Framework for a Trade Impact Review

Prepared by
Sarah Gammage, Helene Jorgensen, Eugenia McGill with Marceline White[1]

For
Women's Edge Coalition
Washington, D.C.

With Support from
The Rockefeller Foundation
New York, NY

February 2003

[1] We are particularly grateful to Elizabeth Drake, Jerry Epstein, Marzia Fontana, Caren Grown, Kathy Hendrix, Mumtaz Keklik, Geri Palast, Stephanie Seguino, Matthew Stillwell, and Mark Weisbrot for comments on earlier versions of this report. We are also grateful to Bob Stumberg and Mariama Williams for their contributions to the development of this report.

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Framework for a Trade Impact Review

Executive Summary

Overview

This report calls for a comprehensive assessment of the gender-differentiated impacts of new trade and investment agreements, to be undertaken prior to their negotiation and signing by the United States. International trade commitments, like macroeconomic policies, are not gender-neutral. In order to avoid any unintended consequences and potentially negative impacts of trade and investment agreements on women, careful analysis is required of the repercussions, costs, and benefits to women and their families in the United States and among our trading partners in developing countries.

This report reviews some of the key findings in the economic, trade policy and legal literature on the potential and observed impacts of trade and investment agreements on women, their production and family responsibilities. The authors lay out a framework for this analysis and identify a number of indicators that should be monitored in order to assess the gender impacts of agreements with current and future trading partners of the United States. The paper concludes with policy recommendations that encompass modeling and methodological considerations, data collection, and institutional and regulatory issues.

Introduction

Trade liberalization is widely prescribed by national governments and international agencies as a strategy to promote growth. A hallmark of the past 20 years has been the ascendance of the "free-trade" paradigm that has resulted in the expansion of global trade, an increase in foreign capital flows, and the elimination of many domestic economic and regulatory barriers to trade. Countries have translated the macroeconomic policies that favor trade liberalization into multilateral, regional, and bilateral trade agreements. Today's trade agreements have moved beyond the negotiation of tariffs and quotas on manufactured goods, and now extend to agricultural products, services, and "trade-related" areas such as intellectual property rights and foreign investment.

Different Effects of Trade Liberalization on Women and Men

As currently analyzed and regulated, trade is presumed to be gender-neutral. However, seemingly neutral market mechanisms and macroeconomic policies can reinforce social biases and inequalities. Trade liberalization does not occur without adjustment costs. The removal of tariffs and quotas may expose previously protected sectors to competition and open up new areas to exchange and commodification. New trade policies are likely to produce changes in employment, price, income, and consumption patterns, which affect men and women differently.

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Women may be affected differently due to:

- **Asymmetric rights and responsibilities**. Throughout many countries and regions, women bear a disproportionate responsibility for unpaid household labor such as providing food, water, fuel and care for family members. In return, men are largely engaged in paid labor assuming much of the responsibility to meet the family's cash needs. This division of labor shapes women's ability to participate in paid employment, their access to education and training, and their choice of productive activities.

- **Reproduction and motherhood**. As a result of their ability to bear children, many socio-cultural norms exist about what activities are appropriate for women of child-bearing age. In addition, the responsibility of caring for children affects women's labor market participation. For example, many women are in the labor market for fewer years than men, entering and leaving employment more frequently than men in order to care for children.

- **Gendered social norms.** Socio-cultural norms influence men and women's working environments. Similarly, these norms and expectations may influence women's access to productive assets and their ownership of wealth.

- **Labor market segregation**. Women and men often work in distinct activities that offer different rewards and career opportunities even though they have similar education and labor market skills. In many economies, women work in jobs characterized by low wages, high job insecurity, low levels of unionization and poor working conditions.

- **Consumption patterns.** Because of women's primary role as caregivers, their consumption patterns may differ from those of men. Household resources, including food, may be prioritized for wage earners, frequently men or boys. Furthermore, as caregivers, changes in the price of food, education expenses, or health care provision may affect women more than men. When prices rise or service provision declines, women may be required to compensate by expanding their role as caregivers.

- **Time poverty.** Finally, women generally consume less leisure time than men due to their different responsibilities outside and within the household. Consequently, women may be time poor.

These characteristics may overlap and some reinforce each other. The net effect, however, is that men and women may face different opportunities and constraints that affect their ability to benefit from trade and investment agreements or adjust to changes brought about by their implementation. Women's access to resources (such as land and credit), their concentration in certain sectors (such as services and public sector employment) are likely to determine how their welfare and well-being is changed by the implementation of trade and investment agreements.

Rationales for a Gender Assessment

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There are several reasons why the United States should commit to carry out gender and other social assessments of trade and investment agreements. First, as a matter of good public and international policy, a large trading country like the United States should "look first" before undertaking any new trade or investment commitments. The assessments could anticipate and address any negative consequences that such commitments might have, as well as build upon positive effects, for women and vulnerable groups, particularly in developing countries. Second, a variety of international and regional bodies such as the Fourth World Conference on Women, the United Nations Conference on Trade and Investment, United Nations human rights bodies and APEC, as well as civil society groups, have called for gender and/or social assessments of trade agreements. The US government itself has adopted a "Framework for Participation in International Fora" that calls for gender-impact analyses to be carried out in the development of international policies and programs. Moreover, there is a clear precedent in Executive Order (EO) 13141, which requires the US government to conduct an environmental review of proposed trade agreements, including both domestic and transboundary impacts, and covering implications for US environmental regulations, statutes, and other obligations and instruments.

Finally, the US government promotes trade not only to support worldwide economic growth, but also to increase economic freedom and encourage democratic governance. It is important to ensure that the international trade rules and the economic activities that flow from them do not undermine the international commitments and domestic laws and policies that national governments of our trading partners have put in place to protect fundamental freedoms. Therefore, human rights should also be considered in any gender or other social assessment of a trade or investment agreement.

Gender and Trade: A Framework for Analysis

The authors use a framework that explores both the economic and legal effects of trade and investment agreements on women and men (see Appendix 1, Figure 1). The economic framework posits that trade between nations will affect prices and employment in the labor market. In laying out a framework to model the differential impact of trade and investment agreements on women, the authors develop a "feedback loop" that describes how a change in trade policy may affect relative prices– which, in turn, could affect labor demand in the public and private sectors, bring about a change in real wages, and affect consumption. Finally, the implementation of trade agreements can also affect the receipt of taxes by governments as tariffs are reduced and may bring about a change in the provision of public sector services if they are privatized or revenues are insufficient to sustain current levels of service delivery.

The economic framework clearly illustrates that any changes in trade policy cannot be neatly separated from other aspects of men and women's lives. Instead, a policy change can set into motion a series of other economic changes that directly affect the livelihoods and well being of women and men in the Global South and the United States.

The legal and regulatory section of the framework employs both a content and conflict analysis to ascertain possible gender-differentiated effects of trade and investment agreements. Looking at the content of a trade or investment commitment itself, policymakers should consider whether it contains any overtly gender-biased provisions. Another way to analyze the content of a

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commitment is to consider whether gender-neutral provisions might affect women differently. Finally, the analyst should consider whether the implementation or enforcement mechanisms of the agreement could disadvantage women.

A conflict analysis would consider the possible interactions between proposed trade or investment commitments and the laws relevant to women in a particular country, including the array of formal and informal laws and norms that determine women's status and rights. For example, could the implementation of a trade or investment agreement undermine a trading partner's international commitments, such as under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), or constitutional or statutory guarantees of gender equality? Similarly, would implementation of the trade or investment agreement undermine laws supporting women's access to education and training, employment, or financial services? In addition, what would be the impact of the trade or investment agreement on gaps in existing laws (such as labor laws), or on customary laws (such as those relating to the ownership and control of agricultural land)? The conflict and content analysis should also keep in mind the different circumstances of women in each country (which could be related to religion, race, ethnicity, class, geographic location or other factors), and the institutional factors that influence the enforcement of laws and women's access to justice.

Trade Agreements and Impacts by Sector

Drawing on existing studies, models, analyses and actions by trade bodies, the bulk of the report provides a detailed examination of the gender and other social implications of implementing key trade and investment agreements. The report considers trade provisions that influence economic activity in different sectors and thematic areas particularly relevant to women, and reviews the evidence of gender and other social impacts of trade liberalization in these sectors and areas. The sectors that are discussed include agriculture, manufacturing, services, the public sector, the informal sector and the reproductive sectors. The thematic areas reviewed include investment (which is relevant to both manufacturing and services), intellectual property rights, domestic regulation, labor standards, human rights and social protection. The analysis considers both economic and legal/regulatory effects.

Some cases examined in the report include:

- **Manufacturing.** Liberalized trade in manufactured goods has increased cross-border competition among manufacturers. This in turn has led many firms to lower production costs by reducing the number of permanent employees, outsourcing and contracting-in workers on an 'as-needed' basis. In Lima, Peru, for example, a depressed local economy facing heightened international competition in the early 1990s prompted footwear manufacturers to reduce production costs by cutting permanent jobs and subcontracting to small-scale and micro-enterprises. Around the same time, Lima's garment industry also began to rely on subcontractors. Concurrently, there was an increase in small-scale and micro-enterprises as households sought out new ways to bring in income to cope with the depressed local economy. Women in the footwear and garment industries typically were assigned the most labor-intensive jobs, and were paid an average of 45 percent less than men. These "feminine" tasks were the ones most frequently outsourced to subcontractors. Informal sector workers

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earned roughly 50 percent less than formal sector workers. Even within the informal sector, the majority of business owners were men and workers were female. On average, female workers tended to work eight hours more but earned 10 percent less than male workers.

Because textile and clothing manufacturers in many countries employ large numbers of women, either directly or through subcontractors, the report also considers the implementation of the multilateral Agreement on Textiles and Clothing, which was negotiated during the Uruguay Round and is intended to phase out import quotas on textiles and clothing. Although the agreement had been expected to open US and European markets to textiles and clothing from developing countries, the liberalization of these markets has been much slower than expected. In addition, the lifting of country-specific import quotas is leading to greater competition among developing countries, with both winners and losers. In a number of cases domestic manufacture of clothing is being wiped out and women workers are being displaced. An example from Carmody (1998) highlights how when trade was liberalized in Zimbabwe domestic producers of clothing were wiped out because they couldn't compete with Asian clothing imports. The majority of workers in domestic manufacture of clothing were women. Although liberalization lead to clothing becoming substantially cheaper, many women lost jobs in an industry that was effectively shut down as a result of competition with imports.

- **Subsidies and procurement.** In the United States and many other countries, government programs have been developed to improve the access of women, minorities and other social groups to education, training, credit, business development services and government contracts. However, these programs are not always taken into account by trade negotiators, and consequently some of these programs may be seen as prohibited subsidies or preferences under certain trade agreements. For example, the multilateral Agreement on Subsidies and Countervailing Measures, negotiated during the Uruguay Round, originally included an exception for "assistance to disadvantaged regions'', but not for assistance to historically disadvantaged groups. Consequently, a government program to provide low-cost loans, tax credits, training or other support to women or minority entrepreneurs in a particular industry might be challenged under certain circumstances under this agreement.

  Similarly, programs to assist women-owned and minority-owned businesses in obtaining government contracts could run afoul of the Agreement on Government Procurement, which was also negotiated during the Uruguay Round. In this case, the answer depends on the specific commitments that a country has made under the agreement. For example, the City of Baltimore has passed an ordinance to remedy past discrimination against minority- and women-owned businesses in the award of city contracts. If Baltimore were included in the US schedule to the Agreement on Government Procurement, without any limits or exceptions, certain provisions of the ordinance might be challenged as discriminating against foreign bidders, or at least creating an "unnecessary obstacle to international trade." Luckily for Baltimore, only the Port of Baltimore is covered by the agreement, and the US has asserted certain exceptions for small, minority and women's businesses in its schedule to the agreement. However, these exceptions vary depending on the government entity involved.

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Intellectual property. Approximately 36 million people are living with HIV/AIDS worldwide, of whom close to half are women, and female infection rates are rising rapidly. In Brazil, for example, only one woman was infected for every 99 men in 1984, but a decade later women accounted for a quarter of all those with HIV. More than 500,000 Brazilians are infected with HIV, and there have been close to 200,000 reported cases of AIDS. As part of a comprehensive prevention and treatment program, Brazil has endeavored to control the price of drugs in its AIDS drug "cocktail". Before 1997, it was able to control costs by manufacturing generic versions of the drugs locally. In 1997, however, it enacted a new Industrial Property Law to comply with the multilateral Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Among other things, the TRIPS Agreement requires countries to grant and respect patents on pharmaceuticals. While Brazil's new law provides for patents on pharmaceuticals, it also permits the issuance of compulsory licenses under certain circumstances, including national emergencies, abuse by a patent holder, or when a patent holder is unwilling to produce a patented good locally. Brazil has successfully used the threat of issuing compulsory licenses to negotiate substantial reductions in the price of imported drugs that are needed for its AIDS "cocktail".

Affordable therapies and treatments for people living with HIV/AIDS are critical to the health and well-being of substantial numbers of people in the poorest countries. Governments need flexibility under the TRIPS Agreement, and similar agreements at the regional and bilateral level, to respond to HIV/AIDS and other public health emergencies.

These are just a few of the cases examined in the report's economic and legal analysis of sectors and cross-cutting themes.

Methodologies to Analyze the Gender Impacts of Trade Agreements

Having established that international trade and investment agreements can produce unintended social consequences that affect men and women differently, it is important to review possible methodologies that could be used to forecast some of these impacts.

- **Computable General Equilibrium (CGE) model.** A CGE model describes a complete economy or world system and uses national accounts, household and labor force, and other cross section survey data to conduct a series of computer simulations. The U.S. government has already developed a number of CGE models that analyze the effects of trade policy on prices, production, and composition of output and employment. However, none of these models take gender impacts into consideration. A CGE model modified to include the reproductive sector and leisure and that differentiates between male and female workers can demonstrate that men and women are differently affected by the implementation of trade agreements.

- **Intrahousehold models.** A number of economic models have recently emerged which recognize the importance of gender relations within a household for responses to currency devaluation and other adjustment and liberalization policies. Some models assume that men and women have equal bargaining power, while others assume that women have less

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bargaining power than male members of a household. This addition of the household sector could be applied to existing CGE models to reflect more complex intrahousehold dynamics. Intrahousehold models can also be used independently of CGE and other macro models to explore the impact of policy changes and the implementation of trade agreements on the household and the care economy.

- **Empirical studies.** In addition to models, empirical studies play an important role in policy assessment. Empirical studies allow a researcher to evaluate the accuracy of model predictions, increase the understanding of unanticipated effects and provide insights into how prevailing models should be modified to increase their accuracy.

- **Implementation and enforcement.** The report cautions that trade analysts and negotiators should consider the implementation constraints and other factors that might cause benefits or costs to diverge from what might otherwise be expected. In addition, trade negotiators should consider the likely implementation costs of a proposed trade commitment, particularly one that includes "transparency" provisions or that requires substantial changes in domestic laws, regulations, or administrative review procedures. Implementation costs are of particular concern to developing countries, and can substantially reduce the expected benefits of a particular trade measure. For example, a recent World Bank study estimated that it has cost developing countries on average about $150 million to implement only three of the Uruguay Round agreements: the Agreements on the Application of Sanitary and Phytosanitary Measures, Trade-Related Aspects of Intellectual Property Rights, and Customs Valuation. This is equivalent to a year's development budget for many least-developed countries.

- **Legal and regulatory approaches.** An assessment of the legal and regulatory effects of trade or investment commitments on women, or other social groups, should include a scoping exercise, selection of a thematic or other approach, and content/conflict analysis. The scoping exercise would determine, for example, what trade or investment provisions should be assessed; whether to consider transboundary as well as domestic effects; and whether to examine effects on other international commitments and state/local laws as well as national laws. In terms of thematic approach, the assessment could be organized around key economic sectors or cross-cutting issues. However, in the short term it might be more practical for a trade office such as the USTR to focus on current trade negotiations, such as the Free Trade Area of the Americas. Finally, the analysis itself should consider the foreseeable legal and regulatory effects of a particular trade or investment commitment on women in the United States and in its developing country partners in terms of: (1) whether the text of the commitment reflects any overt gender bias or could have a disparate effect on women in implementation; and (2) whether the particular commitment could conflict with or undermine the country's other international commitments and domestic laws relevant to women.

Policy Recommendations

1. *Gender and Other Social Impact Assessments*

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This report recommends that the USTR conducts assessments of the gender and other social impacts of its trade and investment commitments both within the United States and in developing countries. Gender and other social impact assessments should be undertaken for all new multilateral, regional, and bilateral trade or investment agreements, for "built-in" negotiations under existing agreements, and for preliminary negotiations on new trade-related topics such as competition policy.

§ The assessments should adopt an economic modeling methodology and include legal/regulatory analysis. The assessments should draw on current models, and if necessary, develop a modeling framework that incorporates appropriate gender and other social extensions. In cases where the USTR adopts a CGE model for economic analysis, it is imperative that the modeling framework incorporates the reproductive sector and differentiates between male and female labor inputs.

§ The legal and regulatory analysis should consider (1) whether the text of a particular trade measure reflects any gender bias or could have disparate effect on women or other social groups; and (2) whether the particular trade measure could conflict with or undermine the country's international commitments and domestic laws relevant to women or other social groups.

§ A gender assessment should consider the potentially different impacts of trade and investment commitments on different groups of women, such as minority women, migrant women, poor women, and women working in sectors that are most likely to be affected by the particular commitments.

§ Where no gender-differentiated or other social impacts are anticipated, detailed documentation stating the reasoning behind this conclusion should be made available for public review and comments.

2. Process for Conducting Assessments

Gender and other social impact assessments can improve trade-policymaking by illuminating the anticipated gender and other social dimensions of trade policies. By so doing, the US government can enact measures to increase benefits where trade policy leads to improvements in women's status and social development and ameliorate, modify, or retract policies that may potentially harm women's livelihoods and social development concerns. To ensure that the assessments are useful policy tools, the assessments must take into account issues of stakeholder participation and timing.

§ Stakeholders should be involved in the development, implementation, analysis, and policy recommendations of a gender or other social impact assessment. Stakeholders should include (but are not limited to) the USTR, Department of Labor, Department of Education, Department of Health and Human Services, USAID, state and local officials, domestic and international women's organizations, international development organizations, and environmental organizations. Other stakeholders may include Native American and other indigenous groups, farmers unions, *campesino* and rural peoples organizations, and other social movement organizations.

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§ Gender and other social impact assessments should be undertaken or updated at several stages of a trade negotiation. The first assessment should be initiated before trade or investment negotiations begin to determine where gender and other social concerns might be most affected. The assessment should be refined once the framework for the negotiation is completed but before the request/offer stage of negotiations is launched. Finally, the assessment should be updated and finalized once the negotiation is concluded but before the agreement is ratified to take into account actual commitments, exceptions, and other details in the negotiated text. A follow-up assessment should be conducted two years after the trade or investment agreement is ratified so that policymakers can assess the initial impacts of the agreement.

3. Data Collection and Satellite Accounting

To fulfill the computational requirements of a CGE model and to ensure that other indicators are monitored, sex-disaggregated data must be collected for labor market participation; unemployment; hours of work; wages; skill levels; labor legislation; and indicators of the terms and conditions of employment. In addition, data should be collected on health and mortality, food security and nutrition, reproductive health, child health and welfare, education and poverty. (See Appendix 1, Table 1.4 for a full listing of indicators.) Household-level sex-disaggregated data should be collected that describes time and task allocation within the home; labor supply; access and control over productive assets; consumption of leisure, food, and luxury items. Moreover, efforts to monitor time invested in reproductive sector activities and estimate the shadow wage of labor allocated to the "care" economy will prove useful in extensions to trade models that explicitly include the reproductive sector.

4. Estimated Cost of Assessments

We recommend that the USTR establish an office for conducting continuous gender and other social impact assessments of new and existing trade and investment measures. Assuming an initial office staff of five (including two economists, one lawyer, one data analyst and one administrative assistant), we estimate the annual cost of such an office would be approximately $650,000.

5. Technical Assistance

We recommend that the United States support developing countries' efforts to undertake gender and other social impact assessments of their trade and investment commitments. This support could be provided through the United States' own trade-related technical assistance program and through the Integrated Framework for Trade-Related Technical Assistance to Least Developed Countries.

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