This privatisation agenda is carried out through the International Monetary Fund (IMF) and World Bank.

*Poor people's access to water, schooling and affordable health care must be protected.*

Services liberalisation and the GATS have implications for health care/health standards, job security and conditions of work for a large number of people. There must therefore be a focus on their social equity and social justice dimensions. Poor people's access to water, schooling and affordable health care must be protected. In terms of water, for example, evidence from Bolivia shows that privatisation dramatically increased its cost and reduced the access of the poor. Similarly, the imposition of undifferentiated user fees for cost recovery schemes in India and South Africa has led to the poor not having access to essential water services. In Kwa-Zulu Natal, South Africa, lack of access to safe drinking water has been implicated in the outbreak of cholera (Hall, 2001).

The recognition of the pivotal role of services in human life has led the United Nations Sub-Commission on the Promotion of Human Rights to pass a resolution reiterating the "fundamental importance of the delivery of basic services" (August 2001). The Commission's report also highlighted the potential human rights implications of the liberalisation of trade in services. It further reaffirmed that government must play a role in ensuring the availability, accessibility and quality of basic social services.

Reduced access to and the likely un-affordability of privatised and liberalised services such as water and health care will greatly affect women because of their role in social reproduction. It is now recognised that women are likely to be over-represented among those suffering from untreated injuries/diseases, malnutrition/hunger and illiteracy/innumeracy. Services trade reforms and trade liberalisation policies that do not take these factors into account are unlikely to yield much benefit to women in their multiple roles as caregivers, household workers, entrepreneurs, farmers and workers in the informal and formal sectors of the economy. Economic decision-makers in this area need to be aware of and sensitive to these issues. They must also ensure that such policies are complemented by similarly gender-aware social and labour market policies.

The GATS framework for services liberalisation is all-inclusive and has a built-in agenda for future negotiations, which could mean the liberalisation of all sectors of the service economy. Thus GATS is of tremendous importance to developing

economies. However, while it potentially has tremendous development, social and gender equity consequences, it is an area of increasing complexity and is much less understood by trade negotiators and civil society alike than other areas of trade.

## The General Agreement on Trade in Services (GATS)

The GATS covers all services except those “supplied in the exercise of government authority” (Article 1). Article 1.3(c) clarifies ‘government authority’ as “any service which is supplied neither on a commercial basis nor in competition with one or more service supplier”. Thus only a few services are excluded (e.g. central banking and the military). Whether social security is included is a topic of contention. Although government procurement is exempted from some GATS provisions (Article XIII), it is part of the built-in agenda for future negotiations.

*Campaigners against GATS in the UK protest the selling of basic services such as water, transport, health care and education*

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**Box 4.1 Services and the Nature and Scope of the GATS**

Services sectors, as understood by the General Agreement on Trade in Services, include:

- provision of water, gas and electricity;
- environmental services such as sewage and sanitation;
- financial and banking services;
- telecommunications and postal services;
- insurance and insurance-related services;
- business services such as accounting, real estate services and advertising;
- social and human services such as health care, education and libraries;
- tourism and tourism-related areas such as travel services;
- construction;
- entertainment;
- professional services, such as in engineering, architecture and medicine;
- media (television and radio broadcasting);
- transportation and transport-related services including by land (e.g. buses), shipping, air cargo handling, storage and warehousing;
- personal services such as hairdressing.

The GATS sets rules on how countries treat foreign services providers and seeks to regulate all measures affecting trade in services. These include government laws and policies, and regulatory and administrative rules such as grants, subsidies,

licensing standards and qualifications, limitations on market access, and food safety rules pertaining to hotels, restaurants and the entertainment sector. The GATS also covers economic needs texts and local content provision, nationality and residency requirements, technology transfer requirements, restrictions on ownership of property or land, and tax measures that affect the foreign provision of services.

Services can be supplied by any of four methods or modes of delivery:

- Mode I: cross-border supply – services supplied from one country to another (e.g. international telephone calls).
- Mode II: consumption abroad – consumers or firms making use of services in another country (e.g. tourism).
- Mode III: commercial presence – a foreign company setting up subsidiaries or branches to provide services in another country (e.g. banks).
- Mode IV: presence of natural persons – temporary (not yet clearly defined) entry of persons to provide a service (e.g. management consultants).

### The GATS architecture

GATS has two main parts: (i) the framework agreement containing general rules and disciplines; and (ii) the national ‘schedules’ under which individual countries list specific commitments on services sectors and on activities within those sectors. Every WTO member is part of GATS but not all the agreement’s rules are universal. Countries can choose which sectors to include and which modes of supply to commit to which of its specific obligations. GATS is constructed around the following core elements:

- *Most Favoured Nation (MFN)* – i.e. non-discrimination among WTO members. Services concessions offered to one member must apply to all other members. This is a general obligation that does not have to be scheduled. However, a country can list MFN exemptions that will be phased out over time.

- *Transparency* – this currently means that governments must publish their schedule of sectoral commitments. However, some governments would like to include the identification of domestic regulations that may be trade restricting. Some would also like to include certain notification procedures, including the notification of draft legislation.
- *National treatment* – a country must give foreign suppliers treatment that is equal to the best treatment provided to domestic services and services suppliers. This only applies to sectors and modes of supply to which a country has made specific commitments.
- *Market access* – this prohibits numerical limits on services or services providers even if the regulation applies to both national and foreign suppliers (i.e. there is national treatment). Technically, it only applies to sectors and modes for which governments have taken commitments.
- *Built-in commitment* – to continuous liberalisation through periodic negotiations starting with GATS 2000.
- *Positive list* – a list of services sectors that a country undertakes to liberalise (the current model and one the South supports).
- *Negative list* – some Organisation for Economic Cooperation and Development (OECD) countries are tending to favour an approach that would subject countries to liberalisation in all sectors, except for those it puts on a ‘negative’ list of exclusion.
- *Bottom up* – this implies that certain of the GATS’ specific obligations, namely market access and national treatment, apply only to those sectors positively listed by a government in its individual schedule. The bottom up approach also allows governments to list (at the time of signing) exceptions and limitations on coverage in these sectors.
- *Top down* – all measures and sectors are covered unless they are explicitly excluded. GATS rules apply to all modes of supply or consumption of a service internationally. Also, certain GATS rules apply to all services sectors – even those

where member governments have made no specific commitments in their country schedule (so-called horizontal rules such as MFN and transparency).

Box 4.2 highlights some of the commonalities and differences between the GATS and the GATT 1994.

#### **Box 4.2 GATS and GATT 1994: Commonalities and Differences**

The GATS and the GATT 1994 share some commonalities and differences, including:

- both agreements incur horizontal commitments of Most Favoured Nation (MFN) – the GATT's non-discrimination obligations specifically relate to goods and products while those of the GATS relate to both services and services providers;
- both agreements are based on national treatment, but there are limitations on these obligations in the GATS;
- both agreements include an investment dimension, the GATT in terms of Trade-Related Aspects of Investment Measures (TRIMs) and other Annex 1 agreements and the GATS in terms of modes of supply, especially commercial presence (foreign direct investment);
- unlike the GATT, which mainly addresses 'border measures', the impact of the GATS on domestic regulatory regimes is broader, affecting and covering regulator reform (frequently associated with privatisation, de-regulation and commercialisation);
- the GATT applies to the product, the GATS applies to product and provider as well as the way the service is provided.

In examining the effects of the services agreement, it is important to keep in mind the following:

- There is a strong tradition in the services sector of regulating to protect consumers and the environment, provide



security, protect public morals and provide prudential measures (UNCTAD, 2002b). The GATS recognises the sovereign right of a country to regulate services for legitimate purposes. Its preamble also allows for the introduction of new regulations on the supply of services in order to meet national policy objectives (see also article VI on domestic regulations).

- GATS commitments do not just apply to the central government but to all levels of government: local, parishes (provinces) and even to non-governmental organisations (NGOs) and community-based organisations “acting on the basis of authority delegated to them by the state”.
- It is not enough to simply list a sector positively. A country must also list the inconsistent measures it has affecting those sectors (negative list) if it wants to maintain those protections or it will lose them. Dispute settlement rulings have indicated that “any errors and omissions will be costly for the defending government” (Sinclair, 2000).
- The GATS has already had a tremendous negative impact on the Caribbean (the EC Banana case) and poses further challenges especially in the area of culture/heritage and tourism (e.g. the Canadian Magazine case) (see box 4.3).

### Current GATS negotiations

The GATS is a framework agreement that provides for “progressively higher levels of liberalisation of all services”. Article XIX mandates negotiations to increase services trade liberalisation by entering into more or deeper specific commitments in market access and national treatment starting in 2000. In addition, other GATS provisions mandate the start of negotiations to develop disciplines on domestic regulation (Article VI.4) as well as developing new GATS rules, including on trade-distorting subsidies (XV), government procurement (XIII) and restrictions (such as the development of an emergency safeguard mechanism (X)).

To date the GATS negotiations have been focused on the process of submitting ‘requests’ and ‘offers’ for service areas that countries want their trading partners to further liberalise.

### **Box 4.3 The Impact of GATS: Two Examples**

In the precedent-setting EC Banana case, a WTO panel and the Appellate Body of the GATS found most features of the EC's banana import regime to be inconsistent with its WTO obligations. The USA (supported by Latin American producers) had complained that the EC was granting 30 per cent of import licences to former British and French Caribbean colonies. The EC appealed, stressing that changing this would destroy the livelihoods of tens of thousands of small producers, particularly in the Caribbean. Even though the EC had attained a formal waiver from the GATT rules on goods, the import regime was found to violate GATS because it affected the wholesaling and distribution of the product (i.e. services). The same measure was therefore found to be consistent with one agreement but inconsistent with another. The case also illustrates: (a) the danger of not making a specific commitment; and (b) that making such an exclusion in certain areas does not free one from challenges in another.

The Canadian Magazine case is a reverse parallel of the EC Banana case. Canada had introduced certain measures such as higher postal costs and advertising taxes to protect its magazine publishing industry from foreign competition. Here an ostensibly GATS-related measure (Canada had taken no commitments in the area in question) was found to be inconsistent with GATT 1994 because of its impact on goods (magazines). The trend has been that, in disputes concerning any particular measure, a WTO panel will apply the most restrictive provision under the agreements. Exemptions, exclusions and exceptions are interpreted narrowly.

*The GATS 2000–2005 round of negotiations foreshadows fundamental changes in domestic services policies ... and could weaken social services and social protection programmes.*

This would expand market access to new areas as well as eliminate restrictions on sectors already committed to in country schedules.

The GATS 2000–2005 round of negotiations foreshadows fundamental changes in domestic services policies. It is likely

to have a 'lock-in' affect on de-regulation and privatisation and could weaken social services and social protection programmes. This has advantages and disadvantages for issues of development policies, human capital development, gender equality, the protection of natural resources, and land and other property rights. Advantages lie in the extent to which countries can: (a) exploit the GATS provisions and strategically use foreign suppliers to decrease under-capitalisation of domestic firms; (b) increase the diffusion and development of technology; and (c) increase the provision of costly services at better prices and for a wider cross section of citizens through carefully regulated foreign capital inflow.

However, in order for trade in services to achieve such positive effects, it needs to be carefully regulated by governments. Danger exists if large, uncompetitive and unaccountable foreign suppliers are simply substituting for domestic monopolies (Crosby and Vielma, 2000). It is generally assumed that foreign suppliers are competitive and bring better services but this is not always the case. They have been known to practice what is called 'cream skimming' (e.g. insurance companies in Latin America focus on the rich but do not offer services to the working class and poor because this is not profitable).

Moreover, it is feared by many social activists that the GATS-oriented liberalisation of services and discussions about domestic regulations having to meet particular tests – necessity and proportionality, etc. – is likely to negatively affect governments' willingness to regulate proactively to meet social and environmental concerns.

### **The domestic regulations debate**

Domestic Regulation (Article VI) has been called GATS' 'Pandora's box' (Sinclair, 2000). It is the area of the most tension between the EU and the US and between the QUAD as a whole and the South. Article VI poses two tests for domestic regulations that could have a far-reaching impact on governments' authority: (i) necessity test (not more trade restricting than necessary); and (ii) legitimacy test (to achieve legitimate interest). The two are very vague and the subject of much discussion. Since the issue of what is necessary and what is legitimate is quite subjective and may differ from member to mem-

ber, there is quite a lot of room for disputes. Typical examples of possible legitimate objectives include protection of consumers, quality of service, competence of suppliers and integrity of the market. Many GATS watchers argue that these tests provide for closing any loopholes left by the MFN, national treatment and market access provisions.

Trade negotiators from developing countries are also uneasy with the push for *a priori* transparency. They believe that it makes domestic regulations that are crucial for promoting sustainable development (especially in tourism) very vulnerable.

### The subsidy issue

There is a big question as to what is a trade-distorting subsidy in the context of services and the GATS. From the point of view of some governments, such as the US, it confers a commercial benefit or advantage above and beyond what would normally be there. In the GATT 1994 two conditions are necessary for a subsidy to exist: (i) commercial interest; and (ii) specific advantage. This issue of commercial interest is central since it can determine to some extent whether or not social services are covered. One critical aspect might be who receives the benefit: the supplier or the consumer (citizens). It should be noted that under national treatment, countries can protect subsidies on some grounds. The US, for example, does this for its parks, national endowment of the arts, etc. However, questions are being raised about this.

### Services liberalisation and developing countries

The services sector is a high growth area in many developing countries. It provides income and economic empowerment opportunities in industries such as, for example, data processing, tourism and banking in South-East Asia, India and Jamaica. However, services are also quite a volatile sector where there is tremendous international competition.

Within the GATS framework many developing countries have agreed to general obligations, including the provision of MFN treatment for all foreign services providers as well as transparency of services liberalisation commitments. Some

*Trade negotiators from developing countries are ... uneasy with the push for a priori transparency. They believe that it makes domestic regulations that are crucial for promoting sustainable development ... very vulnerable.*

*Many countries of the South are now in their second decade of structural adjustment programmes (SAPs). These promoted de-regulation, commercialisation and privatisation of services, yet the lives of the poor and the marginalised have not improved significantly. Sometimes they have worsened.*

member countries also agreed to specific commitments on national treatment and market access in sectors they open for liberalisation (Spieldoch, 2001). All these allow foreign suppliers to enter national markets with little restrictions. These firms can, for example, establish hospitals, medical practices and pharmaceutical companies and hire health care workers.

Although defenders of the GATS argue that governments can protect their basic services by only listing those services that they want to include in GATS negotiations, this so-called positive list approach does not ensure that governments have control over their basic services. Such arguments ignore the strong “political and economic forces outside the GATS negotiations that pressure governments, such as the effects of the World Bank and IMF Structural Adjustment Programmes, poverty and burden of debt payments that force countries into untenable decisions” (Riley, 2002).

Many countries of the South are now in their second decade of structural adjustment programmes (SAPs). These promoted de-regulation, commercialisation and privatisation of services, yet the lives of the poor and the marginalised have not improved significantly. Sometimes they have worsened. Both SAPs and the WTO trade liberalisation process share some common features. While SAPs led a co-ordinated attack on the state and helped to foster the creation of an enabling environment for capital – free trade zones and dismantling import substitution structures – WTO rules and policies bolster the search for competitiveness and profit maximisation by transnational corporations (TNCs) by knocking down barriers to trade. Since trade policy is not isolated from other macro-level policies (such as development aid, SAPs, investment policies, etc.) it brings about changes in domestic labour legislation, social insurance programmes and policies as well as new forms of regulations.

Both SAPs and explicit trade liberalisation under the multilateral framework affect the distribution of income within and between countries by their impact on wages and prices and through changes in the ownership structure of national resources (Roldan, 1997; cited in Joekes, 1999). Yet prescriptions for privatisation and reduction of government expenditures take no account of how they may intensify poverty and deprivation. Both the IMF and the World Bank argue that

their programmes will achieve ‘positive outcomes’. However, it needs to be asked what is considered to be a positive outcome, and for whom it is positive (Fall, 1999).

## Gender Issues in Trade in Services Liberalisation

Critical concerns regarding the liberalisation of services from a gender perspective include its impact on access to and availability of public services (such as health care and education) and natural resources (such as water and energy). Other pressing concerns include:

- government’s ability to regulate the quality of health care;
- the nature of the employment of women (the conditions of work and whether they differ significantly from those in the manufacturing and export processing sectors);
- the treatment of the movement of natural persons (very important for women, who are increasingly part of the international workforce as migrant, seasonal and guest workers, etc.);
- sex tourism and trafficking in women and girls, which is also an area that needs urgent discussion and corrective remedies;
- the sustainability of employment, wages and incomes of women workers *versus* male workers.

Over the last ten to fifteen years the services sector has been a growing proportion of the economies of almost all countries. Despite this, it remains significantly under researched. The available data, however, points to its importance as an area of employment for women. From the perspective of gender analysis, activities that fit into the services sector can be grouped into three broad and interrelated categories:

1. *Traditional services*: domestic services, small-scale commerce, government administration and the social sector (health and education).
2. *Modern business services*: information processing and business services (law, accountancy, management consultancy

*Critical concerns regarding the liberalisation of services from a gender perspective include its impact on access to and availability of public services ... and natural resources.*

*Overall, trade liberalisation and globalisation are contributing to a rapid expansion of the informal sector. In terms of services, the major areas are small-scale commerce and catering.*

and marketing). Leading edge technological activities such as software design, computer programming and financial services are often described as customised higher modern services whereas banking and insurance are often described as high income personal services. Also classed as service firms are intermediary buying agents, which are pervasive in the clothing industry.

3. *Essential/infrastructural services*: including transport, energy and water.

It is well recognised that women have been incorporated into traditional services such as the public sector, social welfare sector and government administration in most countries. They also continue to make up the vast majority of workers in the low-wage, benefit-scarce traditional services (including cleaners, waitresses and sales persons). With regard to modern services, women tend to predominate in the information-processing sector. Research in the Caribbean, for example, shows workers in the data entry segment to be almost exclusively women. They provide data entry for the processing and coding of information or credit cards, airline/rail systems transactions and mail orders. The establishment of 'call centres' is also becoming an important source of employment for women in some developing countries. Women are not yet found in significant numbers in software and programming work and occupy the lower rungs. However, this area holds potential for higher pay and more jobs for educated and middle class women.

Overall, trade liberalisation and globalisation are contributing to a rapid expansion of the informal sector. In terms of services, the major areas are small-scale commerce and catering. The agricultural link is informal cross-border and domestic trading in vegetables, etc. Research in Africa and Latin America points to women's heavy concentration in activities such as prepared food and sewing/dressmaking while men are found in "small-scale labour-intensive and low profile skill enterprises" (Bifani-Richard, 1999) such as 'patch and mend' repair shops. Some women gain jobs or buttress their sources of income by increasing trading activities. Others, however, lose the livelihoods that were linked to selling food-stuffs and meals as these activities are significantly affected by



the availability of imported prepared foods. Repair shop activities are also affected by imported spare parts.

In trying to isolate the gender impacts of services liberalisation, this chapter will focus on a case study approach to specific sectors: health, education and tourism. These were selected because they are those with the most commitments in the GATS from developing countries.<sup>3</sup> The health sector will be the template for a number of reasons but mainly because it has been the least explored from the perspective of gender analysis of trade liberalisation. Education will only be looked at briefly as it has been well discussed in the literature on SAPs. Some focused attention will be placed on tourism, as it is an area of great employment opportunities, both formal and informal, for women in many developing countries. It is also seen as a critical driver in the trade-led development agenda.

<sup>3</sup> Although the topic of water is pervasive in the privatisation debate, it is not addressed here because its liberalisation process is still at a rudimentary stage in most developing countries.

*Laying water pipes in Lesotho*

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT (IFAD)/G. BIZZARRI



## Health Care<sup>4</sup>

Health care services are:

- public goods;
- historically non-commercial in nature;
- traditionally the exclusive domain of domestic policy;
- linked in critical ways to other sectors of the economy.

These special characteristics are important for gender and social equity and hence require caution with regard to liberalisation (see box 4.4).

### **Box 4.4 Health Services under the GATS**

The scope of health services under liberalisation includes hospital management, clinics, health care infrastructure, professional services provided by doctors, nurses and paramedics, and related services such as education/consulting in the health sector. The GATS covers specialised services of doctors, deliveries and related services, nursing services, physiotherapeutic and paramedical services, all hospital services, ambulance services, residential health facilities and services provided by medical and dental labs. It treats professional services provided by doctors and nurses separately from hospital services. Regulations on trade in health targeted in the on-going GATS negotiations include: qualification and licensing requirements for individual health professionals; approval requirements for institutional suppliers; and rules and practices governing reimbursement under mandatory insurance schemes.

*Source:* Chanda, 2001

Despite this, however, the health sector is a target of increasing deregulation, commercialisation, privatisation and liberalisation. It is also a source of growing international trade. To

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<sup>4</sup> This section is an adaption of Spielfoch (2001) and also relies heavily on Chanda (2001) and WHO (2001).

date about 100 WTO members have scheduled commitments on health services. There is some debate as to whether 'public services' such as health care are exempt from the GATS. As noted earlier, exemption applies to services that are "supplied neither on a commercial basis, nor in competition with one or more service suppliers". It is difficult for governments to claim this of their public services, however, because many of them have privatised at least some of these. Private contractors often compete with government for their contracts and supply services on a commercial basis. There are important challenges around distinctions and definitions of public and private ownership and responsibility in the provision of these services.

From the point of view of those concerned with social and gender equality and sustainable development, one of the key areas in the GATS debates is whether countries will have the sovereignty to regulate trade that could be potentially harmful to their communities and environment. The outcome of negotiations around domestic regulations may jeopardise a nation's ability to create and provide proper standards of health care. Article IV of the GATS mandates that government regulation is permitted as long as it does not constitute 'an unnecessary barrier to trade'. WTO members need to figure out exactly what this means. Domestic regulations are largely contentious as well as subjective. It is not unlikely that a governmental measure designed to ensure quality health care for its citizens could be seen as an unnecessary barrier by a foreign supplier of services and thus lead to challenges in the WTO.

Women and men play different roles in health care. Women are usually the caretakers of families and communities. They minister to the sick and help in post-hospital recovery for children, spouses and the elderly. In the formal health services sector, women are found predominately in caring roles as nurses and nursing aides as well as being doctors and other allied professionals. The four modes of supply in the GATS noted above – cross-border supply, consumption abroad, commercial presence and movement of natural persons – also apply to the health care sector. The beginnings of an approach to gender analysis of the GATS and health care might be to sketch out the gender and social implications of liberalisation in this sector by modes of service delivery. Clearly this is an area for further research.

*The outcome of negotiations around domestic regulations may jeopardise a nation's ability to create and provide proper standards of health care.*

### **Box 4.5 Factors Driving the Liberalisation of Health Care**

Some of the factors that are driving the liberalisation of health care include:

- a decline in public sector expenditure;
- a rise in the private sector as a significant participant in health care;
- increased mobility of consumers and health services providers;
- decreased travel costs and greater ease of travel;
- technological advances enabling the cross-border delivery of many health services;
- investment opportunities in the health care sector (due to investment liberalisation regulations);
- an increase in the demand for health care (due to rising income levels and aging populations);
- increasing portability of health insurance (with insurance liberalisation).

### **Mode 1: cross-border supply**

Cross-border supply takes place when the service itself crosses the border from one country to another. Examples are telecommunications, health insurance, shipment of lab samples, diagnosis and clinical consultation via traditional mail channels and the electronic delivery of telehealth services. Telehealth uses “interactive audiovisual and data communications to provide services such as diagnosis, second opinions, lab testing, surveillance, consultations, transmission of and access to specialised data, records, and information, and continuing education and upgrading of skills” (Chanda, 2001). Other aspects of telehealth include telepathology, teleradiology, and telepsychiatry. Commonwealth countries significantly involved in telehealth are Bangladesh and India. India, for example,

provides telepathological services to Bangladesh and Nepal and is also involved in the outsourcing of medical transcription services. Medical transcription is increasingly being outsourced to developing countries and is potentially a growth area for women's employment.

### *Opportunities for developing countries*

According to the World Health Organization (WHO), these include access to advances in health care and to the services of professionals from other parts of the world, enhanced diagnostic and appropriate patient management facilities and improved quality of health care (Than Sein and Chang Rim, 2001).

### *Social equity and gender implications*

Social equity issues arise with regard to cross-border supply of health services. Some of the likely positive impacts include:

- increased equity and wider access to better quality health care due to the potential expansion of services and access to remote and rural areas;
- reduced need for travelling for medical/health services (and hence reduced time needed and cost of transportation involved) due to the availability of services such as tele-diagnosis, imagery and treatment;
- longer periods of retention of medical and professional staff in remote or rural areas due to the increasing availability of professional support and updating with subjects of expertise via tele-education and conferencing;
- decreased migration abroad (and to urban centres) of health care personnel due to access to telemedical education and professional support.

However, some negative social equity impacts of cross-border supply may occur:

- if investment for telecommunications infrastructure is financed by public investment to the disadvantage of the primary, preventative and curative health care sector (this may also reduce overall spending on the social sector, thus worsening vertical equity in the society);

*Health care workers ... in low-skilled positions, the majority of whom are women, are often left without safety nets and safeguards to ensure new jobs and decent living conditions.*

- if government revenue is re-allocated to establish specialised health centres and away from rural areas, there will be fewer services available to poor men and women living in these areas;
- if the cross-border trade continues to be one way – from North to South – due to licensing problems, this will drain foreign exchange from developing countries and have a negative impact on local health care infrastructures;
- if user fees or health insurance are involved in terms of access to health services, people with low incomes will have less access.

Gender equality issues include:

- The infrastructure for telemedicine could take away from expenditures on basic health care and infrastructure that are important to women (health clinics, preventive care, etc.). Such a trend may only benefit the rich and help to further exacerbate imbalances in health service between rural and urban areas. Thus overall it may reduce equity in health care.
- Having different medical standards across countries brings in ethical and legal considerations having to do with services operating outside national boundaries. This poses significant risk factors for women's health – particularly their reproductive rights – given the tenuous nature of their social status and rights in many countries. In addition, there is the issue of how telemedicine is affected by and impacts on cultural rights and nuances, privacy of information rights and health rights.
- Health care workers could lose their jobs with the decrease in face-to-face health care provision. Those in low-skilled positions, the majority of whom are women, are often left without safety nets and safeguards to ensure new jobs and decent living conditions.
- By tabling commitments to further liberalise health insurance, countries may be creating a situation where the elite has access while the poor, the majority of whom are women,

are left uninsured. For example, Canada is among the developed countries that have tabled commitments on health insurance.

## **Mode II: consumption abroad**

Consumption abroad refers to individuals who travel to another country for medical diagnosis and treatment – a significant part of the trade in health services. It also includes the movement of health professionals and students to receive medical and paramedical education and training abroad. The main Commonwealth developing country supplying such services is India. India also excels in providing treatment such as bypass surgeries and transplants for patients from more wealthy Commonwealth countries such as the UK (and the US) at one-fourth or one-fifth of the cost. Developing countries may also be a source of traditional medicines (e.g. India and Bangladesh in areas such as Ayurveda and Unani).

### ***Opportunities for developing countries***

According to WHO, consumption of medical/health services abroad offers opportunities for better health care, lower prices to consumers and increased revenues to government (from fees paid by foreign patients). “Increase[d] revenue from investment in the sectors can help to upgrade health care infrastructure, knowledge and skills” (Spielloch, 2001). However, there are also considerable social equity and gender implications.

### ***Social equity and gender implications***

Some of the trends that may impact more positively on social equity include:

- foreign exchange inflow from foreigners purchasing health care being invested in the domestic health sector, helping to upgrade infrastructure, knowledge, skills and technical capacity;
- inflow of revenue into the health sector from foreign consumption can bolster government expenditure on the local primary and emergency care sector.

However, as with Mode I, potentially negative equity considerations linked to consumption abroad may include:

*Privatised hospitals may choose more qualified doctors and health care providers for foreigners who can pay while leaving the less qualified doctors to the general public who cannot.*

#### **Box 4.6 Emerging Areas in Trade in Health Services**

**Emerging areas in trade in health services include:**

- telehealth, telemedicine and the integration of information technology with health can be sources of capacity-building in developing countries, e.g. the University of Zambia gained capacity in becoming an intermediary for resources and information in the country;
  - trade in health-related education services include joint ventures between universities and medical schools or training institutions across borders, e.g. Australia has strong recruiting of students from abroad and joint ventures with foreign universities and institutes;
  - home-based health care services (assisted living care for the disabled and the elderly and services for persons with chronic conditions or recovering from surgical procedures);
  - distance consulting in traditional healing;
  - health tourism;
  - spas and rehabilitation.
- internal brain drain (health personnel switch into more lucrative private sector), leading to shortages in the public sector and rural areas;
  - allocation of public funds to subsidise private hospitals that cater to foreigners and the wealthy at the expense of the poor;
  - privatised hospitals may choose more qualified doctors and health care providers for foreigners who can pay while leaving the less qualified doctors to the general public who cannot;
  - potential for exacerbating dual market structure and possibly create further differentiation (i.e. speciality hospitals that only attract foreign patients);

- fewer beds, doctors and trained personnel for the country and the poor;
- lack of attention to diseases affecting the poor (and women) and more attention and resources for those illnesses that affect upper income groups and foreigners.

Studies need to be done to ascertain the gendered impacts on both services providers and consumers. As with Mode I, the increasing portability of insurance, usually only available to high-income earners in developing countries, is also a critical factor facilitating the health service trade. This also raises the same gender equity questions of women's likelihood of access to portable insurance *versus* their dependence on health services offered by the public sector.

### **Mode III: commercial presence**

Commercial presence exists when a foreign company sets up a subsidiary or branch in another country (e.g. hospitals, clinics, diagnostic and treatment centres and nursing homes). Countries with significant involvement in this area of the health sector are India, Indonesia, Sri Lanka and Thailand. Some Commonwealth countries are involved in regional care networks, for example, India, Malaysia, Singapore, Sri Lanka and the UK with the (Singapore-based) Parkway Group. Mode III opens up the health services sector to foreign equity participation as a way of supplementing government investment and upgrading health care infrastructure.

### ***Opportunities for developing countries***

Opportunities include reduction of the financial pressures on government, more and better health care and improved delivery of health care.

### ***Social equity and gender issues***

Overall, similar social equity issues arise as with cross-border and consumption abroad. In addition, Mode III raises the issue of host government incentives and other forms of subsidisation of foreign direct investment (FDI). Potentially positive impacts of FDI on the delivery of health services include:



- increasing resources for investment in and upgrading of health care infrastructure and infusion of new technologies and managerial skills;
- generating employment and reducing the unemployment of health personnel;
- reducing the factors that cause emigration (lack of training and skills upgrading, low wages, etc.);
- bringing expensive and specialised medical services that increase the quality, capacity, accessibility and productivity of health care;
- helping reduce the burden on government resources and helping to restore public health care.

Potentially negative impacts of Mode III on health services delivery may include:

- the use of huge public investment (to attract FDI);
- the creation of super-specialised corporate hospitals using public funds and subsidies that could go to the public health care system;
- a two-tier health care system – a corporatised high-end, high technology system catering to wealthy nationals and foreigners and a public low-end, resource-poor system for the poor;
- internal brain drain (as health care professionals cluster into the corporatised system, leaving the public system under-staffed);
- a health care delivery system that concentrates on high technology and not meeting the needs of poor or vulnerable groups;
- crowding out of poorer patients ('cream skimming'), i.e. those who need less but can pay more are served at the expense of the poor (observed in Latin America and possibly also occurring in Bangladesh and Thailand).

Gender equity issues in Mode IV include most of the aspects discussed under the other two modes of supply. However, a primary gender differentiated impact of commercial presence is in the area of employment. Typically, FDI has tended to rely on the absorption of female labour. Whether this trend will continue in the area of health care is not clear. The outcome will depend on the nature of the inflow of FDI in the sector – whether it increases the supply of primary care or is in the high tech end of the industry. Likely impacts are that low-level work in cleaning, catering, etc. will draw on female labour. Nurses and administrative staff may also be predominantly women. However, more technical and skilled staff may be male or female depending on the gendered patterns of higher and advanced medical education and training in the host country.

*A health clinic in Belize*

INTERNATIONAL FUND FOR AGRICULTURAL  
DEVELOPMENT (IFAD)/E. MATTIOLI



### **Box 4.7 The Extent of Movement of Health Personnel**

- 56 per cent of migrating physicians move from developing to developed countries.
- 55.6 per cent of pathology graduates in Ethiopia migrated from 1984–94.
- 60 per cent of Ghanaian doctors trained locally in the 1980s emigrated.
- Many African doctors migrate to Jamaica.
- Jamaica imports nurses from Ghana, Myanmar and Nigeria and exports nurses to Canada and the US.
- 50 per cent of registered nurses' posts and 30 per cent of posts for midwives were unfilled in Jamaica in 1995.
- Indian doctors emigrate to the Gulf States and the Middle East.
- The UK exports nurses to Canada and the US and imports nurses and doctors from India, Ireland and South Africa.
- South African doctors, nurses and technicians emigrate to Australia, the Middle East, the UK and the US.
- 10,000 health professionals emigrated from South Africa from 1989–97.
- Over 21,000 Nigerian doctors are practicing in the US.
- Of the 1,200 doctors trained in Zimbabwe in the 1990s, only 360 were practising in the country in 2001.
- About half of Pakistan's medical graduates leave the country in any year.

### **Mode IV: movement of natural persons**

The movement of natural persons generally applies to the temporary movement of skilled personnel, in this case nurses, doctors, specialists, paramedics, midwives, technicians, consultants, trainers and administrators (see box 4.7). For example, the Caribbean (particularly Jamaica) sends nurses to Canada,

the UK, the US and elsewhere. In the meantime, nurses from lower wage countries such as Ghana are being imported into Jamaica to make up for the absence of locally trained nurses.

### *Social equity and gender issues*

Overall, Mode IV is held to be potentially welfare-enhancing for health care professionals as it provides them with opportunities for higher wages, wider knowledge and skills and experience working in and with superior health care facilities. However, its impact on the national economy can potentially be disastrous (see box 4.8). Negative social equity issues in the sending country include a shortage of health care professionals (the brain drain), less access to care, a reduced range of services and lessened quality of health care.

*Due to the increasingly flexible global labour market, there is an emerging health worker crisis in Africa that threatens to undermine health improvements made in that region.*

#### **Box 4.8 The Effect of the Movement of Natural Persons on National Economies**

The 2002 joint consultative meeting organised by the WHO Regional Office for Africa (WHO/AFRO) and the World Bank noted that, due to the increasingly flexible global labour market, there is an emerging health worker crisis in Africa that threatens to undermine health improvements made in that region. The meeting included senior officials from Ministries of Health, Education, Labour, Planning and Finance from 17 African countries – Algeria, Angola, Cameroon, Chad, Côte d’Ivoire, Ethiopia, Ghana, Kenya, Malawi, Mozambique, Niger, Nigeria, Senegal, South Africa, Tanzania, Uganda and Zimbabwe. Participants argued that factors such as “unsuitable training programmes . . . [in light of] . . . changing health conditions, inadequate co-operation . . . and loss of staff to opportunities outside Africa” were creating unsustainable problems of “lack of qualified motivated doctors, nurses and other health workers”. It was further noted that there were “tens of thousands of African doctors and nurses outside Africa, and more leaving every day, making it increasingly difficult to furnish patient care in African countries”.

*Source:* WHO Press Release, 1 February 2002.

*While they may be making more money than they would in their home countries, nurses are still being marginalised in low-paid positions in countries with high costs of living and racism and sexism embedded into the culture.*

This aspect of the supply of health services under the GATS is of particular importance to women. Women have a high dependence on health care services. They also constitute a large proportion of the flow of health care personnel. This is particularly so with regard to nursing personnel, who make up 70 per cent of health care staff and 80 per cent of direct patient care. The cross-border movement of nurses is significant for a number of reasons:

- women predominate in this job category;
- the nursing shortage has an impact on women patients in the sending economy;
- many countries are involved in the export and import of nurses;
- while they may be making more money than they would in their home countries, nurses are still being marginalised in low-paid positions in countries with high costs of living and racism and sexism embedded into the culture.

There are efforts underway to balance the personal welfare-enhancing elements of Mode IV with the responsibility of governments to provide health care for their populations in such a manner as to improve the population's health status and contribute to development. Among the first issue to be addressed is the targeted recruitment of skills. For example, Commonwealth Health Ministers have agreed to a voluntary Code of Practice for the International Recruitment of Health Workers. This fully recognises the rights of individuals to migrate and seeks to ensure they are not exploited. At the same time, the protocol addresses national requirements for sufficient human resources to meet the basic health needs of the population. Simultaneously, attention is being given to the 'push' factors, identified through research to determine factors contributing to the loss of needed skills.

### **Snapshots of country experiences with trade in health services**

#### **India**

India is prominent in the export of health services (via Mode IV) to both developing and developed countries. Many Indian

doctors, nurses and technicians leave to work in Australia, Canada, the Middle East, the UK and the US. They may be either on short-term contracts or permanently emigrating. In many cases the training is subsidised by the government. However, this brain drain is not offset by a compensating inflow of foreign health service providers. In terms of consumption abroad, India is also strong in low cost and high quality treatment, via specialised corporate hospitals, in neurology, cardiology, endocrinology, nephrology and urology. In addition, India has a niche area in traditional medicines: Unani, Ayurvedic and homeopathic forms of treatment.

In terms of commercial presence, India now allows 100 per cent ownership of FDI in the health sector in some cases. Consequently, there is the trend for TNCs to invest in hospitals. Accompanying this have been some limited signs of a reversal of the brain drain. Other areas of the export of health service for India include medical studies, clinical trials and research, and telemedicine services.

Despite the tremendous growth in the Indian health service there are adverse impacts on the public health care system with significant social equity implications. These have been identified as including:

- benefits limited to the affluent urban population;
- catering to foreigners at the expense of local vulnerable populations;
- public hospitals remain substandard while private ones are of an international standard;
- internal brain drain;
- lack of access for the poor;
- commercial presence has not yielded benefits to the poor.

### **Bangladesh**

Bangladesh imports health care from India (consumption abroad). It opened its hospital sector to FDI in 1999. Since then, an internal brain drain causing mal-distribution (urban *versus* rural, etc.) has been observed in the country.

### **Box 4.9 Typical Impediments to Health Services Trade**

Overall, barriers to trade in health services (usually based on either public policy, protection or political economy justifications) include at least three broad categories:

1. *Restriction on entry and terms of practice for health service providers:* Generally effective on Mode IV and indirectly on III, these are: (a) border measures such as immigration regulations (quantitative limits on entry and eligibility conditions for entry); and (b) domestic regulations on cross-border mobility such as accreditation and licensing requirements, economic and local market needs tests and manpower-planning tests.
2. *Restriction on FDI in health and related sectors:* Foreign investment regulations include limits on equity participation; discriminatory taxes and other treatment; restrictive competition policies; economic needs tests; authorisation requirements and clearance from national ministries; and quantitative limits on the number, location, staffing and management of foreign establishments. Restrictive investment regulations in other areas such as insurance, education and telecommunications can also impact on FDI in health.
3. *Domestic infrastructural, regulatory and capacity constraints:* These are mainly deterrents, such as when a country does not have a well-developed regulatory and legal framework. There may be inadequate telecom facilities, low standards, low quality physical and human resources, a shortage of financial resources and a shortage of well-trained and skilled doctors, nurses, etc.

Other barriers to inflows of FDI include exchange controls (which impact on repatriation fees and expenses of commercial presence services providers and Mode IV) and discrimination against foreign health professionals (e.g. harsher working conditions).

### United Kingdom

The UK has adopted a conscious policy of exporting health services. Since 1998, the UK's National Health services overseas enterprises has been marketing its public health companies abroad (Mode I). The UK also imports health services via Mode IV. There is a persistent shortage of general practitioners, nurses and technicians. In terms of consumption abroad, UK citizens seek lower cost or alternative treatment in developing countries such as India, as well as in Canada and the US.

### Recommended strategies and measures

Strategies and measures to facilitate trade in health services that are beneficial to women and the poor would include:

For consumption abroad and commercial presence (Modes II/III):

- a regulatory framework to ensure that the benefits of upgrading are extended to all patients;
- well-enforced contractual agreements between government and private health care establishments to ensure access for those in need;
- system for transfer of resources and cross-subsidisation from the private to the public health care system;
- special provisions for the poor to obtain free or subsidised treatment.

For the movement of natural persons (Mode IV):<sup>5</sup>

- addressing the issue of better education and training for nurses and health care workers;
- rethinking and reformulating health sector reform measures in order to:
  - a) remedy the structural and systemic difficulties created by previous reform measures;

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<sup>5</sup> Adapted from WHO/AFRO–World Bank Joint Consultative Meeting, Ethiopia, January 2002.



- b) develop new pathways for enrolling prospective students (through consultation with and participation of doctors, nurses and health care professional associations);
  - c) devise better teaching curricula in the context of the promotion of better working conditions;
  - d) place focused attention on the problems faced by health care workers;
- looking for new opportunities within the context of the global economy in terms of new approaches to external/internal debt management that release domestic resources for the health sector;
  - establishing country-specific benchmarks for fairness in health reform, through dialogue and consultation with civil society and all stakeholders;
  - developing policies and programmes to bridge the institutional barriers between sector ministries (health, education, labour, finance and trade) as well as between medical/training schools and these ministries.

## Education<sup>6</sup>

Like health services, education is another important target for trade liberalisation. Public expenditure on education is about 6 per cent of GDP in OECD countries and 4 per cent in developing countries. The private education industry is around \$100 billion in the US alone (WTO, 1998). Education is traded internationally through the four modes as follows:

- commercial presence: setting up educational institutions abroad;
- cross-border supply: distance learning;
- consumption abroad: student mobility across borders;
- presence of natural persons: teachers working abroad.

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<sup>6</sup> This section is mainly an adaptation of Riley (2002) and People & the Planet and Trade Justice Coalition (2001).

From a gender perspective, education “is the area of social development in which women and girls have made the greatest advances during the era of global conferences on women. However, women continue to have a lower literacy rate than men in many parts of the world and girl children’s enrolment rate in primary schools is consistently lower than boys’ in many developing countries. The gap between girls’ and boys’ enrolment rates increases as the school level advances. There are some outstanding exceptions to this trend, such as in many Caribbean countries, where there is an on-going commitment to universal education. However, the exception is not the rule for women and girls in many developing countries” (Riley, 2002).

Education is one of the sectors that have experienced rapid and tumultuous changes in developing countries over the last twenty years. SAPs in many countries led to a reduction in access to and availability of schools, overcrowding and a decline in the quality of services. Although there is now a strong push to turn around this trend and regain new footing, the net result has been reduced educational opportunities for girls and boys. A case in point is Senegal, where reductions in budget allocations to education led to the introduction of a system whereby teachers have to teach up to one hundred students in two shifts (Fall, 1999). This practice has led to overwork and exhaustion. Though discontinued in wealthy areas, it is still widespread in poor and rural communities.

*SAPs in many countries led to a reduction in access to and availability of schools, overcrowding and a decline in the quality of services . . . [T]he net result has been reduced educational opportunities for girls and boys.*

### Educational challenges in the South

The implementation of GATS and the expansion of commitments in the educational sector are likely to exacerbate negative trends in education. These include:

- diminishing the role of the state/decentralisation of education systems through:
  - a) shifting the financing responsibility from national budgets to household budgets;
  - b) privatisation of the educational system;
  - c) imposing community-based and user fee systems for primary education;

- inadequate resources for universal primary education;
- insignificant movement towards universal secondary education;
- rising costs of private education.

Already GATS Article VI on Domestic Regulations “takes a minimalist view on the kinds of regulations that should govern services, including education” (Riley, 2002). Article VI 4 states that disciplines relating to qualifications, procedures, licensing and technical standards should be no more “burdensome than necessary to ensure the quality of the service”. However, ‘the quality of the service’ does not address the critical question of distribution of services that leaves populations in poverty.

#### **Box 4.10 Barriers to trade in education**

**Barriers to trade in education include:**

- restricting the mobility of students;
- restrictions on the translation of foreign degrees and qualifications;
- nationality requirements;
- the existence of government monopolies and high subsidisation of local institutions;
- inability to obtain national licenses;
- measures limiting direct investment by foreign education providers;
- needs tests and restrictions on recruiting foreign teachers.

*Source:* People & the Planet and Trade Justice Coalition, 2001

In the debate about what services sectors are exempt under GATS, the educational sector is highly contentious since in most countries it has private and public, commercial and non-

commercial aspects. This has been further fuelled by SAPs. Since education is often supplied on a commercial basis and in competition with other private sector services providers, it is ripe for liberalisation. There is likely to be a chilling effect on governments' ability and willingness to subsidise and regulate public education. A clear example of this is Zambia's decision to shift education costs to local communities and families. A recent study has shown that this programme has had a significant impact on the quality of basic education and has contributed significantly to a decline in enrolment and retention rates. The percentage decline in enrolment of girls is almost twice that of boys.

## Tourism

International tourism is increasingly becoming a significant part of global trade. It is one of the top five export categories for about 83 per cent of countries in the world. The South's share is about one-third of the total, and tourism is a fundamental source of income and foreign exchange for a number of developing countries. Tourism is lauded for having a higher positive multiplier spill-over effect than most economic sectors. It is widely claimed that for each job created in tourism there are nine jobs generated in other areas. To date it is the only sector in the services area where developing countries have consistent surpluses.

Tourism is linked to other areas of the economy such as agriculture, land and labour. It is also inextricably intertwined with air transportation, the major means used by tourists arriving in the South (a US\$414 trillion industry) and communication. Given this, the liberalisation of tourism has major implications for social development and gender equality.

The GATS regulates tourism via rules on the production, distribution and marketing of tourism services. Under the four modes or methods of supply, it covers:

- commercial presence: international hotel chains, branches or full ownership of hotel chains and agencies in other countries;
- cross-border supply: tour operators supplying services in other countries;

*It is widely claimed that for each job created in tourism there are nine jobs generated in other areas. To date it is the only sector in the services area where developing countries have consistent surpluses.*

- consumption abroad: international visitors;
- presence of natural persons: the activities of tour guides and hotel managers.

The direct impacts of the GATS as it relates to tourism could include:

- facilitating foreign companies to merge with or take over local companies, which is a threat to indigenous-owned and operated sustainable tourism initiatives;
- putting upward pressure on the exchange rate with implications for real wages, the price of land and other resources as well as for traditional exports such as agriculture, mining and fishing;
- having a potentially detrimental effect on eco and heritage tourism development;
- having serious implications for national tourism measures that attempt to generate net benefits to the poor (i.e. instead of promoting more foreign investment into the sector, the government promotes the development of local community ownership of tourism services in terms of historical or cultural tourism, or local bed and breakfast type arrangements);
- affecting governments' use of taxation policies to support industry and agriculture through domestic regulation rules;
- limiting governments' ability to mitigate the impact of the outflow of repatriated earnings from FDI, which will result in reduced welfare.

### Gender and tourism

The issue of tourism, development and gender equality is multi-dimensional. It includes:

- the low profile and persistent issue of the lopsided division of responsibility for social reproduction and community resource management between men and women;
- the differential and gender-based nature and consequences of access to social and economic resources;

- the pervasive reliance on (and at the same time the invisibility of) women's labour in the hospitality sector;
- the high profile issues of sex tourism and HIV/AIDS.

Both women and men at all levels of society are affected to different degrees by tourism and tourism development. Men in poorer classes may suffer similarly to poor women from the welfare-reducing impact of loss of access to resources. However, there are significant gender biases and inequalities in terms of access to employment and physical and social resources that mean women have greater vulnerabilities and constraints in enjoying the presumed benefits of tourism development.

These impacts take place across five categories: (1) formal sector employment; (2) informal sector activities and sustainable livelihoods; (3) women's social and economic status and empowerment; (4) sex tourism; and (5) women's influence and decision-making around tourism development policy.

### *1. Formal sector employment*

Like all other forms of employment, access to tourism-related employment is gender biased. Due to gender stereotyping, men and women are segregated into different occupations. Women are seen as cheaper labour than men, who tend to predominate in the formal sector of the tourism industry. In India, women make up a small percentage of the employed (2.98%) while in Sri Lanka it is somewhat higher (14.9%). In the Caribbean and Latin America the percentage is significantly higher (35%) (Badger, 1993).

Even where women are the main tourism workers, however, they tend to be found most often in menial, semi-skilled, domestic and service-type occupations. In Barbados and Jamaica, for example, women are employed in less stable, lower status work such as housekeeping, reception and other services. Due to lack of unionisation, these jobs require low skills, are poorly paid and have the least security of tenure and benefits. While men are often employed as stewards and porters, they tend to be over-represented in professional, managerial and supervisory positions. A recent survey of the literature on women and tourism points out that in the food sector "women are at the bottom of the hierarchy as restaurant helpers, cooks (not chefs) and waitresses – all the lowest paid parts . . . Chefs

*There are significant gender biases and inequalities in terms of access to employment and physical and social resources that mean women have greater vulnerabilities and constraints in enjoying the presumed benefits of tourism development.*

*The receptionist at the  
Octopus bar in the World  
Habitat complex, New  
Delhi, India*

INTERNATIONAL LABOUR ORGANIZATION/  
M. CROZET



in fancier restaurants where salaries and tips are substantial are more likely to be males” (Equations, 2000). Similarly, in the travel sector women are more often found in seasonal, part-time or minimum wage jobs. They “tend to dominate small travel agencies and the majority are travel agents but men control the major sectors: airlines, railroads, hotel chains, car rental companies [and] travel magazines” (Equations, 2000).

Given the conditions of work, generally low pay, lack of benefits and the absence of human resource development, serious concerns arise about women’s longer-term prosperity. Although increased tourism may mean more jobs for women, questions must be raised about the nature, quality and type of work activities available and the differential access of men and women to such opportunities.

## ***2. Informal sector activities and sustainable livelihoods***

Gender hierarchies also exist in the informal sector, where women predominate. They provide a wide range of services to tourists, including washing clothes, petty trading, cooking and childcare. Women are often involved in the production of local handicrafts and the marketing of such items while men provide services and support for women’s home craft production. In some cases, women produce the works and sell them in local markets while men control the wholesaling in urban centres.

Overall, some women in some countries may gain financial autonomy and a measure of economic independence from their participation in informal markets linked to the tourism trade. In an Equations survey, cases from China, Mexico and Panama are presented as examples of such gains. However, some of the same researchers also noted that women appear to be invisible and neglected in cultural and historical attractions, though they may figure prominently in advertising, post cards and souvenirs (Equations, 2000).

### **3. Women's social and economic status and empowerment**

Women's social and economic status and overall economic empowerment are influenced by their status and role in the family and community, their social reproduction responsibilities (as purveyors of food and essential services) and their access, ownership and control over resources. Tourism impacts greatly on all of these, negatively or positively. In terms of family and community life, tourism can either bring greater access to basic services (roads, water, electricity and sanitation) or it may reduce such access if services are diverted to hotels and resorts or there are restrictions on access to local resources due to tourism development.

In Western Samoa, for example, it is reported that tourism has led to the commoditisation of traditional beliefs and practices and undermined traditional customs that gave specific, well-defined rights and resources to men and women. Through its direct impact on local prices (land and food) as well as its indirect impact via changes in the exchange rate, tourism can add to women's social reproduction burden. It certainly will affect their access to and ownership of economic resources. Furthermore, if tourism development is promoted via tax breaks for hotels and the construction of tourist attractions, this will divert resources from the social budget with negative implications for social services. All of these have adverse impacts on women's daily lives, work activities, food and nutritional status, and access to education and health care. Thus women often pay the cost of tourism disproportionately while reaping few of the benefits (Fillmore, 2000).

On the positive side, increased employment in tourism can enhance women's financial and economic autonomy. Likewise, additional government revenue from the tourist sector may

*Although increased tourism may mean more jobs for women, questions must be raised about the nature, quality and type of work activities available.*



*Governments should take proactive measures to promote better jobs and working conditions at all levels of the tourism sector. Special policies are also needed to promote women's involvement at the higher and more lucrative levels.*

make more money available for the promotion of social development. Much therefore depends on a government's ability and willingness to use fiscal and monetary measures to ensure that there is social development linked to increased tourism development. Governments should take proactive measures to promote better jobs and working conditions at all levels of the tourism sector. Special policies are also needed to promote women's involvement at the higher and more lucrative levels. Whether such actions are possible and chosen by economic decision-makers will depend on two main factors: (i) the opportunities and constraints built into the multilateral trading system (MTS) that now governs tourism; and (ii) the activism of women and other social activists to influence governments to work in the interest of gender equity and human development.

#### **4. Sex tourism**

Women are often exploited in the marketing of tourism due to existing gender perceptions and stereotypes that dominate social relations in the host and sending countries. As seen above, even in the formal labour markets there is a manipulation of the sexual division of labour that shunts women to the lowest paid jobs. Likewise, there is much manipulation of gender differences in order to "feed the fantasy of the male tourist" (Badger, 1993). Very often this occurs at the benign level of women being offered opportunities in frontline (hospitality) positions. Such opportunities are linked to women's presumed feminine qualities of being more sociable and more hospitable than men. Increasingly, however, women are directly exploited as sexual playthings and earners of foreign exchange in prostitution and sex tourism. Many women are forced to take up this work because of poverty and lack of access to other options; others are trafficked against their will. In either case, they are exposed to tremendous health hazards and gender-based violence.

Sex tourism has been raised as a key issue in the appeal of South-East Asian destinations. This is particularly the case in Cambodia and Thailand where there is an influx of young girls from Burma, China, Indonesia and Laos to work in bars and brothels. Children are often bought and sold like cattle in Bangkok or the beach resorts and there is an active slave trade

in young sex workers (New Frontiers, 2001). Many vulnerable women and young girls start as housekeepers, go on to work in *karaoke* bars or nightclubs and then are forced into sex work. Sex tourism is also an enduring feature of Caribbean tourism. While in some cases, such as the gay and paedophilia markets, the customers are exclusively male, there is high incidence here of female customers patronising male sex suppliers.

### **5. Influence, power and decision-making**

In general, the political and economic fora that structure and drive tourism policy and tourism development are dominated by male economic agents. Few women get to play an active role in shaping tourism policy and practice at an official level. Increasingly, however, women in their many roles are finding ways to have an active voice. The struggle over the nature, extent and pace of further liberalisation in this and other sectors on the WTO agenda is now on-going. This arena provides a good space for women's activism on these issues locally, nationally, regionally and globally.

*Increasingly ... women are directly exploited as sexual playthings and earners of foreign exchange in prostitution and sex tourism.*

## **Pointers for Further Discussion**

Apart from agricultural liberalisation and the AOA, it is quite likely that trade liberalisation of services and the GATS have the most powerful and direct impact on the lives of women and men in developing countries. They raise a large question about the long-term possibilities for women and men to grow and evolve as contributors to their nation and society as whole. As should be clear from this very preliminary approach to casting a gender lens on services, the terrain is vast and complicated. A lot of uncertainties exist about the nature and scope of services liberalisation – including where it will all eventually end, who it will benefit and who will be most disadvantaged.

This has been a first attempt to articulate the key concepts, policy challenges and possible impacts on social and gender relations of a few of the different sub-sectors in services. The questions in box 4.11 and the recommendations section of Chapter 7 provide additional ideas and directions for future policy-oriented research and interventions in this area.

**Box 4.11 Key Questions on Gender and Trade in Services**

1. What is the extent of liberalisation of trade in the different sub-sectors of the services sector – education, health, tourism, water, sanitation, electrification – that has occurred in developing countries?
2. What factors are typical attractions or impediments to trade in the different sub-sectors and what are their gender dimensions?
3. What are emerging forms of health services and what are their gender dimensions?
4. What are the national and local trade-offs between social and development objectives and commercial/liberalisation of trade in services? What are the gender dimensions of these trade-offs? What supporting or offsetting programmes and policies might be needed to mitigate the most negative effects?
5. What kinds of supporting policies are needed to ensure trade in the different sub-sectors does not occur at the expense of national priorities and the interests of the poor – especially poor women – under SAPs, under GATS and under regional arrangements?
6. What is the nature of the substitution of private for public funds and services, private-public partnerships (or private finance initiatives) and private sector accounting rules to public services? What threat does this pose to universal coverage, solidarity through risk pooling, equity and comprehensive care?

Adapted from Price *et al.* (1999)

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## 5. Investment Trade Liberalisation

### Introduction

Trade and investment liberalisation are centrepieces in the export promotion growth strategies of developing countries. However, the relationship between trade, investment and economic development is complex and controversial. Key issues include: (a) the location and protection of production facilities; (b) the contestation of domestic markets; and (c) the sovereign right of host governments to regulate foreign investment.

While privatisation and de-regulation are linked to International Monetary Fund (IMF) and World Bank economic reform programmes – and are seemingly unrelated to the operations of global trade rules – the removal of restrictions on foreign direct investment (FDI) is increasingly coming under the discipline of the multilateral trading system (MTS). In addition, a much broader and deeper treatment of investment can be found in the over 2,000 bilateral investment treaties (BITs) as well as in plurilateral and regional trade agreements.

The General Agreement on Tariffs and Trade (GATT) 1947 had few specific rules on investment. In earlier times, there was a perspective that investment was an alternative to trade. This could be the case, for example, if FDI led to full production of a good (replacing trade). In this framework, trade is also seen as less risky than FDI as it involves less sunk cost (UNCTAD, 2002). However, many governments from the North argued that GATT's obligation of national treatment (Article II.4) and non-discrimination (Article XI) applied to investment in some cases. Southern governments disagreed that the GATT had competence in the investment area and preferred bilateral approaches.

Globalisation and the rise of integrated international production has led to the dominance of the view that trade and investment are complementary and inextricably intertwined processes. Disciplines on investment are scattered throughout

*Globalisation and the rise of integrated international production has led to the dominance of the view that trade and investment are complementary and inextricably intertwined processes.*

*Since foreign investment liberalisation, like trade liberalisation, is increasingly dependent on female labour, both have important implications for gender equality.*

the World Trade Organization Agreements (WTOA). Trade and investment were explicitly included under GATT 1994 and these measures have been encapsulated as the agreement on Trade-Related Aspects of Investment Measures (TRIMs). Investment disciplines are also found in the GATS, the Agreement on Subsidies and Countervailing Measures (ASCM) and the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement. In addition, there is a Working Group on Trade and Investment. The GATS covers investment in services (commercial presence) while the ASCM applies to investment incentives that are subsidies (actionable and non-actionable). The latter obligated most countries to eliminate export subsidies (on goods) by 1 January 2003.

Critical factors in trade and investment liberalisation are:

- the privatisation of formerly state-controlled areas of the economy, including public services such as water and utilities;
- the de-regulation of labour and commodity markets;
- the elimination of restrictions on FDI.

Since foreign investment liberalisation, like trade liberalisation, is increasingly dependent on female labour, both have important implications for gender equality. At the same time, existing gender biases can affect the outcome of trade and foreign investment policies. This raises serious questions about the efficacy of such policies that ignore the underlying gender realities in an economy.

### **Investment in the Context of Economic Development and International Trade**

Most often, investment is defined as a capital transaction in which the investor expects a return. It can therefore cover almost every kind of asset (excluding government grants and contractual arrangements for the supply of goods and services). Foreign investment refers to private lending or ownership purchase of bonds, stocks, use of patents or copyrights or ownership or control of equity in a physical entity in a foreign country. Foreign investment is further classified into two broad categories: foreign direct investment (FDI) and portfolio investment (see box 5.1).



### Box 5.1 Types of Foreign Investment

**Foreign direct investment (FDI):** an investor based in one country acquires an asset in another country with the intent to manage that asset. The percentage of allowable foreign ownership varies from country to country. Historically, 10 per cent ownership by the investing firms has been an official definition of FDI for the US. Internationally, 10 per cent or above of ownership is accepted. However, the IMF also accepts ownership of less than 10 per cent plus an effective voice in management of the enterprise as FDI. According to the IMF, FDI is investment that reflects a lasting (long-term) interest in enterprises residing in another country. The definition of lasting and long-term may be time-based or the FDI can be based on degree of ownership and control. In the General Agreement on Trade in Services (GATS), FDI is referred to in terms of commercial presence.

**Portfolio investment** refers to investment in foreign stocks, bonds and other financial instruments (such as short-term bills of credit maturing in a year or less).

*A tea factory in Sri Lanka, where tea – along with rubber and coconuts – accounts for almost 41 per cent of export earnings*

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT (IFAD)/G. BIZZARRI

*FDI may have undesirable impacts on poverty eradication and gender equality strategies, the environment, labour laws, working conditions and the overall area of economic development.*

### **Investment and economic growth**

Conventional wisdom would argue that FDI is a potent ingredient in development because it allows for the transfer of technology and capital and is hence a catalyst for development. FDI can bring about:

- technology transfer;
- human resource development;
- increased production;
- efficiency in the use of national resources;
- improvement in the quality of production factors;
- forward and backward linkages with domestic enterprises;
- increased inflow of investment funds to the balance of payments.

All of these contributions are expected to lead to increases in exports, savings and investments and faster growth of output and employment. However, FDI may also have undesirable impacts on poverty eradication and gender equality strategies, the environment, labour laws, working conditions and the overall area of economic development. It may make little contribution to social product or capital formation if: (a) its predominant form is cross-border mergers and acquisitions (e.g. through privatisation); (b) there is over-reliance on artificial incentives (tax concessions and subsidies); and (c) there are inadequate human resources and an inappropriate infrastructure.

The empirical reality is that FDI is not automatically and unambiguously beneficial to development. Therefore, governments must:

- proactively work to ensure a balance between domestic and foreign investment;
- develop strategies at sectoral levels as well as macro-level policies to promote sustainability of the development process;

- introduce measures such as performance and technology transfer requirements;
- work to ensure positive spill-over and increase the linkages between local suppliers and FDI;
- ensure increased local application and development of leading edge industrial upgrading and extensive local linkage via technology transfer.

### **Box 5.2 Investment-related Trade Measures**

Investment-related trade measures include:

- **local content requirements;**
- **incentives tied to exports;**
- **requiring foreign investors to purchase a certain quantity of components locally;**
- **requiring foreign companies to export products;**
- **requiring foreign companies to hire a certain percentage of local workers and managers;**
- **requiring foreign companies to share know how/new technology with the local workforce;**
- **restricting the import of components used in the production of goods;**
- **restricting foreign companies' access to foreign exchange.**

Research shows that it is only in this manner that a country can ensure that it does not simply become a site of assembly operations for transnational corporations (TNCs) and can guard against some of the inherently de-stabilising effects of FDI on the balance of payments.

Historically, governments have tried to secure economic development goals and to protect the balance of payments by regulating FDI through so-called 'investment-related trade measures' (see box 5.2). In today's environment, it is argued that these measures are directly or indirectly distorting to



*FDI ... has significant development dimensions.*

trade. Therefore, there is increasing pressure for greater and greater liberalisation of investment under the WTO. The idea behind this is to radically reduce or eliminate government measures that apply to foreign companies. Before examining this issue in more detail, it is important to highlight some of the interactions and inter-linkages between foreign investment and trade.

### Foreign investment and trade

Foreign investment and trade have a reinforcing relationship and facilitate each other's growth. However, foreign investment is a more complicated issue than trade since it is subject to expropriation and compensation disputes, taxation payments and financial transfers. FDI in particular has significant development dimensions, including implications for trade, domestic savings, consumption, finance, technology, macro-economic policy and strategic development policies at sectoral levels.

Overall, the interactions between foreign investment and trade may create a positive impact in terms of:

- increased production;
- increased trade flows;
- diversification of the composition of exports.

The degree to which FDI has a positive impact on trade depends on the motives of the investment – whether it is seeking:

- access to natural resources (a positive trade impact);
- access to markets and consumers (less of a positive impact);
- access to strategic assets such as research and development (not a common motive for attracting FDI in developing countries);
- the exploitation of the comparative advantage of a location, such as:
  - a) cheaper labour or component outsourcing (mainly developing countries);

- b) production of highly differentiated products adapted to the taste of local consumers (not common for developing countries) (UNCTAD, 2002).

### **Box 5.3 Trade and Foreign Capital Flows**

Private and commercial capital inflows in the global economy increased from \$25 billion to \$227 billion between 1988 and 1998 (World Bank, 1999). The majority of this flow (\$155 billion) came from FDI. Private debt flows (commercial bank lending, bond lending and short-term capital such as bills of credit) accounted for \$58 billion and portfolio equity flows \$14 billion. The distribution of capital flows, especially FDI, is highly skewed in favour of a few countries (Argentina, Brazil, Chile, China, Greece, Hungary, Indonesia, Malaysia, Mexico, Nigeria, Poland and Thailand). The distribution to low-income countries in the same period were \$15.2 billion in total net private flows, \$4.7 billion in international capital market (with portfolio equity flows of \$0.4 billion) and \$10.6 billion in FDI (World Bank, 1999). Very little flowed to sub-Saharan Africa (except Nigeria) where private capital flows made up less than 2 per cent of GDP (UNCTAD, 2000).

The interaction of investment and trade can also have a negative balance of payments effect if FDI is heavily reliant on large imports of capital and intermediate goods. Negative impacts of FDI are also linked to restrictive business practices and strategies of TNCs. These include cases where they target the domestic markets and/or foreign affiliates are subject to export restriction by parent firms and seek tariffs and other protection in the host country. The importance of FDI and TNCs is illustrated by the fact that:

- the 500 largest TNCs control about 70 per cent of world trade and 80 per cent of foreign investment;
- there are 800 free trade zones in 102 countries;

*TRIMs ... focuses on measures that are seen to be distorting to trade in goods, prohibiting those that are seen as inconsistent with the basic provisions of GATT 1994.*

- FDI has replaced Overseas Development Assistance (ODA) as the largest provider of financing for some countries;
- FDI in the 48 LDCs is very small and the level of concentration is higher than with ODA: the top ten FDI recipients accounted for 79 per cent of total FDI while ten recipients accounted for 32 per cent of ODA;
- most FDI originates from developed countries – only about 10 per cent came from developing countries (1990–94), mainly China, Malaysia, Republic of Korea, Singapore and Taiwan (Mehta, 1999).

Liberalised trade, which is promoted by eliminating restrictions on imports, privatisation and de-regulation, smoothes the way for inflows of foreign investment. However, it is also the case that trade restrictions may encourage FDI as a way of securing a marketing foothold (so-called ‘tariff jumping’).

### **The Agreement on Trade-Related Aspects of Investment Measures (TRIMs)**

Governments try to control the inflow and outflow of foreign investment so as to increase the positive benefits and mitigate the negative effects. TRIMs covers governmental measures relating to investment that have direct effects on trade (see box 5.4). It focuses on measures that are seen to be distorting to trade in goods, prohibiting those that are seen as inconsistent with the basic provisions of GATT 1994. As such it specifies a minimum set of rules for the treatment of foreign investors.

Trade-related measures that are in contravention of obligations under the GATT 1994 (Articles III and XI) have to be phased out within a set period. This is two years for QUAD countries, five years for developing countries and seven years for LDCs. Review of TRIMs is part of the built-in agenda (which involves, among other commitments, new negotiations in major sectors such as services and agriculture). Article IX of the agreement mandates that the Council on trade in goods should review the operations of TRIMs and propose amendments. The Council should also to discuss whether TRIMs should be complemented with provisions addressing investment and competition policies.

### **Box 5.4 Foreign Investment Measures and TRIMs**

The agreement on Trade-Related Aspects of Investment Measures (TRIMs) focuses on measures that are seen to be trade restricting or trade distorting.

*Covered and prohibited under TRIMs:*

- local content requirements in terms of value, volume or proportion;
- trade balancing requirements that link amount of imports to be created in local production to the amount of exports;
- foreign exchange restrictions that allow foreign exchange for the import of a product used in local production only up to a maximum level related to the foreign exchange inflow of the firm;
- restrictions on repatriation of dividends;
- ceilings on the equity holdings of foreign investors;
- export controls.

*Not covered under TRIMs:*

- minimum export requirements;
- technology transfer requirements;
- employment obligations;
- minimum equity requirements;
- export performance requirements;
- joint venture requirements;
- research and development requirements.

Countries are technically still able to use balance of payment measures.

Currently, even with the limited rules on investment, the TRIMs agreement constrains the ability of developing countries' governments to regulate FDI to promote development.

This is because of the prohibition against traditional and useful tools such as domestic or local content requirements on labour and inputs used in the production process. According to the South Centre (1999), such tools are necessary in LDCs for at least five reasons:

1. encouraging domestic activities in raw material and intermediate input sectors;
2. upgrading of inputs of production;
3. prevention of wastage of foreign exchange in the import of raw material and intermediate output;
4. ensuring linkages between domestic and foreign direct investment activities;
5. encouraging the development of local firms and entrepreneurship to ensure and promote development.

### **Further Investment Liberalisation**

Although some disciplines on investment have thus been incorporated into the WTO, overall they are limited in scope and lack coherence. Hence there has been a significant push towards greater investment liberalisation. Negotiations were underway on the infamous Multilateral Agreement on Investment (MIA), but these were later abandoned after strong objections from global civil society and some governments. Since then the EU and a few governments have been trying to reintroduce this into the WTO.

The debate has centred on nine main controversial areas:

1. the rights of investors;
2. non-discrimination (national treatment and Most Favoured Nation);
3. transparency (blanket, readily transferable);
4. obligations to provide information about regulatory measures – this can be very broad and cumbersome and the publication of information is difficult for the South (it incurs administrative charges and is costly to implement);

5. notification of home country measures that may affect investors;
6. expropriation and compensation;
7. taxation;
8. payments and financial transfer;
9. dispute settlement.

The debate is very politically charged, especially with the Mandate from the Doha Ministerial. This Mandate stated the case for a multilateral framework “to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly foreign direct investment that will contribute to the expansion of trade . . . [W]e agree that negotiations will take place after the Fifth Session to be taken, by explicit consensus, at that session on modalities of negotiations”. Doha has drastically changed the tenor of the debate from ‘if’ to ‘when’ multilateral discipline should be imposed on investment, and accelerated momentum toward investment negotiations. The Mandate states that further work “will focus on the clarification of: scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments based on a GATS-type positive list approach; development provisions; exceptions and balance-of-payments safeguards; consultation and settlement of disputes between members”.

In this context, the role of the international financial institutions (IFIs) is critical as they impact on the day-to-day operations of policy in many developing countries. The World Bank and IMF – through their structural adjustment, stabilisation and pro-private sector programmes – have a strong interest in driving forward the process of trade liberalisation generally, and investment liberalisation in particular.

*Doha has drastically changed the tenor of the debate from ‘if’ to ‘when’ multilateral discipline should be imposed on investment, and accelerated momentum toward investment negotiations.*

## Gender Issues in Investment Liberalisation

Several gender concerns arise in the discussion of investment liberalisation. Some of the most important include:

- FDI’s impact on the quantity and quality of female and male employment;

*FDI's contribution to a rapidly accelerating climate of extreme de-regulation of labour markets ... [has] implications for women's health and morbidity.*

- foreign investment's overall impact on the nature, size and growth potential of women-owned and women-operated small and medium-sized firms in host countries (through its impact on production, resource allocation and competition);
- FDI's contribution to a rapidly accelerating climate of extreme de-regulation of labour markets and the consequent implications for women's health and morbidity;
- corporate social responsibility in terms of the environment, social concerns, working conditions and the transfer of technology;
- performance requirements on FDI regarding technology transfer, the strengthening of domestic capabilities/linkages to domestic enterprises (especially small and medium-sized enterprises) and regional development promotion.

Other indirect impacts of FDI on gender equality include its effect on:

- taxation/tax revenue and the implication for public expenditure and hence allocation to the social sector;
- the availability of different types of infrastructure (roads, electrification) and social services, e.g. if expenditures are switched away from providing agricultural feeder roads to projects that secure operating space and transportation for attracting FDI;
- the exchange rate and the balance of payments;
- the local investment/credit market if multinational corporations (MNCs) seek local funding.

Most studies on gender and FDI tend to concentrate on the employment dimension. A few explore the broader questions of resource allocation and exchange rate effects. Some of the emerging information is presented below.

### **Foreign investment and gendered employment patterns**

FDI is generally expected to absorb labour, provide income and hence help to reduce poverty. However, there are issues about

the quality of employment (wages, working conditions, contribution to knowledge and skills upgrading) of male and female workers and managers. A recent study of trade and investment in Bangladesh showed that inflows of FDI and trade liberalisation did not significantly improve the factors that impact on poverty such as real wages and employment (Rahman and Bhattacharya, 2000). There was a decrease in the percentage of women in the household and the agricultural sector and a rising percentage of women working in manufacturing and services.

Women are still concentrated in a limited number of sectors, such as embroidery, textiles and clothing and in export-oriented assembly and manufacturing. It is estimated that of the 4 million employed world-wide in TNCs in the 1990s, women workers comprised 60–80 per cent (Tzannatos, 1998). However, the rise of subcontracting and domestic outwork is making these numbers more difficult to assess since MNCs connect via local intermediaries. The jobs women hold “in manufacturing in foreign affiliates and in enterprises linked to TNCs through non-equity arrangements have mainly been low skilled” (UNCTAD, 1999).

*A textile factory in the Philippines*

INTERNATIONAL LABOUR ORGANIZATION/P. LISSAC





*MNCs in electronics and EPZs are very footloose due to the intensity of international competition, production and trade cycles in garments and electronics and low penalties for high labour turnover.*

Product mix is key to determining the sex ratios of employees. For example, while electronics and garment manufacturing employ mostly women, more industrial sectors employ more male labour. There are also differences in terms of marital status, with younger women found in electronics, and older and married women in textiles and garments. Garments and light assembly seem to be more prone to subcontracting and home-working than electronics. MNCs in electronics, and EPZs are very footloose due to the intensity of international competition, production and trade cycles in garments and electronics, and low penalties for high labour turnover. Even when MNCs are stable, they are able to effectively utilise the threat of moving to strengthen and maintain their bargaining power.

In addition, there are concerns about the health and safety of the work and the burden of social reproduction and paid work. Such concerns arise whether women are engaged in the formal sector or in subcontracting and homeworking. Women's wages may also have little effect on their overall level of economic empowerment if the family structure and household dynamics are such that they do not control the income that they earn. These factors may also be a constraint on women's ability to take up paid work. In patriarchal family structures they may only be available for homework that must be engaged in side by side with housework. Different types of households (whether patriarchal, female-headed or bargaining) lead to different reservation wages in MNCs.

### **Foreign investment, production, resource allocation and gender**

Foreign investment is an important component in export promotion growth strategies of developing countries. Privatisation of state-owned entities, de-regulation of labour and commodity markets and the elimination of restrictions are critical for attracting FDI. While the intent is to increase the level of competition and decrease the level of protection, such a policy agenda often translates into adverse consequences for local small and medium-sized businesses that may not be able to compete with the big well-endowed MNCs. This has serious implications for women entrepreneurs, including micro-enterprise, especially in the areas of agriculture and craft.

At the meso-level there are issues of transaction costs, imperfect information, gender biases, market inter-linkages and asymmetry of property rights. Thus, for example, the expansion of investment opportunities due to the infusion of foreign investment may not be available to women entrepreneurs due to gender biases that lock women either into or out of particular markets.

Privatisation of the services sector is a particularly strong pull factor for FDI in Latin America and the Caribbean. This trend will be reinforced by the GATS. The critical issue here is the availability and affordability of safe water and health care and adequate education and training.

### Foreign investment, exchange rate effects and gender

The economic effects of both trade and investment work through macro-policy and exchange rate policy. The link between foreign capital inflow and the real economy of the host country operates via a two-way transmission mechanism: the exchange rate and the interest rate. It may be either growth inducing or growth stagnating. Capital account surplus and positive capital inflow are both associated with pressure on the exchange rate. These may or may not be exacerbated by the actions of the central bank to either keep the exchange rate stable by controlling domestic liquidity and/or resort to measures such as raising the domestic interest rate. This has important consequences for domestic investment. Either way there are adverse effects on employment and purchasing power (and hence distributional consequences for different groups in the society). Particular effects are likely to be deep, traumatic and longer lasting for the marginalised and the poor who have few resources to offset such economic shocks. Women tend to be predominant in these groups.

Given women's responsibility for social reproduction, gender bias in accessing credit and declining purchasing power results in an increasing burden on them to secure alternative food sources as well as generate additional income. Raising interest rates is likely to crowd out female entrepreneurs seeking credit for initiating or expanding businesses. The literature on structural adjustment provides ample evidence in this regard. Other areas where foreign investment policy may have

*Given women's responsibility for social reproduction, and gender bias in accessing credit, declining purchasing power results in an increasing burden on them to secure alternative food sources as well as generate additional income.*

*Governments must have full control to determine, develop and enforce disciplines with regard to economic, social, environmental and administrative regulations in favour of economic development and social and gender equality objectives.*

some strong effect for women include under the TRIPS agreement (see Chapter 6). This has both trade and investment implications that may have negative impacts on women in their multiple roles as farmers, healers, and developers and conveyors of traditional knowledge and technology.

### **The implications for gender of further investment liberalisation**

The discussion of a more comprehensive approach to investment within the WTO is not without significant but under-recognised gender dimensions. Any greatly expanded investment agreement, such as an MIA, would obligate governments to change tax and company laws to remove existing favourable treatment of local firms and to create favourable conditions for foreign investment (South Centre, 1999). In this context, important issues include the right to regulate national treatment/subsidies and corporate social responsibility.

#### ***Right to regulate***

The special and differential component of any investment provisions must be premised on the right of governments to regulate in the public interest. Because of investment's critical relationship to trade and development, safeguard provisions (such as transfer of payments, protection against import surges and balance of payments safeguards) are necessary but not sufficient to preserve the right to regulate. Governments must have full control to determine, develop and enforce disciplines with regard to economic, social, environmental and administrative regulations in favour of economic development and social and gender equality objectives.

This is particularly important for the medium- and long-term interests of women workers, entrepreneurs and farmers. Specific and special programmes may be necessary within the context of industrial policy to protect their health, livelihood and sustainability of income.

#### ***National treatment/subsidies***

The issue of national treatment could pose serious drawbacks for women's empowerment in terms of the cooling effect on subsidies or grants set aside for local, women-owned businesses



*An informal school in Pakistan for children who sew footballs*

INTERNATIONAL LABOUR ORGANIZATION/  
G. CABRERA

(which tend to dominate the micro- and small business sector). Such subsidies or grants may violate WTO rules unless such benefits could also be extended to foreign investors. Governments are also likely to be deterred from instituting programmes that they would have put in place as part of gender mainstreaming commitments.

### ***Corporate social responsibility (CSR)***

Corporate social responsibility (CSR) is critical to any discussion on national, regional and international investment rules in the context of development and trade. A gender-sensitive approach to CSR must be a central part of discussions in both: (a) the traditional areas of development obligations, social and labour standards and consumer protection; and (b) the emerging areas of corporate governance, ethical business standards and human rights.

One starting point is a gender analysis of the already existing set of non-binding rules. These include the OECD Guidelines for Multinational Enterprises (MNEs), the ILO Tripartite Declaration of Principles concerning MNEs and Social Policy, the UN Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices and the Global Compact of the United Nations Secretary-General. From the vantage point of gender and social equality, it is important to determine how much attention is paid to the occupational health and safety of workers,

gender equality, environmental protection and overall sustainable development. In addition, CSR should also promote the transfer of technology and linkages with small and medium-sized domestic enterprises.

## Pointers for Further Discussion

Investment and its regulation at the multilateral level is quite a controversial area. Some developing countries and development, gender and social activists are gravely concerned about the overall effect of rules that would attempt to impose a single model for investment to cover all countries regardless of their levels of development. This concern is even more acute in terms of the issue of men's and women's roles and contribution to investment, trade and development. This chapter has attempted a simple sketch of the possible terrain and the scope of discussion and policy interventions that could be undertaken in approaching investment discussion in the MTS from a gender perspective. The questions posed in box 5.5 and the guidelines and recommendations in Chapter 7 are meant to provoke more and deeper thinking on this issue.

### **Box 5.5 Key Questions for Gender and Investment**

- 1. What are the scope and opportunities for women to move into managerial and middle-level jobs in the trade and FDI sector?**
- 2. To what extent does gender play a role in the level and structure of investment by industries and activities in the country?**
- 3. What are the employment and human resource development issues of trade and investment in terms of men and women? What are the income-generating activities of men and women that arise directly or indirectly from trade and foreign investment? How sustainable are these and what mechanisms are needed to ensure sustainability?**

**Box 5.5 (continued)**

4. What is the quality (in terms of wages, working conditions and skills development) that trade and FDI provide to men and women?
5. In terms of non-equity arrangements (licensing, franchising and subcontracting), what is the difference in the ability of male-owned *versus* female-owned firms to participate? Which gender dominates, in what type of arrangement? What are the particular gender constraints to accessing each type of arrangement?
6. How are male and female businesses able to participate in the supply and distribution chain of MNCs? Are these established and what degree of co-ordination, technical and financial assistance are needed by men's and women's businesses to effectively participate in them?
7. What are the capabilities of domestic firms, in particular women-owned firms, to benefit from the 'spill-over' effect of the presence of MNCs? What is the most effective and gender-sensitive role of government in facilitating this process?
8. To what degree are women gaining high-level managerial positions in MNCs?
9. What are the gender impacts of the costs and benefits of investment incentives (fiscal and financial) for attracting FDI?
10. What are the possible gender consequences of the application of the national treatment principle to investment?

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## 6. Intellectual Property Rights (IPRs) Trade Liberalisation

### Introduction

Intellectual property rights (IPRs) are ownership rights and legal protection granted to ideas, inventions, artistic creations, technological innovations, etc. The Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement obligates all WTO members to apply uniform standards to such protective devices as patents, copyrights and trademarks as well as to other areas such as trade secrets (see box 6.1). This means that developing countries have to introduce IPR legislation similar to that in the advanced developed countries. While the TRIPS agreement is relatively new (since 1995), and developing countries are at different stages of the implementation process, the pressure to change IPR laws has been increasing since the early 1990s. This includes: (a) prodding by the US government (via bilateral agreements and the threat of being 'listed' under section 301 of US Trade Law); (b) countries' commitments to numerous international arrangements; and (c) the lobbying efforts of pharmaceutical companies. Many developing country governments are thus intensely involved in an on-going process of revising national legislation in this area.

Other IPR frameworks include the International Union for the Protection of New Varieties of Plants (UPOV), the Convention on Biological Diversity (CBD) and the Food and Agriculture Organization (FAO) International Undertaking on Plant Genetic Resources (FAO-IU) (see box 6.3). UPOV has been revised several times, with the latest version (1991) being the most restrictive and pro-breeders' rights. Under the TRIPS agreement, countries are required to enact IPR legislation for plant varieties by 2000 for developing countries and 2005 for LDCs. UPOV 1991 is increasingly being pushed by the major developed countries as the model for such legislation, although countries can adopt a *sui generis* (meaning 'of its

own kind' or 'unique') system. Most people speculate, however, that this novel option actually means a soft patent system for seeds (GRAIN, 1997).

### **Box 6.7 Intellectual Property Rights (IPRs) in the MTS**

The areas covered by the TRIPS agreement are:

- copyright and related rights;
- trademarks, including service marks;
- geographical indications (i.e. preventing the misuse of place names for products such as Scotch or Roquefort cheese);
- industrial designs;
- layout-designs (topographies) of integrated circuits;
- undisclosed information, including trade secrets;
- patents – protection must be available for both products and processes, in almost all fields of technology, and must be available for inventions for at least 20 years.

Governments can refuse to issue a patent for an invention if its commercial exploitation is prohibited for reasons of public order or morality. They can also exclude diagnostic, therapeutic and surgical methods, plants and animals (other than micro-organisms) and biological processes for the production of plants or animals (other than microbiological processes). Plant varieties, however, must be protectable by either patents or a *sui generis* system such as the breeders' rights provided in the conventions of the International Union for the Protection of New Varieties of Plants (UPOV).

*Source:* World Trade Organization website:  
[http://www.wto.org/english/tratop\\_e/trips\\_e/trips\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/trips_e.htm)



The TRIPS agreement is the only IPR mechanism in the multilateral trade and economic system that is part of a legally binding framework backed by a strong dispute settlement mechanism with the threat of trade sanctions. Thus it has the greatest impetus for generating re-thinking, re-evaluating and re-designing national legislation, policy and practice regarding instruments for protecting IPRs. Proposals to extend patent protection to plants, micro-organisms, biotechnological techniques, food and essential drugs raise numerous ethical, legal and developmental problems for many developing countries.

*The TRIPS agreement is ... part of a legally binding framework backed by a strong dispute settlement mechanism with the threat of trade sanctions.*

### Gender Issues in the Protection of IPRs

There are serious gender and equity issues underlying the technical, apparently gender-neutral administrative decision-making issues regarding a *sui generis* system. These arise not only in terms of widely recognised structural inequalities between men and women in terms of access to resources such as land, credit and technical assistance but also in terms of the issues of food security and public health. There are fundamental questions over, for example: (a) the possible conflicting applications of international agreements; and (b) the rights of plant breeders and/or farmers *versus* the protection of the public interest. These are not issues that can be resolved later after all the presumed technical niceties have been worked out. Rather, in light of the abundance of literature that shows that trade policy and gender are inextricably bound in terms of outcome, they need to be addressed in the initial stages of trade policy formulation, especially in the rewriting of IPR laws.

It is therefore critical that developing country governments take into account the existence of structural and inequality issues in their economies – including class and gender constraints in terms of access to existing resources – and how the proposed changes to patent laws will impact on these. This is especially important with regard to the availability, safeguarding and enhancement of biodiversity. The TRIPS agreement has significant gender implications in at least four broad areas: agriculture and biodiversity, public health, traditional knowledge and technology transfer.

### Agriculture and biodiversity

In many developing countries women work as farmers and natural resource managers. They contribute to national agricultural production, maintain the environment, uphold biodiversity and ensure family food security. Women account for 70–80 per cent of food grown and eaten in sub-Saharan Africa, 65 per cent in Asia and 45 per cent in Latin America and the Caribbean (World Bank, 1996). Women are also active in improving seed varieties in many countries.

However, women often lack the necessary cash and credit to purchase fertiliser and seed. Men as a group tend to have greater access to finance and also tend to plant hybrids such as maize as cash crops. Women rely intensively on the use of natural and genetic resources. It has been noted that when women have access to fertiliser and training they often achieve much higher yields than men do. For example, the World Bank noted that yields among women farmers in Kenya could increase by 9–24 per cent if they had the same experience, input and education as men. In addition, women face other fundamental constraints such as weak or non-existent ownership of land and insecurity of tenure. Even where women have access to land, they may lack access to technology and inputs such as seeds.

Biodiversity is an area of critical importance to women, thus the vital need for gender-sensitive farmers' rights and plant breeders' rights (PBR) instruments. More expansive PBR provisions, which impose restrictions on the purchase, sale, exchange or use of seeds, are likely to have a significant adverse impact on the survival of small farmers, many of whom are women. At stake in the patent discussion are rural development and the income and sustainable livelihood-generating activities of farmers. Patents in agriculture also have implications for food security, nutrition, traditional (or indigenous) knowledge and technological transfer in terms of future growth and productivity and the competitiveness of the agricultural sector.

Geographic indications in the TRIPS agreement currently offer protection to wines and spirits in terms of kind, type and style associated with a particular geographic location. However, many developing countries would like to expand this



to include agricultural commodities such as teas and rice. Such protection would require collective certificates and collaborative arrangements on research and cross-licensing. While it would safeguard against the adverse impact of competition, attention must be paid to how the collective certificate would be made within a country or region and who would be the licensee. Questions need to be asked about, for example: (a) the impacts this would have on existing farmer groupings (poor, rich, men, women or different ethnic groups); and (b) which groups are likely to be covered under the certification and which groups are likely to be disadvantaged because of historic gender, social and other cultural biases.

*Women such as these working in their home garden in Sri Lanka play a crucial role in biodiversity*

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G. BIZZARRI

### Public health

The public health dimension of the TRIPS agreement boils down to at least four critical areas of concern:

1. The TRIPS agreement and countries' latitude in creating measures that will reduce or restrict the effective monopoly of patent holders over medicines. This means the extent to which governments can over-ride the agreement's provisions in order to secure cheaper medicines.
2. The scope and rights of countries in determining the grounds for safeguards such as compulsory licensing (i.e. when governments can authorise the production of a patented product without the permission of the patent holder). This is justifiable:
  - a) when the patented medicine is essential but unavailable due to lack of supply or an unreasonably high price;
  - b) for public non-commercial use;
  - c) to remedy anti-competitive practices such as high prices due to domination of the market and parallel imports (also know as 'grey market' imports, i.e. cross-border trade in a product without the permission of the manufacturer or publisher because of a significant price difference for the same good in different markets).
3. The proper balance in the TRIPS agreement between the protection of property rights and obligations of the right holder and the protection of the public interest.
4. The scope provided by a patent for 'exclusivity' (the period for which the patent holder can exclusively market the innovated product and process). What are its implications for price competition and hence a wide choice of effective treatments for patients in developing countries?

The public health concern is currently mainly focused on HIV/AIDS, although the Africa Group (about 41 countries) has been trying to broaden this to include other types of present and future pandemics such as Ebola. Anti-retroviral treatments for controlling HIV, such as triple, double or combination anti-retroviral therapy, can be prohibitively expensive in developing countries and, where available, reduce families' abilities to pay for education and other services. Moreover, there are other diseases and illnesses such as cancer for which people are unable to obtain safe affordable medicines and pharmaceuticals.

There are considerable gender differences in access to treatment and the impacts of epidemic and pandemic diseases such as HIV/AIDS, malaria and tuberculosis on the lives of girls and boys and women and men. Women in sub-Saharan Africa account for roughly 55 per cent of the 28 million adults and children living with HIV/AIDS in the region. Research in Uganda found that “women are severely disadvantaged in gaining access to life-saving treatment” (Oxfam, 2002a). Gender-based discrimination limits women’s access to and ability to participate in safe sex education, practice safe sex and get tested for the virus, even when they are known to be at high risk. Oxfam and Ugandan researchers found that women with HIV-infected partners are often not tested if they are not ill (partly because the family cannot afford the medicines). Women and girls are also the first and last resources for shouldering the burden of care for families and communities. Pandemic diseases impose additional burdens and stresses on the time of girls and women, with long-term implications for their education, training and livelihoods. Girls are often taken out of school to care for sick relatives or to provide other help in the household.

There are also gender implications in terms of women’s health, morbidity and mortality outside of the context of epidemic diseases. Women in particular need access to affordable pharmaceuticals over their lifecycle in relation to reproductive health and maternal and child care. Thus the public health concern ought to be broadened to include at a minimum reproductive health and nutrition.

The UN Human Rights Commission’s resolution (April 2001) called on “all states to ensure that application of international agreements is supportive of public health policies which promote broad access to safe, effective and affordable preventive, curative or palliative pharmaceutical and mechanical technologies”. This challenge to state actors was addressed by the Doha Declaration on TRIPS and Public Health (November 2001), which affirmed that “the TRIPS agreement does not and should not prevent governments from taking measures to protect public health”. In addition, the Declaration extended the time period for LDCs to implement pharmaceutical patents from 2006 to 2016. According to Oxfam (2002b), it also clarified key public health safeguards in

*There are considerable gender differences in access to treatment and the impacts of epidemic and pandemic diseases such as HIV/AIDS, malaria and tuberculosis.*

*The Doha Declaration on TRIPS and Public Health ... affirmed that "the TRIPS agreement does not and should not prevent governments from taking measures to protect public health".*

TRIPS that had been contested by the US and the pharmaceuticals industry, by reaffirming the rights of governments to:

- authorise the use of a patent without the consent of the patent holder (compulsory licensing) and determine the grounds on which such licenses are granted, including public health objectives;
- determine what constitutes a national emergency – including but not limited to the HIV/AIDS pandemic.

The TRIPS agreement limits the use of compulsory licenses to be granted “predominantly to supply the domestic market”. The Doha Declaration left open the question of how nations that do not have the production capacity to produce pharmaceuticals can exploit their rights to issue compulsory licences. After 2005 the main developing countries such as Argentina, India and Mexico that now have the capacity to produce affordable generic pharmaceuticals for export to other developing countries will have to cease doing so for ‘on patent’ new medicines.

The current state of the debate finds the US and pharmaceutical companies seeking to: (a) narrow the scope of the coverage of disease to an exhaustive list of 23 diseases (other countries propose an indicative list of 15); (b) limit the number of countries that could qualify; and (c) impose a temporary solution in the form of a moratorium on cases where governments grant compulsory licensing for exports, as opposed to the permanent solution indicated in the Doha Declaration. This proposal is opposed by most developing countries, especially the Africa Group, which reject any narrowed interpretation of the Declaration. Instead they counter that article 8.1 of the TRIPS should be amended and strengthened with an unqualified statement that “nothing in the agreement shall prevent the adoption of measures to protect public health” (Oxfam, 2002b).

### **Traditional knowledge**

Traditional (or indigenous) knowledge, whether local methods of food processing or the use of plants to control pests or treat infections, makes important contributions to food security and

health care. Much of this knowledge is possessed by women. Since it is usually passed orally from generation to generation, it is rarely patented or protected by IPRs and it is not developed for commercial purposes or export. When it is seen to be valuable by MNCs, the community it comes from rarely benefits. This use of local knowledge has been described as 'biopiracy'.

### **Box 6.2 Protecting Indigenous Knowledge and Ensuring Benefit Sharing**

**Explicit gender-sensitive provisions and simple administrative processes for protecting traditional knowledge and ensuring benefit-sharing between men and women in communities must include:**

- recognition of the role, contribution and specific gender-based constraints of women farmers in the identification, maintenance and refinement of germ plasm, and creating farmers' and traditional varieties;
- provisions and mechanisms for the protection of unwritten knowledge;
- a legal basis for government departments to intervene on behalf of women and the disadvantaged;
- provisions for improving and ensuring women's access to seed, credit, technology and the results of research and development;
- provisions for expanding the scope of the public's role in research and development, including programmes for women's greater involvement;
- provisions for compulsory licensing for essential food inputs and food security;
- rejection of the patenting of plant varieties, animal breeds or essentially biological processes;
- rejection of UPOV 1991 as the model for *sui generis* systems.

*The issues of biopiracy and bioprospecting ... are important for men and women with different degrees of loss, entitlement and severity.*

The issues of biopiracy and bioprospecting (the search by multinational drug companies for genetic resources to use in new pharmaceutical products and medicines) are important for men and women with different degrees of loss, entitlement and severity. At the heart of the discussion are the ticklish issues of benefit sharing, prior informed consent and processes for enhancing traditional knowledge (see box 6.2). This is a particularly difficult area since the wider issues of who gives consent and who gains or loses from collective knowledge must also touch on the role and contribution of women in the creation and preservation of plant varieties and germ plasm.

### **Technology transfer**

Women have tended to be almost entirely overlooked in science and technology development and transfer (Gender Working Group, 1995). TRIPS is likely to reinforce the inequitable access to and control of technological knowledge unless trade liberalisation and investment policies recognise that both women and men, especially those living in poverty, need improved access to appropriate technologies, and to information and knowledge about technical options. Technology transfer does not just mean making more productive technologies available. It also means providing a supportive environment for “addressing people’s organisational, management and marketing skills; opening new channels of information and knowledge; and making credit and markets more accessible” (ITDG, 2002). Technical information also needs to be made available in a form appropriate to women (see box 2.5).

### **Towards a Gender-sensitive Framework for IPRs**

To date there is no significant gender-sensitive framework underpinning the process of developing and revising IPR systems in the global trading system. Pointers of what to avoid, however, can be gathered from looking at case studies of the implementation of IPR legislation and models currently underway in a number of developing countries.

In general, unfavourable gender outcomes can be expected when governments and policy-makers do not take into account the impact of IPRs on all sectors in the economy. Special attention must be focused on the nature of their impact on



specific forms of agriculture since IPRs (especially the development of plant variety laws) have long-term implications for present and future capabilities in plant biotechnology. Particular areas of concern include:

- ❖ the export of cut flowers/ornamental plants, which facilitates access to new plant varieties (e.g. Chile and Kenya);
- ❖ genetically modified organisms (GMOs) – or transgenic crops – that are herbicide tolerant and insect resistance. They account for 69.5 million acres globally (a 15-fold increase since 1996). Soybean and corn/maize together account for about 82 per cent of the global areas under transgenic crops (74 per cent in the US, 15 per cent in Argentina, 10 per cent in Canada, with the remainder supplied by Australia, France, Mexico, South Africa and Spain).

In the context of agriculture and related areas, most revisions of national legislation around IPRs are based on one or a combination of the major IPR instruments mentioned above (and described in more detail in box 6.3).

It is widely acknowledged that patents lead to higher prices for hybrids as they are developed in the private rather than the public sector. In addition, new seeds are increasingly being controlled via IPRs (and by the top ten TNCs, which currently control about 30 per cent of global seed sales). This trend has important implications for women and other small farmers who are poor. As noted above, most women farmers do not have easy access to cash or crop insurance and often borrow at high interest rates. They also face limited access to germ plasm and scientific knowledge.

The TRIPS agreement allows for patenting on micro-organisms, which could and may be interpreted to include algae, bacteria, fungi and viruses. These are critical for self-reliant agriculture since they affect the ability to develop biofertilisers and biopesticides that are both based on micro-organisms. Bacterial strains that act on soil phosphates help agriculture because they break them down into a form that plants can utilise as nutrients. Without these, farmers will need to import more phosphate fertilisers. Strains of nitrogen-fixing bacteria can improve nitrogen uptake of plants and the protein content of foods.

*In general, unfavourable gender outcomes can be expected when governments and policy-makers do not take into account the impact of IPRs on all sectors in the economy.*

### **Box 6.3 Major Frameworks with Provisions Relating to IPRs**

*The UPOV 1991 framework:* the International Union for the Protection of New Varieties of Plants (UPOV) in general, but more specifically the 1991 version, is unconditionally pro-plant breeders' rights and the patenting of plant varieties. It also imposes legal and economic restrictions on farmers. The known consequence of a pure UPOV-based system is that there will be a tendency toward genetic uniformity and a movement away from genetic diversity. There is also likely to be decreased access to genetic resources. This will have tremendously negative consequences for women farmers. In general, countries that have signed on to UPOV 1991 are likely to have the least gender-friendly framework.

*The UPOV 1978 framework:* UPOV 1978 allows countries to have exclusions for certain plant varieties as well as for food, medicines and crops for planting. There are also exemptions for researchers. In addition, there is scope for farmers' privileges and the recognition of farmers' varieties. On the whole there is wide scope for ensuring food security. Those countries that signed on to UPOV 1978 – which includes most developing countries – are likely to have an IPR framework that is somewhat more amenable to gender concerns than UPOV 1991.

*The CBD/FAO-IU framework:* The key points of departure of both the Convention on Biological Diversity (CBD) and the FAO's International Undertaking on Plant Genetic Resources (FAO-IU) from UPOV and the TRIPS agreement are the emphasis on farmers' equity, prior informed consent and benefit sharing. Farmers' rights are somewhat underplayed in the CBD but are explicitly treated in the IU. This puts genetic resources in the public domain, emphasises food security and allows small farmers to save, use and sell seeds. The IU is also premised on the recognition of the farmer as the custodian of biodiversity. There are provisions in it that could be expanded to take

**Box 6.3 (continued)**

into account some of the concerns women face. While it does not have an explicit gender perspective, this framework's implicit attention to social justice and equity provides promising ground for integrating gender into its further elaboration.

Gender has not been taken into consideration in the designing, planning or implementation of IPRs, and different countries are at different stages of implementation, including the construction of *sui generis* systems. This makes it difficult to assess whether or not a particular system is likely to generate gender-sensitive outcomes. However, in the context of the set of international IPR regimes, a spectrum ranging from the least gender-sensitive to the most gender-friendly can be derived.

*A woman in Bangladesh saves seeds for the following year's crop*

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*Because national laws establish the framework for implementing the TRIPS and related IPR agreements, they must be ethically based and premised on gender-sensitive and equity outcomes.*

The key elements in defining such a spectrum are the extent to which a system:

- has a pronounced equity bias;
- is balanced between breeders' and farmers' rights;
- protects indigenous and traditional knowledge;
- is balanced in terms of public interest (i.e. protects and ensures food security and transfer of technology);
- protects genetic resources;
- has provisions for prior consent and benefit sharing;
- pays attention to and makes particular provisions for ensuring gender equality.

A number of researchers correctly argue that because national laws establish the framework for implementing the TRIPS and related IPR agreements, they must be ethically based and premised on gender-sensitive and equity outcomes (social justice). These are key cornerstones for sustainable development. A gender-sensitive approach requires recognition of and actions to combat the structural gender disadvantages that women farmers, entrepreneurs, researchers and consumers face in society and which would be negatively affected by the patent system or PBR or ignored by farmers' right provisions. A favourable system – whether for individual IPR provisions or for constructing a *sui generis* system – must consider: (a) protecting public interest above the rights of IPR holders; (b) ensuring food security and public health; and (c) preventing the abuse of rights by right holders.

In the general area of agriculture, governments must make sure that IPR frameworks are centred on promoting rural development, protecting farmers' access to genetic resources and ensuring equitable benefit-sharing agreements. Such frameworks must also be complemented by a set of measures designed to promote and ensure support for disadvantaged groups' access to technology and for their property rights. In terms of public investment, governments must increase commitment and funding for research. They must also establish provisions for research and development to enter the public

domain and be publicly disclosed or meet other public conditions. Governments can also seek to retain the right of invention as a condition for funding. Alternatively, the approach could be to mandate or otherwise encourage strong linkages to promote public research and development objectives through training programmes and trust funds.

Aspects of best practices can be drawn from the existing or proposed changes to IPRs and the TRIPS agreement in those developing countries where these discussions have gone on longer. There is already national legislation that draws on one or more of the frameworks in box 6.3 and that lends itself to a gendered approach. Many of these move beyond the CBD/FAO-IU, either by utilising a broader interpretation of the concepts and language found in these international agreements or by adding particular national or regional concerns. For example, countries such as Bangladesh, Jamaica, Sri Lanka, Tanzania and Uganda support some form of recognition of community rights. Specifically, they oppose the patenting of plants without the prior consent of the community. India has opted for a *sui generis* model that includes the farmers' right to sell seed. Canada and Malaysia are generally recognised as having 'good' laws regarding the patenting of plants. However, while Malaysian patent law does not allow patents on plants, the government is currently reviewing a bill that would implement a *sui generis* model of protection for plant varieties, including those cultivated by local and farming communities. Among many LDCs there is an emerging consensus that naturally occurring plants and essentially biological processes should not be patented.

The best of such possible models are those that explicitly build in protection of traditional knowledge and genetic resources and have detailed and well worked out administrative processes for prior consent and benefit sharing. Good examples in this grouping are in Latin America, especially Argentina and Brazil. Although no country's IPR legislation or model is constructed in a gender-sensitive context, some developing countries' policy-makers have given in-depth consideration to the social justice aspects of the revision of patent and IPR laws (see box 6.4).

*The best ... models are those that explicitly build in protection of traditional knowledge and genetic resources and have detailed and well worked out administrative processes for prior consent and benefit sharing.*

### Box 6.4 IPRs and Social Justice: Country Examples

The following are some examples of countries and regional models that have considered social justice aspects in their patent and IPR laws:

- Argentina excludes from patenting all biological and genetic material existing in nature or its replica and the biological processes implicit in animal, plant and human reproduction. This includes the genetic processes relating to materials capable of conducting their own duplication under normal and free conditions such as occur in nature. This model is supported by the Andean group law of 1993.
- Australia and Canada's IPR systems explicitly recognise indigenous communities' knowledge. Australian Federal court also recognises the relevance of customary aboriginal laws.
- Brazil excludes from patenting all or part of living beings and biological material found in nature or isolated from it, including the genome or the germ plasm of any natural living being, and any material biological processes.
- India's model legislation protects farmers' access to seeds, etc.
- The Philippines has developed *sui generis* protection of traditional knowledge, which gives indigenous communities rights over their knowledge.
- The African Model Legislation for the protection of the rights of local communities, farmers and breeders and for the regulation of access to biological resources acknowledges women in the generation, conservation and sustainable use of biological diversity and associated technology (OAU Model Law, Algeria 2000).

**Box 6.4 (continued)**

- **The Pacific Regional Draft Model Law on the Protection of Traditional Knowledge and Cultural Expression establishes “a new range of statutory rights for traditional owners of traditional knowledge and expressions of culture”. Key provisions include: traditional cultural rights, moral rights, obtaining prior and informed consent from traditional owners, enforcement, transitional arrangements and cultural authority.**

Elements of best practice in *sui generis* systems generally include one or more of the following:

- a balance between farmers’ and breeders’ rights. Farmers’ rights are pre-existing and ever present but the protection of commercial plant breeders’ rights could undermine them so these rights need to be recognised and protected;
- flexibility and sensitivity to farmers’ use and re-use of patented livestock or the animal reproductive material for pursuing agricultural activity both for sale and non-sale;
- the exclusion of substances found in nature, even if these are isolated or transformed via technical processes;
- more public sector research on the impact of transgenic crops in the South due to concerns about safety as well as control and ownership. Research on such crops is currently dependent on the Consultative Group on International Agricultural Research (CGIAR) or other National Agricultural Research Organisations (NAROs) for free exchange of germ plasm and scientific knowledge;
- not going beyond the TRIPS agreement to grant patents for plants and animals;
- developing a framework for the patenting not only of genetically engineered micro-organisms but also for naturally occurring organisms;

*Developing country governments need to eliminate constitutional, legal, administrative, cultural, behavioural, social and economic obstacles to women's full participation in sustainable development and in public life.*

- recognition of farmers' rights to: save, sell and exchange seed; have access to the latest technology; and be given public credit for their contribution to conservation and the development of plant genetic resources;
- protection for traditional knowledge via benefit-sharing agreements and a system of compensation for providing germ plasm and rural innovations, including explicit gender-sensitive provisions (see box 6.2).

To paraphrase Agenda 21, chap. 14 – in constructing national practices and policies for IPRs, such as a *sui generis* system, developing country governments need to eliminate constitutional, legal, administrative, cultural, behavioural, social and economic obstacles to women's full participation in sustainable development and in public life. Not only is this critical for governments but it should also be a priority concern for inter-governmental organisations concerned with promoting sustainable agricultural development and the gender equality outcomes of economic and social policies.

### **Pointers for Further Discussion**

IPR experts, trade negotiators and gender equality advocates should be aware of the emerging gender issues underlying the IPR debate so that they are able to design gender-sensitive policies in the implementation of the TRIPS agreement. This chapter has attempted to sketch out some of the critical issues but it is not an exhaustive study. There is therefore much scope for re-thinking, deepening and developing gender-sensitive policy analysis in this area. The questions in box 6.5 and table 6.1 and the recommendations on IPRs in Chapter 7 are meant to stimulate further thinking in this direction.



**Box 6.5 Key Questions for Gender and the TRIPS Agreement**

1. What are the implications of policy changes regarding IPRs and breeders' and farmers' rights on women in terms of production of food crops (which are critical for food security) *versus* export-oriented production? This is especially important in the production of GMOs such as soybean and corn/maize, which will affect women's access to land, etc.
2. What are the existing practices among women and male farmers in regard to exchange, re-use, sale and purchase of seed?
3. What are new or additional constraints for women and male farmers in terms of restrictive plant breeders' rights and the patenting of seed technology?
4. What are the impacts on the diversity of seed available?
5. What is the nature of performance of women smallholders?

**Table 6.1 IPRs: Existing Areas of Concern, Potential Problems and Key Questions**

Broad areas	Existing areas of concern	Potential problems from changes in IPRs	Key questions
<b>Food security/nutrition</b>	<p>Quantity/quality of food intake (particularly relevant for Bangladesh, India and Pakistan)</p> <p>Patenting of micro-organisms such as algae, bacteria, fungi and viruses impacts on self-reliant agriculture</p> <p>Biofertilisers and biopesticides: bacterial strains help to break down inert soil phosphates to a form that plants can use as nutrients</p>	<p>Patents lead to higher prices of seeds and hybrids (new seeds are increasingly being controlled by TNCs: the top ten TNCs control about 30 per cent of global seeds sales)</p> <p>Patents on micro-organisms</p> <p>Access to fertilisers</p> <p>High import of phosphate fertilisers</p> <p>More need for nitrogen-fixing bacteria to improve nitrogen uptake of plants and improve protein content of food</p> <p>Insecurity of essential food and seed varieties critical for nutrition and local diet</p>	<p>What is the nature of pro-male and pro-adult bias in terms of food intake?</p> <p>How will changes in IPR laws and policies change this?</p> <p>What are the specific implications for women's and girls' health and nutritional status?</p>
<b>Resource management</b>		Heightened dependence on market for water, fertiliser, land and seed	
<b>Dissemination of technology/ technical information</b>	<p>Low education levels of women</p> <p>Women have less access to training, extension programmes and research in public institutions for research and development (UNEP noted that less than 1 per cent of government-employed agricultural advisers in Asia and 3 per cent in Africa were women)</p>	<p>Women's lower participation in world of patents</p> <p>Limited ability to make patent applications for their own inventions and local knowledge in relation to genetic resources, medicine and conservation practices</p>	<p>How can women's ability to obtain patents be improved?</p> <p>How can women's education re. the nature of patents and seed contracts be enhanced?</p>

**Table 6.1** (continued)

<b>Biodiversity/ access to genetic resources</b>	Access to seed Ability to participate in informed consent and benefit-sharing	Access to fertilisers High import of phosphate fertilisers More need for nitrogen-fixing bacteria to improve nitrogen uptake of plants and improve protein content of food	What are the effects of plant breeders' rights and patents on the availability, cost, productivity, and return to women and men farmers?
	Credit Women more than men are dependent on rural financing such as micro-credit Time burden	Restricted access to credit Increased debt load (in purchasing seed, etc.)	

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## 7. Strategies and Recommendations for Integrating Gender into the MTS

### Introduction

This chapter presents guidelines, key questions, strategies and recommendations. These are intended to assist policy-makers, trade negotiators and programme managers in integrating gender sensitivity and gender equity into trade policy design and implementation at the national, regional and multilateral levels.

The first section presents a framework for policy and programme design regarding gender and trade based on the discussion in Chapters 2–6. The next section offers a number of strategy sets and action areas based on the changes that trade liberalisation may bring about at the national level. A number of recommendations are then provided regarding: (a) gender-sensitive, sector-specific strategies for liberalisation in agriculture, investment, intellectual property rights (IPRs) and trade in services; and (b) the inter-linkages between trade liberalisation, development co-operation and sustainable development.

The chapter then draws on the discussion on governance in the first two chapters to present some pointers for promoting greater participation in the formulation and implementation of trade policy at the national, regional and WTO levels. The final section focuses on the role that inter-governmental organisations such as the Commonwealth Secretariat can play in contributing to gender-sensitive and gender equitable trade policy.

### A Framework for Policy Analysis and Programme Design

A central goal of trade policy should be to achieve the maximum possible gender equitable, social and human develop-

ment in the context of environmental/ecological sustainability and food security. Successful achievement of this goal with regard to gender equality requires that policy-makers understand and take action on at least four broad inter-relationships underlying trade, gender and the economy.

1. Trade measures impact on and are affected by historical and structurally-reinforced gender rigidities regarding:
  - *entitlements/rights*: food, land, medicine and other social and cultural assets;
  - *capabilities*: education, skills, training, access to technology, etc.;
  - *functioning*: health, nutritional status, access to essential services and participation in decision-making and governance.
2. Trade measures impact on the multiple, interconnected and interdependent aspects of the economy:
  - unpaid labour/social reproduction;
  - labour, commodity and other resource markets;
  - credit and access to economic resources;
  - production/distribution – both monetary and non-monetary exchange;
  - domestic law, policies and programmes (government services) and taxation/expenditures.
3. As a result of 1 and 2 above, changes in trade policy may introduce for men and women, firms and governments:
  - new opportunities and/or the expansion of opportunities and new areas of involvement;
  - contraction or destruction of some existing opportunities;
  - a new legal framework that changes entitlements, rights, responsibilities and access to assets and government services.

4. As a result of 1, 2 and 3 above, changes in trade policy impact on:
- accumulation/growth (national and private);
  - livelihoods/provisioning;
  - poverty (exacerbation/creation/eradication);
  - social and human development;
  - gender equality/equity;
  - environment/ecology.

Items 1, 2 and 4 have already been expanded on in previous chapters and so will not be revisited here. Instead the following section explores the three possible effects of changes in trade policy listed under item 3. Each of them generates a set of questions and resulting action pointers and guidelines.

## Strategy Sets, Key Questions and Action Areas

### Strategy set 1: When there are new or expanded opportunities

Changes in trade policy may introduce new opportunities and/or the expansion of opportunities and new areas of involvement for men and women, firms and governments. In order to determine how to maximise the gains from trade liberalisation so as to promote the social and economic empowerment of women, there should be particular emphasis on the following questions:

- What are the directly and indirectly created new opportunities and new areas of involvement available to men and women in the formal and informal sectors?
  - What assets, skills and training are required for successful involvement in these areas?
  - How are men and women positioned to take advantage of these new opportunities?
  - Are the responses of men and women the same or different, and if so why?
-

- What are the challenges and constraints faced by men and women?
- What programmes or measures will mitigate these challenges and constraints?

### **Action areas**

- Programmes to promote men's and women's access to resources including technology and equipment.
- Education, skills and training for men and women to take advantage of new opportunities and openings.
- Re-thinking and reconstituting the provision of government services (day care, health care, subsidisation of basic services, etc.) in order to help women meet their multiple obligations.
- Gender-sensitive and gender equity-oriented modification of trade rules/other policy areas.
- Programmes and policies to remove or offset the information bias that women face relative to men in terms of credit, government services and technology.

### **Strategy set 2: When there is contraction or destruction of opportunities**

Trade liberalisation may cause the contraction or destruction of existing opportunities for men and women, firms and governments. In order to minimise the negative effects so as to promote the social and economic empowerment of women, there should be a particular emphasis on the following questions:

- What areas of production and employment are suffering as a consequence of the new trade measures?
- Which sex was most dominant in that area or was most disadvantaged by the change?
- What were the responses of men and women to the change?
- What are the impacts on the informal and household economies?

- How has this impacted on men's and women's responsibilities and access to assets?
- What programmes or policy measures can be devised to improve the welfare loss to the different groups?

### **Action areas**

- Survey and assessment to determine the exact nature and causes of negative impacts on men and women.
- Proactive measures in the areas of job training/skills development and upgrading.
- Proactive and supportive measures to bolster women's access to credit, technology and marketing knowledge.
- Grants and low interest loans to small enterprises disadvantaged by trade liberalisation.
- Modification of trade measures to limit the negative impact on the disadvantaged groups.

### **Strategy set 3: Protecting entitlements, rights, responsibilities and access to assets and government services**

In order to ensure that institutional and legal changes caused by trade liberalisation agreements do not undermine the social and economic empowerment of women, there should be a particular emphasis on the following questions:

- What are the customary and contemporary legal rules and practices that are obstacles to women's access to education, land rights/tenure, training, technology and labour market opportunities?
- How are labour laws and/or IPR rules disadvantaging men and women? Are the disadvantages the same for women and men? What changes or offsetting policy mechanism would eliminate the disadvantages for men and for women?

### **Action Areas**

- Reforming/repealing laws that are injurious to women's short-term and long-term interests.



- Creating provisions in IPR laws that recognise women's contribution, traditional knowledge, access to seeds and need for other resources and technological transfer.

## **Recommendations on the Substantive Content of Trade Policy**

### **Agriculture**

Key areas of concern from a gender perspective: food security, food sovereignty, rural development and sustainable livelihoods.

#### ***National level recommendations***

- Provisions and programmes to protect food that is critical to the daily subsistence of women, children and families.
- Programmes and policies for protecting domestic agriculture from dumping of food items from the North.
- Better co-ordinated and gender-sensitive provision of agricultural extension services.
- Protection for women farmers and smallholders to avoid unemployment, poverty and food insecurity – a clear distinction should be drawn between the production of staple food crops for domestic consumption and the production of other crops for export.
- Countries should plan and budget for food security, just as they do for national security.

#### ***International and regional level recommendations***

- Support for development and food security provisions within the AOA framework, including:
  - a) special measures to meet the concerns of women farmers;
  - b) attention to and remedies for the dual effects of IPR regimes and services liberalisation, specifically water and energy, on agricultural production and outcomes (and the gendered nature of such outcomes).

- Exclusion of food products in countries in the South from the discipline of import control, and domestic support to ensure food security (accessibility, affordability and adequate nutrition). Food security should be seen as a 'right' and measures to secure this right should be internationally guaranteed. Food aid cannot be a substitute for food self-sufficiency.
- Consideration should be given in international trade agreements on agriculture to the particular situation of women farmers in the South. Many women do not participate in commercial ventures but engage in farming for food self-sufficiency, as a family activity passed down from generation to generation. Smallholding farmers in the South are not able to compete with and meet the obligations of international competition. Large-scale international commercial farmers pose a threat to them and to rural livelihoods as such.

## Services

Key areas of concern from a gender perspective: access to health care and access to other essential services and to natural resources such as water and fuel.

### *National level recommendations*

- Improved access to basic and essential services.
- Policies and programmes to increase access to quality and affordable health care for men and women as well as for girls and boys.
- Strategies, programmes and policies to reduce the shortage and stem the outflow of health care professionals such as nurses and midwives.

### *International and regional level recommendations*

- Specific measures to protect the access of the poor to public services and natural resources such as water.
  - Impact assessment of the current GATS implementation and privatisation on gender and poverty eradication.
  - Global mechanisms to protect and ensure access to and
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distribution rights of water and other related basic necessities of life.

### **Investment**

Key areas of concern from a gender perspective: the survival and long-term growth and prosperity of women-owned small and medium-sized businesses, the quantity and quality of male and female employment in the export enclave sector and the overall development-promoting impact of foreign investment.

### ***National level recommendations***

- Macro-level programmes to assess the transaction costs, imperfect information, gender biases, market inter-linkages, asymmetric property rights and gender segmentation of markets.
- Programmes and policies to facilitate the expansion of investment opportunities to women entrepreneurs.
- Improved credit conditions and property rights for women so that they can more easily qualify for credit in order to take advantage of new investment opportunities in the export or domestic sector.
- Facilitation of the growth and expansion of women-owned businesses through preferences or set-aside programmes.
- Addressing unfavourable working conditions in export enclaves by the application and enforcement of national labour laws and ensuring that MNCs:
  - a) provide adequate social protection;
  - b) develop transparent and gender equitable policies that contribute to high worker retention;
  - c) increase opportunities for upskilling and promotion (see box 7.1).

### Box 7.7 Host Country Policies for Export Enclaves

Host country policy measures should focus on developing a gender-sensitive framework for the three Es around which such measures pivot:

- *Enhancing* the business environment. This requires:
  - detailed and specific measures geared to promoting a women-friendly infrastructure;
  - human resource development targeted at increasing the presence of women in upper level management and in high technology areas;
  - partnerships with FDI;
  - labour laws that promote healthy and safe working conditions;
  - outlawing gender-specific employment practices that are detrimental to women.
- *Enterprise* development geared to small and medium-sized enterprises (SMEs). This includes:
  - special programmes to encourage and promote greater linkages between micro- and small businesses such as pooling of direct and ancillary business support facilities and services (market promotion, financial service, storage, etc.);
  - training programmes on management and product development;
  - collaboration and linkages between SMEs and FDI.
- *Entry* and operations of foreign investors regulations. When setting regulations on standards of treatment and market functioning of FDI, governments should ensure that the operations of these MNCs do not stifle or otherwise unfairly impact on micro- and SMEs in a negative way. This can be done, in part, through:
  - careful monitoring and effective policies to curb and eliminate restrictive business practices;
  - proactive policies and programmes to ensure that under-capitalised local firms are also able to compete.

### ***International and regional level recommendations***

Developing countries should have the right to develop and implement gender-sensitive and pro-development targets and requirements for FDI and the right to use gender equality and poverty eradicating investment screens. Technical assistance for capital upgrading and technological improvement in the small business sector need to be gender aware and sensitive to the priorities and concerns of women-owned businesses.

In the case of the home (sending) country, there is also need for a gender-sensitive framework around at least two broad areas:

1. *Human resources and business development*: Home country governments can create policies and incentives around foreign investment that promote human resource development and institutional capacity-building in receiving developing countries. This can be embedded in the general foreign investment programmes and policies as well as complemented by aid and development co-operation programmes.
2. *Grants and long-term financial resources*: A gender-sensitive approach to home countries' investment guarantees and access to long-term financial resources and insurance may encourage greater flow of capital, training and know-how to women-owned businesses. A complementary policy would encourage domestic inter-linkages among local firms and among and between FDI and local business sectors. This could, for example, be constructed around the Cotonou Agreement Articles 75–77 and the Doha Ministerial Declaration, paragraph 22.

### ***Intellectual property rights***

*Key areas of concern from a gender perspective*: public health/ access to medicine (including for reproductive health), access to genetic resources, transfer of technology and protection and enhancement of traditional knowledge.

### ***National level recommendations***

Impact assessment studies/research on the role of IPRs on the economy, agriculture and women and men including:

- mapping of genetic resources;
- documentation of traditional knowledge and local innovations;
- examining the current market structure for seeds (purchase relative to re-use);
- research and development expenditure of local *versus* TNC, public *versus* private;
- market prospects for transgenic crops and animal breeding (cost benefit analysis);
- plant breeders' rights (PBR)/patents filed by and granted to private *versus* public sector;
- effect of PBR/patents on availability and cost, productivity and return to farmers and consumer welfare;
- nature and use or abuse of IPRs and use of compulsory licenses;
- cost and benefits of improved global protection for geographic indications.

Programmes and policy changes:

- system for and documentation of traditional knowledge and local innovations;
- more public expenditure on research and development;
- gender-sensitive applications of *sui generis* protection for traditional plants and traditional knowledge as provided for in the Convention on Biological Diversity (CBD).

Education/training programmes:

- general basic education for women to raise productivity and income (when women are better educated, they are likely to adopt new technologies and improved environmental management);
- specific training on understanding IPRs in local communities.

Support and assistance for biodiversity and conservation:

- establish technical rights banks that purchase core privately developed IPRs, covering technology in essential areas (such as food), and increase access to a wider group;
- implement farmers' and plant breeders' rights for as far as possible;
- assistance to women to help conservation, management and improvement of plant genetic resources for food and agriculture;
- assistance to farmers in arranging and preserving plant diversity;
- national/regional germ plasm programmes;
- more support for crop research to women farmers;
- support measures for research training institutions.

Food security/nutrition:

- establish the provision for compulsory licences around food security and for food input and seed varieties critical for nutrition and local diet.

Traditional knowledge:

- recognise, protect and compensate for knowledge, innovation and practices of farmers and traditional communities;
- introduce measures to promote and ensure support for disadvantaged groups' access to technology and protect their property rights;
- promote rural development, farmers' genetic access to resources and model benefit sharing.

Transfer of technology:

- introduce programmes and policies to ensure that local researchers, farmers and professionals – especially women – have access to improve their skills within MNCs at all levels (managerial and technical, including management information systems).

### *International and regional level recommendations*

- Legally binding provisions for ensuring access to essential medicines through compulsory licensing and parallel importing of medicine and food when and where needed.
- Gender and social impact assessment of patent applications and changes in patent regimes before they are approved or amended.
- Legally binding gender-sensitive mechanism for protecting and enhancing the continued viability of traditional knowledge.

### *Labour rights*

Key areas of concern from a gender perspective: the abuse of women workers in home-based production and the informal sector linked to industrial agriculture, manufacturing and service activities globally; the specific needs of women workers in EPZs and industrial agriculture; and the potential for abuse of women workers in service-type EPZs (such as digi ports).

### *National level recommendations*

- Reform and repeal labour laws that allow for abusive working conditions.
- Modify labour laws and practices to ensure that women's gender-specific needs are adequately addressed.
- Strong enforcement and better regulation of foreign corporations and of domestic corporations in the export sector to protect workers' rights.
- Support and assistance to micro- and small businesses, especially women-owned enterprises, to enable them to provide better working conditions for themselves and the workers they hire (including training on occupational health and safety practices as well as improving their knowledge of national labour laws in this area).

### *International and regional level recommendation:*

- Legally binding and enforceable corporate codes of conduct for TNCs that not only cover their operation in EPZs and
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other such export enclaves but also hold them accountable for their subcontracting relations.

- Promotion of regional social protection funds for informal sector workers.
- Emphasis on promoting and ensuring cultural, economic and social rights by state and private actors, including the financial market and TNCs.
- Strengthening of the ILO.

### **Recommendations on Gender and Governance in the MTS**

Issues in the area of general governance include: (a) the lack of gender analysis; and (b) the lack of consultation with women's groups and community-based organisations in determining national priorities for trade negotiations and in formulating substantive advocacy positions of governments and NGOs. This is especially the situation in the areas of trade policy reviews, dispute settlement and labour standards.

#### **Using the TPRM to increase women's participation in trade governance**

Most issue areas addressed by the Trade Policy Review Mechanism (TPRM) (see box 7.2) are narrow and exclude questions of gender bias and gender inequality. Yet these are legitimate concerns in this context. Although there is at present no official means for civil society to have an input into the TPRM, possible entry points for gender advocacy exist at different stages of the preparation of the report. These include:

- *Data/information collection:* The WTO staff collects basic research via networks of economic databases, national and international sources such as academic institutions and libraries, the IMF and World Bank, the Internet and local newspapers. Women's groups can provide case studies, research papers, briefings and policy papers via sector ministries and gender machineries.

### Box 7.2 The Trade Policy Review Mechanism

The mandate of the Trade Policy Review Mechanism (TPRM) is to review the trade policies and practices of member countries. The four members with the largest shares of world trade (the QUAD) are reviewed every two years, the next 16 are reviewed every four years, and others are reviewed every six years. A longer period may be fixed for LDCs. The TPRM generally looks at the direction of trade policies rather than impacts. The WTO insists that its main focus is macroeconomic analysis, not welfare analysis. However, it does look at impact in some sectors, e.g. how de-price control affects land and production (resource shifting).

The review process starts with an agreement with the countries to undertake the review. Two reports are usually generated: a policy statement from the country and a report prepared by economists in the WTO Secretariat's Trade Policy Review Division. These are discussed in a review process with the Trade Policy Review Body (actually the General Council of the WTO operating under special rules and procedures). The preparation of the WTO report involves:

- desktop research;
  - requests for statistical information and a detailed questionnaire to the country (but with a narrow range of questions, excluding issues of gender bias, gender inequality, the environment and labour);
  - mission visits to countries (to meet with sector ministries, trade officials, academics, etc.).
- *Basic requests for government statistics/detailed questionnaire to the government:* The national gender machinery, and women's groups working through the national machinery and sector ministries, can provide case studies, research papers, briefings and policy papers.

- *Fact finding mission:* Teams spend anywhere from a week to ten days in a country's capital, visiting government agencies and meeting with business and other economic agents. This provides a possible entry point for gender machineries to present studies and policy briefs. Thus far WTO missions do not meet with NGOs. However, creative ways such as public fora or meetings arranged with the national gender machinery could be found to facilitate this. In addition, WTO mission staff meet with university academics and independent research institutions. Gender programmes and gender-sensitive researchers could be included in these consultations.

A similar process could be devised around the country's own report. There are even more possibilities for gender-based activities at the national level to influence its preparation and final outcome. This is due to the fact that countries have a great deal of flexibility as to what they put into their reports. National advocacy around greater participation of women in trade policy decision-making could start with efforts that are directed at:

- involvement in the process of preparing the country statement;
- advocating for the inclusion of alternative indicators such as the human development index (HDI) and gender development index (GDI) and for the collection of sex-disaggregated data;
- advocating that a country seek to obtain technical support to provide gendered trade-related data;
- advocating that trade negotiators, etc. receive training in gender analysis.

### Enhancing participation in and engendering trade policy at the national level

There is obviously a great need at the national level for a plan of action to correct deficiencies and imbalances in terms of government and private sector relationships, human and social development, gender equality objectives and environmental

sustainability. These are critical to the process and formulation (design, discussion and implementation) of trade policy and priorities. Specific and useful initiatives should focus on the following:

- a more active role for all stakeholders in determining the negotiation mandate and in the regular monitoring of progress in trade negotiations;
- wider and deeper inter-agency collaboration;
- more civil society involvement in debates via national consultations;
- discussions and plan of action on what complementary measures are needed;
- reform of local trade policy formulation and implementation;
- discussions and plan of action on what is needed for effective competition of poor households and businesses (e.g. credit, land, education and health services);
- assessment of the effects of liberalisation on each sector and on poverty and overall development;
- support for research to assess the impact of trade liberalisation;
- comprehensive economic/trade literacy for broad cross sections of society, starting with key economic decision-makers in government, business and civil society;
- comprehensive review of the economic structure, including opportunities and constraints;
- assessment of the changing nature of national competitiveness.

The process of liberalisation needs to be slowed down. For example, the North has been restrained in taking major action in implementing their liberalisation commitments under the Agreement on Textiles and Clothing (ATC) until the final year. This gives time for domestic adjustment. It is important to exploit the scope in the agreements for addressing such

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issues as safeguards, public health/interest, food security and S&DT.

### Enhancing participation at international and regional trade fora

Gender and trade advocates globally have called for the following broad actions in the area of institutionalising gender and trade within a balanced, fair, transparent and democratic MTS:

#### *Internationally*

- An independent focal point should be established to monitor the coherence and contradiction in terms of sustainable development between: (a) the policies and practices of the WTO, IMF and World Bank; and (b) the programmes and operations of specialised UN agencies such as FAO, WFP and WHO that are dedicated to promoting poverty eradication and gender equality. It should also work to ensure that the power of international trade institutions does not threaten internationally agreed instruments and conventions such as the Universal Declaration of Human Rights, CEDAW, etc.
- Gender impact assessments should be undertaken for all trade agreements, whether at the multilateral, regional, national or bilateral level. Many women's groups and social actors are currently working on developing methodologies for carrying out such assessments. This work needs to be supported and promoted by governments in the North and the South. Such assessments should be a vital component of social and sustainable development frameworks.
- There should be resources and training for the collection and analysis of sex-disaggregated trade and trade-related data. Formal channels for such an endeavour could be bilateral support or multilateral support for institutional mechanisms through UNIFEM, INSTRAW, UNDP or the NGO community.
- Gender equality and gender mainstreaming goals and commitments should be integrated into trade and other macro-

economic policies. This can be implemented through gender-sensitisation training within the WTO Secretariat and Geneva-based missions. As with other institutions, the WTO should have a gender mechanism within its staff and important committee structures.

- Gender-aware technical assistance and capacity-building programmes should be instituted.

### *Regional*<sup>7</sup>

- Gender should be recognised as a cross-cutting theme. All regional trade agreements should incorporate a gender analysis in all policies, projects and programmes. Regional agreements should be a conduit for members to share experiences with integrating gender and improving women's access to decision-making processes.
- Gender impact assessments of policies, programmes and project proposals should be implemented at all stages from design and decision-making to action and evaluation.
- A coherent and effective policy framework and institutional process for gender mainstreaming should be developed. This could, for example, include a gender policy statement or resolution/declaration. There is a need for a well functioning gender division/unit in regional organisations, with reach into the highest level of decision-making and across all sectors and divisions (see Appendix 3).
- The development and functioning of strong independent/autonomous women's leadership and professional organisations should be supported in member states.
- The collection of sex-disaggregated data should be prioritised. This should include data on women's role in SMEs as well as build the information base on their human resource development capacity and needs in this area. Gaps in data collection methods and processes should be identified and steps taken to address these in cost-effective way.

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<sup>7</sup> Based on recommendations/discussion on gender at APEC and SADC conferences and meetings. See also Appendix 3 on gender and the regional trade/trade-related organisations.

- The representation of women and gender experts in all of organs of decision-making and administration should be prioritised.
- Studies and documentation of women in the micro- and small business enterprise sector are needed.
- The human resource development of women and men should be improved and the education, training and advancement of women in science and technology promoted.

### **The Role of Inter-governmental Organisations**

As noted above, some critically missing ingredients in the area of trade governance include:

- the absence of gender analysis and consultation with women's groups and community-based organisations in: (a) determining national priorities for trade negotiations; and (b) the formulation of substantive advocacy positions of governments and NGOs;
- no attempt to integrate gender analysis in country reviews under the TPRM – though technically the TPRM looks at the direction and practices of trade policies rather than impacts, there are cases where impacts are considered (see box 7.2);
- the absence of gender experts on trade delegations;
- lack of sustained and high impact research on gender and trade.

These are areas that can be greatly and effectively influenced by inter-governmental organisations such as the Commonwealth Secretariat. Policy-oriented interventions that such institutions can make include:

- promoting the integration of gender analysis and a gender perspective in trade policy-making;
- promoting and encouraging gender mainstreaming in the national and international trade policy environments;

- helping to develop rigorous policy-oriented research and documentation;
- enhancing the availability of sex-disaggregated trade-related statistics and other data.

### *Promoting gender analysis in trade policy*

Policy-oriented interventions in this area could focus on:

- gender impact assessments of trade liberalisation and export promotion;
- proactive programmes (such as seminars or regular briefings) to facilitate the integration of gender analysis and a gender perspective in national, regional and multilateral trade negotiations;
- support and assistance to help regional organisations undertake research and develop policies and mechanisms to “put the lessons and results from studies and data collection on gender and trade into practice” (APEC Ministerial Document).

### *Gender mainstreaming*

Gender mainstreaming should be promoted in government ministries dealing with trade and related agendas and encouraged at the WTO and among Geneva-based missions as well as regional trade organs. This includes the gender composition of trade delegations and high-level technical staff at the WTO itself. In addition, there should be:

- gender mainstreaming in technical assistance/trade capacity-building programmes at the WTO, UNCTAD, World Bank, etc. (regional and bilateral);
  - gender appraisal of the area of special and differential treatment (S&DT);
  - advocacy for and assistance with the inclusion of gender specialists in the trade teams set up for national, regional and international negotiations;
  - help to provide gender-sensitisation and gender focal points programmes in Ministries of Trade and in regional trade organisations.
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### *Research and documentation*

A major weakness in gender and trade advocacy is that there is very little sustained research effort in this area. There is a need for:

- information/analysis/frameworks for examining the impact of trade and trade policies on women:
  - a framework for and actual gender aware policy appraisals on trade policy for different groups of countries;
  - modifications to and application of public incidence analysis and beneficiary assessment frameworks on gender and trade;
- greater cohesion among the analytical frameworks used in the organising efforts of environmental NGOs, development NGOs and those that work on trade issues – there is a lack of consistency in maintaining the intersectorality of issues and how gender cuts across these issues.

These kinds of specific tools are needed because there is still so much that is not clear about the impact of trade liberalisation on the poor, especially poor women. Household survey analysis (HSA) is based on an income-expenditure measure of well-being. It does not capture very clearly the value of public services. Although there are modules on education, health and infrastructure, etc., these are rarely an integral part of the measure because of conceptual and data difficulties. As a consequence, public services may worsen but this effect does not show up in the analysis of poverty incidence. So lack of bus services, closure of health services, lack of drugs, etc. will not be picked up. There thus might be a discrepancy between nationally representative household survey-based income/expenditure poverty measures and people's (specifically women's) experience of poverty (Kanbur, 2001).

One possibility is to combine micro-level case studies in rural and urban areas to help reveal the different dynamics in responding to changes in poverty induced by trade liberalisation. It is well known that focusing on national case studies alone can cause one to miss the rural situation that may be moving in an opposite direction. Micro-level studies can help to ground the work as they can focus on how poor households

respond and adapt to new constraints, their vulnerability, and the security/insecurity of households and communities in the face of a change in the macroeconomic environment.

In the area of research and documentation, IGOs such as the Commonwealth Secretariat can help to advance the understanding of gender and trade by undertaking or facilitating micro-level studies such as beneficiary assessments and public incidence analysis (especially with regard to the tariff-induced changes in budget allocation).

### *Statistics and data collection*

As noted by participants in the LDC II conference: “Gender statistics are an important tool for evidence-based development planning [and are] . . . needed throughout the entire process of policy-making, implementation, monitoring and evaluation”. This is extremely important in the gender and trade area. Inter-governmental organisations can train and promote awareness among producers of statistics regarding gender concerns in society to enable them to collect and analyse gender statistics and present them in a user-friendly manner.

Other possibilities for engendering international trade statistics include:

- assisting countries in the collection of gender-sensitive trade statistics;
- developing trade-related gender statistics and indicators;
- enhancing existing database capacity to create more equity and gender impact studies;
- facilitating participation and public education on trade and on gender and trade concerns;
- commissioning poverty profiles for capturing the different degree and severity of poverty for women through all stages of the life cycle.

Enhancing existing database capacity to develop gender-oriented impact assessments can begin with a gender-sensitive approach to a system that is common in most countries: the Survey of Living Conditions (SLC) (see box 7.3).

### **Box 7.3 Taking a Gender-sensitive Approach to the Survey of Living Conditions**

The existing Survey of Living Conditions (SLC) data is a possible good starting point as it is a relatively good source of sex-disaggregated information. At least three windows of opportunity exist here:

1. *More frequent or on-going time use and work burden modules.* There are obvious problems with the cluster methodology relied on in the SLC. For example, it assumes a certain amount of homogeneity that does not exist in many societies. The fact that people with similar incomes tend to cluster in certain localities may or may not be missed by clustering based on Enumeration Districts, etc. Also participants in the sample must rely on their recollection for past expenditures. Thus the result of data collection could mask some of the dimensions of poverty and consumption. These could be picked up by other sampling methods such as panels, consumption studies and the use of diaries.
2. *Incorporation of a gender-sensitive trade model.* Fuller use of the data by researchers has thus far been limited. The SLC contains a body of information that could be mined for gender differences. When linked to the Labour Force Survey (LFS), it could provide insights into the gendered nature of poverty, labour market segmentation and the impact of trade liberalisation.
3. *A module or mechanism for collecting household information.* It might be worth exploring how and to what extent the SLC can collect household data in order to shed more light on the impact of the trade liberalisation-social policy intertwine on allocations in the household. This would help to provide a richer characterisation and understanding of the linkages between poverty, gender and trade.

In order to help facilitate participation and public education on trade and gender concerns, interventions that IGOs could consider include:

- *Engendering public policy debate*: This might include: (a) activities/actions to institutionalise consultation and participation in, as well as gender analysis of, all policies of government at national and local levels; and (b) on-going media programmes enabling women's input in national policy debates/discussions.
- *Training, research and documentation*: Gender sensitisation and training in gender analysis could be provided to a broad cross section of stakeholders. This should be followed up by on-going monitoring of implementation and processes for lesson-learning and capacity-building. Support is needed for actions arising from research aimed at publicising findings and achieving gender equity.
- *Enhancing civil society's, in particular women's organisations', ability in the area of evaluation methodology*: This could be facilitated by an on-going series of hands-on workshops, etc. aimed at developing the understanding, use and development of social, gender and environmental indicators. These could also become community-based projects used to: (a) map and determine the assets and needs of the community; and (b) set internal parameters for assessing progress over time.

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## Glossary

**Aggregate measure of support (AMS):** the gap between a fixed external price and an applied administered price. In the AOA annex it is defined technically as: “the annual level of support, expressed in monetary terms, provided for an agricultural product in favour of producers of the basic agricultural products or non product specific support provoked in favour of agricultural products, in general, other than support provided under programmes that qualify as exempt for reduction under Annex 2”. Annex 3 defines how this is calculated.

**Agreement on Agriculture (AOA):** applies to all agricultural products as well as certain non-edible animal products such as furs and skins. It excludes fish and fish products (covered in GATT 1994 and other WTO agreements). It addresses three main areas: market access, domestic support and export subsidies (see below for definitions).

**Amber box:** payments directly linked to agricultural prices or quantities such as market price supports, input subsidies and direct per unit payments. These are seen as the most trade distorting and are subject to Uruguay Round reduction commitments: developed countries 20 per cent over six years and developing countries 13.3 per cent over ten years. There is no reduction requirement for LDCs.

**Applied tariff:** tariff rate applied to an import when it enters a country. This can be lower than the bound tariff rate.

**Blue Box:** category of domestic support measures that allow countries unlimited spending for direct payments to farmers, if payments are linked to production-limiting programmes with fixed baseline levels. In its 1996 farm bill the US abandoned these programmes. However, the EU, Japan, Switzerland and some other countries still rely on such measures (Murphy, 2002).

**Bound tariff:** the Uruguay Round led to the ‘binding’ in the WTO of a maximum level for certain duty rates, i.e. tariffs were fixed at a certain level (a ceiling). Countries can apply a lower rate at their own discretion but they cannot raise it above the ceiling (see safeguards).

**Cairns Group:** the 15-country group that accounts for 25 per cent of global farm output. The group, which was created in 1986 in the framework of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT), is comprised of Argentina, Australia, Brazil, Canada, Chile, Colombia, Fiji, Indonesia, Malaysia, New Zealand, Paraguay, the Philippines, South Africa, Thailand and Uruguay. The Cairns group seeks the elimination of agricultural export subsidies and

assistance for farm production on the multilateral agenda.

**Comparative advantage:** the ability of a country to produce a certain product or services relatively more cheaply than other products. It is determined by relative abundance of key factors of production such as labour, land and capital. The theory of comparative advantage, formulated by David Ricardo (1772-1823), states that countries should specialise in producing and exporting those goods and services that they produce at a lower relative cost than other countries. Under free trade each country would use its resources optimally by specialising only in those goods and or services that it can produce more efficiently while importing the rest (adapted from Spero and Hart, 1997).

**Competitiveness:** the ability of an entity to operate efficiently and productively in relation to other similar entities. The term may also be used to describe the overall economic performance of a nation, particularly its level of productivity, its ability to export its goods and services and its maintenance of a high standard of living for its citizens (Spero and Hart, 1997).

**Development box:** refers to proposals by some governments from the South to create opportunities to protect and promote the interest of low income, resource poor farmers within the context of the AOA. It would create flexibility within the agreement in order to enable the governments to address food security and rural development. Some proposals, primarily from NGOs, also call for a ban on dumping to protect developing countries producers from unfair competition from the North as well as the possibility for government to provide incentives for investment on infrastructure in rural areas. Current 'friends of the development box' include: Cuba, Dominican Republic, El Salvador, Haiti, Honduras, Kenya, Nigeria, Pakistan, Senegal, Uganda and Zimbabwe.

**Dumping:** the export price is less than its normal value, i.e. a firm sells a product abroad for less than its production cost or the price it charges in its local (home) market. Anti-dumping penalties (usually taken by the country who is the object of this practice) are assessed on the dumped margin (i.e. normal value minus export price).

**Export subsidy:** cash, grants or tax breaks etc., paid or granted to a producer or exporter contingent on the export of that product. There are various types including: direct export subsidies, internal transport subsidies granted to export shipments, marketing subsidies, below market price disposal programmes and producer financed export subsidies.

**Factors of production:** economic resources or inputs that are employed in the process of production. There are two main categories:

1. Human resources composed of: (a) labour – all human physical and mental talents and effort employed in production (manual, managerial and professional skills, etc.); and (b) entrepreneurship or entrepreneurial organisations – everything that facilitates the organisation of all other human resources for productive purposes, such as innovation, organisation, application and analysis.
2. Non-human resources including: (a) land – territories, mineral deposits, forests, airspace, territorial waters, waterpower, etc; and (b) capital – all man-made aids to production, such as buildings, machinery and transportation facilities (Spero and Hart, 1997).

**Food security box:** refers to proposals by some governments from the South and trade activists to enable governments to put in place measures and incentives to prevent hunger, enable a minimum standard of food and stabilise certain food prices. It may be part of or separate from the development box discussion.

**Free trade:** when the international exchange of goods and services is neither restricted nor encouraged by government-imposed trade barriers.

**Gender:** refers to the socially constructed roles and responsibilities and socially learnt behaviour and expectations associated with males and females. These are linked into powerful ideological processes that ultimately confer different and unequal power and control over economic and social resources and political space on men and women. All societies have deeply entrenched (though different and not static) gender inequalities.

**Gender analysis:** the conceptual and methodological framework for analysing, monitoring and evaluating the cultural, economic, social, legal and political relations between men and women in society. Within this framework there must also be recognition of the crucially important links between gender and other social relations such as class, race, ethnicity and North/South relationships.

**Gender blindness:** means ignoring the different socially determined roles, responsibilities, and capabilities of men and women. Gender-blind policies are based on information derived from men's activities and/or assume those affected by the policy have the same (male) needs and interests.

**Gender mainstreaming:** "Mainstreaming a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension in the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women

and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality.” (*Agreed conclusions of the UN Economic and Social Council, 1997/2*).

**Gender neutral:** Gender neutral policies are not specifically aimed at either men or women and are assumed to affect both sexes equally. However, they may actually be gender blind (see above).

**General Agreement on Tariffs and Trade (GATT):** The GATT was established in 1947 to institutionalise free trade based on comparative advantage. Two of its fundamental principles are non-discrimination (Most Favoured Nation) and reciprocity. Non-discrimination obligates trading nations to treat all their trading partners alike. GATT 1994 refers to the conclusion of the eighth round of GATT negotiations (the Uruguay Round) also known as the World Trade Organization Agreements (WTOA).

**General Agreement on Trade in Services (GATS):** an integral part of the WTOA, GATS covers a range of areas excluded from the GATT, including accounting, engineering, financial, maritime, telecommunications, tourism, transportation, legal and public services.

**Green box:** refers to ‘non actionable’ subsidies under the AOA – subsidies not subjected to ceilings or reduction commitments. It is generally argued that these measures have no, or at most minimal, trade and production distorting effects. However, the CAIRNS group of countries argues that these measures are also causing or have the potential to cause distortion.

**Gross domestic product (GDP):** Total amount of goods and services produced in a country, regardless of whether part of the income accrued to foreign companies or individuals. It does not include income earned by nationals in foreign countries.

**Gross national product (GNP):** the total value, at market prices, of all final goods and services produced in a country in a year. It includes income earned by nationals in foreign countries. It does not include income earned by foreigners in the home country.

**Group of 77:** over 132 developing countries.

**Horizontal issues:** anti-dumping measures, custom valuation and import licences, rule of origin, safeguards and subsidies.

**Implementation issues (also sometimes referred to as systemic issues):** over 100 issues related to the South’s difficulties and challenges with implementing the Uruguay Round Agreements. It is argued that many of these are due to inequities in the WTOA as well as the fact that the North has not followed through on its commitments. A broad array of issues are involved, including problems that

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have been on the WTO agenda since 1998: the agreement on subsidies and countervailing duties, anti-dumping, SPS, AOA, export credits, textiles, TRIPS and TRIMs.

**Industrial tariffs:** tariffs on non-agricultural products.

**Intellectual Property Rights (IPRs):** property rights granted to creators of inventions or ideas embodied in products or production technologies. Includes: patents, copyrights, trademarks and semiconductor chip designs. These property rights grant their holders a temporary monopoly for the sale of the rights to use the items they have created.

**Inventories:** a quantity of goods (finished or intermediate) available for use in production or for sale.

**Landlocked developing countries (LLDCs):** landlocked developing countries are generally among the poorest of the developing countries, with the weakest growth rates. Of 30 landlocked developing countries, 16 are classified as least developed.

**Least developed countries (LDCs):** 48 of the poorest countries. Presently 29 are members of the WTO and 9 are observers. Cambodia, Laos, Nepal, Sudan, Samoa and Vanuatu are in the process of accession.

**Like-Minded Group (LMG):** coalition of developing countries in the WTO.

**Local content rules (also domestic content):** generally refers to requirements by a government that obligates a foreign firm to utilise local supplies and factors of production (labour, capital, etc.) in order to operate in that country.

**Macro/ Meso/ Micro:** different levels of looking at the economy. The macro-level represents the most aggregated level of economic activity such as savings, investment, exports, imports and total production of the economy. The meso-level features the dynamics of the market, institutions and inter-sectoral linkages. The micro-level refers to interactions at the level of the household and the firm. Gender biases emerging from the prevailing gender system and ideology operate at all levels.

**Market access:** the provision for the access of goods and services produced by member country into trading partners' economies on a non-discriminatory basis. Market access is often seen as the 'holy grail' of trade negotiations because it is argued that it will lead to increased production, wider availability of goods and services, more employment, income growth and an improved standard of living.

**Most Favoured Nation (MFN):** the GATT principle stipulating that

“any advantage favour, privilege or immunity granted by any contracting parties to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties.” It is a guarantee of non-discrimination or equal treatment in trade relations (Spero and Hart, 1997).

**MultiFibre Agreement (MFA):** A special arrangement that allowed developed countries to control the importation of textiles.

**National treatment:** WTO members must give foreign business entities treatment that is equal to the best treatment provided to domestic entities.

**Newly industrialising countries (NICs):** usually refers to Hong Kong, Republic of Korea, Singapore and Taiwan<sup>205</sup>

but may also be expanded to include Argentina, Brazil, Malaysia, Mexico and Thailand.

**Non-tariff barriers (NTBs):** measures other than tariffs that are used by governments to restrict imported goods. They include variable import levies, import quotas, minimum import prices, discretionary import licensing, state trading, voluntary export restraints, labelling and package requirements, subsidies and domestic content requirements, and other similar border measures. Tariffs are preferred over NTBs as they are said to be more transparent, less market distorting and easier to negotiate the reduction or elimination of.

**Non-trade concerns (NTC):** refers to a very broad and growing list of issues that are deemed to be not trade-specific in a technical sense but which are increasingly recognised for the potentially negative impact that trade rules may have on them. These include food security, hunger prevention, rural development, etc.

**Peace Clause:** article 13 of AOA restricts members right to retaliate against other members’ (permissible) subsidies.

**Primary goods:** raw materials such as iron ore, crude petroleum and foodstuffs. They are primary in the sense of not being substantially transformed, e.g. cocoa beans (primary) can be transformed into chocolate.

**Productivity:** the amount of goods produced by each worker.

**Prohibitive tariff:** an excessively high tariff that keeps out imports.

**Protectionism:** advocacy of trade barriers such as tariffs and non-tariff barriers such as quotas or health and safety standards to restrict the import of goods and protect domestic producers and workers from competition.



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**Reciprocity:** the practice of a country offering trade concessions, such as tariff reductions, in return for similar concessions by other countries.

**Safeguards:** an exception to the general rule of not exceeding the bound duty rate and not applying quantitative restrictions on imports. These are permitted temporarily on two conditions: (i) there has been an increase in imports (either absolute over past imports or relative to the domestic production); and (ii) the increase is causing or threatening to cause injury to domestic production. A member can then take import restraint measures (e.g. import surcharge, levy, increased tariff, etc. or quantitative restrictions). Safeguards apply only on bound items.

**Sanitary and Phytosanitary Standards/Measures (SPS/SPSM):** technical standards adopted to protect human health, animal or plant life. Key aspects of these are how and where food may be produced, what can be added to it, how plants and animals are to be cared for and identical requirements for all imported food.

**Services:** economic activities that are intangible such as banking, tourism, insurance and accounting, as opposed to goods (tangibles) such as wheat and automobiles.

**Subsidies:** grants, low interest loans and other forms of assistance that governments provide to industry. Some types are permissible while others are prohibited: (a) non-actionable (permissible) subsidies are usually those applied across the board to all industries; for research or contracted to higher education or research establishments; to disadvantaged regions in a country as part of a regional development framework; or for environmental adaptation of existing facilities to new environmental requirements (NB specific conditions, limitations and restrictions apply to all these areas); (b) actionable (or prohibited) subsidies are those contingent on export performance. However, according to the OECD, agricultural subsidies in 1998 amounted to \$142 billion in the European Union (EU), \$100 billion in the US and \$55 billion in Japan.

**Tariff:** customs duty on an imported product at the time of import. Used for reasons of: (a) revenue; (b) protection of local industry and convenience of collection; (c) (differential) tariff to ease or rationalise use of limited foreign exchange (e.g. through high tariffs on luxury goods and low tariffs on industrial raw material).

**Tariff binding:** an obligation not to raise the tariffs on the products beyond the 'bound' level applicable to them. Bound levels are recorded in members' schedules at the WTO.

**Tariff equivalent:** refers to the conversion of a non-tariff barrier (NTB) into a tariff (tax or duty) which gives the equivalent protection sought under the NTB.

**Tariff escalation:** higher tariffs on processed products and lower tariffs on raw materials or on intermediate products in a product chain.

**Tariffication:** removal of non-tariff measures and replacing them by their tariff equivalents.

**Tariff quotas:** providing very low tariffs up to certain specified levels of imported quantities in different products.

**Technical barriers to trade (TBT):** permit the formulation and implementation of regulations to protect the health of human beings, animals and plants (see also SPS). Should be based on scientific evidence and information.

**Terminator technology (also sterile seed technology):** terminator seed is designed to genetically switch off a plant's ability to germinate a second time. This forces farmers to buy a fresh supply of seeds each year, which many in the developing world cannot afford to do. It was developed by Delta and Pine Land Company. The (sterilisation) patent is owned by Delta and the USDA. Related: traitor seed.

**Terms of trade (TOT):** the relationship between the prices of a nation's imports and those of its exports. Nations face declining TOT when import prices rise faster than export prices, while rising TOT occurs when relative export prices grow faster (Spero and Hart, 1997).

**Trade balancing requirements:** generally refers to requirements by a government that obligate a foreign producer to purchase a certain amount of input on the local market and/or to convert some amounts of foreign currency. This is done to protect the exchange rate and ensure foreign exchange.

**Trade deficit:** the shortfall that occurs when in a given period a country buys more goods and services from abroad than it sells abroad.

**Trade policy:** part of a broader umbrella of foreign economic policy that has traditionally been designed to promote competitiveness and to protect jobs and income.

**Trade policy instruments:** include tariffs and (over the years) a host of so-called non-tariff barriers (NTBs). These instruments all have advantages and disadvantages that reinforce the divisive nature of trade policy setting.

**Trade Policy Review (TPR):** the mandate of the Trade Policy Review Division is to review the trade policies and practices of the QUAD (Canada, the EC, Japan and the US) every two years, middle income countries (16) in terms of descending order every four years and all other countries once in six years.

**Voluntary export restraints (VERs/VRAs):** a so-called 'grey area' measure. A variant of an orderly marketing agreement such as the MFA under which an exporting country 'voluntarily' agrees to restrict its export of a commodity to an importing nation. WTO has prohibited future use of these and set a timetable for eliminating existing measures or bringing them under safeguard agreements.

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# Appendices

## **Appendix 1 Structure and Decision-making in the Multilateral Trading System: the World Trade Organization**

In 1994, WTO members resolved to:

. . . develop an integrated, more viable and durable multilateral trading system encompassing the General Agreement on Tariffs and Trade, the results of past liberalisation efforts, and all of the results of the Uruguay Round of Multilateral Trade Negotiations.

### Scope and functions of the WTO

#### *A. Scope (Article II)*

Provide a common institutional framework for the conduct of trade relations among members in relation to the agreements and legal instruments of the World Trade Organization Agreements (WTOA). The legal instruments are:

- Annex 1: The Multilateral Trade Agreements (MTAs);
- Annex 2: Understanding on Rules and Procedures Governing the Settlement of Disputes;
- Annex 3: Trade Policy Review Mechanisms (TPRM).

#### *B. Functions (Article III)*

- Facilitate the implementation, administration and operations and further objectives of the WTOA and the MTAs.
- Provide a forum for negotiation among members on trade matters.
- Administer the Dispute Settlement Understanding (DSU).
- Administer the TPRM.
- Co-operate, as appropriate, with the International Monetary Fund (IMF) and the World Bank and other inter-governmental organisations with responsibilities for matters related to those of the WTO.

### **Institutional structure (Articles IV–VIII)**

The highest decision-making body in the WTO is the Ministerial Conference (MC) that meets at least once every two years. To date there have been four such meetings (Singapore 1996, Geneva 1998, Seattle 1999 and Doha 2001). Decision-making on the formation of subsidiary bodies and authoritative interpretation of rules is normally conducted through the General Council (which consists of all members). This Council – which also meets under different terms of reference as the Dispute Settlement Body (DSB) and the Trade Policy Review Body – is assisted in carrying out its functions by bodies dealing with each of the broad areas of the WTOA: Goods Council, Service Council and TRIPS Council. Their work in turn is dispersed through a network of subsidiary bodies.

The day-to-day work of the WTO is carried out by the Secretariat of over 500 which provides administrative and technical support for negotiations and implementation of the agreements. They also provide technical support for developing countries and carry out trade performance reviews and trade policy analysis. The legal staff gives assistance in the resolution of trade disputes involving the interpretation of WTO rules and precedents. The Secretariat also deals with accession negotiations for new members.

Generally, discussions are undertaken in working parties and informal meetings. Informal meetings usually involve heads of delegation. However, the ‘green room’ process of selecting a small subset of members, bilateral meetings and informal bargaining sessions have become standard operating practice. Technically, heads of delegation (usually ambassadors) are the participants at the level of the General Council with expert officials participating in technical meetings. Contributions to the WTO are based on individual members’ share in total trade. The WTO currently has 140 members with about 30 potential members awaiting accession.

### **Decision-making procedures**

Legally, decisions in the WTO can be achieved by voting. However, there is a bias against this process and so the practice of decision-making by consensus, which is a carry-over from

the GATT, is the norm. In WTO terms ‘consensus’ is achieved when “no member present at the meeting where the decision is to be taken objects to the proposed decision”. Although there have been no votes cast in the GATT/WTO since 1959 or so, voting relies on a one country one vote formula and is specifically recognised as the appropriate means of decision making in four circumstances:

1. Adoption of interpretations of the WTOA and MTAs (3/4 majority).
2. Decisions on a waiver of a member’s obligations (3/4 majority).
3. Amendments of the provisions of the agreement (2/3 majority or, for five key articles, unanimity).
4. Admission of new members.

There is no specific provision for withdrawal or expulsion with regard to failing to comply with a change amendment except that, “The Ministerial Conference may decide by a three-fourths majority of the members that any amendment made effective . . . is of such nature that any Member which has not accepted it within a period specified by the Ministerial Conference in each case shall be free to withdraw from the WTO or remain a member with the consent of the Ministerial Conference” (Thomas and Meyer, 1997).

### Dispute settlement

Disputes are settled under the Dispute Settlement Understanding (DSU). A dispute arises when a member government believes another member government is violating an agreement or a commitment that it has made in the WTO. Key concepts are nullification and impairment, which can occur in two ways:

1. There is a violation of a WTO obligation.
2. There is no specific violation of WTO obligations but the measure is having the effect of nullifying benefits that other members reasonably expect would accrue to them under the WTOA (so-called ‘non-violation nullification and impairment’).

The DSU is administered by the Dispute Settlement Body (DSB) made up of members of the WTO. It has provisions for trade sanctions or retaliation that the winning party is entitled to. However, there are some concerns raised by developing countries and NGOs about the DSU processes and mechanisms. These include: (a) access and participation of developing countries on an equal basis with developed countries; and (b) transparency and participation by members of civil society.

#### ***a. Access and participation by developing countries***

The main problem here is the cost of access and the capacity to utilise the system. Issues include money, human resources, technical resources and political and economic power. The average duration of a case in the system is about three years. This has significant financial implications for developing countries. Winners are not compensated for losses during this period and a country may not have the capacity to regain market share. It may also lack capacity to retaliate. Rich and powerful QUAD countries such as the US are able to derive the benefits of the DSU. Smaller countries, however, have no real ability to enforce rules if a big player fails to take the corrective measures stipulated by a ruling of the DSU panel. There therefore need to be mechanisms to make the DSU more fair and beneficial to developing countries. One suggested way forward is “to remove the retaliation as an option under the DSU so that the losing party has only two options: comply with the ruling or pay compensation” (Kaukab, 1999). Other suggestions from NGOs include providing legal assistance for developing countries as well as institutional mechanisms to build their capacity to negotiate effectively.

#### ***b. Transparency and participation by civil society***

Measures need to be undertaken to promote greater transparency of the WTO process in general and the DSU process specifically. This could include rapid de-restriction of official documents, opening dispute settlement proceedings to members of the public and more generalised provisions for submissions – such as *amicus curiae* (‘friend of the court’) briefs – from civil society.

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## The Multilateral Trade Agreements (MTAs)

### 1. MTAs in goods:

- i. General Agreement on Tariffs and Trade (GATT) 1994. GATT 1947 (the original GATT with its amendments prior to 1 January 1995).

Understanding was reached in the Uruguay Round in six areas: (a) other duties and charges; (b) state trading enterprises; (c) balance of payment provisions; (d) custom unions and free trade areas; (e) waivers of obligations; and (f) tariff modification.

Tariff schedules and manner of implementing these schedules were agreed in the Uruguay Round.

- ii. Twelve other agreements in the area of goods covering:
  - Agriculture (AOA);
  - Sanitary and Phytosanitary (SPS) measures;
  - Agreement on Textile and Clothing (ATC);
  - Technical Barriers to Trade (TBT);
  - Trade-Related Aspects of Investment Measures (TRIMs);
  - Anti-dumping;
  - Customs valuations;
  - Pre-shipment inspection;
  - Rules on origin;
  - Import licensing;
  - Subsidies;
  - Safeguards.

2. General Agreement on Trade in Services (GATS).
3. The Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement.
4. Trade Policy Review Mechanisms (TPRM).
5. Dispute Settlement Understanding (DSU).
6. Plurilateral agreements in four sectors: civil aircraft, government procurement, dairy products and bovine meat.



## ***Appendix 2* Issues of Particular Importance for Developing Countries**

### **Market access**

Developing countries are seeking increased opportunities to sell goods and services in the international economy. They hope that expanded access will create economies of scale in production, enhance specialisation (via the efficient utilisation of resources such as market information) and promote movement of capital. This in turn will lead to more employment, increased production, wider availability of goods and services, income growth and a better standard of living. Market access is a critical lever in all sector negotiations from agriculture, services and investment to intellectual property and competition policy discussions.

Developing countries need to increase their understanding of the international and national (especially structural and institutional) limitations to market access, including the relationship between market access to technical assistance and provisions for special and differential treatment (S&DT).

### **Special and differential treatment (S&DT)**

Special and differential treatment (S&DT) refers to provisions and measures in trade agreements that attempt to take account of and adjust for economic disparities between states. The conceptualisation of S&DT has a long history going back to the Havana conference (1947–48) that laid the foundations for the GATT. It was set in place in response to developing countries' argument that trade liberalisation based on Most Favoured Nation (MFN) status did not take into account historical trade relations and structural dependency in the world economy. They argued that other measures were needed, including improved terms of trade, a reduced dependence on exports of primary commodities, correcting balance of payments volatility and the promotion of industrialisation through the use of protection (for infant industry) and export subsidies.

S&DT was thus meant to establish equity and fair competition where structural conditions are different and to avoid dis-

tortion due to negotiating power. The operational pillars of S&DT are:

- preferential access under a generalised system of preference (GSP) – this offers non-reciprocal concessions and the freedom to create preferential regional arrangement without conforming to GATT requirements on free trade areas and customs;
- policy discretion to: (a) maintain trade barriers to deal with balance of payments issues and protect infant industry; and (b) offer governmental support to domestic industries.

Under the WTO, however:

- S&DT has been de-legitimised and narrowed to: (a) longer transitional periods to implement the WTOA; and (b) technical assistance and differences in threshold levels.
- GSP is being eroded and flexibility reduced.
- S&DT is to be phased out by 2005 (with some exceptions i.e. subsidies).
- S&DT issues have been incorporated in an ad hoc manner with no underlying consensus.
- Current S&DT measures have failed to meet the needs of the South.
- S&DT is under threat from the US.

### Implementation problems

Implementation problems refer to the so-called systemic issues, including structural imbalances and weaknesses, that work to the disadvantage of the South in agreements such as AOA, ATC, TRIMs and TRIPS. They include calls for assessment of the Uruguay Round Agreement and the operationalisation of special and differential rights. The more protracted battle areas are:

- anti-dumping rules;
- exemption from the TRIPS agreement;
- extension of transition periods under TRIPS and TRIMs;

- removal of restrictions on textile trade;
- subsidies and custom valuation.

These issues have remained as they were in the 19 October 1999 Pre-Seattle Draft Ministerial (the Muchomo Text). The Doha Ministerial yielded a document on 'Implementation – Related Issues and Concerns' that simply promised to consider these issues in the future. Problems with implementing particular agreements include:

*Trade-Related Aspects of Investment Measures (TRIMs)*. The South would like TRIMs to be amended to allow the right to use local content policy and to limit the import of a certain percentage of foreign goods. This would be possible by exempting the South from the discipline of application of domestic content requirement through an enabling provision in articles 2 and 4. The South would also like to see article 5.2 (regarding the length of the transitional period for TRIMs) amended. Other issues that are problematic for developing countries revolve around requests for the extension of the time frame for implementation of TRIMs relating to local content and foreign exchange requirements (article 5.3).

*The Agreement on Textile and Clothing (ATC)*. From the point of view of the South there has been no meaningful liberalisation or removal of restraints by Canada, the EC or the US – the major importers.

*Anti-dumping provisions*. It is the view of a number of developing countries, such as Chile, that anti-dumping is an issue of 'over implementation' by the North and distorts the effect of market access negotiation. Anti-dumping is seen as 'trade harassment' used by the QUAD against the South.

*The TBT and SPS*. The Agreement on Technical Barriers to Trade (TBT) permits the formulation and implementation of regulations to protect the health of human beings, animals and plants. TBT and Sanitary and Phytosanitary (SPS) standards are technical standards that are to be based on scientific evidence. They have implications for how and where food may be produced, what can be added to it and how plants and animals are to be cared for, and may impose identical requirements on

all imported food. The points of tension between the North and the South have to do with transparency, better definition of international standards and guidelines and the South's need for technical assistance. There are calls for increasing the effective participation of developing countries in the work of international standard-setting bodies as well as for increasing financial and technical assistance for developing countries in order to enable them to meet their obligations in this area.

*The so-called Singapore (or 'new') issues.* New issues refer to the quadruplet of investment, competition policy, trade facilitation and transparency in government procurement.

## **Appendix 3 Regional Economic and Trade Agreements and Gender**

### **Southern African Development Community (SADC), 1980 and the SADC Free Trade area, 2000**

*Role:* Co-ordinate, regulate and monitor trade in the region.

*SADC members:* Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

*SADC Free Trade Area:* Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania and Zimbabwe. Zambia is to join soon. Angola, Democratic Republic of Congo and Seychelles may join later.

#### **Policy framework for mainstreaming gender**

1. Declaration on Gender and Development (1997).
2. 1998 Addendum: The Prevention and Eradication of Violence Against Women and Children.
3. Gender Plan of Action.

*Essential features or commitments:*

- a) gender on the agenda of the programme of action and community building initiative;
- b) ensure equal representation of women and men in decision-making of member states and SADC structures at all levels;
- c) seek to promote women's full access to and control of productive resources such as land, livestock markets, credit, modern technology and formal employment;
- d) repeal and reform laws to change social practices that subject women to discrimination;
- e) amend constitution to change social practices that subject women to discrimination.

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### ***Institutional framework for advancing gender equality***

1. Standing Committee of Ministers Responsible for Gender Affairs.
2. Advisory Committee/Regional Advisory Committee on Gender.
3. Gender Focal Points at sector level (to examine sectoral initiatives).
4. Gender Unit in SADC Secretariat (1998) (to advise, co-ordinate and facilitate gender equality in SADC).

### ***Activities to date***

Trade fairs; Conference on Gender and SADC; Gender Audit.

### ***Common Market for Eastern and Southern Africa (COMESA), 1994***

*Members:* Angola, Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe.

### ***Policy Framework for mainstreaming gender***

1. Gender policy statement (in process).
2. Promoting women entrepreneurs through the Federation of National Associations of Women in Business (FEMCON).

### ***Asia-Pacific Economic Cooperation (APEC), 1989***

*Role:* A consultative forum to provide the institutional framework for addressing issues of economic interdependence. Two Pillars: (i) economic and technical co-operation; and (ii) free trade in the region by 2010 for industrialised countries and 2020 for others.

*Members:* Australia, Brunei Darussalam, Canada, Chile, China, Hong Kong, Indonesia, Japan, Malaysia, Mexico, New Zealand, Papua New Guinea, the Philippines, the Republic of Korea, Singapore, Taiwan, Thailand and the US.

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### *Policy framework for mainstreaming gender*

1. 1996 APEC Leaders Declaration (Subic, the Philippines) – special emphasis on the full participation of women and youth. Areas highlighted were: science and technology, women entrepreneurs and small and medium-sized enterprises (SMEs) in rural areas and participation of women in the benefits of economic growth.
2. 1997 APEC Leaders Declaration (Vancouver) – called for specific steps to reinforce the important role of women in economic development. Areas highlighted were: industrial science and technology (IST), human resources development (HRD), tourism and transportation.
3. 1998 Ministerial Meeting on Women (stocktaking of progress to-date and next steps forward in the integration of women and the mainstreaming of APEC activities).
4. 1999 Framework for the Integration of Women in APEC:
  - a) gender analysis;
  - b) collection and use of sex-disaggregated data;
  - c) the involvement of women in APEC.

#### *Essential features or commitments:*

Commitment to mainstream gender in APEC agenda, in particular in IST, HRD and SMEs.

### *Institutional features for mainstreaming gender*

1. APEC encourages women delegates (though women are still under-represented).
2. APEC working groups to address gender issues programmes at the policy level (HRD, IST and SMEs).
3. Ministerial Meetings on Women since 1998.
4. Ad Hoc Advisory Group on Gender (AGGI): the institutional mechanism for operationalising the 1999 Framework and managing the task of gender mainstreaming (until 2002).

### *Some important activities to date*

1. Human Resources Development Working Group (HRDWG):
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- Projects on gender aspects of HRD: gender equity in education and training 1994; Industrial and Technology Training programmes for women (1995); and the Role and Status of Women in HRD in Social and Economic Development in APEC (1996).
  - Conference on Gender and Lifelong Learning (June 1998).
  - Linkages between paid and unpaid work formulation in HRD policies.
  - Stocktaking on its progress on gender integration/mainstreaming.
2. Industrial Science and Technology Working Group (ISTWG):
    - Guide to Women's Science and Technology Organisations;
    - Expert Group Meeting on Gender, Science and Technology (1998);
    - Ad Hoc Group on Gender, Science and Technology.
  3. SME policy level group: Study on Women Entrepreneurs in SME in the APEC region.
  4. Transportation Working Group to look at preparing women for careers in transportation sectors.
  5. Tourism Working Group to look at promoting role and contribution of women in tourism.
  6. Overview Paper: 'Women and Economic Development Cooperation in APEC, 1998' (prepared for 1998 Ministerial Meeting on Women).

### *Other gender mechanisms*

*Women Leaders Network (WLN)*: A network of women leaders from the private sector, public sector, academia and NGOs in the 18 APEC countries. Though not a formal APEC body, WLN advocates for a gender perspective on and the full participation of women in APEC trade and investment liberalisation programmes and policies.

*Gender Focal Point Network (GFPN)*: Two rings of gender focal points are proposed: (1) from each of the APEC working



groups, task force and fora; and (2) from each member economy – the current composition of the AGGI. Members' GFPs are likely to be national women's machineries. The GFPN will be chaired by a Senior Officer and be under the auspices of a Gender Integration Programme Director based in the APEC secretariat who will provide administrative support and guidance and hold the rings together. Anticipated outputs include: annual meetings and progress reports (as part of APEC Economic Outlook) and a Gender Outlook report every two years that will coincide with a Ministerial Meeting on Women.

### **The Caribbean Community (CARICOM), 1973**

*Role:* economic co-operation through co-ordination of foreign policy among the independent member states; and common services and co-operation in functional matters such as health, education and culture, communications and industrial relations.

*Members:* Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, and Trinidad and Tobago. Haiti has satisfied all the terms and conditions except for the deposit of an appropriate instrument of accession so is not yet a full member. Associate Members: Anguilla, the British Virgin Islands, and the Turks and Caicos Islands. Observers: Aruba, Bermuda, the Cayman Islands, Columbia, Dominican Republic, Mexico, Netherlands Antilles, Puerto Rico and Venezuela.

#### ***Policy Framework for Gender Mainstreaming***

1. Towards a Regional Policy on Gender Equality and Social Justice (CARICOM Ministers with Responsibility for Women's Affairs, 1996).
2. CARICOM Regional Plan of Action.
3. Framework for Mainstreaming Gender in Key CARICOM Programmes, starting with Education, Health, HIV/AIDS and Labour (Ministers/the Council for Human and Social Development).

#### ***Institutional framework for gender mainstreaming***

CARICOM Women's Affairs Division.

### Activities

'Macroeconomic Policies and Social Equity in CARICOM' – a presentation to the Ad Hoc Expert Group Meeting on Gender and Macroeconomic Policies in the Caribbean, 16–17 October 2000 – highlighted that gender was explicitly referenced as one of the six developmental priorities for CARICOM:

1. Alleviation of poverty.
2. Reduction of unemployment.
3. Improvements in health, education, skills and the standard of living for all.
4. Economic diversification.
5. Equitable distribution resources.
6. Removal of gender and other forms of discrimination.

### Pacific Islands Forum

*Members:* The Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, Palau, Papua New Guinea, Republic of the Marshall Islands, Samoa, the Solomon Islands, Tonga, Tuvalu and Vanuatu, Australia and New Zealand.<sup>8</sup>

### Policy framework for gender mainstreaming

1. Pacific Platform for Action prepared for the UN Fourth World Conference on Women in 1995.
2. Forum Economic Ministers Action Plan of 1998/1999 (para 6(a): "We will involve the widest possible range of stakeholders when designing and implementing economic reform programmes").
3. Principles and recommendations from the Pacific Islands Forum Roundtable on Gender and Economic Reform, March 2000 (based on the Forum Economic Ministers 1998/1999).

### Activities

- Symposium on Global Trade and Multilateral Agreements: Gender, Social and Economic Dimensions, February 2003.

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<sup>8</sup> Australia and New Zealand are not members of PICTA, the Pacific Free Trade Agreement.

- Pacific Round Table Meeting on Gender and Economic Reform, March 2000.
- Social Impact Assessment of Pacific Island Countries Trade Agreement (PICTA). PICTA proposed: (a) a gradual lowering of tariffs on goods traded among island states over a ten-year period; (b) removal of all non-tariff barriers (quotas, import and export licences, etc.); and (c) prohibition against offering lower tariff rates to non-PICTA countries.
- Social Impact Assessment of the Pacific Agreement on Closer Economic Relations (PACER). PACER provides a framework for future free trade agreements and economic relations in the region as a whole, including Australia and New Zealand (the gender dimensions are undetermined).
- Assorted free trade agreements with the EU starting September 2002, under the Cotonou Agreement (the gender dimensions are undetermined).

*Sources:*

For APEC: Durano, 2002a and 2002b; assorted APEC statements and research documents. Please see bibliography.

For SADC: DTI, 1999; Molokomme, 1999; Mlambo-Ngeuka, 1999; Patten, 1999; Khaxhas, 1998; Raditaple, 1998; and the Women's National Coalition, South Africa, 1998.

## **Appendix 4 A Model for Civil Society Consultation<sup>9</sup>**

A two-phased civil society consultation process/public education outreach to create a deeper awareness and understanding of, and a coherent approach to, economic globalisation.

Phase I: Preparation of module for public education programme.

Phase II: Dialogues with civil society: activities and events.

### **Phase I. Popular public education resources on globalisation/regionalism and trade liberalisation**

*Goal:* To deepen the awareness and understanding of economic globalisation.

*Objectives:*

1. To increase the understanding of a wide cross-section of the population: workers, students, community activists, farmers, business and other producers about the vulnerabilities, threats and opportunities to their livelihood strategies and business prospects posed by globalisation.
2. To help to stimulate new thinking and creative strategic response to these vulnerabilities, threats and opportunities and to enhance and create new pathways for wealth and income generation for the future.

*Targets:* community groups and the general public.

*Outline:*

- An overview and analysis of the systemic aspects of economic globalisation as it is being implemented via international and regional trade agreements and institutions. What is the driving engine? How does it – and will it – impact on the nation in terms of: poverty, equality, development, growth, jobs, community development and public service?
- Discussion of values and processes for the nation. How do

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<sup>9</sup> Adapted from a model developed for Jamaica.

citizens identify themselves in relation to globalisation?  
What are the opportunities and threats?

- What has the nation committed to so far and what is the scope for national policies and development?
  - a) overall vulnerabilities of the national economy to economic globalisation;
  - b) specific threats for various sectors or groups;
  - c) cross-cutting issues: governance (transparency, participation and democracy); gender; economic security;
  - d) potential opportunities.
- Comparative discussion of various country and regional responses and strategies to deal with economic globalisation.

## **Phase II. Dialogues with civil society: activities and events**

*Goal:* To develop a coherent and agreed upon approach to economic globalisation.

*Objectives:*

1. To stimulate public dialogue on economic globalisation and its impact and prospects for the economy.
2. To identify the priorities and concerns of men and women in this regard.
3. To build consensus around an integrated trade, development and globalisation strategy that promotes sustainable growth and development in the country.

*Events and activities:*

- A series of dialogues with policy-makers, activists, business people, trade unions, farmers, workers and community groups to promote their understanding of the issues and to examine alternatives from their perspectives.
- A series of dialogues with and presentations to the media to stimulate broad public dialogue on the issue.

*Implementation process:*

The resources created in phase I (popular education materials on specific subjects, simple briefing documents and sector ministries' positions on each of the issues, etc.) will be a critical input in the outreach process. The Minister of Trade and core staff will be available for active participation in these events. A network of local experts and resource people could be encouraged to speak on the issues as appropriate. The following could also be invited:

- NGOs and business and professional organisations – to join the consultation/public education campaign as dialogue partners and as sponsors of roundtables and workshops.
- Agencies such as those working on poverty eradication, micro credit, domestic violence, food/nutrition – to integrate this concept into their outreach programmes, strategies and events dedicated to community building and consciousness raising and mobilisation.
- Church groups, workers' association and trade unions – to integrate these events and activities as part of their regular meetings or annual events.

*Special note:* It is highly recommended that a facilitator skilled in participatory methodology and knowledgeable about the issue be engaged to work with the groups identified to package the events and programme as well as facilitate a participatory and enlivened process for the consultations and dialogues. This will ensure consistency and focus between the different meetings as well as be critical for putting together the final documentation of the various concerns and recommendations.

It is also recommended that, wherever and whenever possible, these events be audio/video recorded, as appropriate. Selected events may also be web-based, or an Internet conference could itself be an event. In any case, reports of the various dialogues/meetings/roundtables should be included on the website of the Ministry of Trade.

The organisation of the events should provide substantial opportunities for broad and informal participation and exchange of views, both in the plenary (not lasting more than twenty minutes) and in structured interactive sessions. Copies

of the resources generated in Phase I should be made available to all participants.

*Output:* An 'Alternatives' document embodying a variety of perspectives and recommendations drawn from the dialogue/consultation.

The social dimension of trade policy and trade liberalisation is now a common topic in many official trade fora. However, this discussion is proceeding with little or no attention to the different needs, constraints and interests of women. At the same time, it is increasingly recognised that simply paying attention to general targets and commitments to poverty eradication or sustainable development will not solve the problems of gender discrimination and the lack of economic and social advancement that still plague the lives of millions of women in developing countries.

This handbook provides an integrated framework for a sustainable, pro-poor and gender-sensitive approach to trade policy-making. A major part of the silence around gender, trade and investment at the level of governance of the trading system would appear to be a lack of understanding of the conceptual, empirical and policy links between gender and trade. Paradoxically, along with the view that trade policies are gender blind there is also an underlying popular viewpoint among some trade scholars and trade policy decision-makers that trade liberalisation has unambiguously benefited women in terms of widespread employment. Emerging evidence shows that trade liberalisation can have both positive and negative effects on women's economic and social status.

This handbook is intended to serve as an information and training tool for policy-makers and inter-governmental and civil society organisations interested in building and enhancing their knowledge of the important linkages between trade and investment policy and gender equality objectives and priorities. It also presents recommendations on the key issues as well as the identification of strategies that could be utilised by different stakeholders.

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*Cover Picture: A woman packing bananas in Dominica.*  
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