Public Health Association
AUSTRALIA

Trade Agreements and Health

Policy Position Statement

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

Key policy positions:

1. At the national and international levels, within international trade agreements, public health goals must be protected and promoted.
2. Adverse impacts of trade agreements on human and planetary health in Australia and internationally must be prevented.
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, 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.

4. Trade agreements should not further entrench and expand the existing global intellectual property regime, which fails to deliver affordable access to medicines for much of the world's population.[1]

5. Mechanisms for financing research and development 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.

6. Trade policy making processes should be transparent.

7. Independent health, environmental, and human rights impact assessment should be undertaken during negotiations, before agreements are finalised, and after implementation.

PHAA notes the following evidence:

8. Population health is shaped by factors within and outside the health sector[2]. Many powerful influences on people's health arise in economic relations; potential consequences with implications for health include inequality, poverty and hunger, precarious employment and insecure housing, loss of trust and solidarity, and alienation, resentment, and hostility[3].

9. The purpose of trade and investment agreements is to regulate the global economy. The negotiation of such agreements provides opportunities to shape the development of the global economy in directions which would promote Health for All, social justice, human rights, and ecological sustainability[4]. Public health engagement in trade policy needs to go beyond identified 'health issues' such as tobacco and access to medicines, if it is to maximise its impact on population health[5, 6].

10. The liberalisation of trade and investment has contributed to the concentration of production in global value chains with huge output capacity but declining need for labour. Pricing power of corporate controllers of such chains leads to profits far in excess of investment opportunities. As a consequence, an increasing share of profit flows to the financial sector where it supports the further concentration of control through mergers and acquisitions, and the increasing concentration of wealth through asset price speculation (with bailouts for the rich when the bubbles burst). These dynamics contribute to widening inequality, unemployment, underemployment, and unrewarding employment[7].

11. Many trade agreements shape the global economy in ways which are favourable to the large transnational corporations. The World Trade Organisation *Agreement on Agriculture*, for example, enables the dumping of cheap processed foods in developing country markets which undercuts local production, impoverishing farmers and driving urban migration, and contributing to the creation of mega slums with substandard housing, and lack of sanitary infrastructure[8, 9]. The *Agreement on Agriculture* authorises massive subsidies to meat production in Europe and the US with consequences for health[10, 11], global warming[12], pandemic risk[13], and antibiotic resistance[14].

12. Various UN Sustainable Development Goals relate to trade agreements and health. For example, target 3b within Goal 3 ("ensure healthy lives and promote well-being for all at all ages")[15] supports 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.

13. The 2001 Doha Declaration on relationship between the TRIPS Agreement [16] and public health issues affirms the right of developing countries to use to the full the provisions within the TRIPS agreement regarding flexibilities to protect public health, particular for the purpose of providing access to medicines for all.

14. Over the last few decades, 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[17-19]. As a result, 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.

15. Negotiations currently underway in the World Trade Organization in relation to e-commerce (relevant to cross border supply of health services)[20] and on domestic services regulation[21] could irreversibly limit the capacity of governments to regulate health care.

16. The World Trade Organization's *Agreement on Trade Related Intellectual Property Rights* (TRIPS) requires member states to provide patent terms of at least 20 years along with other intellectual property rights, which place affordable generic and biosimilar medicines and vaccines out of reach of millions of people[22].

17. Meeting global needs for life-saving vaccines, therapeutics, and diagnostics during pandemics and public health emergencies requires waiving rules in TRIPS which impede competition, and facilitating technology transfer to enable production in low and middle income countries [23].

18. Many bilateral and regional trade agreements include 'TRIPS-plus' intellectual property rules that expand and extend medicine monopolies, and are likely to further delay the availability of affordable generic and biosimilar (follow-on) medicines[22, 24].

19. Investor-state dispute settlement (ISDS) clauses included in many trade and investment agreements 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. The cost of arbitration, potential size of awards, and uncertainty of outcomes associated with ISDS cases can have a deterrent effect on public health and environmental policies[25].

20. Alcohol labelling rules included in the TPP/CPTPP (and subsequently several other trade agreements) may present a barrier to the introduction of mandatory alcohol health warnings and other types of health information on alcohol containers[26, 27].

21. Trade agreements are currently negotiated under conditions of confidentiality. Public health professionals and the public rely largely on leaked drafts for information about the issues under negotiation[28].

22. Implementing this policy would contribute towards achievement of UN Sustainable Development Goal 3: Good Health and Well-being, Goal 16: Peace, Justice and Strong Institutions, and Goal 17: Partnering for Goals.

PHAA resolves to:

23. Promote capacity building with respect to trade policy analysis and advocacy across the public health sector.

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

    - support implementation of WHO Resolution 59.26 which mandates WHO to provide advice to governments regarding the implications of trade agreements for health[29]
    - support 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[1].

25. 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.

26. Work with the Australian Fair Trade, 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.

27. 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.

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