Pioneering Inclusivity in Trade: The AfCFTA Protocol on Women and Youth in Trade

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The African Continental Free Trade Area (AfCFTA), the largest in the world by membership, aims to increase trade flows of African products and services within the continent by removing tariff and non-tariff barriers. The Protocol on Women and Youth in Trade included within the scope of the Agreement establishing the AfCFTA is a first of its kind for a regional trade agreement of this scale [1]. The inclusion of the Protocol is a concrete realization of the commitment of the Assembly of African Heads of State and Government of the African Union (AU) to “broaden inclusiveness” in the operation of the AfCFTA, demonstrating a novel approach to addressing gender issues within trade agreements. This article will first discuss the relevance of including gender considerations in trade agreements in supporting women’s participation in their various trade roles and in maximising the potential benefits of trade agreements as a whole; second, it will propose considerations for determining

the scope and focus of the AfCFTA Protocol on Women and Youth in Trade.

Including gender considerations in trade agreements

Women play various roles in trade including as entrepreneurs, producers, traders, investors, employees, consumers, and decision-makers. They often own or run micro, small, and medium-sized enterprises and in many regions are small-scale cross-border traders and operate in the informal economy. They may also be disproportionately represented in certain sectors and industries; for instance, women represent about fifty percent of African agricultural production though they are often at lower levels of the value chain. Increased trade may pose risks to women in these roles. Structural inequalities may exacerbate the gap in women's trade competitiveness, further hindering their ability to leverage the benefits of trade agreements. The costs of overcoming these inequalities may lead to a lack of export competitiveness in the wider market. Women in production may experience occupational segregation in lower-skilled, lower-value added segments of regional value chains.

These (and other) risks and differences in the distributional impacts of trade mean that gender-neutral trade policies are no longer seen as sufficient or effective. They can widen existing gender inequalities and limit the effectiveness of trade agreements and policies by leaving behind a significant demographic within the economy. While it is important to note that trade agreements cannot correct all socio-economic inequalities, a better approach is a move towards gender-sensitive or even gender-responsive trade policies. One way to achieve this is through gender mainstreaming – a deliberate effort to consider the ways in which women and men differently experience each trade issue and address any possible unequal impacts of a given provision or policy inherently in its design. Alongside this, specific provisions and policies targeting women in trade have been considered globally in order to both encourage women's economic empowerment through trade and to ensure trade agreements are as effective as possible through inclusion of all economic actors.

The AfCFTA Protocol on Women and Youth in Trade is such an attempt and a leader in this regard. While the rise in instances of provisions in trade agreements or among trade partners relating to women illustrates the

heightened importance and recognition placed on gender issues within trade circles, limited global precedent exists for an entire trade instrument dedicated to women and youth.

Defining scope and focus

The next question that arises is around how to define the scope and focus of such an instrument. One aspect is identifying the categories of “women in trade” (in line with the roles women play in trade) that the Protocol should address within its provisions. A second aspect is its scope. A review of global practice on gender-related provisions in trade agreements suggests three possible areas of focus of the Protocol, which can inform its scope, from narrow to wide: (1) AfCFTA-related issues that affect how women and youth in trade can leverage the AfCFTA, which may include capacity-related challenges; (2) issues related to the economic environment that affects how women and youth can participate in trade, and (3) issues of the wider socio-economic environment affecting economic participation; this may include areas such as maternal health.

First, the scope of the Protocol on Women and Youth in Trade must align with the scope of the AfCFTA Agreement. Article 6 of the AfCFTA Agreement clearly defines its scope to trade in goods, trade in services, investment, intellectual property rights and competition policy. That notwithstanding, Article 8 (3) of the AfCFTA Agreement allows the inclusion of additional instruments, within its scope when deemed necessary and in furtherance of the objectives of the AfCFTA. In other words, the scope of the Protocol on Women and Youth in Trade is informed not only by the scope of the AfCFTA Agreement but also by the objective it seeks to fulfill. This provides more clarity regarding the pertinent roles of women and youth as entrepreneurs, producers, services suppliers, investors and traders. Moreover, the AfCFTA Agreement and by extension the Protocol on Women and Youth in Trade operate within the overall framework of the AU, which has existing legal instruments and policies addressing socio-economic issues affecting women in detail . Therefore, the AfCFTA Protocol should complement from a trade perspective rather than duplicate any existing commitments made, making the case for a trade-specific rather than a broader socio-economic focus.

When considering what the AfCFTA aims to achieve, the Agreement makes explicit reference to the importance of gender equality for the development of international trade and economic cooperation in its Preamble. Article 3 (e) of Agreement speaks of the objective of promoting and attaining sustainable and inclusive socio-economic development, gender equality, and structural transformation of State Parties. The Protocol on Trade in Services aims, amongst others, to harness the potential and capacities of African services suppliers at the micro, small and medium levels to engage in regional and global value chains. In this regard, State Parties have committed to take measures to improve the export capacity of both formal and informal service suppliers, with particular attention to micro, small, and medium-size and women and youth service suppliers. Thus, certain articles and protocols arguably make an attempt at a gender mainstreaming approach.

Second, of note is the title of the Protocol, referring to and therefore limiting the scope to Women and Youth in Trade; this is distinct from women and youth as a general socio-economic category. This language appears to align itself most closely with the role of women and youth as business stakeholders, and to a lesser extent as employees and consumers. Arguably, it may also include their role in decision-making. In this way, the Protocol's title ensures non-trade issues remain outside of scope, leaning towards a focus on how women in these trade roles can leverage the Agreement and to a lesser extent the economic environment affecting this but leaving out the wider socio-economic issues. This is further in line with the AfCFTA Agreement and its existing protocols and annexes as well as precedent within the continent's Regional Economic Communities (RECs), often referred to as the "building blocks" of the AfCFTA.

Evidence on existing global and sub-regional experience (Bahri, 2021) illustrates that RECs tend to have proportionally more binding provisions related to gender considerations embedded within their agreements in terms of formulation, placement in the agreement at hand, and whether or not they fall under a dispute settlement mechanism than those in global trade agreements thus making the African continent a leader in this regard. In contrast to provisions in other regions whose objective is to achieve gender equality rather than enhancing women's trade participation as a way of maximising the agreement's impacts, the provisions in REC agreements tend to focus on women in their business and decision-making roles as opposed to other socio-

economic roles, which makes these provisions more relevant for the AfCFTA Protocol on Women and Youth in Trade. The AfCFTA Agreement and its protocols are governed by several principles including the preservation of the acquis; the existing agreements within RECs and the commonalities between RECs can be considered a precedent for the provisions of the AfCFTA Protocol. The Protocol, therefore, would ideally strive to make commitments beyond the bold steps the RECs have already taken.

A proactive approach

The AfCFTA Protocol on Women and Youth in Trade provides a unique opportunity to design a new approach to including gender considerations in trade agreements by targeting a set of provisions towards enhancing women's participation in trade as a way of fulfilling the core objectives of the trade agreement. This builds on but advances previous approaches that focus solely on socio-economic concerns or women's economic empowerment as a goal. The objectives of the AfCFTA Agreement provide clarity on the trade-related scope of the Protocol on Women and Youth in Trade and its focus on women as business stakeholders. This therefore suggests that the Protocol and by extension the AfCFTA will take a more proactive approach of improving the competitiveness of women in their various trade roles and can serve to advance the global discourse on addressing gender considerations in trade agreements.

Footnotes

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[1] The SADC Protocol on Gender and Development provides some precedent; however, while it is an agreement between a regional bloc, it is not specifically a trade instrument.

[2] See the Maputo Protocol, the African Youth Charter, and the Strategy for Gender Equality and Women's Empowerment, among others.

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