The Takeaway
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Fairer Trade

Removing Gender Bias in US Import Taxes

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There are many inequalities in US tariff policy. Products imported from certain countries enter duty free, while nearly identical products from other countries are heavily taxed. Tariffs on agricultural products are systematically higher than those on manufactured goods. Tariffs on some categories of manufactured goods—such as shoes or cotton shirts—depend on the gender of the intended consumer. Some of these tariff differences have a rational basis in the policy interests of the United States. However, differential taxation of apparel based on gender cannot be defended and should be abolished.

In May 2014, the US Supreme Court refused to hear appeals from importers *Rack Room Shoes Inc.* and *Forever 21 Inc.*, thereby blocking their attempts to challenge an earlier ruling by the Court of International Trade. The importers had argued before the Court of International Trade that US Federal Government tariffs on apparel and footwear were discriminatory since

WHAT'S THE TAKEAWAY?

Tariff rates on many articles of apparel and footwear are based on the gender of the intended user.

On average the tariffs paid on goods for women are higher than those for men.

Tariffs harm American consumers.

The best solution to these discriminatory tariffs would be to eliminate tariffs on apparel and footwear altogether.

There is little doubt that gender-based tariffs have a discriminatory impact, since the burden of tariffs falls almost exclusively on consumers.

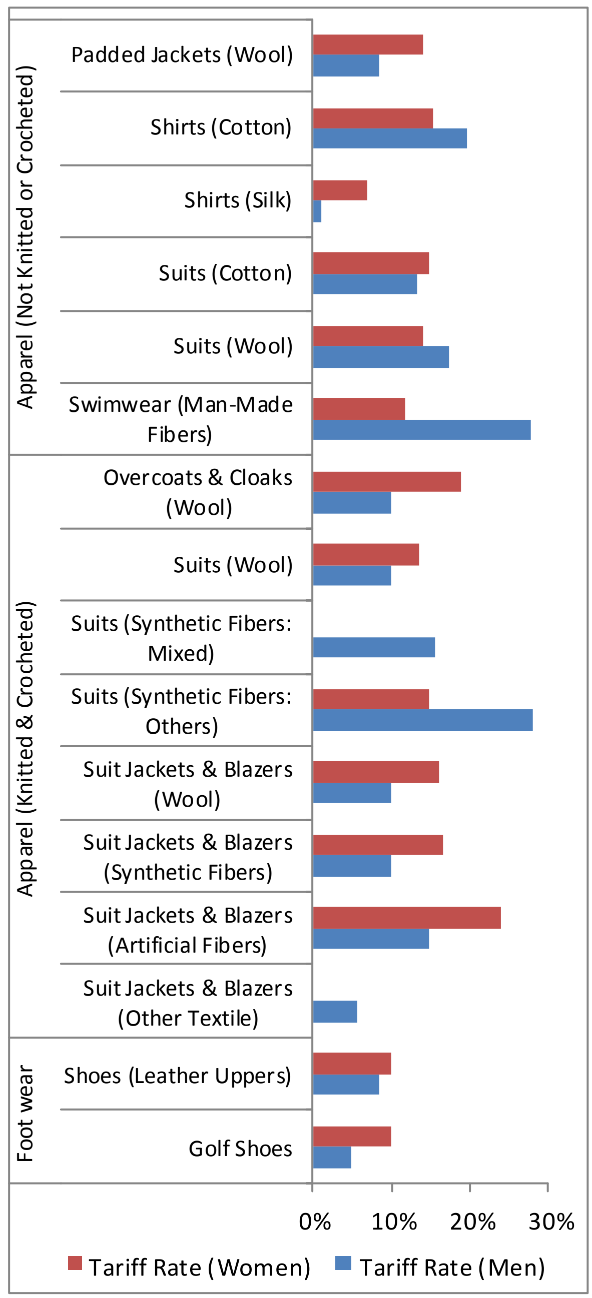
those tariff rates were based on gender, rather than non-gender factors like the composition of materials, the weight of materials, the size of an article, or the function of an article. The Court of International Trade dismissed the plaintiffs' case, concluding that they fell short of proving the lawmakers had any discriminatory intent.[1]

The courts may have concluded that Congress had no discriminatory intent, but there is little doubt that gender-based tariffs have discriminatory impact. Research demonstrates that the burden of tariffs falls heavily—and in many cases exclusively—on the consumer. So when the tariff on women's leather shoes is higher than the tariff on men's leather shoes (which it is), women feel the pain.

Global producers have the option of selling their product in Europe, Canada, or Japan instead of the United States. They will not accept from US consumers a price that is anything less than what they can receive from consumers elsewhere in the world. The world price is set in the global marketplace and is unlikely to change just because the United States imposes a tariff. If the world price is $20 and the US tariff rate is 10%, then the US consumer pays $22 and the global producers receive the same $20 they would have received in the absence of a tariff.

Furthermore, even consumers who only buy American-made goods are stung by the higher prices tariffs induce. Tariffs protect domestic producers from competition, thereby raising

Figure 1: Gender-based Tariff Differentials



Source: US Harmonized Tariff Schedule

the price of the product, regardless of whether it was manufactured at home or abroad. Either way, American consumers overpay. And when the tariff is higher for women's goods than it is for menswear, American women really overpay.

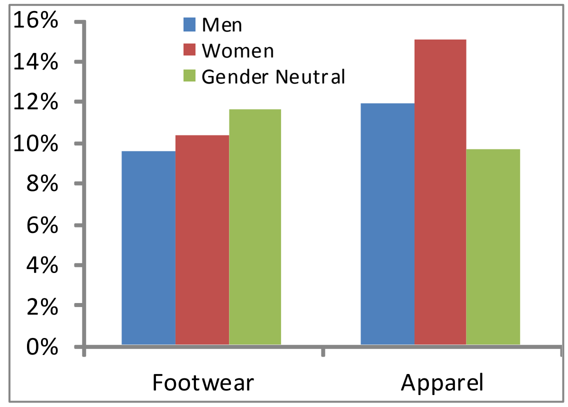
In 2014, 86% of US apparel imports and 79% of US footwear imports were gender-classified by the United States International Trade Commission (USITC).[2] Gender-classified goods are those where the sex of the intended consumer is part of the product description. For example, the USITC differentiates between men's or boy's cotton shirts[3] and women's or girl's cotton shirts and blouses.[4] Gender-classified goods do not include items commonly worn by only one gender (such as brassieres or bow ties) because they are fully classified by a description of the product.

In many cases, there is no difference in the tariff for men's goods and women's goods. However, as figure 1 shows, in a surprising number of cases, there are large differences. The tariff on women's silk shirts, for example, is six times the tariff on men's silk shirts.

There seems to be no underlying pattern explaining the differentials in tariffs for gender-

> *On average, the tax on imported clothing for men is 11.9% while the tax on imported clothing for women is 15.1%, or more than 3 percentage points higher.*

Figure 2: Average US Tariff Rates, 2014



Source: US International Trade Commission and authors' calculations

classified goods. In some cases, the tariff is higher for menswear; in other cases, it is lower.

When we consider the quantities imported in each category, however, a pattern emerges (see figure 2). The average tariff rate for women's apparel is systematically higher than the average tariff rate for men's apparel. (The average tariff rate for women's footwear is also higher than the average men's rate, but the difference is not statistically significant.) On average, the tax on imported clothing for men is 11.9% while the tax on imported clothing for women is 15.1%, or more than 3 percentage points higher. We calculate that in 2014, buyers of imported clothing and footwear paid at least $330 million more in taxes than they would have paid had there been no gender-based tariff differentials. And because higher tariffs lead to higher prices for domestically produced goods, the actual burden of the tariff differentials was even greater.

SHOULD APPAREL & FOOTWEAR TARIFFS BE ELIMINATED?

Arguably, US tariffs on apparel should be removed altogether. Tariffs are some of the most distortionary and therefore inefficient forms of taxation. The costs they impose on consumers more than outweigh the tariff revenues and the benefits they generate for domestic industries—particularly when the domestic industry is small. According to the US Bureau of Labor Statistics, there are fewer than 160,000 jobs in apparel and footwear manufacturing nationwide.[5] With apparel and footwear tariff revenues nearing $14 billion per year,[6] US consumers are paying the equivalent of $87,000 in taxes annually for each job in the apparel and footwear manufacturing industries. The government could provide retraining or other industry supports for a fraction of the cost. Furthermore, eliminating US apparel and footwear tariffs would provide developing countries—which are disproportionately the sources of apparel and footwear imports—with greater access to US markets, thereby increasing US influence in the world.

Even if eliminating apparel and footwear tariffs altogether is unrealistic, the gender bias inherent in the tariff code must be addressed. Fortunately, it can be overcome with relative ease. Congress could simply declare that importers have the option of paying either the men's or the women's tariff rate, whichever is lower. Alternatively, Congress could ban tariff differentials on products that are gender-classified, but otherwise identical. Regardless of the approach, rectifying the arbitrary, gender driven differentials in the harmonized tariff code would relieve consumers from the unfair and capricious burden of discriminatory taxes.

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Notes:

[1] Rack Room Shoes v. United States, No. 07-00404 (Ct. Int'l Trade Feb. 15, 2012). For more on the legal issues, see Lewis, Jason (2011). "Gender-Classified Imports: Equal Protection Violations in the Harmonized Tariff Schedule of the United States." *Cardozo Journal of Law & Gender*, 18, 171.

[2] International Trade Commission. US Harmonized Tariff Schedule (2014). http://hts.usitc.gov/

[3] Harmonized Tariff Schedule 6105.10 (knitted) and 6205.20 (not knitted)

[4] Harmonized Tariff Schedule 6106.10 (knitted) and 6206.30 (not knitted)

[5] United States Department of Labor, Bureau of Labor Statistics. Occupational Employment Statistics (May 2013). http://www.bls.gov/oes/current/oes_nat.htm

[6] International Trade Commission. Interactive Tariff and Trade Dataweb. http://dataweb.usitc.gov/

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