

## WFPHA Resolution (Draft)

### **Global Trade and Public Health**

- Recognizing its earlier position paper<sup>1</sup> and resolutions<sup>2</sup> on International Trade and Health and on Access to Essential Medicines,
- and in view of ongoing developments threatening to accentuate health problems in populations unable to afford state of the art health maintenance and care,

the General Assembly of the World Federation of Public Health Associations, at its Annual Meeting of May 13, 2007,

- has taken note of an article written for the Journal of Public Health Policy and entitled “Global Trade and Public Health”<sup>3</sup>, in which an overview of new negotiations and agreements is presented and current challenges are analyzed
- recognizes this article as a new position paper following up on its earlier position paper of 2003
- and supports its conclusions.

In particular the General Assembly, in the name of the World Federation of Public Health Associations, affirms that the health care community should call on national Trade

Representatives, the World Health Organization, and members of national Parliaments to:

1. Embed sustainable development as a key principle engaging all aspects of public health activity globally and nationally.
2. Assess the impact of multilateral, regional and bilateral trade agreements on population health, as provided, for example, in GATS Article XIX, and assure, based on such assessment, that policy proposals do not have an adverse impact on health or create conditions that undermine health promotion, as required in article 129 of the Maastricht treaty (1992) and article 152 of the Amsterdam treaty (1997);
3. Exclude vital human services such as health and water, pharmaceutical products, and harmful substances such as tobacco and alcohol, from trade negotiations and challenge under trade rules, for all WTO countries;
4. Advocate that the principle of health before trade be applied to all trade negotiations and oppose the retraction of public health regulations and health related international treaties as a prerequisite to trade negotiations.
5. Advocate that the WTO establish rules to ensure that minimum standards to protect public health set in WTO agreements cannot be weakened in regional and bilateral negotiations;
6. Promote transparency and democratic accountability at all levels of trade negotiations;
7. Assure public health representation at all levels of trade policy and negotiations. Urge the WHO to fulfill its mandated role of safeguarding public health by seeking participatory

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<sup>1</sup> International Trade Agreements: Priorities for Health. Position Paper, WFPHA 2003

<sup>2</sup> Health and International Trade Agreements. Resolution, WFPHA 2004; Access to Essential Medicines: The Need for Fair Prices and Better Research. Resolution, WFPHA, 2004

<sup>3</sup> Shaffer E. Global Trade and Public Health. Journal of Public Health Policy, 2007, in preparation.

status at WTO Tribunal and Appellate body hearings in order to represent the health interests of populations in countries with disputes before these bodies;

8. Support enforceable commitments to advancing population health, and to achieving universal access to health care and to safe, affordable water in all countries.

Further, the General Assembly calls upon the WFPHA leadership to initiate a Federation program on Public Health and International Trade, in which

- member associations are asked to be concerned with and educate themselves in the issues relating to public health and international trade
- member associations are supported in this process
- member associations are encouraged to advocate in their countries for an active government policy to conduct health impact assessments as part of the background to any proposed trade agreement (whether multilateral or bilateral)

The members and chair of the program are to be named by the Executive Board.

Every effort should be made to finance such a program and to aid member associations, including those in lower and middle income countries, to secure support enabling them to engage in these activities in their countries.

The full text of the new Position Paper follows below.

WFPHA Position Paper

## **GLOBAL TRADE AND PUBLIC HEALTH**

Ellen Shaffer

(Draft – minor changes possible during editorial process)

### **Introduction**

The World Federation of Public Health Associations (WFPHA), has declared its interest in taking a leadership role in drawing attention to international and national disparities in health that are a consequence of global economic change, and to the new health challenges posed by globalization and by the failure of the international community to implement effective interventions. In May, 2007, the World Health Assembly of the World Health Organization (WHO) will report its progress on two resolutions, one calling for concerted attention to the implications of global trade agreements for public health, and the second calling for a global reassessment of research and development for pharmaceuticals. In the U.S., the American Public Health Association (APHA) is supporting a campaign to appoint public health representatives to trade policy advisory committees. At the Rio meeting in 2006, the Executive Committee of the World Federation of Public Health Associations (WFPHA) discussed how national public health associations and the Federation itself can take effective action.

This article updates and summarizes two key policy statements on global trade and public health adopted by the WFPHA in 2003 and 2004: International Trade Agreements: Priorities for Health, WFPHA Position Paper, 2003, initiated by APHA; and Health and International Trade Agreements, proposed by the Public Health Association of Australia (PHAA), revised by Professor Theo Abelin and the Policy Committee of the WFPHA, April 19, 2004 (1). It also draws on a third resolution: Public Health and Globalization, Presented to UK Public Health Associations Policy Committee, 2001, Proposed by the WFPHA Resolutions Committee, WFPHA 35th Annual Meeting May 14, 2001.

### **The promise and peril of globalization for health and well being**

Good health in all parts of the population is both a moral good in itself, and also a prerequisite for economic growth and sustainable development. Public health decision-making should be able to ensure that the entire population is equitably reached by effective public health measures and that everyone has access to essential health services and medicines. No population groups, families or individuals should be excluded from access because of inability to pay or any other characteristics.

International trade agreements, and national laws passed to conform with trade agreements, are intended to “liberalize” (or facilitate) trade. By reducing tariffs on goods and services, and also government regulations referred to as non-tariff barriers, they promise to provide more goods and services at lower prices to consumers. However, to the extent that these agreements limit governments’ legitimate authority to protect the public from market failures, they often heighten the risk of harm. This is particularly the case when they are designed without participation by public health and civil society, and when they lack formal regulations and implementing rules in favor of public health.

Trade agreements are enforced through a dispute settlement process, which can impose financial penalties or trade sanctions on the losing country. In the case of a conflict between trade rules and the provisions of health-oriented agreements, such as the Framework Convention on Tobacco Control and Multilateral Environmental Agreements, it is not clear which would prevail.

Trade agreements can either erode or encourage measures to reduce economic and social asymmetries and inequalities within and among countries. Some regions aim explicitly to strengthen public investment in infrastructure in lower income countries as an essential element of development, including roads, water and sanitation, education and health care. The lack of such public investment policies, coupled with trade rules that suppress government authority, is among the reasons the North American Free Trade Agreement has largely failed to accomplish its promised outcomes, especially for Mexico (2). The World Federation is well positioned to assess the success of countries' various trade and economic development policies.

### **Who decides?**

Generally the responsibility for setting trade policy and for negotiating trade agreements resides with the executive branch of government. Trade and finance ministers take the leading role. While there is great variability among countries, health ministers, public health advocates, and civil society generally play a secondary role, and in some cases are not consulted at all.

### **Trading in vital human services, challenging public health protections: GATS**

The General Agreement on Trade in Services (GATS) is a WTO agreement that sets the rules for how services will be traded globally by private transnational corporations. Covered services include vital human services such as health care, water and sanitation, education, libraries and energy, as well as finance, banking, telecommunications, distribution services, and construction, all of which have implications for health.

The goal of GATS is to "progressively liberalize" all services. This means reducing and eliminating the barriers to international trade in services, which include both tariffs, and "non-tariff barriers to trade." Non-tariff barriers consist of a web of local, state, and national regulations on the quality of services, professional licensing, and privacy, that protect safety, the environment, working conditions, and health, and can include public subsidies for vital human services such as health care and water.(3) The health-related laws and regulations at stake include: clinician licensing; controls on the distribution of tobacco, alcohol, and firearms; data privacy rules (for example, patient health and billing information); requirements to allocate medical equipment and services based on need; health insurance regulations; environmental protections; occupational safety and health regulations; protections from hazardous materials; restraints on corporate ownership of hospitals; the ability of governments to maintain viable services in water and sanitation, and the safety of medical equipment.

**Both private and public services can be subject to GATS.** GATS states that it excludes public services "provided in the exercise of government authority" if they are "supplied neither on a commercial basis nor in competition with one or more service suppliers." Since

some aspects of public services are frequently also provided in the private sector, or at least have commercial relationships with private suppliers, there is doubt that many services would actually be exempt under this definition. To be protected, vital human services must be specifically and permanently excluded from international trade agreements.

### **Health care personnel and GATS**

WTO conferences have explored how the rules might be applied to licensing requirements for nurses and other health professionals. The World Health Organization has cautioned member states to proceed slowly in committing health care services to full coverage under GATS (4), and there appears to be a hiatus in negotiations since the WTO deadlock in July, 2006. However, GATS provisions are being adopted in bilateral and regional agreements. The European Union decided to exclude its own health, education, energy and water sectors from trade negotiations, but may still ask other countries to make commitments in these areas. Services are an important and growing share of many economies, and are likely to remain a focus of talks.

The migration of clinicians raises several important questions, including international agreement on standards for professional training and practice, adequate availability of trained clinicians and service providers in countries that "import" and "export" such workers, and assurance of fair working conditions. Reference is also made to the WFPHA resolution on professional migration (5).

### **Other WTO agreements with implications for health**

**Trade Agreements and Access to Medicines: TRIPS:** Implemented in 1995, when the World Trade Agreement (WTO) was formally established, the TRIPS Agreement (Trade-Related Aspects of Intellectual Property Rights) codifies the rights that pharmaceutical companies and other patent holders enjoy internationally to market their products without competition from generic companies for about twenty years. In November 2001, during its meeting in Doha, Qatar, the WTO Ministerial Conference adopted the Doha Declaration on the TRIPS Agreement and Public Health. The Doha Declaration asserts that trade agreements should be interpreted and implemented so as to protect public health and promote access to medicines for all. It aims to ensure that trade agreements address market failures and balance protection of investor assets with a State's sovereign right to address public health needs. However, trade and patent rules continue to obstruct access to affordable medicines (6). This issue has also been addressed by a recently updated WFPHA resolution on essential drugs (7) and the Summary report in the JPHP Federations Pages (8).

**Agreement on Technical Barriers to Trade (TBT):** Reduces barriers to trade that derive from technical standards and regulations applying to the safety and quality of products; covers tobacco and alcohol control, toxic substances and waste, pharmaceuticals, biological agents, foodstuffs, and manufactured goods

**Agreement on the Application of Sanitary and Phyto-Sanitary Standards (SPS):** Reduces barriers to trade that derive from governments' regulations and laws designed to protect the health of humans, animals, and plants; covers food safety provisions.

**Agreement on Agriculture:** Sets the terms for tariffs and subsidies on agricultural products, a significant source of contention among higher and lower income countries (9). Tobacco may be considered an agricultural product.

### **Protecting All Nations' Health**

Facilitating trade among private transnational corporations is not sufficient justification for requiring nations to sacrifice their rights to protect the public's health and safety, or to dictate the standards and definitions local and national governments and regulatory bodies will use to enforce those protections. Authority and accountability for population health need to be shifted back to health organizations. Effective international health organizations must be empowered to achieve universal access to vital human services.

Countries play a pivotal role in shaping the ground rules for global trade. They have an important opportunity to promote a safe and just global community with publicly accountable and sustainable health care, water, and other vital human services. The health care community's voice can make an important difference.

The WFPHA recognizes that a number of governments

- find it difficult to adequately protect population health needs within the context of international trade agreements.
- make commitments in trade liberalization negotiations before presenting the issues to their countries' political decision making bodies;
- unilaterally delegate representatives to trade negotiations whose primary interest is in trade liberalization rather than public health.

The WFPHA thus affirms that the health care community should call on national Trade Representatives, the World Health Organization, and members of national Parliaments to:

1. Embed sustainable development as a key principle engaging all aspects of public health activity globally and nationally.
2. Assess the impact of multilateral, regional and bilateral trade agreements on population health, as provided, for example, in GATS Article XIX, and assure, based on such assessment, that policy proposals do not have an adverse impact on health or create conditions that undermine health promotion, as required in article 129 of the Maastricht treaty (1992) and article 152 of the Amsterdam treaty (1997);
3. Exclude vital human services such as health and water, pharmaceutical products, and harmful substances such as tobacco and alcohol, from trade negotiations and challenge under trade rules, for all WTO countries;
4. Advocate that the principle of health before trade be applied to all trade negotiations and oppose the retraction of public health regulations and health related international treaties as a prerequisite to trade negotiations.
5. Advocate that the WTO establish rules to ensure that minimum standards to protect public health set in WTO agreements cannot be weakened in regional and bilateral negotiations;
6. Promote transparency and democratic accountability at all levels of trade negotiations;
7. Assure public health representation at all levels of trade policy and negotiations. Urge the WHO to fulfill its mandated role of safeguarding public health by seeking participatory status at WTO Tribunal and Appellate body hearings in order to represent the health interests of populations in countries with disputes before these bodies;
8. Support enforceable commitments to advancing population health, and to achieving universal access to health care and to safe, affordable water in all countries.

Further, WFPHA calls upon its leadership to finance and to initiate a Federation program on Public Health and International Trade, in which

- member associations are asked to be concerned with and educate themselves in the issues relating to public health and international trade
- member associations are supported in this process
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Every effort should be made to aid member associations, including those in lower and middle income countries, to secure support enabling them to engage in these activities in their countries.

## References

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