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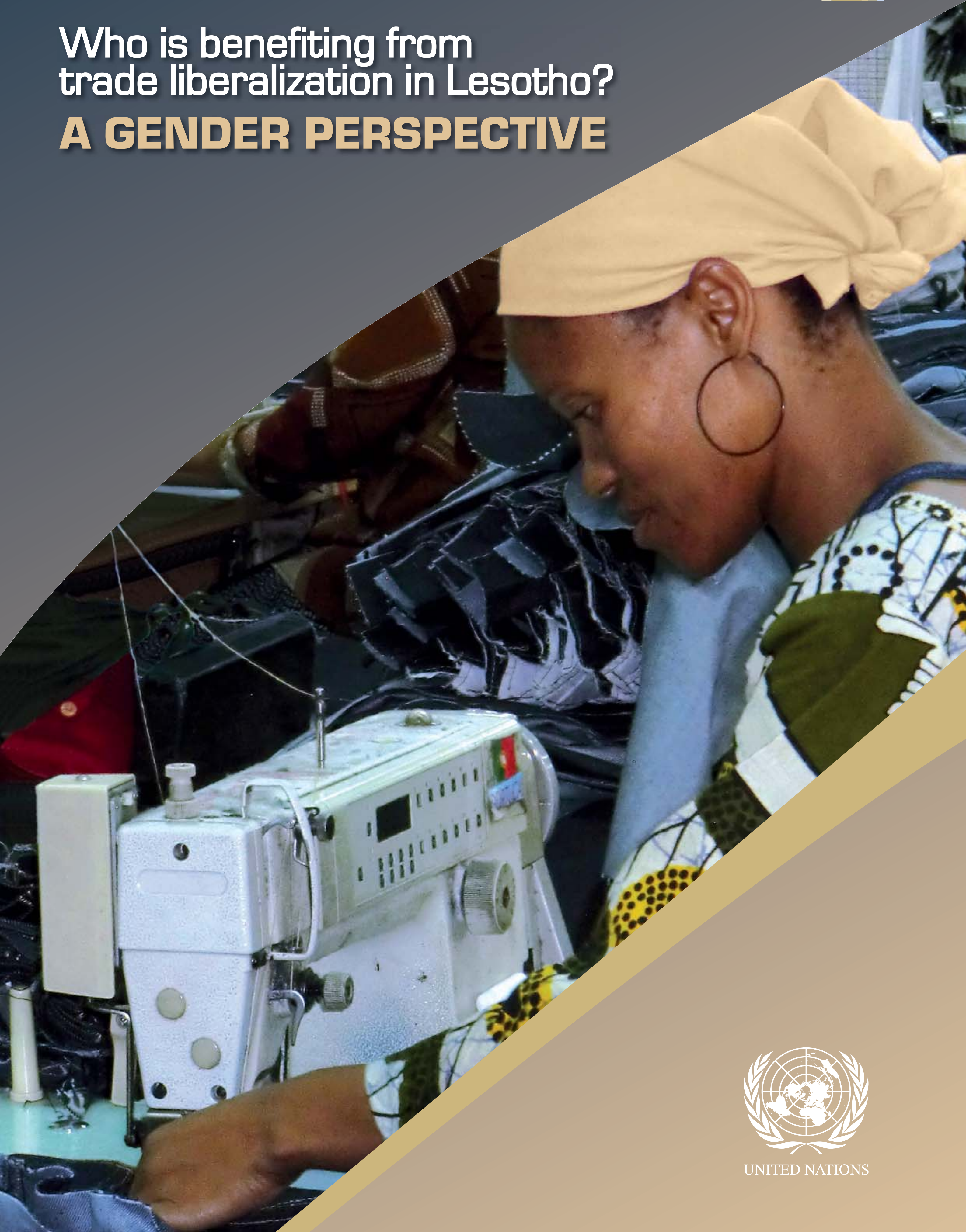
Who is benefiting from trade liberalization in Lesotho?

A GENDER PERSPECTIVE



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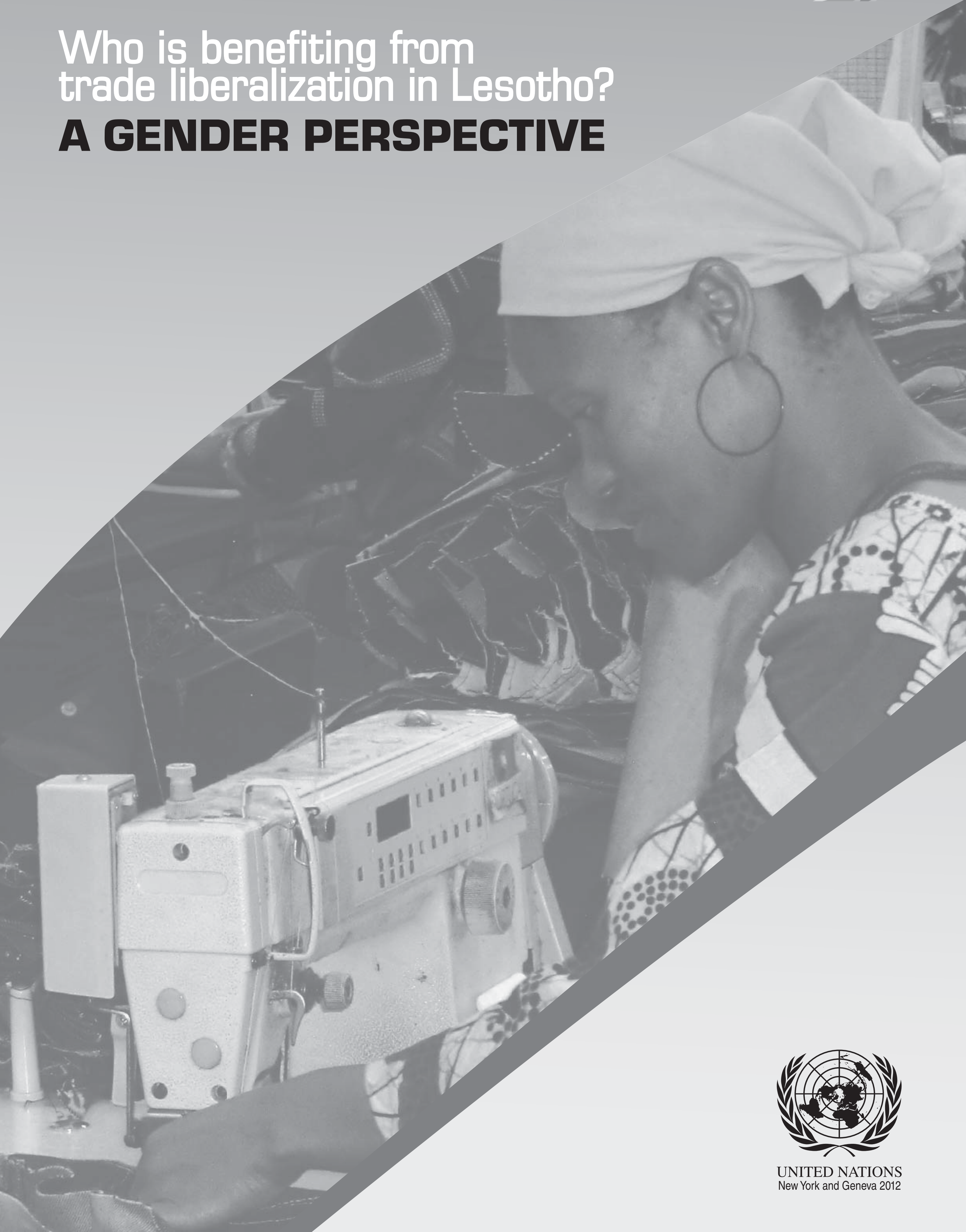

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This study is part of UNCTAD's activities on trade, gender and development carried out by the Organization in accordance with its mandate. The Doha Mandate, resulting from the Thirteenth Ministerial Meeting of the United Nations Conference on Trade and Development (UNCTAD XIII) held in Doha, Qatar on 21–26 April 2012, provides UNCTAD with a specific mandate on gender-related issues. Paragraph 56 calls on UNCTAD to "Continue its work in the area of agriculture in the context of commodities to help developing countries achieve more sustainable and strengthened agricultural production, food security and export capacity. This work should take into account the needs of small-scale farmers, and empowerment of women and youths" (subparagraph (i)). Moreover, "…UNCTAD should…Reinforce its work on the links between gender equality, women's empowerment, and trade and development, without prejudice to other programmes" (subparagraph (n)). The Doha Mandate underlines the key role that gender equality and women's empowerment play in harnessing the potential for inclusive growth and development" (paragraph 51); and stresses that they are "among the goals which are essential to all countries to attain" (paragraph 8).

UNCTAD aims to contribute to the analysis of the linkages between trade policy and gender equality, and to the related international debate, by looking at specific country experiences. This study is one in a series of case studies that are being conducted by UNCTAD in six developing and least developed countries, namely Bhutan, Cape Verde, Lesotho, Angola, Uruguay and Rwanda.

This study was prepared by Irene Musselli (lead author) and Simonetta Zarrilli from UNCTAD's Gender and Development Unit. Inputs were provided by Sylvia Booth, Diego Camacho, Mona Froystad, Mariangela Linoci and Marta Wojtczuk. Insightful comments and suggestions were provided by Luis Abugattas, Donna Bawden, Murray Gibbs, Robert Kirk, Nomasomi Mpofu, Cornelia Staritz, and Craig VanGrasstek. They are gratefully acknowledged. The overall work was coordinated by Simonetta Zarrilli.

The information in this report has been gathered from various sources, including interviews with key informants in the country. To this purpose, a "fact-finding" mission was carried out in Maseru, Lesotho, between 29 November 2011 and 2 December 2011, by a team of two UNCTAD staff members. The United Nations country Office facilitated the in-country travel and arranged the interview schedule. Interviews were conducted with:

- Governmental officials (from the Ministry of Trade and Industries, Co-operatives, and Marketing; the Ministry of Gender and Youth, Sport and Recreation; the Ministry of Labour and Employment; and the Bureau of Statistics);
- Trade unions and business representatives (from the Lesotho Wholesaler Shops and Allies Workers Union; the Lesotho Clothing and Allied Workers' Union (LECAWU); the Lesotho Chamber of Commerce and Industry (LCCI); and the Lesotho Textile Exporters Association (LTEA));
- Non-governmental organizations (the Lesotho Federation of Women Lawyers; Apparel Lesotho Alliance to Fight AIDS (ALAFA), the Association of Women in Small Business; and Khutson Sekamaneng Women in Action against Poverty).

The interviews were conceived as a qualitative enquiry into current market realities that have a bearing on women, particularly in the textile and apparel sector. They also provided the opportunity to collect the most up-to-date information on a number of employment indicators. Thanks go to the interviewees, who generously shared information and insights.

The study was financed by the Government of Norway under the project "Enhancing capacities of Lesotho to mainstream gender into trade policy". Norway's support for this specific activity and for UNCTAD's work programme on Gender and Development is gratefully acknowledged.

EXECUTIVE SUMMARY

Though important gender gaps persist in a number of critical areas, the experience of Lesotho highlights that the political resolve to promote gender equality is not, and should not be, a monopoly of high-income countries. Even those countries qualified as least developed countries (LDCs) can ambitiously adopt and implement strategies and policies aimed at reducing gender-based disparities.

The Lesotho case study highlights the multifaceted relationship between trade policy on the one hand, structural changes and productive transformation on the other, and their repercussions on patterns of employment for men and women. In particular, the rise – and subsequent relative decline – of Lesotho as a major apparel exporter to the United States illustrates clearly the strong correlation between trade policy, structural change in the economy, and shifting gender patterns.

I. GENDER ASSESSMENT

Lesotho has made significant progress on closing the gender gap. Remarkably, the country ranks 9th out of 135 countries on the World Economic Forum (WEF)'s Global Gender Gap Index (GGI), 2011, well ahead of countries like the United Kingdom, the United States or France. Lesotho has closed the gender gap in literacy and education, and female educational gains are filtering into the jobs market. Most notably, women now make up the majority of the high-skilled workforce. Women also hold the majority of positions at the local government level. These developments should be largely credited to the Government's pro-women policies and strategies. They also relate to Lesotho's migration history, as a large share of the Basotho male population historically migrated to work in South Africa's mines, forcing women to take more active roles in society at home. Notwithstanding these achievements, major gender gaps persist in a number of critical areas. Structural biases against women are evident in access to land and other productive resources. Health statistics also point to structural gender biases. The spread of HIV and AIDS has had a disproportionate impact on women, largely due to social and cultural factors, such as gender-based violence.

This duality in gender-related "outcomes" reflects a certain dualism in the country's policies and social institutions ("input" or "means" variables). Most notably, while "modern" and progressive piecemeal legislative action has provided equal rights for men and women in Lesotho; traditional rules and customs limit women's ability to exercise these rights. Sociocultural norms have not kept pace with legal advances and are still entrenched and far-reaching, for a number of reasons. First, there are some structural constraints built into Lesotho's legal framework – a dual legal system, within which "civil" law (essentially based on Roman Dutch law) and customary law coexist without encroaching upon each other. Second, a number of logistical and financial constraints hinder effective access to "civil" justice. In addition, lack of awareness of legal rules/venues, and sociocultural barriers (such as fear of reprisal or social ostracism) represent significant obstacles to women's access to justice in Lesotho. Particularly in rural areas, the evolution of social institutions (and particularly the role of women in society) will largely depend on the transformations brought about by legislative action and judicial pronouncements in areas traditionally reserved for customary law (marriage relationships, inheritance practices, etc.).

II. TRADE-LED STRUCTURAL CHANGES AND TRADE POLICY CHALLENGES

There have been major changes in Lesotho's structure of production and trade over the past thirty years. Results indicate that from the early 1980s to 2010, the manufacturing industry significantly expanded its share of production, from about 6 per cent of value added in 1982 to approximately 18 per cent in 2010. Manufacturing was boosted by strong growth in the apparel sector. During the same period, structural change in Lesotho's trade patterns was reflected by a shift in the composition of exports towards apparel products. Overall, trade expansion over the last thirty years has brought about an increase in labour-intensive exports, most notably clothing – a development accompanied by a significant increase in female wage employment in the formal sector.

These structural changes – most notably the fast expansion of supply and trade capacity in the apparel sector – largely reflect the outcome of trade policy. Lesotho provides an example of a direct correlation between trade policy on the one hand, and structural change and productive transformation on the other. Three trade policy instruments have critically shaped Lesotho's competitive edge in apparel exports: (i) quotas on exports of clothing from Asian producers to the United States and the European market under the Multifibre Arrangement (MFA); (ii) unilateral, non-reciprocal duty-free access to the United States for Lesotho's apparel products under the African Growth and Opportunity Act (AGOA) initiative; and (iii) a relaxation of the rules of origin under AGOA to permit third country fabrics in the production of Lesotho's apparel exports to the United States.

Lesotho's garment sector had expanded under the MFA, when Asian investors moved to Lesotho to bypass the MFA quota restrictions constraining textile and apparel exports from Asian countries. The MFA had provided for the application of selective quantitative restrictions when surges in imports of particular products caused, or threatened to cause, serious damage to the industry of the importing country. The main targets of protectionist measures under the quota system were low-cost Asian suppliers, including Pakistan and India.

AGOA again spurred an inflow of FDI from Asia, mainly mainland China and Taiwan Province of China, to take advantage of quota-free market access to the US. The AGOA third country fabric clause allows beneficiary LDC countries, including Lesotho, to export apparel articles to the United States under AGOA preferences, regardless of the country of origin of the fabric or yarn.

Lesotho's comparative advantage was thus, to a significant extent, artificially crafted through trade policy. This makes the country particularly vulnerable to "preference erosion" arising from the AGOA scheduled phase-out and from Most Favoured Nation (MFN) tariff cuts at the WTO. More precisely, Lesotho faces the combined implications of what we may refer to as trade preference "expiration", preference "erosion", and "preference dilution".

Preference "expiration" refers to the scheduled phase-out of AGOA and the third country fabric clause. AGOA provides duty-free and quota-free treatment for eligible apparel articles made in qualifying sub-Saharan African countries through September 2015. A productivity disadvantage vis-à-vis other (mainly Asian) exporters makes Lesotho's clothing industry heavily reliant on AGOA trade preferences. Another major related challenge facing Lesotho's garment industry is the planned expiration (30 September 2012) of the AGOA third country fabric clause. As mentioned, the clause allows lesser developed beneficiary countries (LDBCs) to export apparel articles to the United States under AGOA preferences regardless of the country of origin of the fabric or yarn. The clause on third country fabric is crucial for the viability of Lesotho's clothing exports, as Lesotho apparel manufacturers largely source their fabric inputs from non-AGOA eligible countries, notably Taiwan Province of China.

The risk of preference "erosion" arises from MFN trade liberalization in manufactured products. Multilateral trade liberalization negotiations result in market access gains for all countries, which erode the preference margins enjoyed by countries that receive unilateral preferences. In textiles and apparel, MFN tariffs are still considerable. The main unilateral preferences programmes, such as the Generalized System of Preferences (GSP), either exclude textile and apparel from their coverage or impose rather strict rules of origin requirements. Lesotho would then be particularly vulnerable to MFN trade liberalization in this sector. It seems, however, that the country is unlikely to face the challenges of further multilateral liberalization in the apparel sector for the time being, as divergences about the depth and scope of industrial tariff cuts have effectively blocked further MFN liberalization. In the past, the issue of preference "erosion" in apparel came up importantly for Lesotho (and other AGOA suppliers) in 2004/2005 with the complete phase-out of the MFA. It essentially concerned the removal of quotas, rather than tariff liberalization. The MFA had provided for the application of selective quantitative restrictions when surges in imports of particular products caused, or threatened to cause, serious damage to the industry of the importing country. The expiration of the final MFA quotas in 2005 resulted in a rapid acceleration of US imports from the formerly quota-contained Asian suppliers, such as China and Vietnam.

Preference "dilution" occurs when preferential treatment is extended to other countries. AGOA countries that already enjoy duty-free, quota-free treatment see the extension of similar treatment to the other LDCs as a threat to their own interests. As regards apparel products, preferential access to the US market under AGOA has already been diluted/is being diluted by the extension of duty-free, quota-free access to apparel imports from other major apparel suppliers to the United States, including Nicaragua (under the U.S. - Central America - Dominican Republic Free Trade Agreement (CAFTA-DR)); and, if the Trans-Pacific Partnership (TPP) agreement is implemented, Vietnam. A major perceived threat in this context is also the possible extension of the AGOA to the Asian LDCs that do not currently enjoy preferential access to the US market, including Cambodia and Bangladesh.

These trade policy-issues have gender-specific implications in Lesotho, as they are likely to disproportionately affect women, who are predominant in Lesotho's export-oriented apparel sector.

III. GENDER RAMIFICATIONS

The trade-led structural transformation in Lesotho, specifically the fast expansion of supply and trade capacity in the apparel sector, has had strong redistributive effects across sectors and individuals. Overall, it has created opportunities for women's empowerment and well-being through job creation in export-led sectors; but it has also contributed to new patterns of inequality and vulnerability.

The trade-led expansion of Lesotho's apparel industry has created a large number of new jobs in Lesotho, most of which have been filled by women. Under AGOA, Lesotho's clothing industry has grown to be the country's single largest employer with some 48,000 jobs in 2004, compared to only about 10,000 in 1999. Women make up the bulk of this workforce. The Lesotho case study thus confirms that trade policy (in this case, preferential access to US markets) can play a catalytic role in job creation for women. Most significantly, trade-led developments have created a large number of new jobs for underprivileged, relatively unskilled women who would otherwise have little chance of being formally employed. The advantages of formal employment in the textile and apparel sector in Lesotho have extended beyond the income earned. In particular, women working in the apparel factories have access to innovative workplace health programmes that provide free HIV care and treatment. In a context where some 40 per cent of workers in the textiles and apparel sector are HIV-positive (ALAFA), this industry-wide initiative is critically important.

However, there are qualifications to be made, and some aspects that need to be critically assessed. Some of the major areas of concern include the quality of the employment created (wages, working conditions and skills development), the spillover effects within the economy, and new patterns of vulnerability to external shocks.

Wages in the textile and apparel sectors are low in real terms. At the lowest wage scale, a general worker in Lesotho's textile and apparel industry earns a minimum of 44 maloti per day, or 208 maloti per week, or 833 maloti per month (equivalent to about \$5, \$26, and \$103). Considering that the average monthly cash expenditure on food and beverages for all households was 405 maloti in the 2002/2003 Household Budget Survey, wages allow only for the coverage of basic subsistence expenses. Working conditions are hard. Furthermore, female job segregation in the unskilled/labour intensive nodes, and the segregated nature of tasks within each node, have significantly limited skills development.

The spillover effects within the economy have been modest. There have been limited effects on government revenue, as export-oriented (outside SACU) manufacturers benefit from a number of tax incentives that curtail their contribution to the national budget. Nor have any significant industrial linkages involving local small and medium-sized enterprises (SMEs) and fostering local skills been developed.

Finally, although formal employment in the apparel sector has been a positive development for many women, it has also made women particularly vulnerable to external shocks and changes in the international trade environment. This vulnerability is particularly acute in light of the fact that textile and apparel workers would face many difficulties in adjusting to trade policy changes. The limited effect of foreign investment on fostering skills development in Lesotho's apparel sector, and the low wage levels, which do not allow building up substantive savings for small business activities, contribute to make the adjustment difficult. It is widely recognized that if the apparel factories were to shut down, it would be very difficult for the female workers to relocate.

IV. POLICY OPTIONS

There is a wide spectrum of policy options that Lesotho may wish to consider for the implementation of a sustainable, gender-sensitive trade strategy.

Short-term responses are geared to a temporary extension of AGOA tariff preferences and of the third country fabric clause. This would give Lesotho more time to design and implement a post-AGOA adjustment strategy. Negotiators may wish, in particular, to build a "gender case" for the preferential regime extension, on humanitarian grounds. Also, initiatives to tackle HIV/AIDS in the workplace can be leveraged to build a product-differentiation strategy and penetrate new export markets. Gender should be an integral component of this approach.

In the mid- to long-run, the unpredictability of the renewal of AGOA underscores the urgent need to diversify Lesotho's export markets and products. Government should also support the creation of industrial clusters/linkages, and create an enabling environment for local income-generating small and medium-sized enterprises. Gender should be an integral component of this strategy, with a view to offering new employment opportunities for two discrete groups of workers; namely workers in Lesotho's textile and apparel sector (mainly women) and Lesotho's retrenched migrant miners (men).

In the long run, Lesotho should strive to build a competitive and resilient productive base in order to fully exploit the potential in local, regional and global markets. It is critical, in particular, to overcome infrastructural deficiencies and improve the business environment. This calls for the mobilization of internal resources and the pooling and alignment of external funds.

INTRODUCTION

This report aims to critically assess the gender implications of Lesotho's trade-led productive transformation. The study is structured as follows.

Chapter 1 provides a broad country overview.

Chapter 2 assesses the gender situation in Lesotho, by considering both gender-related "outcomes" (the relative position of men and women in key aspects of social life) and relevant policies and social institutions ("input" or "means" variables).

Chapter 3 reviews some changes in Lesotho's structure of production and trade, outlines some underlying trade policy developments, and singles out some gendered implications of these developments.

Chapter 4 closes with some summary observations and illustrates a spectrum of policy options for Lesotho for the implementation of a gender-sensitive trade strategy.

I

Country overview

1 COUNTRY OVERVIEW

The Kingdom of Lesotho is a sovereign and independent country which is totally surrounded by its neighbour, the Republic of South Africa. Its territory covers an area of 30,300 km^2, three-quarters of which are highlands located 1,800 meters above sea level. Only 13 per cent of Lesotho's land is arable due to soil erosion and desertification. Human and livestock population pressure on limited land areas also contribute to soil erosion. Limited availability of arable land, unfavourable climatic conditions and rampant soil erosion significantly constrain agricultural activities – a sector that still supports the majority of the population (UNSTATS 2009; Kingdom of Lesotho (KoL) 2001).

The latest population and housing census (KoL 2009a) estimates Lesotho's population at about 2.1 million. Approximately 23 per cent of the population live in urban areas and the remaining 77 per cent live in rural areas. The gender ratio is about 94 males for every 100 females. Male heads of household comprise 64.9 per cent of all households, while female household heads comprise 35.1 per cent. The average household consists of 4.4 persons, and rural households tend to be bigger than urban households. The country is ethnically homogeneous: Lesotho has only one ethnic group, the Basotho; and one language, Sesotho.

In the area of governance, Lesotho gained independence from the United Kingdom in 1966 and is a constitutional monarchy. Democratic elections were held in 1993 and in 1998, when the results were challenged by the opposition party. An Interim Political Authority was then established to resolve the impasse, involving all political parties. An electoral reform is in the pipeline, and elections are due to be held in 2012 (Economist Intelligence Unit 2011). The Transparency International corruption perception index ranks Lesotho 78th out of a total of 178 countries, with a score of 3.5.[1] Lesotho ranks 9th out of the 33 sub-Saharan African countries included (Transparency International 2010). In the 2011 Doing Business report, Lesotho is ranked 138th out of 183 economies, while South Africa is ranked 34th.[2] Some areas where Lesotho is facing challenges are construction permits, investor protection and property registration (World Bank & International Finance Corporation 2011b).

Lesotho has traditionally had close economic ties with South Africa, via trade, migrant miners and receipts from the Southern Africa Customs Union (SACU). Its currency, the loti, is pegged to the South African rand at parity. Despite Lesotho's market-based economy being heavily tied to South Africa, over the past decade the United States has grown to become a major trade partner.

Economic growth in Lesotho has been slow and erratic, and social progress has been modest over the years. Growth in per capita income averaged about 1.6 per cent a year during the period 1997–2007, below Lesotho's regional and international comparators (UNCTADstat). The country is classified as least developed and food deficit. Over the past thirty years, remittances from Basotho miners employed in South Africa, SACU customs duties and export earnings from textiles and diamonds have generated the bulk of government revenue. Despite its declining share of output, subsistence agriculture still employs a majority of the population. The water sector (electricity, water and construction) has also played an important role in output, particularly in the 1990s, during the construction of the Lesotho Highlands Water Project (LHWP).

Over the past decade, the export-oriented apparel sector has become a prominent source of economic growth, foreign exchange and employment, building on the preferential trade opportunities created by the African Growth and Opportunity Act (AGOA). Diamonds, Lesotho's fastest growing export commodity, have also generated significant export revenue. Export proceeds, however, have only partially offset declines in remittances inflows and SACU revenues. These declines in remittances inflows are due in part to the fact that since the early 1990s, there has been a major retrenchment of male migrants from the mines following changes in mining companies' employment policies. In 1990, some 99,700 miners from Lesotho migrated to South Africa, compared with some 46,000 in 2005 (Southern African Migration Programme 2010).[3] This has translated into reduced remittances inflows and an influx of new job seekers in the domestic jobs market, as men who traditionally worked in the mines across the border look for work at home. Also, SACU receipts, which have been the bulwark of Lesotho's national budget ever since 1969, have contracted significantly in recent years.

Lesotho still faces a major poverty challenge. According to the 2002/03 Household Budget Survey (KoL 2006), the percentage of households below the poverty line was 56.6 per cent in 2002/03, a

10-percentage point decline from 1994/95.[4] Poverty continues to be a predominantly rural phenomenon, but its incidence is growing in urban areas. The poverty rate for households in rural areas stood at 61 per cent in 2002/03 (down from 70 per cent of households in 1994/95), while in urban areas it had increased over the 1994/95-2002/03 period from 32.3 to 33.7 per cent ("Maseru urban area"), and from 40.4 to 46.3 per cent ("Other urban areas") (UNDP 2007). There is no discernible "feminization" of poverty in Lesotho: women or women-headed households do not represent a disproportionate percentage of the poor, who live predominantly in male-headed households (66.2 per cent). It is interesting to note, however, that the proportion of the poor who live in female-headed households increased to 33.8 per cent in 2002/03 from 28.9 per cent in 1994/95 (KoL 2006). Lesotho ranks 141st out of 169 countries on UNDP's Human Development Index (HDI), with a HDI of 0.427 (slightly above the sub-Saharan Africa regional average). This rank positions the country in the "low human development" category (UNDP 2010). The income distribution in Lesotho is unequal, with a Gini coefficient of 52.5, among the world's highest.[5]

Lesotho has a long history of both internal and external migration. Traditionally, labour migrants were mainly men headed for South African mines, while their wives stayed behind to care for the family and tend to the fields. Migration has led to employment and income opportunities, but it has also had negative effects, such as brain drain and the fact that the migrating population is in the high-risk zone for HIV infection.

The HIV prevalence rate in Lesotho, which was estimated at 23.6 per cent in 2008, is the third-highest in the world (KoL 2010b). The country is facing a so-called triple threat: the coincidence of high HIV prevalence, poverty, and a weak governance system. The high HIV prevalence reinforces, and is being reinforced by, poverty. The weak governance system negatively affects the capacity of the public sector to deliver quality services. These issues not only undermine the country's development but also impact women, and therefore represent an obstacle to the achievement of gender equality. Women are particularly vulnerable to HIV infection for several reasons. Persistent gender-based violence, especially in the form of sexual abuse of young women, is a vehicle for the spread of the disease. Large-scale migration of women from rural to urban areas in search of employment opportunities, especially in the textile sector, has favoured an increase in infections. In addition, higher wages may tempt garment workers to switch to sex work. HIV/AIDS is also generating new forms of migration. When HIV-infected migrants become too sick to work, they return home (Clark et al. 2007).

The Government of Lesotho has put in place a programme to deal with these problems, and generally to promote progress and development in the nation: The National Vision 2020. It was launched in 2004 and states that "by the year 2020, Lesotho shall be a stable democracy, a united and prosperous nation at peace with itself and its neighbours" (KoL 2004a). The Vision 2020 has been implemented through the Poverty Reduction Strategy Programme 2004-2008 and is currently part of the Medium Term Macroeconomic Framework (2009-2011). The Government has also started the process of preparing the National Strategic Development Plan (NSDP) 2012/13-2016/17. Once developed, the NSDP will guide the implementation of the National Vision 2020 (KoL 2011c). The five main topical clusters for the NSDP are the investment climate, financial services, and trade and manufacturing; infrastructure; skills development; economic sectors; and health (ibid).

II

Gender assessment in Lesotho

2 GENDER ASSESSMENT IN LESOTHO

2.1 INTRODUCTION

The gender situation in Lesotho is quite elusive. One the one hand, women are educated and engaged as pillars of the economy. In addition, women are increasingly represented in political decision-making. On the other hand, gender gaps persist in some important respects – from wage discrimination against women to the disproportionate impact on women of the HIV and AIDS epidemic. This duality in gender-related "outcomes" reflects a certain dualism in the country's policies and social institutions ("input" or "means" variables). Most notably, while "modern" and progressive piecemeal legislative action has provided for equal rights for men and women in Lesotho, traditional rules and customs limit women's ability to exercise these rights. These issues are discussed in some detail below.

2.2 GENDER–RELATED "OUTCOMES"

Lesotho has made significant progress on closing the gender gap. Remarkably, the country ranks 9th out of 135 countries on the World Economic Forum (WEF)'s Global Gender Gap Index (GGI) 2011, well ahead of countries like the United Kingdom, the United States or France. The pace and magnitude of gender equality gains has been outstanding. Suffice it to mention that the country ranked 43rd in the GGI 2006.

Lesotho has closed the traditional gender gap in literacy and education, and in fact men have now fallen slightly behind. Literacy rates among women (95 per cent) far exceed those of men (83 per cent). Women also outperform men in terms of educational attainment – with proportionally more women than men enrolled in primary-, secondary- and tertiary-level education (World Economic Forum 2011).

Female educational gains are filtering into the job market. Lesotho is the second-highest-ranking country among the 135 countries on the WEF Economic Participation and Opportunity Subindex (World Economic Forum 2011). Most notably, women now make up the majority of the high-skilled workforce. According to WEF figures, 52 per cent of positions of legislators, senior officials and managers are held by women; moreover, an estimated 58 per cent of professional and technical workers are women (World Economic Forum 2011). Women also account for the bulk of the workforce in the dynamic textile and apparel sector, and even though these are low-skilled jobs, this sector has been one of the key drivers of Lesotho's economic dynamism over the last decade.

Although the gap between men and women in political decision-making is still significant, women are well represented in ministerial positions (32 per cent of seats – including Education and Training, Employment and Labour, Health and Social Welfare, Justice, Law and Constitutional Affairs, Local Government and Chieftainship, Tourism, Environment and Culture, in addition to Gender – are held by women) and in parliament (24 per cent of positions held by women). The global average at the ministerial and parliamentary levels is less than 20 per cent. It is worth mentioning that women hold 52.8 per cent of positions at the local government level (Committee on the Elimination of Discrimination against Women 2010).

These developments should be largely credited to the Government's pro-women policies and strategies, which include affirmative action measures directly responsible for the high averages of women in political decision-making positions (further discussed in section 2.3.1). They also relate to Lesotho's migration history: a large share of the Basotho male population historically migrated to work in South Africa's mines, forcing women to take more active roles in society at home.

Table 1: Comparison of women in Lesotho and the United States

Indicators	Lesotho	United States
Literacy rate	95% of women	99% of women
Legislators, senior officials and managers	52% are women	43% are women
Professional and technical workers	58% are women	55% are women
Women in parliament	24% of parliamentarians	17% of parliamentarians
Women in ministerial positions	32% of ministers	33% of ministers

Source: World Economic Forum, 2011

Notwithstanding these achievements, major gender gaps persist in a number of critical areas.

Labour statistics point to some critical areas of concern. According to the 2008 Labour Force survey, the labour force participation rate was 63.5 per cent.[6] The gender-disaggregated labour force participation rate was much higher for men (72.6 per cent) than for women (55.3 per cent). The unemployment rate[7] (22.5 per cent) was significantly higher for women (24.6 per cent) than for men (21.2 per cent) (KoL, 2010a). The wage gap between women and men, including for comparable work, remains substantial. According to the World Economic Forum's "female-to-male earned income ratio", women's estimated earned income is about 74 per cent that of men. Turning to wages for comparable work, men would earn about one-fifth more than women, as captured through the WEF "wage equality for similar work" variable (World Economic Forum 2011).

Structural biases against women are also evident in access to land and other productive resources. According to 2002/03 survey data (KoL 2006), male-headed households dominate in land ownership: 27.5 per cent of the male-headed households own land, compared with just 13.4 per cent of female-headed households. Similarly, the percentage of male-headed households owning agricultural equipment is significantly higher than that of their female counterparts (KoL 2006). As discussed in section 2.3.2, these discriminations are grounded in entrenched customary practices relating to property and inheritance.

Health statistics also point to structural gender biases. The spread of HIV and AIDS has had a disproportionate impact on women, largely due to social factors, including sexual violence against women. In Lesotho, nearly one-quarter of the adult population (about 24 per cent) is estimated to be HIV-positive, of which 57.7 per cent are female and 42.3 per cent male. UNAIDS estimates that the HIV prevalence rate among young women aged 20–24 is almost 25 per cent (compared to 11 per cent among young men) (KoL 2010b). Particularly vulnerable groups include textile and apparel workers (who have an HIV prevalence rate of 43 per cent), the majority of whom are women, in addition to returning mine workers (40 per cent are at risk of being infected) (USAID 2010). Another gender-specific health concern is the high maternal mortality rate, estimated at 970/100,000 live births in the 2004 Lesotho Demographic Health Survey (up from 459/100,000 live births in 1996). Abortion-related deaths are indicated as a major contribution to maternal mortality in Lesotho (UNDP Lesotho).

2.3 "INPUT" VARIABLES: LEGAL AND SOCIAL FACTORS AFFECTING GENDER DISPARITY

A review of Lesotho's sectoral legislations and policies reveals a substantial commitment to gender equality and women's empowerment. However, Lesotho's legal and administrative measures taken to foster gender equality seek to transform entrenched customary practices, which tend to hold back progress. Lesotho has a dual legal system, within which "civil" law (Roman Dutch law) and customary law coexist. Although the 1993 Constitution guarantees equal rights between men and women (section 18), it provides exceptions for customary practices (section 18(4)(c)), which are comprehensively carved out from the "modern" legal framework. These issues are discussed below.

2.3.1 Laws and policies to eliminate discrimination against women

2.3.1.1 The programmatic framework

The Government of Lesotho has demonstrated a strong political resolve to promote gender equality. In 1995, Lesotho ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and has since reformed its legal framework to eliminate built-in gender discrimination.[8] At the regional level, Lesotho has signed the 2004 African Union (AU) Solemn Declaration on Gender Equality in Africa, whereby Heads of State and Government reaffirmed their commitment to the principle of gender equality, as enshrined in the Constitutive Act of the African Union, and committed themselves to report annually on progress towards gender equality. Lesotho has also signed the AU Gender Policy of 2009, the 1997 SADC Declaration on Gender and Development and the 2008 SADC Protocol on Gender and Development (Committee on the Elimination of Discrimination against Women 2010). Under the Protocol, signatory SADC States committed to enshrine gender equality and equity in their Constitutions, and amend and/or repeal all laws that discriminate on the ground of gender, including on matters of: marriage; family law and inheritance; water rights and property; access to capital and credit. They also undertook to introduce affirmative action measures to ensure that women benefit equally from economic opportunities and to set the target for women in decision-making at 50 per cent by 2015.

States Parties are to submit reports to the Executive Secretary of SADC every two years, indicating progress made in implementing the measures agreed to in the Protocol.

At the domestic level, the Government has included goals of achieving gender equality in medium-term and long-term development strategies. The gender dimension is fully acknowledged in the Lesotho Vision 2020, which provides a framework for short-to-medium- term development plans.[9] Another key programmatic document, the 2004 Poverty Reduction Strategy, recognizes gender as a critical cross-cutting issue. In it, gender is "understood from the point of view of equity, with any analysis or intervention bearing both sexes in mind" (KoL 2004b).[10] Finally, the Gender and Development Policy of 2003 calls for non-discrimination based on sex in some critical areas of concern: poverty and economic empowerment; education and training; youth; politics and decision-making; health; gender-based violence; civil society organizations; the media; the environment; and science and technology.[11] Under the auspices of the Gender and Development Policy of 2003, a Draft Implementation Plan for 2008/10 was developed to mainstream gender concerns into different sectors.

In collaboration with development partners, the Government of Lesotho has initiated programmes and projects to promote women's and girls' rights. In particular, the Fifth country Programme of Cooperation between the Government of Lesotho and UNFPA 2008–2012, places the emphasis, among other issues, on good governance and gender equality (KoL and the United Nations, 2009).

2.3.1.2 Legal and administrative measures

Pursuant to these political commitments, the Kingdom of Lesotho has enacted key legislation and put in place affirmative action measures in order to effectively implement equality between men and women.

Key pieces of legislation have been passed addressing women's legal capacity and access to economic resources. Women can now, with some limited exceptions, enter into contracts, have capacity to own or register property in their own names, and have rights in the choice of the guardianship of their children. Most notably, the Legal Capacity of Married persons Act of 2006 has removed the minority status of married women in the community of property. Other key enactments include the Sexual Offences Act of 2003, which recognizes marital rape as a sexual offence; the Lesotho Bank Savings and Development (Amendment) Act of 2008, which provides for married women to open bank accounts without their spouses' consent; the Land Act of 2010, which allows married women to inherit land; and the Education Act of 2010, which provides for free and compulsory primary education. A Bill is under discussion that would allow married women to own a business without their spouses' consent. Despite these improvements, amendments to domestic legislation are still required to fully ease discrimination against women (Committee on the Elimination of Discrimination against Women 2010). For example, under the Land Act of 2010, single women still cannot inherit land, although the possibility of an amendment to the law is being considered. Also, as discussed in the following section, traditional rules and customs significantly limit women's legal status and rights with regard to access to economic resources.

On labour-related matters, major legal enactments include the Labour Code Order of 1992, which proscribed gender discrimination in the workplace and offered statutory maternity leave to women; and the Labour Code Wages (Amendment) Act of 2009, which provided for paid maternity leave. The 2009 Act stated that female employees who had completed more than one year of continuous service with the same employer in the textile, clothing and leather manufacturing industry should be entitled to receive two weeks' paid maternity leave. Employees who had completed more than one year of continuous service with the same employer other than in the textile, clothing, and leather manufacturing should be entitled to receive six weeks' paid maternity leave. Lesotho's clothing and textile industry employs mostly women, which explains the differential treatment for the textile/apparel sector. This differential treatment implies that a reasonable maternity leave is provided only for those sectors in which there is comparatively little participation of women in the workforce. Lesotho's normal working week consists of 45 hours a week, with a one-hour lunch break. Overtime is restricted to 11 hours a week, paid at a premium (Lesotho Textile Exporters Association).

Key policies and measures have also been adopted with the goal of achieving de facto equality in political participation. Worth mentioning in this respect is the Local Government Election (Amendment) Act of 2004, which reserves one-third of the seats of local government positions for women.

The Government has put in place several mechanisms to implement its legal enactments. These mechanisms, however, lack vital resources. A dedicated Ministry of Gender (the Ministry of Environment, Gender and Youth Affairs, reshuffled in 2002 as the Ministry of Gender and Youth, Sports and Recreation (MGYSR)), was established in 1998 to coordinate and mainstream gender issues into all national policies and implementation programmes. Gender focal points (GFPs), the Gender Technical Committee (GTC), and an Expanded Theme Group on Gender and Reproductive Health (later renamed Gender Forum), have been established to mainstream gender concerns into different sectors and monitor implementation. Within this overall framework, the Government has adopted sector-specific policies and mechanisms to effectively implement women's rights in critical areas of concern, including (i) health (with a focus on maternal mortality, family planning, adolescent health, and prevention of mother-to-child transmission of HIV and AIDS); (ii) gender-based violence (GBV) (specific frameworks include the Child and Gender Protection Unit, operational in all police districts to respond and investigate promptly all cases of GBV; the MGYSR's One Stop Centre for Survivors of Gender-based Violence, which provides victims of GBV with legal advice, health care and counselling; and the National Action Plan on Gender-based Violence); (iii) economic empowerment (examples are the Millennium Challenge Account Gender Equality in Economic Rights, Training and Outreach Programme and the Women's Entrepreneurship Development and Gender Equality Programme). A comprehensive overview of these frameworks is presented in Lesotho's initial, second, third and fourth periodic State Party Reports on the implementation of the CEDAW (Committee on the Elimination of Discrimination against Women 2010), to which the reader is referred.

2.3.2 Sociocultural barriers enshrined in customary law

Sociocultural norms have not kept pace with the legal advancements outlined above. Entrenched traditional rules and customs, partly encoded in the "Laws of Lerotholi", still marginalize women in some important respects. According to Lesotho's prevailing customary practices, women are legal minors who are dependent throughout their lives on their fathers, brothers, or elder male child if unmarried, widowed or divorced; or subject to their husbands' marital power if married. The Laws of Lerotholi provide that only a male child may inherit land. As a matter of customary practice, women cannot enter into contracts or own property in their own names, and do not have rights in the choice of the guardianship of their children.

There have been some transformative judicial pronouncements by the High Court, which relaxed customary requirements when applying customary law. For example, in a case where the Bohali (sum to be paid before a customary marriage can be completed) was discussed and never paid, the court still found the marriage valid. However, customary law is still entrenched, particularly in rural areas, where virtually all women are customarily married.

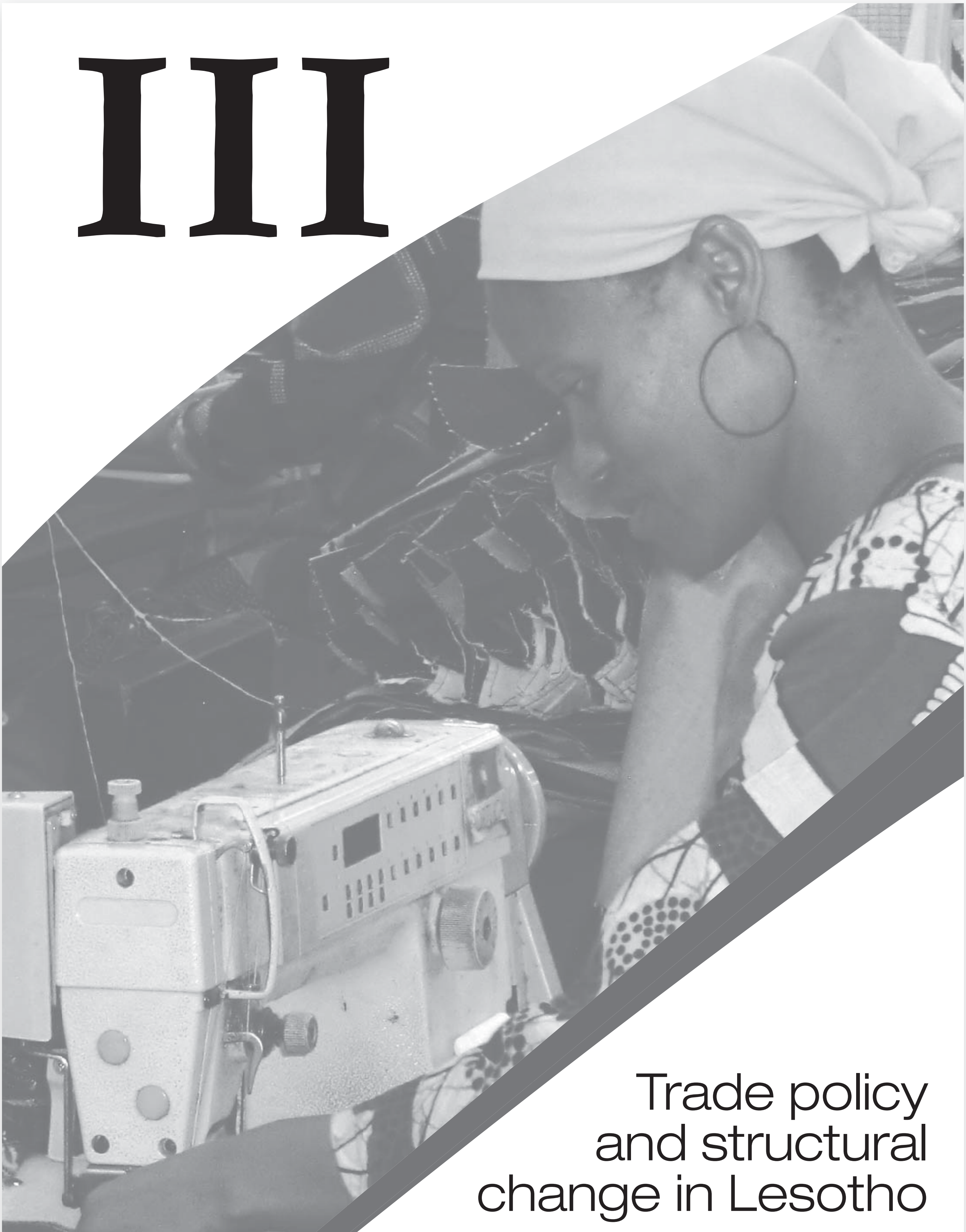
Customary law institutions are still predominant due to a number of factors.

First, there are some structural constraints built into Lesotho's legal framework. The latter is a dual legal system, within which civil law (essentially based on Roman Dutch law) and customary law coexist without encroaching upon each other. In order to avoid the application of conflicting provisions, the two systems cannot be applied simultaneously in a given situation: depending on the relevant factual elements of a dispute, either customary or civil law applies (choice-of-law clause). For example, in matters related to marriage and succession, a woman who is customarily or traditionally married (rather than married by civil law)[12] can only access the local Basuto courts, which will adjudicate based on customary law.[13] Virtually all women in rural areas are customarily married, rather than married by civil law. Accordingly, they are subject to customary law on matters relating to the marriage relationship, land ownership and succession. This explains, in part, the limited reach of legal advances. It should be stressed, once again, that the 1993 Constitution places respect for Basotho customary practices (cultural rights) above respect for individual civil rights. This often leads to discrimination against women, and is a complicated issue which needs to be addressed in order for Lesotho to fully comply with its ratification of CEDAW and in order for it to maintain respect for its cultural heritage (including customary law) while still respecting human rights.[14]

Second, a number of logistical and financial constraints hinder effective access to civil justice. As mentioned, only civil courts (including the magistrate courts, the High Court and the Court of Appeal) have jurisdiction to hear civil cases. While traditional customary courts exist predominately in rural areas, civil courts are located in Maseru (the High Court and the Court of Appeal) or in district capitals (Magistrate's Courts). The distance between the rural villages where many women live and the capitals may be a deterrent for them to consider having their cases heard by the civil jurisdiction. Furthermore, access to justice is not free. Though the Government of Lesotho provides heavily subsidized legal aid services to indigent people through its Legal Aid Unit, the Service still charges a fee (about 250 maloti, or approximately $31for the whole process), an amount which may be excessive for many rural women. Also, the quality of the service provided is not always adequate, according to some informants. There is only one Maseru-based office, staffed with eight to ten lawyers, to serve the entire country.

Furthermore, there are several other significant obstacles to women's access to justice in Lesotho, such as a lack of awareness of legal rules/venues; and other sociocultural barriers (such as fear of reprisal or social ostracism). Particularly in rural areas, where these obstacles are most pronounced, the evolution of social institutions, (and particularly the role of women in society) will largely depend on the introduction of legislative action and transformative judicial pronouncements into the areas traditionally reserved for customary law (marriage relationships, inheritance practices, etc.); or possibly also on a much-needed revision of customary law targeted at modifying those elements which are discriminatory and harmful towards women.

III



Trade policy and structural change in Lesotho

3 TRADE POLICY AND STRUCTURAL CHANGE IN LESOTHO: SOME GENDER IMPLICATIONS

This chapter evaluates structural transformations in the economy of Lesotho (3.1), by reviewing changes in the structure of production (3.1.1) and trade (3.1.2) over the last thirty years. It then considers the major trade policy developments underlying these structural developments (3.2). Finally, it assesses the gender implications of trade policy changes (3.3). Although the study considers the industrial structure as a whole, it focuses on the textile and apparel sector.

Results indicate that from the early 1980s to 2010, the manufacturing industry expanded its share of production significantly, from about 6 per cent of value added in 1982 to approximately 18 per cent in 2010. Manufacturing was boosted by strong growth in the textiles, clothing, footwear, and leather sectors. During the same period, structural change in Lesotho's trade patterns was reflected by a shift in the composition of exports towards textiles and apparel. In a related vein, export specialization in labour-intensive, low-technology manufactures took place, as well as a change in the import structure, with a focus on productive inputs.

These structural developments largely reflected the outcome of trade policy. In particular, two trade policy instruments critically shaped Lesotho's competitive edge in apparel exports: (i) quotas imposed on major textile and clothing suppliers under the Multifibre Arrangement (MFA); (ii) quota-free, duty-free access to the United States for Lesotho's apparel products under the African Growth and Opportunity Act (AGOA) initiative, coupled with a relaxation of the rules of origin to permit third country fabrics in the production of Lesotho's apparel exports to the United States.

In the Lesotho context, this trade policy-led structural transformation has had major gender ramifications. Trade expansion has provided women in Lesotho with new job opportunities, given the high proportion of female employment in the apparel sector. This has created new opportunities for women's empowerment and well-being. The Lesotho case study thus confirms that trade policy (in this case, privileged access to US markets) can play a catalytic role in job creation for women. However, there are qualifications to be made, and some aspects that need to be critically assessed. Some of the major areas of concern include low wages, limited effect on fostering skills development, and new patterns of vulnerability to external shocks.

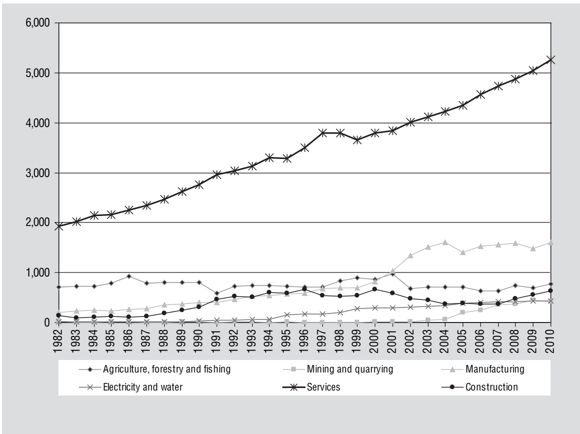
3.1 CHANGES IN THE STRUCTURE OF PRODUCTION AND TRADE

3.1.1 Production and employment

Economic growth in Lesotho has been slow and erratic, and social progress has been modest over the years. Growth in per capita income averaged about 1.6 per cent a year during the period 1997–2007, below Lesotho's regional and international comparators (UNCTADstat). The number of people living below the poverty line has declined modestly, from 66.6 per cent in 1994/95 to 56.6 per cent in 2002/03 (KoL 2006).

The composition of output in Lesotho – as measured by gross domestic product (GDP) – has changed considerably over the last thirty years.

Figure 1: GDP by kind of economic activity, constant 2004 prices, million maloti

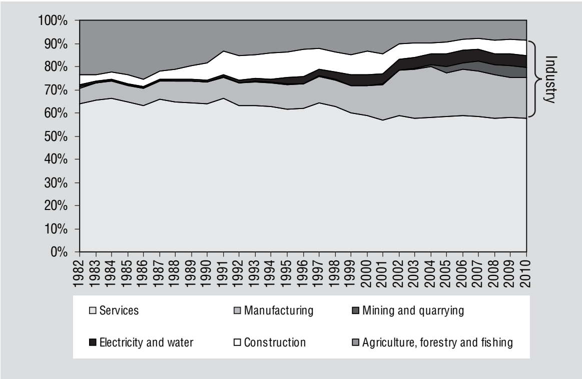


Source: Lesotho, Ministry of Finance and Development Planning, Bureau of Statistics.

3.1.1.1 Agriculture

The contribution of agriculture has decreased significantly over time, from as high as 24 per cent of total value added in the early 1980s to just about 8 per cent in 2010. In absolute terms, the sector has performed poorly – at an annual growth rate of 0.3 per cent over the 1982–2010 period with occasional surges and dips, also reflecting the frequency of droughts.

Figure 2: GDP by kind of economic activity, percentage of GDP (in constant 2004 prices, million maloti)



Source: UNCTAD, based on Lesotho, Ministry of Finance and Development Planning, Bureau of Statistics. Note: The breakdown in shares by kind of economic activity is shown as a percentage of the total value added. According to national statistics, "industry" includes manufacturing; electricity and water; mining and quarrying; and construction.

Low agricultural output in Lesotho stems from a number of factors. Some are inherently related to climatic and soil characteristics, including limited availability of arable land, unfavourable climatic conditions and rampant soil erosion. Others are related to infrastructural or institutional deficiencies, particularly with respect to poor natural resource management, low-yielding seedlings and the low adoption level of modern technologies, insufficient support services and inadequate access to finance, and poor rural and marketing infrastructure.

Noteworthy is the fact that despite its declining share of output, a majority of the labour force – some 52 per cent of men and approximately 27 per cent of women – are still employed in subsistence agriculture.

3.1.1.2 Industry

The relative contraction in agriculture has been more than offset by an expanding industrial sector. The sector consists of three main clusters of activities: manufacturing; electricity, water and construction; and mining.

3.1.1.2.1 Manufacturing

The transition out of agriculture was essentially towards manufacturing, whose share of output increased significantly over the 1982–2010 period – at an annual growth rate of 7.8 per cent, from some 6 per cent of value added in 1982 to approximately 18 per cent in 2010.

The manufacturing sector was boosted by strong growth in textiles, clothing, footwear and leather. This subsector (particularly clothing) has expanded rapidly since 1999 (it increased almost fourfold between 1999 and 2004), building on the preferential trade opportunities created by AGOA. As discussed in the following sections, the economic viability of the sector depends heavily on the retention of preference margins in export trade and on a derogation of the rules of origin for apparel products.

Lesotho's apparel industry currently includes two discrete segments: the first (commonly known as the "exporters") geared to exports out of the Southern Africa Customs Union (SACU), essentially to the US market; the second (in local parlance the "locals", or "domestic" companies) focused on domestic and regional markets, i.e. intra-SACU trade. Export-oriented companies geared to extra-SACU markets (the "exporters") are wholly owned and controlled by Asian interests (besides two-three Chinese firms and one Mauritian firm, they are all owned by investors from Taiwan Province of China). The "locals" are mainly from South Africa. There are actually no genuinely local firms, with the exception of individuals or very small workshops that produce on demand for the local market. According to industry sources, as of November 2011 there were 22 "exporters", of which 18 large companies and 4 smaller companies. Their number had declined from a peak of 45 in 2004. The "exporters" specialize in the production of two ranges of clothing products: denim garments and knitted garments. Five out of the 22 "exporters" manufacture and export denim garments (jeans), while the remainder specialize in the production of garments made from knitted fabric (shirts, t-shirts, etc.). As discussed in greater detail below, the industry sources most of its inputs from non-AGOA eligible countries, which raises important trade policy issues. The "locals", essentially servicing the South African market, are inserted into quite different value chains than the "exporters". This has implications for sustainability and upgrading prospects, and may also impact gender relations. It was reported, in this respect, that in the South African firms, workers tend to be more multi-skilled, as they are producing not only basic long-run orders for the South African market but also replenishment and some quick response orders. The latter require a different and more flexible firm set-up and different (mostly higher) skills.

The textile and apparel sector is the single largest formal employer in the country, currently providing work for more than 39,000 workers, mainly (over 90 per cent) women workers (KoL 2011a and Lesotho Textile Exporters Association). The sector employs about 23 per cent of the female labour force, compared with 5.1 per cent of the male labour force.

3.1.1.2.2 Electricity, water, and construction

Aside from manufacturing (textile and clothing), electricity, water and construction have also played an important role in output. The contribution of construction averaged 10 per cent in the 1990s during implementation of the Lesotho Highlands Water Project (LHWP), which also explains the relatively large contribution of electricity and water. The construction sector employs around 5.8 per cent of the economically active population (8.9 per cent of men, compared with 1.2 per cent of women).

The LHWP is a major joint venture between the Kingdom of Lesotho and the Republic of South Africa.[15] The purpose of the Project is twofold: water transfer to South Africa (water revenue for Lesotho) and electricity generation in Lesotho. South Africa is responsible for all the water transfer costs, whereas Lesotho is responsible for all costs of the hydropower component and ancillary development related to the LHWP in Lesotho. Two autonomous statutory bodies – the Lesotho Highlands Development Authority (LHDA) in Lesotho and the Trans Caledon Tunnel Authority (TCTA) in South Africa – are entrusted with responsibility for Project implementation, operation and maintenance. The LHWP was envisaged as a four-phased development implemented over a period of thirty years. Phase I – Phase IA and Phase IB – was completed in 2004.[16] A Memorandum of Understanding for Phase 2 was signed in September 2005, but a decision on further phases is yet to be taken.

The LHWP brings benefits to the Lesotho economy in the form of water revenues, additional electricity generation, and labour demand.[17] However, the Project has also had significant social and environmental costs for the highlands population (loss of arable and grazing land, as well as dwellings), due to flooding of the reservoirs, and as a result of construction works (Lesotho Highlands Development Authority 2005). These costs were in part compensated through a number of compensatory schemes, which covered, among other things: losses of physical assets; agricultural resources; and losses of community resources, such as schools and public infrastructure. Some specific gender implications can be identified in the implementation of the LHWP. For example, compensation schemes discriminated against women, since only the male heads of the household were entitled to receive compensation for the losses. Women could then only access such resources through their male relatives. Besides exacerbating gender inequality and reinforcing patriarchal authority, women's vulnerability increased disproportionally due to the loss of land and increased food insecurity (Braun 2010).

3.1.1.2.3 Mining

The share of the mining sector has increased remarkably since the mid–2000s, on account of the opening of two diamond mines in 2004 and 2005 (KoL 2010a). The mining and quarrying sector employs 4.8 per cent of the male labour force, compared with only 0.4 per cent of the female labour force.

3.1.1.3 Services

Noteworthy is the relatively high share of services in economic activity. The tertiary sector is the largest economic sector in terms of output, accounting for 58 per cent of value addition in 2010. The most important subsectors in 2010 were real estate and business services, public administration, and education, contributing 14.3, 10.6, and 7.2 per cent, respectively. The share of the sector has remained broadly unchanged over the last three decades, ranging between 66 and 57 per cent.

The tertiary sector is the leading source of employment for women, absorbing 48.4 per cent of the female labour force (the corresponding figure for males is 28.1 per cent). The most important subsector for female employment is the Private Household sector (17.2 per cent). Included in this category are women working as domestic servants or in small-scale household enterprises (KoL 2010a)

3.1.2 Trade structure and patterns

Lesotho is an open economy highly dependent on international trade. Trade openness has increased over time. The ratio of exports and imports in goods and services as a percentage of GDP was 192.1 in 2009. It averaged 161.7 during 2005–2008, 157.8 in 2000–04, and 141.9 during 1995–99 (World Bank, World Trade Indicators 2009/2010 Database).

Table 2: Employment sectors, 2006 (percentage)

Economic activity	Male	Female	Total
Primary	**57.2**	**27.3**	**45.2**
Agriculture	52.3	26.9	42.1
Fishing	0.1	0.1	0.1
Mining/Quarrying	4.8	0.4	3.0
Secondary	**14.7**	**24.2**	**18.6**
Manufacturing/Processing	5.1	22.9	12.3
Electricity	0.7	0.2	0.5
Construction	8.9	1.2	5.8
Tertiary	**28.1**	**48.4**	**36.3**
Wholesale & Retail Repair of Motor Vehicles & Personal and Household goods	5.5	6.7	6.0
Hotels and Restaurants	0.5	1.5	0.9
Transport Storage and Communication	5.1	0.9	3.4
Financial Intermediation	0.5	1.2	0.8
Real Estate Renting and Business Activities	0.7	1.2	0.9
Public Administration Defence Comp Social Service	5.8	3.6	4.9
Education	2.3	7.8	4.5
Health and Social work	0.9	2.4	1.5
Other Community Social and Personal Services	3.2	5.7	4.2
Private Household	3.3	17.2	8.9
Extraterritorial organizations' bodies	0.2	0.2	0.2
Total	**100.0**	**100.0**	**100.0**

Source: 2006 Lesotho Population and Housing Census (KoL 2009a).

The country has generally experienced a negative trade balance in both goods and services. There was a significant deficit in the goods balance through the 2000s, despite a sharp increase in clothing exports. This is also on account of the fact that apparel inputs (textile yarns and some fabric) are imported, limiting the net contribution of apparel exports to the economy. In addition, Lesotho is a net importer of services. Expenditure by Lesotho residents abroad (Lesotho embassies abroad and Basotho migrant workers in South Africa) are estimated to account for between 77 and 90 per cent of imports of services (KoL 2010a).

The trade deficit has been partially offset by surpluses from labour income, mainly migrant mine workers, and current transfers (SACU receipts). Remittance flows are systemically important for Lesotho, accounting for 26 per cent of GDP in 2009, down from 34 per cent in 2000 (World Bank, World Trade Indicators 2009/2010). The revenue from SACU, which represents the bulk of current transfers, accounted for as much as 54 per cent of government revenues in the 2008/09 fiscal year (KoL 2010a). In recent years, the sharp decline in remittance inflows and SACU receipts have resulted in large budget deficits.

3.1.2.1 Merchandise trade

Lesotho's export concentration has traditionally been in manufactured goods (Tables 3 and 4), reflecting a small natural endowment in primary commodities, apart from diamonds. Four product groups have historically dominated Lesotho's merchandise exports: articles of apparel, textile and footwear; diamonds; some processed food items and beverages; and TV sets and electrical components. Between 2000 and 2010, these products accounted for some 98 per cent of all of Lesotho's exports. Over the same period, the two largest and fastest-growing export products were articles of apparel and diamonds. In 2009, the clothing and diamond sectors generated some 93 per cent of total export earnings.

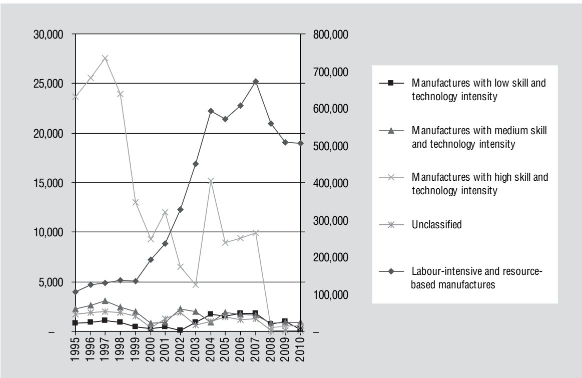
Through the 1995–2010 period, structural change in Lesotho's trade patterns was manifested through a shift in the composition of exports towards textiles and apparel (Table 3 above), and change in the technological embodiment of manufactures (Figure 3 below) (UNCTAD 2011).

Table 3: Lesotho trade structure by product group (percentage)

Year (average)	All food items	Agricultural raw materials	Fuels	Ores, metals, precious stones and nonmonetary gold	Manufactured goods (Textiles and apparel)
1995–1997	13.2	4.2	0.0	0.1	82.5 (49.1)
2000–2003	8.8	2.7	0.0	0.0	88.3 (69.4)
2005–2007	1.6	0.2	0.0	11.0	87.1 (85.4)
2008–2010	2.2	0.3	0.0	10.8	86.8 (84.7)

Source: UNCTADstat online database. Note: Breakdown by product group: All food items (SITC 0 + 1 + 22 + 4); Agricultural raw materials (SITC 2 less 22, 27 and 28); Fuels (SITC 3); Manufactured goods (SITC 5 to 8 less 667 and 68); Textiles and apparel (Textile fibres, yarn, fabrics and clothing – SITC 26 + 65 + 84); Ores, metals, precious stones and non-monetary gold (SITC 27 + 28 + 68 + 667 + 971).

Figure 3: Manufactured goods by degree of manufacturing, thousands of dollars, annual, 1995



Source: UNCTADstat online database.

Note: Labour-intensive and resource-based manufactures are plotted on the secondary axis.

Overall, trade expansion over the last forty years has brought about an increase in labour-intensive exports, most notably textile and clothing – a trend accompanied by a significant increase in female wage employment in the formal sector. As detailed in the following section, these developments appear to have largely resulted from the introduction of AGOA, which stimulated a fast expansion of the industrial supply capacity in apparel, an expansion of exports, and a diversification in favour of this manufacturing sector.

Table 4 breaks down major exports (top 10 export categories) by destination country (three largest export destinations), based on UNCTAD data. In 2009, apparel articles and accessories accounted for the bulk (82 per cent) of Lesotho's exports. The vast majority of Lesotho's clothing exports – more than 94 per cent in 2009 – go to the United States. As discussed in the following section, these exports are largely contingent on the current derogation under AGOA on the rules of origin and the associated AGOA tariff preferences to Lesotho.

Diamonds, Lesotho's fastest-growing export commodity (accounting for some 11 per cent of exports in 2009), are essentially sent to Belgium for cutting.

Of the other eight lines, beverages, footwear, milling products, TV components and oils are destined almost exclusively for the South African market. Some of these exports are re-exports from South Africa (intra-industry trade), with some elements of value-addition undertaken in Lesotho. There has been, in recent years, some export diversification to Botswana (medicinal and pharmaceutical products).

When analysing these trade flows, a word of caution is necessary, as the quality of intra-regional trade data is problematic (intra-SACU trade in particular tends to be heavily under-recorded in comtrade-based datasets).

The direction of Lesotho's export trade remains highly concentrated. In 2009, the United States continued to be the largest recipient of Lesotho's exports, accounting for some 80 per cent of Lesotho's total merchandise exports. Throughout the 2001–2009 period, virtually all exports to the US fell into the "textiles and apparel" category under AGOA. Within NAFTA, Canada is also a significant trade partner. Although trade with Canada is relatively thin (1.8 per cent of Lesotho's exports in 2009),

Table 4: Top 10 export products with top destination countries

Rank	Product	Share %	Destinations	Share %
1	[84] Articles of apparel & clothing accessories	82.0	United States	94.89
			South Africa	2.07
			Canada	1.81
2	[66] Non-metallic mineral manufactures, n.e.s.	10.9	Belgium	97.54
			South Africa	2.46
3	[65] Textile yarn and related products	2.5	United States	83.17
			Canada	11.70
			South Africa	2.81
4	[11] Beverages	1.2	South Africa	100.00
5	[85] Footwear	0.9	South Africa	94.21
			United Kingdom	2.51
			Canada	1.99
			United States	1.25
6	[04] Cereals and cereal preparations	0.7	South Africa	93.32
			United Kingdom	6.68
7	[76] Telecommunication and sound recording apparatus	0.7	South Africa	100.00
8	[26] Textiles fibres and their wastes	0.2	South Africa	99.97
9	[54] Medicinal and pharmaceutical products	0.2	Botswana	91.15
			South Africa	8.84
10	[41] Animal oils and fats	0.1	South Africa	99.98

Source: UNCTADstat online database. Note: SITC Rev. 3, 2 digits (in value terms)

Canada has been one of Lesotho's fastest-growing export partners, particularly for milled products and handicrafts, which are also exported to selected EU countries.

The EU was the second-largest export market, absorbing around 11.6 per cent of Lesotho's total merchandise exports in 2009. Some 98 per cent of these exports were destined for Belgium, Lesotho's fastest-growing export partner in recent years. The recent, rapid increase in the EU (Belgium) share reflects the reopening in 2004 of the largest diamond mine in Lesotho. As mentioned, the diamonds (mostly large high-quality gemstones) are sent to Belgium for cutting.

In 2009, SADC countries were estimated to account for only 6.5 per cent of Lesotho's export trade, compared with as much as 53.2 per cent in 2001. This sharp decline reflects the increases in the US and EU shares. Throughout 2001–2009, South Africa absorbed for virtually all Lesotho's intra-SADC exports, reflecting the relatively weak relationship between Lesotho and the rest of SADC and the country's strong trade partnership with South Africa.[18] This is mainly because of the geographical position of Lesotho, an enclave within South Africa. Outside South Africa, although they are still at a comparatively low level, exports to Botswana appear to be gaining traction.

On the import side, two aspects are noteworthy. The first is the share of fabric inputs. Textile yarns and related products currently account for a significant share of Lesotho's imports (in value some 28.5 per cent of total imports in 2009). Lesotho apparel manufacturers largely source their fabric inputs from non-AGOA eligible countries, notably Taiwan Province of China. This also reflects the structure of Lesotho's clothing firms, most of which are controlled by Asian interests. Lesotho's export-oriented apparel firms, almost entirely foreign-owned, essentially provide assembly, packaging, and shipping services; and largely follow their Asian headquarters' input requirements. This industry configuration raises some critical trade policy challenges, as discussed in section 3.2.2.

A second noteworthy feature is the increasing reliance on cereal imports to reduce the food gap be-

Table 5: Top 10 import products with top suppliers, 2009

Rank	Product	Share %	Destinations	Share %
1	[65] Textile yarn and related products	28.5	China (including Taiwan Province and Hong Kong SAR)	81.5
			India	7.4
			Korea, Republic of	6.5
2	[76] Telecommunication and sound recording apparatus	8.7	Korea, Republic of	69.9
			China (including Taiwan Province and Hong Kong SAR)	28.6
			Indonesia	0.8
3	[04] Cereals and cereal prepara-tions	7.6	United States	38.7
			Zimbabwe	35.7
			India	13.9
4	[26] Textiles fibres and their wastes	7.4	Zimbabwe	91.1
			United Kingdom	5.2
			Zambia	1.4
			United States	0.6
5	[69] Manufactures of metal, n.e.s.	5.9	Korea, Republic of	68.8
			China (including Taiwan Province and Hong Kong SAR)	28.2
			Indonesia	1.8
6	[89] Miscellaneous manufactured articles, n.e.s.	5.4	China (including Taiwan Province and Hong Kong SAR)	61.0
			Zimbabwe	20.5
			Korea, Republic of	9.4
7	[67] Iron and steel	3.3	Korea, Republic of	79.8
			United States	10.3
			China (including Taiwan Province and Hong Kong SAR)	8.9
8	[72] Specialized machinery	3.1	Germany	27.9
			China (including Taiwan Province and Hong Kong SAR)	36.7
			United States	14.6
9	[84] Articles of apparel & clothing accessories	1.3	China (including Taiwan Province and Hong Kong SAR)	67.9
			Korea, Republic of	12.5
			Zimbabwe	6.9
			Pakistan	4.2
10	[74] Other industrial machinery and parts	1.1	Germany	30.7
			China (including Taiwan Province and Hong Kong SAR)	29.4
			Belgium	17.2

Source: UNCTADstat online database. Note: SITC Rev. 3; 2 digits (in value terms).

tween national cereal production and demand. According to UNCTAD data, imports of cereals almost tripled between 2005 and 2009. Growing food import dependence makes the country highly vulnerable to increases in international grain prices.

3.1.2.2 Trade in services

The service share of total exports is relatively low (around 7.5 per cent in 2008) (World Bank, World Trade Indicators 2009/10). Nonetheless, services, notably tourism, constitute a key driver of Lesotho's overall policy of economic diversification (WTO 2009).

Two items dominate exports of services, i.e., water distribution services and travel. These two sub-sectors account for some 50–55 per cent and 40–45 per cent, respectively, of the total (KoL 2010a). Water revenues consist of royalties received by the Lesotho government as part of the Lesotho Highlands Water Project (LHWP).[19] Lesotho's royalties from the sale of water and electricity to South Africa earned the country $19 million in 2008 and are expected to increase significantly upon completion of the second phase of the LHWP (African Development Bank et all. 2011). The sector – water and hydropower – has significant potential for diversifying and widening Lesotho's export revenue base. Travel comprises expenditure by non-resident visitors to the country – a proxy for tourism earnings. Tourism in Lesotho is highly dependent on the South African economy (92.4 per cent of total tourist arrivals in 2006) and has a high degree of seasonality (WTO 2009).

Lesotho is a net importer of services. According to national data, expenditure by Lesotho residents abroad would make up between 77 and 90 per cent of imports of services. Expenditure by Basotho migrant workers in South Africa would account for the major part of this. Other important items are business services and government, with the latter comprising expenditure by Lesotho embassies abroad (KoL 2010a).

3.2 TRADE POLICY AS A DRIVER OF CHANGE

The structural changes outlined in the previous section – most notably the fast expansion of supply and trade capacity in the apparel sector – largely reflect the outcome of trade policy. In some respects, Lesotho provides an example of the direct correlation between trade policy on the one hand and structural change and productive transformation on the other. This chapter highlights the major trade policy developments underlying Lesotho's trade-led structural transformation. Through a summary review of the major trade agreements involved, section 3.2.1 provides a stocktaking and analytical background. Section 3.2.2 spells out the major trade policy issues that have affected the competitive position of Lesotho, with a focus on the apparel sector.

3.2.1 Stocktaking analysis: Major trade agreements

Lesotho's trade relations are framed by a number of agreements at the bilateral, regional and multilateral levels.

3.2.1.1 Multilateral agreements

With effect from 8 January 1988, Lesotho became a Contracting Party to the General Agreement on Tariffs and Trade (GATT), and has been a member of the World Trade Organization (WTO) since 1995.[20] The country qualifies as an LDC and a net-food-importing developing country (NFIDC). Accordingly, in many substantive areas of regulation, Lesotho enjoys special and differential treatment (SDT) in terms of longer transitional periods or permanent exemptions.

Since Lesotho exports mainly to developed countries under preferential schemes, a significant challenge that confronts Lesotho arises from most-favoured nation (MFN) trade liberalization in manufactured products. Successive rounds of tariff liberalization in developed countries under WTO agreements in recent years have reduced ("eroded") the margin of preference that unilateral preferences provided. This has increased the interest of LDCs in avoiding further "erosion of preferences". If global tariffs were to drop further, it would significantly undermine the preferential tariffs that Lesotho enjoys in key export markets. This may involve a diversion of imports from globally more efficient producers, most notably Asian competitors.

The ongoing Doha Round of multilateral trade negotiations includes negotiations to further liberalize trade on industrial goods. However, divergences about the depth and scope of industrial tariff cuts have effectively blocked further progress and jeopardized the successful conclusion of the Round.

3.3.1.2 Regional frameworks

Lesotho is a member of the Southern Africa Customs Union (SACU), the Southern African Development Community (SADC), and the African Union (AU). Within SACU, Lesotho, Namibia, South Africa, and Swaziland form the Common Monetary Area (CMA). Under CMA, the Lesotho loti is pegged with the South African rand, which circulates freely in Lesotho.

3.3.1.2.1 The Southern Africa Customs Union (SACU)

Together with Botswana, Namibia, South Africa and Swaziland, Lesotho forms the Southern African Customs Union (SACU). Historically, SACU was administered by South Africa, through the 1910 and 1969 Agreements. A new agreement was signed in 2002 and entered into force in July 2004. It provides for further harmonization in a number of trade policy areas, including customs procedures, sanitary and phytosanitary measures and technical regulations, and competition. The trade policy areas harmonized so far under SACU are the applied MFN common external tariff (CET), customs valuation, excise duties, duty rebates, refunds and drawbacks, non-preferential rules of origin, and contingency trade remedies (WTO 2009). In line with the SACU's CET, Lesotho's average MFN applied rate is 7.7 per cent. The pattern of protection is in favour of agricultural products, with an average applied rate of 9.0 per cent, against an average rate of 7.5 per cent for non-agricultural products. SACU's applied import tariffs are comparatively lower than those of similar regimes in sub-Saharan Africa (World Bank, 2010). However, SACU retains considerable trade policy space, as measured by the gap between bound and applied MFN tariffs (the overhang).

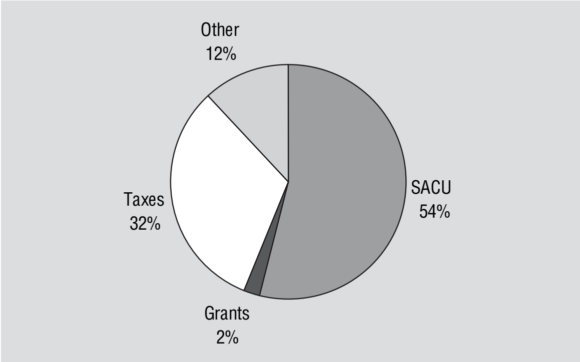
Table 6: Lesotho's tariff profile, 2009

Description	Total (%)	Agricultural products	Non-agricultural products
Simple average final bound	78.4	199.1	60
Simple average MFN applied	7.7	9.0	7.5

Source: WTO, ITC and UNCTAD (2010). *Note*: Slight discrepancies with data from other sources are due to differences in product coverage under the various groups.

The 2002 SACU Agreement established a new revenue-sharing formula whereby the pooled customs revenue is distributed according to intra-SACU imports. SACU revenue payments account for a substantial share of Lesotho's government revenue.[21] Lesotho has derived between 45 and 60 per cent of government spending from SACU over the last ten years. This share peaked in 2006/07 before falling to 54 per cent in 2008/09 (KoL 2010a). Since then, there has been a sharp drop in SACU revenues. The decline was particularly pronounced in 2010/11–2011/12, as a result of repayments to the Common Revenue Pool, owing to overpayments for 2008/09 and 2009/10 (IMF 2011). The SACU revenues accounted for some 37 per cent of total government revenue for 2010/11 (KoL 2011a). This decline in SACU-based revenues has had an effect of a slowdown in government spending, which is likely to adversely impact government spending in social services essential for women. However, Lesotho is making efforts to improve its infrastructure deficit.[22]

Figure 4: Revenue shares 2008/09



Source: Lesotho Statistical Yearbook 2010

To harmonize trade policy, SACU members collectively negotiate trade agreements with third parties. SACU has concluded bilateral preferential trade agreements with the European Free Trade Association (EFTA) and the Common Market of the South (MERCOSUR). Within the framework of the Southern African Development Community (SADC), SACU members are negotiating an Economic Partnership Agreement (EPA) with the EU.

The free trade agreement (FTA) between SACU and EFTA entered into force in May 2008. The dismantling of tariffs was asymmetrical, as SACU exports were allowed duty-free entry into EFTA countries upon the entry into force of the agreement, while SACU States had until 2014 to gradually liberalize tariffs. The FTA covers most manufactured products – including fish and processed agricultural products – while trade in primary agricultural commodities remains governed by arrangements concluded bilaterally between the individual EFTA State and SACU. It provides for fairly liberal rules of origin, allowing for the use of up to 60 per cent of non-originating input in the production of certain products. The value of total merchandise trade between EFTA and SACU reached $2.6 billion in 2010, after growing at an average of 13 per cent over the past decade.

The SACU–MERCOSUR Preferential Trade Agreement (PTA) entered into force in April 2009. Annexes 1 and 2 set out MERCOSUR and SACU respective tariff concessions covering 1,000 products either way, with preference margins spread over 100–10 per cent. MERCOSUR represents an important market with substantial trading opportunities for SACU countries. The SACU–MERCOSUR PTA is seen as an important contribution towards greater South–South cooperation among developing countries aimed at diversifying market opportunities and creating greater synergies between the economies of the countries of the South (SACU 2009).

The SACU Member States have initiated a number of programmes to assist women entrepreneurs. These range from the implementation of policies and legislation in support of women to the creation of women's business forums for the promotion and advancement of women entrepreneurs. The 2002 SACU Agreement gives women entrepreneurs within the SACU region a valuable platform to integrate into the regional economy and accumulate expertise in cross-border trade before confronting the challenges of the world market. Continuing efforts are being made to enhance intraregional trade by reducing the transaction costs related to crossing borders. To this effect, a customs reform programme has been developed, including customs policy, legislative reform, and simple merchandise traffic by establishing a One Stop Border Post and a single administrative document.

3.2.1.2.2 Southern African Development Community (SADC)

All SACU Member States, including Lesotho, are also members of the 15-country Southern African Development Community (SADC). Established in 1992, SADC aims at promoting regional economic integration in specific areas such as trade, finance, investment, transport, industry and education. The SADC Free Trade Area (FTA) was the first key milestone towards this goal. The FTA was implemented in a phased manner between 2000 and 2008. By August 2008,[23] an estimated 85 per cent of intraregional trade had been fully liberalized. The SADC Free Trade Area Protocol, committing Lesotho to remove import restrictions over a period of 8 years, will result in a 17 per cent reduction in customs revenues (KoL 2011). The recent EU–South Africa Free Trade Area will further erode customs revenues. SADC is moving forward towards deeper regional integration. Scheduled targets included a Customs Union by 2010, a Common Market by 2015, a Monetary Union by 2016, and a single currency by 2018.

The SADC–EC Economic Partnership Agreement (EPA)

Trade relations between the African, Caribbean and Pacific (ACP) countries and the European Union (EU) had been regulated since 1976 through the four Lomé Conventions. In the area of trade, these agreements were non-reciprocal in the sense that trade concessions granted by the EU to the ACP countries were not matched by the ACP countries. This arrangement was found not to be compliant with the requirements of the WTO. WTO disciplines requires either that non-reciprocal preferential concessions granted by developed countries to developing countries are applied to all developing country members of the WTO on a non-discriminatory basis (as is the case with the Generalized System of Preferences), or that they are granted within the framework of a regional trade arrangement (RTA) as defined by WTO – which includes reciprocity between all the members of the RTA and substantive trade coverage. Accordingly, the Cotonou Agreement, signed in mid–2000, makes provision for the ACP and EU to establish WTO-compatible EC Economic Partnership Agreements (EPAs). EPAs are reciprocal trade arrangements: concessions granted by the EU to the ACP countries are to be matched by the ACP countries.

Seven SADC member countries (i.e. the SACU countries plus Angola and Mozambique) are negotiating an EPA with the EU within the SADC EPA Group framework.[24] Lesotho was one of the four SACU members (all SACU countries but South Africa) that signed an interim EPA with the EU in June 2009. The interim EPA includes duty-free, quota-free access for SADC imports to the EU; duty-free, quota-free access for 86 per cent of EU exports to Botswana, Lesotho, Namibia and Swaziland (excluding sensitive sectors for local producers, e.g. agricultural goods and textiles), with liberalization to take place over four years or by 2015 at the latest[25]; and the possibility for all participating countries to reintroduce duties/quotas to help safeguard local economies (Interim Agreement 2009). Negotiations for a comprehensive EPA are under way. It should be emphasized that Lesotho already has unrestricted (duty-free and quota-free) access to the EU under the Everything But Arms initiative. Rules of origin formed a critical component of the new EPA preferential trade agreement, as the interim EPA offered far more liberal product-specific rules of origin for apparel products than the former GSP/EBA ones. In particular, the EPA textile & clothing rules of origin allow duty-free export of locally assembled apparel products regardless of the country of origin of fabric or yarn. However, as discussed in section 3.2.1.3, the new EC GSP/EBA rules of origin also allow Lesotho's garment manufacturers to satisfy their yarn/fabric requirements from anywhere in the world, based on commercial realities such as logistics costs, quality parameters, and availability.

As discussed, EPA is a reciprocal arrangement, that is, tariffs are liberalized on a bilateral basis between the EU and the regional grouping. Hence, one of the challenges posed by the EPA is the need to consider the revenue impact of import tariff liberalization. This is an issue that threatens to disproportionately affect women, as government social spending forms a large part of the budgetary outlay in Lesotho. The reduced revenue base may particularly hinder the implementation of policies aimed at countering the spread of HIV and AIDS, which has a disproportionate impact on women due to social and cultural factors.

3.2.1.2.3 The African Union (AU)

Lesotho and the other SACU countries are also members of the African Union (AU). In the long run, the AU strives to become an economic and political union, patterned after the EU model. One of the main initiatives under the AU is the New Partnership for African Development (NEPAD).[26] Trade between Lesotho and other AU States (apart from SACU countries) is insignificant.

3.2.1.3 Unilateral, non-reciprocal preference schemes

Lesotho is eligible for non-reciprocal preferential treatment under the US African Growth and Opportunity Act (AGOA), the EU Everything But Arms (EBA) initiative, and the Generalized System of Preferences (GSP). Within the framework of these preferential schemes, Lesotho's exports enjoy very favourable market access conditions in key export markets. Virtually all of Lesotho's exports to the US and the EU are duty-free. This essentially reflects the duty-free, quota-free access to the EU under the EBA initiative, and the preferential access granted by the United States under AGOA for Lesotho's clothing exports.

3.2.1.3.1 The US African Growth and Opportunity Act (AGOA)

AGOA was signed into law on 18 May 2000.[27] Initially envisaged to last eight years, the scheme was later extended until September 2015. AGOA provides beneficiary sub-Saharan African (SSA) countries (37 AGOA-eligible countries to date) with duty-free access to the US market for approximately 7,000 product tariff lines.

The AGOA product scope also covers apparel and textiles (not included under the GSP programme), subject to specific administrative requirements and stringent rules of origin. AGOA-eligible countries wishing to export apparel duty-free into the US under AGOA must first be certified as having complied with the "Wearing Apparel" provisions. This entails the establishment of an effective visa system and related procedures to prevent unlawful transhipment and the use of counterfeit documents in connection with textile and apparel articles. Second, AGOA-eligible countries that have met the "Wearing Apparel" requirements must meet stringent rules of origin. Specifically, apparel eligible for preferential treatment under AGOA must be made from US fabric, yarn, and thread, or from fabrics and yarns produced in AGOA-beneficiary countries in sub-Saharan Africa. The first category of apparel enjoys duty-free, quota-free access to the US. The second enjoys duty-free access subject to (fairly generous) market-share caps.

More "flexible" rules of origin, however, exist for AGOA-eligible countries which have met the "Wearing Apparel" requirements, and which are deemed to be "Lesser Developed Beneficiary countries" (LDBCs). A special clause (hereinafter, third country fabric clause) allows these LDBC countries to export apparel articles that were wholly assembled in the country duty-free to the US, regardless of the country of origin of the fabric or the yarn. The special provision was initially set to expire in 2004, but has been extended twice, to 2007 and 2012, respectively.[28]

Lesotho was listed as AGOA-eligible on 2 October 2000. In textile and clothing, AGOA became operational for Lesotho with effect from 23 April 2001, when Lesotho complied with the "Wearing Apparel" provisions. Lesotho's status as a LDBC provides the country with the possibility to use third country fabric and yarn in apparel and still qualify for duty-free export to the US market.

As discussed in greater detail in the following sections, Lesotho has derived key benefits from AGOA in the apparel sector, both in terms of exports and of new employment opportunities. The third country fabric clause is also critically important for the viability of Lesotho's clothing exports, as Lesotho apparel manufacturers largely source their fabric inputs from non-AGOA eligible countries, notably Taiwan Province of China. This is also reflected by the structure of Lesotho's clothing firms, most of which are controlled by Asian interests.[29]

3.2.1.3.2 *The Everything But Arms (EBA) initiative*

EBA is an EU non-reciprocal preferential scheme granting duty-free access to imports of all products from LDCs except arms and ammunitions, without any quantitative restrictions. Lesotho has enjoyed duty-free, quota-free access to the EU under EBA since 2001. However, the commercial significance of the scheme has been limited so far, as virtually all Lesotho's exports to the EU consist of diamonds, which already enter the EU market duty-free on a MFN basis. Turning to apparel products, EBA product-specific rules of origin (PSRO) for apparel had significantly inhibited Lesotho's clothing exports under this preferential scheme. EBA PSRO required at least two transformation processes in the preference-receiving countries to qualify for duty-free entry: yarn should be woven into fabric (fabric production) and then made up into clothing (apparel assembly) (UNCTAD 2008).[30] As discussed, Lesotho has difficulty complying with these stringent rules of origin, as fabric production is a relatively capital- and technology-intensive activity in which the country has limited domestic capacity. There have, however, been some major developments in this area. On 1 January 2011, regulations revising rules of origin for products imported under the GSP – which includes the EBA arrangement – came into force.[31] The new EC GSP rules of origin are more liberal than the previous ones, and introduce more lenient criteria for a number of sectors, especially for LDCs. In the clothing sector, for LDCs the double transformation requirement has been replaced by a single processing requirement (local assembly). This means that LDCs are now allowed to use imported fabric to assemble finished apparel products exported under EBA (Inama 2011).The new EC rules of origin for apparel may play a key role in boosting the apparel sector in LDC countries like Lesotho. It should be noted that duty-free access to the EU translates into significantly high preference margins, in the range of 6.5–12 per cent (Inama 2011). However, major entry barriers would still stem from the structural characteristics of supply chains and markets, as discussed in the concluding section of this report.

3.2.1.3.3 *The Generalized System of Preferences (GSP)*

Lesotho is eligible for non-reciprocal, preferential treatment under the Generalized System of Preferences (GSP).[32] Different countries/regional blocs (including the US, the EU, Japan, and Canada) have established their own GSP schemes, which differ in product coverage, level of applicable tariff preference, and rules of origin requirements. The schemes of individual countries are also revised on a regular basis.

The US and EU GSP schemes play a residual role, as the US and the EU offer more generous market access to LDCs under specific schemes (the US's AGOA and the EU's EBA, for example).

Canada's GSP programme offers benefits under a General Preferential Tariff (GPT), and an LDC Preferential Tariff (LDCPT).[33] Lesotho qualifies under the latter scheme which, since 2003, covers all textiles and apparel products that meet the rules of origin. These rules stipulate that "Yarns or Sewing Threads" originate in a LDC if they are spun or extruded in a LDC. Fabrics are found to "originate in an LDC if they are produced in an LDC from yarns originating in an LDC, a GPT country or Canada". Clothing will qualify as originating in Lesotho and be eligible for duty-free LDCT, provided that it is assembled in Lesotho and the fabric used is manufactured in an LDC, a GPT country, or Canada; from yarns originating in an LDC, a GPT country, or Canada. When using fabric manufactured in a GPT country, the value of any materials – including packing material which does not originate in Lesotho – must not exceed 75 per cent of the ex-factory price of the goods as packed for shipment to Canada (Canada Customs and Revenue Agency 2003).

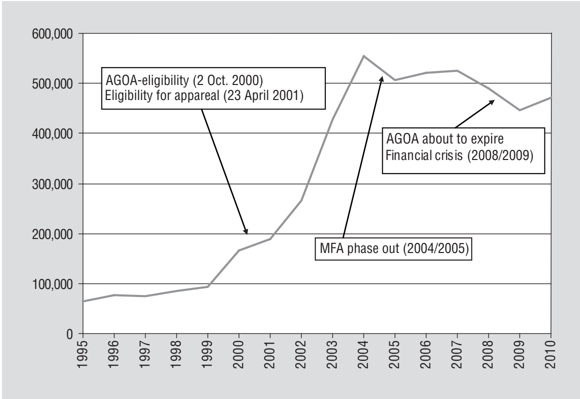
Lesotho is also a beneficiary of Japan's GSP. Rules of origin under this scheme tend to be quite stringent, limiting their contribution to diversifying market opportunities for Lesotho.[34]

3.2.2 Major trade policy issues

The rise and decline of Lesotho's apparel industry is closely related to trade policy developments, as depicted by Figure 5. The origins of Lesotho's apparel export industry date back to the early 1980s, when South African-based apparel companies moved to Lesotho to circumvent US and European sanctions imposed on South African manufactured goods. Lesotho's garment sector then expanded under the MFA, when Asian investors moved to Lesotho to bypass the MFA quota restrictions constraining textile and apparel exports from Asian countries. The MFA had provided for the application of selective quantitative restrictions when surges in imports of particular products caused, or threatened to cause, serious damage to the industry of the importing country. The main targets of protectionist measures under the quota system were low-cost Asian suppliers, including Pakistan and India. AGOA again spurred an inflow of FDI from Asia – mainly mainland China and Taiwan Province of China – to take advantage of quota-free market access to the US. Lesotho's apparel exports to the US increased steadily from 2001 to 2004 (they almost tripled), peaking in 2004. The clothing industry grew to become Lesotho's single largest employer, with some 48,000 jobs in 2004, compared with only about 10,000 in 1999 (Table 8).

Since the mid–2000s, exports have experienced setbacks, however. Again, this largely reflected the outcome of trade policy. The first contraction occurred in 2004/2005, with the complete phase-out of the MFA and enhanced competition from Asian sources, while the second contraction came when AGOA was about to expire for the first time (2007). Export contractions have also been related to other factors, including the strengthening of the local currency (pegged to the South African rand) relative to the US dollar (2003/2004) and the recession in the US because of the global financial crisis (2008/2009). The industry is now in a "wait-and-see" mode because of the unpredictability of the renewal of AGOA and its special rules of origin. More generally, Lesotho faces the combined implications of what we may refer to as trade preference "expiration", preference "erosion" and "preference dilution". These dimensions are discussed below.

Figure 5: Lesotho's apparel exports to the United States, 1995–2010 (thousand $)



Source: UNCTADstat online database. Note: SITC Rev. 3; Articles of apparel & clothing accessories Code 84).

3.2.2.1 Preference "expiration"

Preference "expiration" refers to the scheduled phase-out of AGOA and the third country fabric clause.

AGOA provides duty-free, quota-free treatment for eligible apparel articles made in qualifying sub-Saharan African countries through September 2015. While supporters of AGOA are pressing for its renewal, the possibility that the programme might temporarily or permanently expire cannot be excluded.

A productivity disadvantage vis-à-vis other (mainly Asian) exporters makes Lesotho's clothing industry heavily reliant on trade preferences. Duty-free access to the United States translates into significantly high preference margins – ranging from 19.25 to 7 per cent (Table 7).[35] It is widely acknowledged within the industry that, without these preferential trade margins, Lesotho's exports would be unable to compete with Asian exports. Asian producers have several competitive advantages relative to Lesotho's producers. The workforce is more skilled and more productive; wages are lower; and the infrastructure (especially the ports and the roads leading to the ports) is much more developed. Also, several shipping companies compete in the Asian ports and the fees are more competitive than those charged by shipping companies in South Africa, which operate in a regime of quasi-monopoly. A key additional advantage for Asian clothing producers is that they source all the raw materials, machinery, and tools they need locally (LTEA).

Table 7: Lesotho's preference margins in clothing exports (US market)

Product category	US bilateral imports from Lesotho (2011) (thousand $)	Simple average MFN applied (ad valorem duties)
Articles of apparel and clothing accessories, knitted or crocheted	177,316	19.21
Articles of apparel and clothing accessories, not knitted or crocheted	148,296	19.25
Other made up textile articles; sets; worn clothing and worn textile articles; rags	27	7

Source: UNCTAD, based on UN Comtrade data (trade flows) and WTO Tariff Analysis Online (MFN rates).
Note: Selected classification: HS2007; Selected commodities: 61 (Articles of apparel and clothing accessories, knitted or crocheted), 62 (Articles of apparel and clothing accessories, not knitted or crocheted), 63 (Other made up textile articles; sets; worn clothing and worn textile articles; rags)

Another major challenge facing Lesotho's garment industry is the expiration of the exception under the AGOA rules of origin (the third country fabric clause). This clause allows beneficiary LDC countries (LDBCs) to export apparel articles to the US under the AGOA preferences regardless of the country of origin of the fabric or yarn. As discussed in the previous sections, this special rule, originally scheduled to expire in 2004, has been extended twice, to 2007 and 2012 (30 September 2012), respectively. Unless the waiver is extended, Lesotho manufacturers will be required to source their fabric inputs from the US or from AGOA-eligible countries (including Lesotho) – a condition that Lesotho may have difficulty meeting, given its limited textile production capacity and the rigidities involved in shifting procurement from Asian suppliers. Furthermore, the availability of local or regional textile – which would become crucial after the expiry of the third country fabric – is problematic. In South Africa, most mills, particularly woven mills, have closed down. In Mauritius, the few remaining knitting mills are already part of vertically integrated clothing firms and largely use their fabric for internal production; while the few mills left in Kenya largely produce for local and regional markets and not for the export sector.

Some distinctions should, however, be drawn between the denim and the knitted garment segments of the industry. According to industry sources, the Maseru-based Formosa textile mill – the only textile manufacturing company in Lesotho – would produce sufficient denim fabrics to satisfy the input requirements of Lesotho's denim garment industry. However, the facility would be unable to cover the sourcing requirements of the knitted garment segment of the industry, although it has some capacity to produce yarns suitable for use in this segment of the industry. The knitted garment segment currently imports all the raw material fabric inputs from Asia (mainly China, but also India and Indonesia). In Lesotho, LNDC has tried for some time to attract investments in a knit fabric mill, but without success up to now – the question is also to what extent such an investment should be incentivized/subsidized. The economic viability of this segment of the industry is thus closely associated with the extension of the waiver for "Wearing Apparel" that was granted under AGOA to Lesser Developed Beneficiary countries (LDBC), including Lesotho.

According to some sources, if the third country fabric clause were not renewed, many investors would move out of Lesotho. According to other key informants, the post-AGOA scenario is more nuanced: some firms might adjust and source their inputs locally (if domestic capacity in yarn and fabric production is enhanced) or regionally (from South Africa). To produce its denim fabric and yarns, the only textile factory in Lesotho – the Maseru-based Formosa denim mill - uses 100 per cent African grown cotton (LTEA). This has important implications in terms of rules of origin, as, in principle, denim and knitted garments made out of cotton imported from within Africa would comply with stringent rules of origin requirements (double or even triple transformation requirements) under preferential trade schemes (only if imported from sub-Saharan Africa, so imports from Egypt, for example, would not qualify).

Lesotho's export dependence on the US market makes the country particularly vulnerable to loss of preferential access arising from the AGOA scheduled phase-out. At the time of writing, the United States Government is discussing the proposed extension of the AGOA and the third country fabric clause in Congress.[36] In the US, budget rules require that any renewal of trade preference programs be paid for (i.e., the loss of tariff revenue be compensated) through budget cuts and/or increases in other revenues. This is one reason why renewals of US preferential schemes are sometimes for short periods, take a long time to approve, and are sometimes granted only after the expiration of the programme, and thus need to be applied retroactively.[37] Any extension would therefore be temporary in nature, which would only delay the problem. The industry is now in a "wait-and-see" mode because of the unpredictability of the renewal of AGOA and its special rules of origin.

3.2.2.2 Preference "erosion"

The risk of preference "erosion" arises from MFN trade liberalization. Multilateral trade liberalization negotiations result in market access gains for all countries, which erode the preference margins enjoyed by countries that receive non-reciprocal preferences. In textiles and apparel, MFN tariffs are still considerable. The main unilateral preference programmes, such as the GSP, either exclude textile and apparel from their coverage or impose rather strict rules of origin requirements. Lesotho would then be particularly vulnerable to MFN trade liberalization in the sector. It seems, however, that the country is not likely to face the challenges of further multilateral liberalization in the apparel sector for the time being, as divergences about the depth and scope of industrial tariff cuts have effectively blocked further MFN liberalization.

In the past, the issue of preference "erosion" in apparel came up importantly for Lesotho (and other AGOA suppliers) in 2004/2005, with the complete phase-out of MFA quotas under the terms of the WTO Agreement on Textiles and Clothing (ATC). It essentially concerned the removal of quotas, rather than tariff liberalization. On 1 January 1995, the MFA was replaced by the ATC, which set out a 10-year transitional process for the ultimate removal of the MFA quotas. The phase-out was "backloaded", so that about 50 per cent of the quotas would be removed at the end of the phase-out period. The expiration of the final MFA quotas in 2005 resulted in a rapid acceleration of US imports from the formerly quota-contained Asian suppliers, such as China and Vietnam, and a contraction of the relative share of those suppliers that had grown under the MFA.

3.2.2.3 Preference "dilution"

Preference "dilution" occurs when preferential treatment is extended to other countries. AGOA countries that already enjoy duty-free, quota-free treatment see the extension of similar treatment to the other LDCs as a threat to their own interests. As regards apparel products, preferential access to the US market under AGOA has already been diluted/is being diluted by the extension of duty-free, quota-free access to apparel imports from countries in Central America (under the US - Central America - Dominican Republic Free Trade Agreement (CAFTA-DR)), and Vietnam (under the forthcoming Trans-Pacific Partnership (TPP) agreement). The CAFTA-DR – a free trade agreement involving Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua and the United States – grants immediate duty-free treatment to most goods, including all textiles, apparel, and textile luggage. Nicaragua, which was granted a very broad Tariff Preference Level for certain non-originating apparel articles of cotton and man-made fibres, is emerging as a major apparel supplier to the US. If the TPP is enacted, the United States, Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore and Vietnam would eliminate 11,000 tariff lines under 26 chapters, including apparel products. Vietnam has proposed country-of-origin rules for textiles and apparel which are more relaxed than those in current US free trade agreements (FTAs). Flexible textile and apparel rules in the TPP trade pact would allow Vietnam to export textiles and apparel made from cheap inputs produced in China to the US market. Finally, a major perceived threat is the possible extension of AGOA to the Asian LDCs that do not currently enjoy preferential access to the US market, including Cambodia and Bangladesh.

As discussed in the following section, these trade policy issues have gender-specific implications in Lesotho, due to gendered patterns of employment in Lesotho's textiles and apparel industries.

3.3 GENDER IMPLICATIONS

Both the Interim Poverty Reduction Strategy and the Lesotho Vision 20/20 highlight two major gendered shifts that have taken place over the last two decades: the retrenchment of Basotho migrant mine workers (male) from the Republic of South Africa and the employment of women in the apparel industry. Attention is hereafter confined to the export-oriented apparel industry, given that this report focuses on trade-related gender issues. It should be stressed, however, that, in Lesotho, "engendering" policy is "not simply a question of improving women's status, as there are a number of situations where males are disadvantaged" (KoL 2004a)

The trade policy developments discussed in the previous sections have had strong redistributive effects across sectors and individuals. Overall, they have created opportunities for women's empowerment and well-being through job creation in export-led sectors, but have also contributed to new patterns of inequality and vulnerability. These issues are discussed in some detail below.

3.3.1 Women's empowerment through formal employment

The trade-led expansion of Lesotho's apparel industry has created a large number of new jobs in Lesotho, most of which have been filled by women. Most remarkably, under AGOA, Lesotho's clothing industry has grown to be Lesotho's single largest employer, accounting for some 48,000 jobs in 2004 compared with only about 10,000 in 1999 (Table 8). In recent years, Lesotho's textile and garment industry has employed between 35,000 and 43,000 workers, depending on fluctuations in sourcing orders from US buyers (LECAWU). As of November 2011, the "exporters" collectively employed almost 33,000 workers. Adding the "locals" segment, the total workforce in the textile and apparel sector would currently amount to some 39,000 workers (LTEA). Most of the new jobs were filled by women.

Women make up the bulk of the workforce in the textile and clothing sector (around 98 per cent, according to LECAWU). The LTEA reported more conservative figures: women are estimated to account for between 70 and 75 per cent of the workforce, even though in certain departments (cutting and sawing) they seemingly represent between 90 and 95 per cent of the work force. These are mainly unskilled workers, an estimated 63 per cent of whom come from rural areas (ALAFA).

The Lesotho case study thus confirms that trade policy (in this case, preferential access to US markets) can play a catalytic role in job creation for women. Most significantly, trade-led developments have created a large number of new jobs for underprivileged, relatively unskilled women who would otherwise stand little chance of being formally employed. Table 8 shows the impressive growth in employment in the textile and clothing sector. One year before AGOA was signed (1999), there were 9,877 employees in this sector. Employment then reached 47,998 in 2004 before the complete phase-out of the WTO MFA; in five short years, employment in this sector grew by 286 per cent, with women benefiting the most.

The advantages of formal employment in the textile and apparel sector extend beyond the income

Table 8: Employment, by industry (manufacturing sector), 1997–2011 (number of jobs)

Year	Food and beverages	Textiles and clothing	Leather & footwear	All other manufacturing	Total
1997	1,719	8,534	2,765	982	14,000
1998	1,738	8,970	3,024	1,052	14,784
1999	1,647	9,877	2,783	1,019	15,325
2000	1,577	16,866	2,767	1,214	22,423
2001	1,392	26,537	2,743	1,277	31,948
2002	1,265	35,844	3,012	1,218	41,339
2003	1,200	43,104	1,419	1,553	47,277
2004	1,094	47,998	2,148	1,476	52,715
2005	900	37,608	486	1,668	40,661
2006	1,094	41,084	540	1,725	44,443
2007	1,061	42,822	2,057	1,723	47,663
2008	1,052	41,753	2,189	1,931	46,923
2009	1,028	35,132	2,835	2,048	41,042
2010	1,016	37,482	3,020	1,916	43,433
2011 (1Q)	1,145	37,130	2,481	1,873	42,629

Source: Lesotho Bureau of Statistics, Ministry of Finance and Development Planning.

Box 1. The Apparel Lesotho Alliance to Fight AIDS

The Apparel Lesotho Alliance to Fight AIDS (ALAFA) – a public–private partnership involving the Government of Lesotho, local industry (Lesotho-based manufacturers and trade unions), international brands and retailers, and donors – was launched in May 2006. According to some ALAFA estimates, in 2009, 40 per cent of workers in the textiles/apparel sector were HIV-positive. Through workplace clinics, ALAFA takes HIV/AIDS prevention and treatment services (condoms distribution, integrated HIV and TB treatment, etc.) to the workplace.

Guided by an Advisory Council that includes three relevant government ministries (Health, Labour and Trade) and the National AIDS Commission, ALAFA is not a parallel health system but rather an initiative that operates in close cooperation with the Ministry of Health. The ALAFA workplace clinics get the drugs and the testing kits from the Ministry of Health, which in turn receives them from The Global Fund to Fight AIDS, Tuberculosis and Malaria. The drugs and treatment protocols are exactly the same in the clinics run by ALAFA and in the public clinics run by the Ministry of Health. ALAFA is sponsored by the Ministry of Health through in-kind contributions, and also supported by the European Union, the UK Department for International Development, USAID, and by brand sourcing in Lesotho, such as Gap, Levi's and Wal-Mart (ALAFA). While factories do not contribute financially to ALAFA, they support it by providing clinic space, by paying factory-based peer educators, and by releasing workers from duty to attend the clinics without reduction in pay.

Of great importance is the fact that workers can go to the ALAFA clinics while they are on the factory premises. This means that they do not miss a working day. Conversely, the public clinics reportedly have an average waiting time of eight hours (data from 2010). Workers, particularly occasional/casual workers, may not be in the position to take an (unpaid) day off. In the trade-off between wages and attention to health, the poor would likely choose the wage. Another positive aspect of the programme is that if a worker is dismissed, he/she can still access ALAFA clinics for the following six months. This period is considered long enough for the person either to find other employment (if in the apparel sector, ALAFA clinics would most likely be available), or to enrol in the public health system. In principle, this procedure allows for patients not to fall out of the care system. This tends to occur, however, when dismissed workers go back to their villages of origin where treatment might not be available, although support groups exist in some villages.

Source: UNCTAD secretariat, based on information from ALAFA and LTEA

earned. In particular, women working in the apparel factories have access to innovative workplace health programmes that provide free HIV care and treatment. In a context where some 40 per cent of workers in the textiles and apparel sector are HIV-positive (ALAFA),[38] this industry-wide initiative is critically important.

3.3.2 … with some qualifications

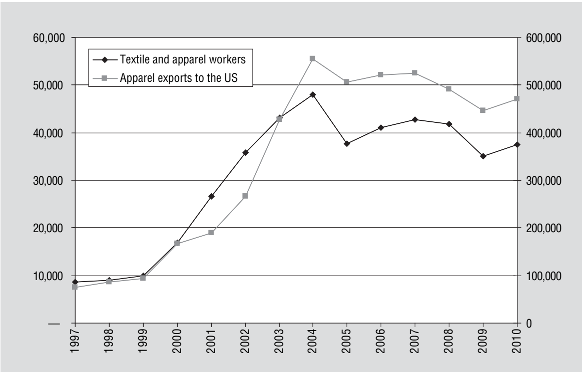
Being able to work and earn income is a strong force behind women's empowerment and decision-making, both within and outside the household. However, there are qualifications to be made, and some aspects that need to be critically assessed. Some of the major areas of concern include the quality (wages, working conditions and skill development) of the employment created, the spillover effects within the economy, and new patterns of vulnerability to external shocks.

3.3.2.1 New patterns of vulnerability to external shocks

As mentioned, Lesotho's apparel exports have experienced significant volatility. The first contraction occurred in 2004/2005, with the complete phase-out of MFA quotas under the terms of the WTO ATC and enhanced competition from Asian sources; the second contraction accompanied the recession in the US because of the global financial crisis. These contractions in exports are reflected by labour data. Figure 6 depicts employment in textile and clothing. A sharp decrease was observed between 2004 and the end of 2005 (expiration of the WTO ATC), resulting in the dismissal of some 10,000 textile and apparel workers. The figure further portrays a significant contraction in 2008–2009, following the economic slowdown in the US and a decline in aggregate demand for clothing by US consumers.

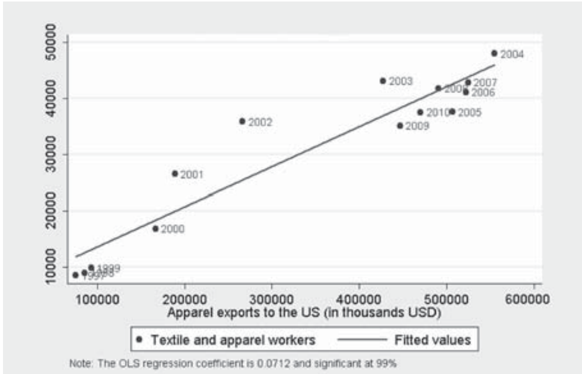
An interesting feature is the close correlation between export fluctuations and labour contractions, as shown in Figure 6b. This relation is quite intuitive given the close link between labour and export demand. Performing an OLS regression to assess the link between exports and employment gives a coefficient is 0.0712. Moreover, the determination coefficient is 0.8917, meaning that movement in apparel exports accounts for 89.17 per cent of all variations in apparel sector employment (from 1997–2010).

Figure 6: Employment in textile, clothing, and apparel exports, 1997–2010



Source: Labour data: Lesotho, Ministry of Finance and Development Planning, Bureau of Statistics; Trade data: UNCTADstat online database. Note: Exports (Articles of apparel and clothing accessories, SITC Rev. 3 code 84), in thousands of dollars, are plotted on the secondary axis.

Figure 6b: Exports and Employment in the Apparel Sector



Source: Labour data: Lesotho, Ministry of Finance and Development Planning, Bureau of Statistics;
Trade data: UNCTADstat online database.

This close relation brings new patterns of vulnerability. In Lesotho's clothing industry, flexible layoff schemes cause workers to be dismissed during periods of tightening orders, and possibly reinstated when needed (LECAWU). There is no legislation limiting an employer's ability to terminate the services of an employee based on operational requirements (contraction of orders). Nor are there significant safety nets in place. Terminal benefits (two weeks' pay) only accrue to workers who have completed more than one year of continuous service with the same employer. If the factory is in liquidation, preferential creditors may have priority over workers.

Looking forward, removal of AGOA preferences in 2015 and, on top of that, expiration of the third country fabric clause in 2012, pose a threat to the viability of Lesotho's clothing industry. These changes in trade policy are likely to affect women disproportionately, given the high proportion of female employment in the apparel sector.

3.3.2.2 Quality of jobs created

Lesotho's apparel sector has attracted predominantly low-skilled, comparatively low-paid labour. This is a trade-related issue, to the extent that the way the AGOA preferences were structured oriented investment toward apparel items with little added value and discouraged backward linkages within the economy (Edwards and Lawrence 2010).

3.3.2.2.1 Wages

Workers in Lesotho's textile and apparel industry are mainly employed on a permanent, full-time basis, and temporary/casual workers are a minority. The minimum wages and working conditions are regulated by Lesotho's labour laws and regulations, as complemented by collective bargaining agreements. Minimum statutory wages are currently set for three categories of workers in the clothing, textile, and leather manufacturing sector: textile general workers, textile machine operators, and trainee textile machine operators. At the lowest wage scale, a general worker in Lesotho's textile and apparel industry earns a minimum of 44 maloti per day, 208 maloti per week, or 833 maloti per month (equivalent to about \$5, \$26, and \$103) (Supplement No 1 to Gazette No. 69 of 14 October 2011).

Wages in the textile and apparel sectors are low in real terms. They provide the minimum amount of income required to satisfy basic food needs and accommodation (the average monthly cash expenditure on food and beverages for all households was 405 maloti in the 2002/2003 Household Budget Survey). In essence, they do not allow workers to set aside any substantive savings. A noteworthy feature is that the textile and apparel statutory wages are the lowest across all sectors. Since the textile and apparel industry absorbs a significant share of female employment (about one out of five working women), the low wages in the sector significantly contribute to the persistent wage gap between men and women. Some qualifications, however, are in order. First, these are minimum statutory wages: currently applied rates for workers who have developed some skills and have been employed for a certain number of years often exceed the minimum. Also, it should be stressed that these rates are high relative to other African countries (e.g., Kenya), and even more so compared to Asian countries, with significant implications in terms of competitiveness.

3.3.2.2.2 Working conditions

Working conditions were defined by some informants as "harsh", because of a coincidence of three factors: (i) hard assembly work; (ii) cultural differences and "harsh" managerial style; and (iii) low wages. However, it was generally recognized that core labour standards were respected (no instances of child labour, forced labour, or generally "sweatshop" conditions). As regards the relationship between the workforce and the management/ supervisors (mainly from Asia), it was noted that, in the past, the situation had been tense. Hostile relationships between the Asian managers/supervisors and the Basotho workers had led to instances of physical mistreatment on the part of supervisors. It was recognized that the situation had significantly improved in recent years, notwithstanding occasional reported instances of abusive language by supervisors. Pressure from buyers and conditions attached to procurement from big buyers (Levi's, Gap, Wal-Mart) were identified as the driving forces behind change.

3.3.2.2.3 Job segregation and skills development

While women are present in all segments of the industry (including human resources, sewing supervision, and administration), they are predominant in the unskilled/labour-intensive nodes of the chain (sewing and cutting, and packaging) of the chain, which attract the lowest wages. It should be emphasized that these patterns of occupational segregation by sex could not be solely justified in terms of different physical endowments, but essentially reflected gender stereotypes about the relative capacities and appropriate work for men and women. There is also an ethnic divide: better paid positions (management, administration, human resources, and health personnel) are held by expatriate personnel, mostly Asians.

Job segregation in the unskilled-labour intensive nodes, and the segregated nature of tasks within each node, has significantly limited skills development. Each worker is trained to perform a very specific task and repeat it over and over again throughout the years. The transfer of skills only occurs up to a certain level. Very few workers are able to manufacture an entire garment. This is widely perceived as an obstacle for self-employment, entrepreneurship, or for finding better jobs.

3.3.2.3 Limited spillover effects

In Lesotho, the export-oriented textile and apparel sector has established very limited linkages with the rest of the economy. Some linkages have indeed been developed with local transporters, packaging firms, forwarding agents, and small retailers; for example, food stalls that cater for factory workers, or other street vendors. However, no significant industrial linkages involving local small and medium-sized enterprises (SMEs) and fostering local skills have been developed, mainly due to the fact that the "exporters" are fully integrated into the international value chain. Linkages and spillover effects have also been discouraged by the trade policy framework. In particular, it is not allowed to use the cut-offs from the export-oriented sector for the domestic market, since fabric inputs are imported duty-free on the condition that they are assembled into products for export only.

There are also limited effects on government revenue, as export-oriented (outside SACU) manufacturers benefit from a number of tax incentives that limit their contribution to the national budget. These include (i) duty-free import of raw material (yarn, fabric and trims inputs), on the condition that the manufactured product is exported outside SACU (as mentioned, thus inhibiting the use of the cut-offs for the domestic market); (ii) 0 per cent corporate tax, if the company exports beyond SACU (10 per cent if it exports to other SACU member countries, 15 per cent corporate tax if the company produces for the local market); (iii) VAT exemption. These fiscal incentives discriminate heavily against the domestic-focused enterprises, which are taxed comparatively heavily. This is an issue that merits attention from the Government going forward, as it may thwart Lesotho's efforts to promote women's entrepreneurship and entry into the formal economy, because many women-run SMEs may target the domestic economy, either as a stepping stone to further expansion or as an exclusive market.

To sum up, the gender outcome of Lesotho's trade-led productive transformation is more nuanced than it may appear at first sight.

Trade preferences have played a catalytic role in fostering structural change and productive transformation in the economy, thereby opening up opportunities for women's empowerment. Most significantly, trade-led developments have created a large number of new jobs for underprivileged, relatively unskilled women who would otherwise stand little chance of being formally employed. Being able to work and earn an income is a strong force behind women's empowerment and decision-making, both within and outside the household.

Although this has been a positive development for many women, it has also made women particularly vulnerable to external shocks and changes in the international trade environment. This vulnerability is especially acute in light of the fact that textile and apparel workers would have difficulty adjusting to trade policy changes. The limited effect of FDI on fostering skills development in Lesotho's apparel sector, and the low wage levels which do not allow workers to building up savings for small business activities, contribute to making the adjustment difficult. It is widely recognized that if the apparel factories were to shut down, it would be very difficult for the female workers to relocate. Finally, considering indirect effects, the export-oriented apparel sector has not generated significant government revenues through customs duties or taxes. In this respect, it has not contributed towards public expenditure in health, education, and other services that particularly benefit women.

IV

Conclusions and policy recommendations

4 CONCLUSIONS AND POLICY RECOMMENDATIONS

As discussed, Lesotho's trade-led structural transformation has created opportunities for women's empowerment and well-being through job creation in export-led sectors, but has also contributed to new patterns of inequality and vulnerability. This section illustrates a spectrum of policy options for Lesotho for the implementation of a sustainable, gender-sensitive trade strategy. The policy responses outlined below encompass short-term actions (section 4.1), as well as mid- to long-term plans (sections 4.2).

4.1 SHORT-TERM TACTICAL RESPONSES

Short-term responses are geared to a temporary extension of AGOA tariff preferences and of the third country fabric clause. This would give Lesotho more time to design and implement a post-AGOA adjustment strategy.

As briefly discussed below, negotiators may wish in particular to build a "gender case" for the preferential regime extension, based on humanitarian concerns. Also, initiatives to tackle HIV/AIDS in the workplace can be leveraged to build some product-differentiation strategies and penetrate new export markets.

4.1.1 Build a humanitarian and gender case for AGOA extension

In the short term, the Government may wish to lobby for a temporary extension of preferential treatment (i.e. tariff preferences and flexible rules of origin). Negotiators may wish, in particular, to build a "gender case" for the preferential regime extension, based on genuine humanitarian and gender grounds.

Beyond economic considerations, there are indeed moral arguments for a temporary extension of AGOA, given the importance of the scheme for the well-being of such a sizeable – and vulnerable – portion of Lesotho's population. The expiry of both the AGOA and the third country fabric clause are likely to have immediate and widespread repercussions for the livelihood of the some 37,000 workers – mostly disadvantaged women – in Lesotho's textile and apparel sectors. As discussed, women make up the bulk of this workforce. This female workforce mainly consists of relatively unskilled workers, an estimated 63 per cent of whom come from rural areas (ALAFA). These women would otherwise stand little chance of being formally employed. Also, in a context of high unemployment and retrenchment of male mineworkers in South Africa, there would be few re-employment prospects for this low-skilled pool of labour. The economic and social costs associated with a termination of the preferential scheme would go beyond the costs associated with factory closures and job lay-offs: by losing their jobs, HIV-positive workers (as mentioned, an estimated 40 per cent of the apparel workers) would no longer have access to innovative workplace health programmes that provide accessible and free HIV/AIDS care and treatment, with repercussions in terms of morbidity and mother-to-child HIV transmission. In addition, it must be considered that for many Lesotho families, the wages that women textile workers bring home may be the family's only means of support. The mass termination of female textile workers would therefore potentially have extensive repercussions on large segments of the Lesotho population – including children and the elderly – and on the educational attainment of children in Lesotho, as priorities tend to shift for families that fall into extreme poverty.

All this calls for a temporary extension of AGOA, so as to give Lesotho more time to implement a post-AGOA adjustment strategy, on humanitarian and gender grounds. The United States promotes gender equality and women's empowerment worldwide, on the assumption that no society can develop successfully without increasing and transforming opportunities and resources for women and men. A temporary extension of the AGOA would be a way to give substance and meaning to gender equality and women's empowerment commitments. It would also provide an opportunity to tangibly incorporate gender issues into trade policy.

4.1.2 Carve out a niche market as a responsible sourcing destination

Lesotho's apparel industry is currently working to carve out a niche market as a responsible sourcing destination. A report funded by the World Bank and the US Trade and Development Agency (Foreign Investment Advisory Service 2006) has assessed the feasibility of a branding strategy for Lesotho that can be used to attract the attention of new international buyers. In addition, key international buyers such as Gap and Levi's already require all their suppliers to comply with social and environmental standards (Seidman 2009).

In this context, it is worth exploring ways of leveraging efforts to tackle HIV/AIDS in the workplace (and, particularly, to capitalize on the ALAFA initiative) so as to build some product differentiation strategies. This may be a way to penetrate consumer consciousness in the EU market, among others.

In high-income countries, consumers are willing to pay for symbolic attributes and beneficial spillover effects associated with their purchases. Building on initiatives and efforts to tackle HIV/AIDS in the workplace, Lesotho apparel could gain brand identification and strategically position itself in a niche ethical market. Concretely, this would require, among other things: (i) scaling up the ALAFA initiative; (ii) setting up a brand/certification scheme; and (iii) establishing strategic alliances with key players (including global apparel brands) in targeted export markets.

A key element is the establishment of some strategic alliances between Lesotho apparel suppliers and large off-takers in key export markets; for example: traders, specialized wholesalers and retailers. By linking suppliers to a guaranteed buyer who will also supply inputs, know-how, equipment and finance, these schemes can help Lesotho's apparel manufacturers integrate into global supply chains and reach global markets; off-takers will also need to absorb the high advertising costs necessary for promoting brand recognition. This in turn requires greater collaboration among the public and private sectors. Particularly, trade preference programmes need to be coordinated with trade facilitation and promotion efforts, including trade missions and exhibitions. The objective should be to discuss long-term investment opportunities in Lesotho as an "ethical" apparel source, and eventually consolidate orders. The idea is to move beyond the charity/ethical outlets, and reach out to large buyers interested in some "ethical" branding.

A second critical element is whether the premium attracted by goods sold under the Lesotho "ethical" label will cover the extra costs associated with this "ethical" branding strategy. As discussed, Lesotho is already a relatively costly sourcing destination, due to comparatively high labour and transport costs. An "ethical" branding strategy will further raise costs, including though increased labour costs and the cost of an external audit. The commercial viability of an "ethical" branding strategy remains to be assessed.

4.2 MID- TO LONG-TERM STRATEGIC SOLUTIONS

It is widely felt that an export-oriented strategy based on preferential schemes that donor countries could withdraw or modify at will is not a sustainable strategy for Lesotho. There is a need to build a competitive and resilient productive base for the sustainability of any trade-led structural transformation (UNCTAD 2011). Some mid- to long-term components of this strategy are highlighted below.

4.2.1 Mid-term policy responses

The unpredictability of the renewal of AGOA underscores the need and urgency to diversify Lesotho's export markets and products. The Government should also support the creation of industrial clusters/linkages, and create an enabling environment for local income-generating small and medium-sized enterprises. Gender should be an integral component of this strategy, with a view to offering new employment opportunities for two discrete groups carrying a strong gender connotation: workers in Lesotho's textile and apparel sector (mainly women), and Lesotho's retrenched migrant miners (men).

4.2.1.1 Market and product differentiation

4.2.1.1.1 Export market diversification in apparel

The Government is exploring markets for export diversification of apparel products from Lesotho, with a focus on the EU and other dynamic export markets, including Canada. Lesotho should also strive to exploit the SACU and in particular the South African market more.

The EU market

Access to the EU market is fully liberalized. As discussed in section 3.2.1, Lesotho enjoys duty-free, quota-free access to the EU under EBA, including for its textile and apparel products. In textile and apparels, duty-free access to the EU translates into significantly high preference margins, in the range of 6.5–12 per cent (Inama 2011). Also, the new EC GSP rules of origin, far more liberal than the previous ones, may play a role in boosting Lesotho's apparel sector.

However, major entry barriers constraining access to the EU still stem from the structural characteristics of supply chains and markets. In this respect, it has been pointed out (LTEA) that the United States and EU markets for apparel products are structurally different: while the US market could be characterized as a relatively stable (in terms of requirements), standardized "bulk" market, the EU garment market is more volatile and tailored, and implies continuous adjustments on the part of suppliers to satisfy changing fashion requirements. The US market is particularly appealing to Lesotho's "exporters" for a number of reasons: (i) it is a big market that can absorb large "bulk" imports (Lesotho's "exporters" allegedly make a small margin on each product, so their activity is profitable if they can export large quantities); (ii) the segment of the US apparel market that Lesotho targets for its exports is not particularly geared to keeping up with fast-moving fashion trends – a positive feature for Lesotho's manufacturers, given their limited capacity to adjust quickly to new requirements; (iii) Lesotho's exporters have established marketing links in the United States; and (iv) the duties on apparel imports tend to be significantly higher than in Europe, which translates into the high preference margins.

Conversely, the EU market is difficult to penetrate because: (i) it is more sophisticated and fast-moving in its requirements than the US market (and others), and orders tend to be smaller than from US buyers; (ii) the duties on apparel imports are on average lower in the EU than in the US, which means that the value of duty-free access (preference margin) is lower; (iii) in contrast to the US, all LDCs enjoy duty-free access to the EU market, including major Asian apparel exporters such as Bangladesh and Cambodia; and (iv) the European clothing industry has its traditional suppliers located in East Asia and North Africa, which tend to be more cost-competitive than those in Lesotho. These market entry barriers are particularly difficult for Lesotho to overcome, as its apparel industry is relatively less competitive than established suppliers to the EU market and is less agile in responding to changing market entry conditions.

To sum up, the new favourable rules of origin enacted by the EU under the EPA could open up some opportunities for Lesotho's producers, mainly for the "locals". As discussed, South African firms tend to be smaller, more flexible, with greater capacity to adapt than the large "exporters" (LTEA). However, a more proactive strategy is needed to penetrate the EU market. Lesotho's manufacturers need to upgrade and become more competitive, not only on prices but on other significant measures such as delivery time, quality and working conditions. Also, marketing links should be proactively established with key buyers to overcome entry barriers. In this respect, Lesotho's exporters may particularly wish to link with ethical labels (non-profit-organization-facilitated supply chains, but also, and increasingly, retailers' brands) to establish some form of strategic alliance that builds on efforts to tackle HIV/AIDS in the workplace, as discussed above.

Canada and the SACU market

As discussed, Canada's GSP programme offers benefits under a General Preferential Tariff (the so-called "GPT" tariff), and an LDC Preferential Tariff (the "LDCPT" tariff). Textile and apparel exports from Lesotho are eligible for duty-free entry into Canada under the LDC scheme. As detailed in the previous section, the rules of origin stipulate that apparel articles qualify as originating in Lesotho and are eligible for duty-free LDCT, provided that they are assembled in Lesotho and the fabric used is manufactured in an LDC, a GPT country or Canada, from yarns originating in an LDC, a GPT country or Canada. When using fabric manufactured in a GPT country, the value of any materials, including packing, which does not originate in Lesotho must not exceed 75 per cent of the ex-factory price of the goods as packed for shipment (Canada Customs and Revenue Agency, 2003). According to some industry figures, fabric inputs, mainly imported from Asia, would account for between 40 and 45 per cent of total operating and production costs. Lesotho "exporters" could then continue to import their fabric requirements from China and other Asian countries and be eligible for duty-free entry into Canada under the LDCT scheme.

Lesotho is proactively looking to Canada as a potential new market for its apparel industry.[40] It has been observed, in this respect, that Canadian retailers require smaller quantities than what the Lesotho export-oriented factories (the "exporters") are set up to produce to be profitable. While this requirement by Canadian buyers poses a challenge to Lesotho exporters, it also presents opportunities for small and medium-size enterprises (the "locals") (Lesotho National Development Corporation 2011).

Lesotho should also strive to exploit the SACU, and in particular the South African market, more. In textile and clothing, this market is still heavily protected against non-SACU imports, and therefore offers Lesotho an advantage. It should be stressed, however, that yarn, fabric and trim inputs are imported duty-free into Lesotho from outside SACU on the condition that the manufactured products are exported outside SACU. This may inhibit a reorientation of the "exporters" towards the local (regional) market.

4.2.1.1.2 Export product diversification

Options for product diversification are also to be explored. Lesotho may wish to consider both (i) exports in which the country possesses a revealed comparative advantage, and (ii) new product areas.

The first focus area includes beverages, footwear, milling products, light electronic assembly (mostly TV receivers) and oils, among other products. These items are destined almost exclusively for the South African market. Some of these products are re-exports from South Africa, with some elements of value-addition in Lesotho. It is worth looking into ways to upgrade and scale up these product lines, and explore new export markets beyond South Africa. Trade expansion in these labour-intensive sectors is likely to create new employment opportunities, particularly for women, who tend to be predominant in light-assembly lines. Medicaments – exported to Botswana – are also potentially an important export product to other markets.

Beyond these established export industries, a number of high-value niche products (for example, aloe vera, edible and medicinal mushrooms, and mohair) can be targeted as a source of livelihood for disadvantaged rural people – particularly women – and as export commodities. Water – already a major export in bulk form – also offers some options for vertical diversification (value addition) into bottling. These sectors can offer job opportunities for both dismissed apparel workers and retrenched migrant miners. To appraise the export potential of these sectors, it is important to hold consultations bringing together all key players along the chain. This multi-stakeholder approach should help to identify the critical success factors for entering new markets and establishing commercial ties between producers and buyers. Identification of these factors will guide the design of commercial strategies and the prioritization of activities, which can be then financed by the enterprises themselves or by donors, or through local funding.

4.2.1.2 Clustering/linkages.

The Government should support the creation of a textile cluster, where raw materials and trims are locally produced. This could be done through public–private partnerships. Since local production of yarn and fabric inputs might have serious negative ecological consequences, due attention should be given to sustainability aspects.

4.2.1.3 Labour-intensive medium and small-scale enterprises and schemes

The domestic economy can also create opportunities for women's empowerment and well-being through formal and informal employment. Occupations where women figure prominently in Lesotho include:

- Street vendors, including self-employed makers of traditional dresses and other traditional products sold outside Lesotho, mainly in South Africa, Namibia and Botswana;
- Micro-business ventures catering for weddings, funerals, or Government offices;
- Subsistence agriculture (though increasingly difficult due to climate change) and the agro-processing industry (poultry, eggs, pumpkins, potatoes, pork meat);
- The care economy (domestic workers and health care services, such as nursing). It should be stressed that since many of Lesotho's nurses have migrated to the United Kingdom, Lesotho "imports" nurses from other countries, most notably Kenya;
- Teachers and secretaries.

Though not all of these sectors have significant export potential, they all absorb a sizeable share of the female workforce and have some dynamic potential. It should also be stressed that these sectors tend to be more profitable for women than the textile and apparel industry. Selling agricultural products to small outlets, for example, is perceived as more lucrative than working in the clothing factories (AWSB).

Public services and investment could play a key role in unleashing the dynamic potential of small and micro enterprises operating in these sectors. Key components of a coherent upgrading strategy should include technical training, enhanced access to credit, the establishment of an enabling legal framework (in terms of facilitation to start up a business, as well as tax exemptions and other incentives), and public investment in adequate physical infrastructure and utilities. Women farmers engaged in the micro agro-business sector do not appear to have benefited from training/extension services or other support from the Government. Public services geared to upgrading their skills would have important spillover effects, not only in terms of women's empowerment but also for purposes of food security and land conservation. A draft bill in the pipeline to support SMEs is specifically geared to empowering local entrepreneurs. Women account for the majority of these small local entrepreneurs. They started these small businesses while their husbands were working in the mines in South Africa. The bill provides for enhanced access to credit by providing guarantees and promoting linkages between local SMEs and large foreign-owned firms. There is also a need to redress policies and practices that implicitly discriminate against women. It was indicated (Ministry of Trade) that women significantly engage in cross-border trade (90 per cent of cross-border traders were estimated to be women). They sell products manufactured in Lesotho, especially handicrafts, across the border, mainly in South Africa. They are often victims of administrative abuses, for instance they are requested to provide forms and certificates that are not due according to SACU rules. The Ministry of Trade is ensuring that SACU rules are applied to cross-border traders.

A second approach is to integrate gender into public work schemes. There are several government-sponsored labour-intensive and income-generating medium-sized and small-scale schemes: a Labour Construction Unit employing villagers as labourers and also training them as contractors in access roads construction; the Civil Works Section of the Ministry of Local Government focusing on the construction of rural clinics and footbridges; afforestation and conservation programmes; and agricultural-intensive production projects. NGOs have played a vital role in some of these schemes. Some of these projects were funded by the Lesotho Highlands Revenue Fund (KoL 2001). These schemes can provide an important source of livelihood for disadvantaged groups, including rural women and retrenched migrant miners.

4.2.2 Long-term strategic solutions

In the long run, Lesotho should strive to build a competitive and resilient productive base in order to fully exploit the potential of local, regional and global markets. It is critical, in particular, to overcome infrastructural deficiencies and improve the business environment. This calls for the mobilization of internal resources and the pooling and alignment of external funds.

4.2.2.1 Towards a more competitive and resilient productive base

Some key areas of productive investment are (i) training/skills development to build a workforce that has the knowledge and skills to work in new sectors, including those that cater to diversified export markets. The upgrading of the workforce should encompass training/skills development for women, including those currently employed in the apparel sector, and also for retrenched miners; (ii) extension services in agriculture; (iii) physical infrastructure and utilities, including trade infrastructure and information and communication technologies (ICT); (iv) the establishment of an enabling business environment for small and micro enterprises, including streamlined procedures for setting up a business and fiscal incentives for local business; and (v) enhanced access to credit. It is widely perceived that once a competitive and resilient infrastructural base has been set up and consolidated, sustainable investment will follow (e.g., in the agro-industry sector and the tourism sector).

4.2.2.2 Broadening/diversifying the revenue basis

Traditional sources of government revenue have shrunk. SACU receipts, the mainstay of Lesotho's national budget ever since 1969, have contracted significantly in recent years. Also, the revenue effects of trade liberalization have been significant. It is estimated that the SADC Free Trade Area Protocol, when fully implemented, will result in a 17 per cent reduction in customs revenues. Customs revenues are set to erode further under the EC/SADC EPA. Among other things, this may translate into a cut in social spending, which may affect women disproportionately. The reduced revenue base may in particular hinder the implementation of policies aimed at countering the spread of HIV and AIDS, which hits women harder owing to social and cultural factors.

Unless the revenue base is broadened/diversified, it will not be possible to implement an ambitious infrastructural programme. This calls for the mobilization of internal resources, and the pooling and alignment of external sources.

In terms of internal resources, water revenue may provide an important source of government revenue. Water development projects in Lesotho have important gender ramifications, in at least two respects. First, the related construction works would create jobs for Lesotho's retrenched migrant miners. Second, water revenues could fund social services, with positive effects particularly for women, because women's role as caregivers means that they usually have to compensate for deficits in public provisions. Water development projects are, however, a double-edged instrument: they may generate significant revenue, but they also have significant social and environmental costs for the highlands population (loss of arable and grazing land, as well as dwellings), due to reservoir flooding and construction works. There is a need to carefully weigh costs and benefits, and cleverly design a commercial strategy premised on environmental, as well as gender and social considerations.

Foreign aid (a number of Aid for Trade initiatives, including the Enhanced Integrated Framework) can also be a catalyst for assistance in support of Lesotho's efforts to develop the basic economic infrastructure and tools the country needs to create a resilient economy. The key challenge is to align aid flows with the priorities expressed in Lesotho's national strategies.

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NOTES

[1] The Index ranks countries according to the perception of corruption in the public sector. The scale goes from 0 to 10, where 0 is defined as "highly corrupt" and 10 as "highly clean".

[2] The Doing Business indicator provides a quantitative measure of the regulatory environment for domestic businesses. The ease of doing business index ranks economies from 1 (most business-friendly regulation) to 183.

[3] The SAMP launched a multi-country research initiative in Botswana, Lesotho, Malawi, Mozambique, Swaziland and Zimbabwe, and the Migration and Remittances Survey (MARS) was conducted as a result.

[4] The poverty line was 83.13 in 1994/95 and 149.91 in 2002/03 (UNDP 2007).

[5] The Gini index lies between 0 and 100. A value of 0 represents absolute equality and 100 absolute inequality.

[6] The labour force participation rate is defined as the ratio of the labour force (persons that are either currently employed or looking for employment) to the working age population (persons aged 15 years and above), expressed as a percentage.

[7] The unemployment rate is the proportion of currently unemployed out of the economically active population aged 15 years and above.

[8] Lesotho has signed and ratified other international instruments for the protection and promotion of women's rights, including the Convention on the Political Rights of Women (1952), the International Covenant on Civil and Political Rights (1966), and the Beijing Declaration and Platform for Action (1995).

[9] The Vision recognizes that the gap between the male and female population represents one of the main obstacles to economic growth and poverty reduction, and outlines discrimination against women as a key challenge. It aims at the appointment of more women into areas of responsibility and decision- making in both public and private sectors. A related challenge is to do this without neglecting boys and men (Kingdom of Lesotho, 2004a).

[10] The Poverty Reduction Strategy (PRS) was issued in 2004, and the overarching development goal is to provide a broad-based improvement of welfare standards for the population without compromising opportunities for coming generations. The original PRS (2004/05-2006/07) outlines eight major priorities: (1) Create employment; (2) Improve agricultural productivity and food security; (3) Develop infrastructure; (4) Deepen democracy, safety and security; (5) Improve access to health and social welfare; (6) Improve quality and access to education; (7) Manage and conserve the environment; and (8) Improve public service delivery (Kingdom of Lesotho, 2004b). In 2006, Lesotho reclustered the original priorities and cross-cutting issues into four broad areas. These are: (a) the Growth Sectors (including Environment); (b) HIV/AIDS, Gender and Youth; (c) Human Development; and (d) Governance. The strategy recognizes gender inequality as one of the main causes of the unequal distribution of resources.

[11] The specific objectives of the policy include ensuring equal participation of women, men, girls and boys in the development process; promoting equitable allocation of public expenditure in ways that ensure equal benefits for women and men, girls and boys; promoting equal access and control of strategic resources and services; promoting the promulgation and enforcement of gender-friendly laws; promoting equal participation in politics and decision-making; promoting awareness of the causes and consequences of gender-based violence and advocating for mechanisms that prevent and eradicate such practices; and promoting reproductive rights and reducing the spread of STIs and HIV/AIDS (Kingdom of Lesotho, 2003).

[12] In Lesotho, a woman can be married traditionally/customarily (by fulfilling the requirements set under Section 34 of the Laws of Lerotholi), or by civil law with a certificate (regulated by the Marriage Act of 1974 and the Legal Capacity of Married Persons Act of 2006).

13 Indeed, the structure of the courts reflects the duality of the legal system. The local Basuto courts only handle customary law matters, while civil courts (including Magistrate's Courts, the High Court and the Court of Appeal) can preside on both customary law matters (but only as courts of second instance) and on civil law.

14 It is important to note that the "right to culture" is enshrined in various documents of human rights law, including the Universal Declaration of Human Rights of 1948, and the International Covenant on Economic, Social and Cultural Rights of 1966. However, these documents all have a provision for "the right to be protected from harmful cultural practices", which, in this case, includes the effects of customary law on women.

15 The project has been cofinanced, among others, by the World Bank, the African Development Bank and the European Investment Bank.

16 Construction planning for Phase IA commenced in 1987/88, and major construction activities ended in 1996/97. Construction planning for Phase IB started in 1992/93, and construction and commissioning were expected to be completed during 2004.

17 Lesotho gets fixed and variable royalties from the transfer of water to RSA. On average, the royalties come to M15million/month. Part of the money is redirected to the general development of the country through the Lesotho Fund for Community Development (LFCD). Lesotho's royalties from the sale of water and electricity to South Africa earned the country $19 million in 2008 and are expected to rise significantly on completion of the second phase of the LHWP (AfDB et al. 2011).

18 However, Lesotho's exports destined for South Africa may well then have transited on to other SACU or SADC countries.

19 In September 1999, the IMF started publishing the data on FDI inflows into Lesotho, including South Africa's payments of royalties for water delivered by Lesotho within the LHWP as part of Lesotho's FDI inflows. The Central Bank of Lesotho has not reported on FDI inflows as a separate item in its recent Annual Reports, but included LHPW-related payments in the financial account (not capital account) as "Special Financing – LHWP" (UNCTAD 2004).

20 In the WTO, Lesotho is a member of the Informal LDC Consultative Group of the WTO; of the WTO African Group; and of the African, Caribbean and Pacific (ACP) Group of countries (WTO 2009).

21 SACU Member States have agreed to share the SACU customs revenue among themselves on the basis of their shares of intra-SACU (non-dutiable) trade, rather than in proportion to each member's imports of dutiable (non-SACU) products.

22 According to the African Economic Outlook website, "Although the Government of Lesotho is making efforts to reduce its budget deficit, it has maintained infrastructure development as a priority. This infrastructure is intended to link remote areas to markets and to enable new investments that would provide opportunities for value addition, especially in the agriculture sector." Available at http://www.africaneconomicoutlook.org/en/countries/southern-africa/lesotho/:

23 The liberalization of tariffs took place at different rates. In general, the more advanced economies (including South Africa, Botswana and Namibia) reduced tariffs at a faster rate. Middle income countries such as Mauritius gradually reduced their tariffs each year between 2000 and 2008. LDCs liberalized gradually during 2007–2008. Angola and DR Congo will join the FTA at a later stage.

24 The other SADC countries are negotiating the EPAs under the Eastern and Southern Africa (ESA) Group and as part of the East African Community (EAC) Group.

25 In the case of Mozambique, no duties/quotas for 81 per cent of EU exports to Mozambique (excluding sensitive sectors for local producers, e.g. farm goods and textiles), with liberalization to take place gradually by 2023.

26 NEPAD has a dedicated programme to promote women's entrepreneurship, the NEPAD Spanish Fund for African Women's Empowerment. This programme, created in 2007, has funded 25 finished and 18

ongoing projects which focus, among other things, on women's occupational skills, the development of income-generating schemes, assistance to help women become food secure, research and knowledge development, access to financing schemes, eradication of gender-based violence, access to HIV prevention, promotion of girls' education, enhancement of leadership skills, welfare assistance, and ICT skills and environmental issues (http://www.nepad.org/crosscuttingissues/gender).

27 More precisely, the Trade and Development Act of 2000 was signed into law on 18 May 2000 (Pub. L. 106-200, 114 Stat. 251). Title I of the Act concerns trade benefits for sub-Saharan Africa and is referred to as the African Growth and Opportunity Act (AGOA).

28 Information retrieved from the official site of the African Growth and Opportunity Act, at http://www.agoa.info/

29 In 2003, of Lesotho's 42 clothing factories, 31 were from Taiwan, Province of China; two from Hong Kong, China; one from Singapore; and eight from the Republic of South Africa (UNCTAD 2004).

30 For a few varieties of non-knitted apparel, an alternative value content rule was applied, which allowed the use of non-originating fabric, provided that its value did not exceed 40 per cent (or 47.5 per cent in a smaller number of lines) of the final product price (UNCTAD 2008).

31 See Commission Regulation (EU) No 1063/2010 of 18 November 2010, amending Regulation (EEC) No 2454/93, laying down provisions for the implementation of Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code.

32 The GSP idea dates back to the late 1960s. Under the Generalized System of Tariff Preferences, industrialized countries grant autonomous unilateral trade preferences to all developing countries. A number of individual country schemes have been implemented since the 1970s.

33 The Canadian GSP system was brought into effect on 1 July 1974. It has been amended and extended several times since. In 2000, LDCs were given additional duty-free access for a large list of products. In 2003, Canada further enhanced market access for LDCs (duty-free, quota-free access for all imports with the exception of some agricultural products such as dairy, poultry, and eggs).

34 The Japan GSP requires a three stage transformation (yarn, fabric and assembly), but the rules of origin have been relaxed (two stages only) for some countries.

35 The difference between non-reciprocal preferential rates received by individual countries and the best available (MFN) treatment received on average by all other suppliers.

36 Supporters of AGOA are pressing for its renewal. This especially includes the members of the Congressional Black Caucus in Congress. Some of them have already introduced a bill to expand and renew the programme.

37 This Congressional budget "rule" is referred to as "pay-as-you-go," or "pay-go". See L. Baughman, U.S. Trade Preference Programs: Lessons for Europe from the U.S. Struggle to Get It Right, The German Marshall Fund of the United States, Economic Policy Paper Series 2010, page 9.

38 According to USAID estimates, HIV incidence in the textile and apparel population is 43 per cent (USAID 2010).

39 Minimum wages are set and periodically revised within the framework of a tripartite body (the Minimum Wage Board) that includes the Government (on a neutral basis), workers' representatives, and employers' representatives. The Board meets August through September and makes recommendations (LECAWU).

40 Facilitated by the Trade Facilitation Office Canada (TFO Canada), jointly funded by the Canadian International Development Agency (CIDA) and the Government of Lesotho, the 2011 Lesotho Garment and Textile Exhibition has offered a suitable venue for Canadian buyers and Lesotho's garment exporters to hold one-to-one meetings leading to the establishment of business contacts and the consolidation of orders.

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