Trade Agreements and Health
Policy Position Statement

Key messages: Trade agreements should not limit or override another Government’s ability to legislate and regulate systems and infrastructure that contribute to the health and well-being of its citizens. The ability of governments to develop and implement policy that protects public health needs to be preserved in trade agreements.

Key policy positions:
1. At the national and international levels, public health within international trade agreements must be protected and promoted.
2. Adverse impacts of trade agreements on human and planetary health in Australia and internationally be limited
3. A trade regime that ensures ecological sustainability and equity in population health as well as economic development, is required

Audience: Australian Government, policy makers and international public health organisations.

Responsibility: PHAA Political Economy of Health Special Interest Group

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Trade Agreements and Health

Policy position statement

PHAA affirms the following principles:

1. A fair regime of regulating trade, investment and intellectual property (‘trade and investment agreements’) should prioritise health and social and ecological sustainability as well as economic development.

2. Trade and investment agreements, and their dispute settlement mechanisms, should be consistent with international law with regard to health, human rights, the environment, and worker protection.

3. Trade and investment agreements must:
   - prioritise equity within and between countries for global population health improvement
   - not limit or override a country’s ability to foster and maintain systems and infrastructure that contribute to the health and well-being of its citizens, nor penalise a government for doing so
   - preserve policy space for governments to regulate to protect public health
   - be negotiated in a transparent fashion, with opportunities for public and parliamentary scrutiny before commitments are made
   - be subject to health and environmental impact assessments, carried out by parties independent of corporate interests.

PHAA notes the following evidence:

4. The Sustainable Development Goals relate to trade agreements and health. For example, target 3b. within the Goal 3 (ensure healthy lives and promote well-being for all at all ages) is to support research and development of vaccines and medicines for the communicable and non-communicable diseases that primarily affect developing countries, provide access to affordable essential medicines and vaccines, in accordance with the Doha Declaration which affirms the right of developing countries to use to the full the provisions within the TRIPS agreement regarding flexibilities to protect public health, and, in particular, provide access to medicines for all.

5. Trade agreements include those administered through the World Trade Organization (WTO). They also include bilateral and plurilateral agreements negotiated outside the WTO.

6. Health status is affected by factors within and outside the health sector, including macroeconomic policy.

7. Recent trade negotiations have gone beyond goods and services to include areas that affect government regulation including investment, economic and technical cooperation, and expanded intellectual property rights. Thus, trade agreements have the potential to affect many aspects of health care and public health. These include, but are not limited to:
   - access to affordable medicines and other health technologies
   - the equitable provision and quality of health care services
the ability of governments to regulate health damaging products such as tobacco, alcohol, gambling products, ultra/highly-processed foods, and unsafe medicines

- access to sufficient and safe nutritious food
- capacity to legislate or regulate to protect the natural environment
- other determinants of health such as employment and working conditions.

8. PACER Plus, the Pacific Agreement on Closer Economic Relations, is a plurilateral agreement recently concluded between Australia, New Zealand and some Pacific island countries. It has potential to damage the health of Pacific Islanders through: loss of government revenues from significantly reduced tariffs thereby limiting government expenditure on health and social services; increasing exposure to ultra-processed food, alcohol and tobacco; increasing foreign investment in healthcare; increasing medicine costs; and exacerbating the ‘brain drain’ of health workers.

9. The Trans Pacific Partnership Agreement (TPP), now revived following the withdrawal of the US as the Comprehensive and Progressive Agreement for Trans Pacific Partnership (CPTPP or TPP-11), involves a number of risks to health, including, but not limited to:

- Intellectual property rules that expand and extend medicine monopolies and are likely to delay the availability of affordable generic and biosimilar (follow-on) medicines. Some of these rules have been suspended in the CPTPP but may be reinstated at a later stage.
- A proposed investor-state dispute settlement mechanism would allow corporations to sue governments in international tribunals over policies and laws that they perceive harm their investments and breach the investor rights conferred by the agreement. While tobacco control measures can be excluded, and Australia has opted to exclude them, other public health measures remain potentially exposed to claims brought by foreign investors.
- Alcohol labelling rules included in the TPP/CPTPP (and subsequently trade agreements) may present a barrier to the introduction of mandatory alcohol health warnings and other types of health information on alcohol containers.

10. Similar issues to those in the TPP/CPTPP have arisen in the negotiations for the Regional Comprehensive Economic Partnership (RCEP), with leaks indicating Japan and South Korea are seeking high levels of intellectual property protection.

11. Negotiations for a proposed free trade agreement between Australia and the European Union are likely to raise issues related to access to medicines, given that the EU has recently concluded agreements with other countries that include higher levels of intellectual property protection than currently provided in Australia (see, for example, the EU-Japan Economic Partnership Agreement, which includes 6-10 years of data exclusivity for pharmaceuticals).

12. The Trade in Services Agreement (TISA), a proposed agreement between 23 countries including Australia, seeks to liberalise services. A leaked paper proposes to promote the use of health insurance for medical tourism. Off-shoring of medical treatment would have repercussions for Australia’s health system as well as diverting health resources from public to private medical care in provider countries.

13. Free trade agreements are currently negotiated in secret. Public health professionals and the public rely largely on leaked drafts for information about the issues under negotiation.

14. Alternative financing mechanisms that do not rely on intellectual property (IP) protection and monopoly pricing must be supported to facilitate access to essential medicines and the development of pharmaceuticals for diseases of the developing world. Trade agreements should not further
entrench and expand a global IP regime that fails to deliver affordable access to medicines for much of the world’s population.\textsuperscript{14}

15. Trade agreements may increase income inequality within Australia. Special measures may be required to ensure that trade agreements do not exacerbate health inequalities.

PHAA resolves to:

16. Advocate to appropriate Commonwealth politicians and agencies with a view to:

- Supporting implementation of WHO Resolution 59.26 which mandates WHO to provide advice to governments regarding the implications of trade agreements for health;\textsuperscript{15}
- Supporting moves within WHO to reform the funding of R&D to facilitate access to essential medicines and the development of pharmaceuticals for diseases of the developing world, and ensuring that trade agreements do not further entrench a failed model of financing.\textsuperscript{14}

17. Through the World Federation of Public Health Associations (WFPHA), the People’s Health Movement, and other international public health and human rights groups, encourage the public health community to advocate to promote and protect public health within international trade agreements.

18. Work with the Australian Fair Trade and Investment Network and other national organisations towards limiting adverse impacts of trade agreements on health in Australia and its trading partners. This includes making submissions to relevant government departments.

19. Advocate for transparent trade negotiating practices and for the routine use of independent health, environmental and human rights impact assessment during negotiations, before agreements are finalised and after implementation.

\textbf{ADOPTED 2018}

\textit{(First adopted 2004; revised in 2008, 2011 and 2015)}
References