



WORLD HEALTH ORGANIZATION

EXECUTIVE BOARD
116th Session
Provisional agenda item 4.2

EB116/4
28 April 2005

International trade and health

Report by the Secretariat

1. As the potential effects of international trade and trade agreements on health have become ever more apparent over the past decade, the Executive Board and the Health Assembly have addressed this topic in a number of specific contexts. For instance, several Health Assembly resolutions have taken up the relationship of **pharmaceuticals** and health policies with trade agreements, especially in the context of access to drugs to treat HIV/AIDS.¹ The issues raised by agreements on **intellectual property** have likewise received attention. The Fifty-sixth World Health Assembly requested the Director-General to establish a body to produce an analysis of intellectual property rights, innovation and public health, which will submit a report to the governing bodies in 2006.² The Fifty-seventh World Health Assembly, in relation to expanded treatment for **HIV/AIDS**, urged Member States “as a matter of priority ... to consider, whenever necessary, adapting national legislation in order to use to the full the flexibilities contained in the Agreement on Trade-Related Aspects of Intellectual Property Rights [and] to take into account in bilateral trade agreements the flexibilities contained in the Agreement ... and recognized by the Declaration on the TRIPS Agreement and Public Health adopted by the WTO Ministerial Conference (Doha, 2001).”³ It also requested the Director-General, in cooperation with other international organizations, to examine the possible relation of trade agreements and remittances to the **international migration** of health personnel, to determine possible options to address any possible adverse effects.⁴ Lastly, recent negotiations to revise the **International Health Regulations** are another example of the intersection between trade and health in governing body deliberations, as indeed were aspects of the Framework Convention on Tobacco Control adopted at the Fifty-sixth World Health Assembly.

2. In view of the attention given to these specific topics by the governing bodies, the present report focuses on broader aspects of international trade and health, particularly in the context of WTO agreements concerning trade in health services and food safety.

¹ See resolutions WHA52.19 and WHA53.14.

² Resolution WHA56.27.

³ Resolution WHA57.14.

⁴ Resolution WHA57.19.

INTERNATIONAL ORGANIZATIONS, TRADE AGREEMENTS AND HEALTH

WTO and public health

3. Just as questions of trade are important to WHO today, questions of public health are high on the agendas of such organizations as the World Bank, WIPO, WTO, UNCTAD and OECD. WHO works closely with all of these, and also with FAO, research centres, private-sector entities and major international nongovernmental organizations.

4. Four of the multilateral trade agreements of WTO – the leading normative organization on international trade – that may affect public health are of particular importance to WHO's work: the General Agreement on Trade in Services (GATS), and the agreements on Application of Sanitary and Phytosanitary Measures (SPS), on Technical Barriers to Trade (TBT), and on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Significant advances have been made to ensure coherence between trade agreements and health interests. Most notably, the international community's endorsement of the Doha Declaration on the TRIPS Agreement and Public Health in 2001 "... is a very visible expression of governments' commitment to ensuring that the rules-based trading system is compatible with public health interests."¹ Likewise, the SPS agreement implicitly encourages WTO members to use Codex standards as the basis for their national food safety regulations.

5. To improve coordination and facilitate their joint work, WTO and WHO participate to various degrees in each others' meetings. WTO has access as an observer to WHO governing body meetings and to various technical meetings. WHO has been granted observer status at WTO's Committee on Sanitary and Phytosanitary Measures and its Committee on Technical Barriers to Trade, and has ad hoc observer status at its Council for Trade in Services and Council for Trade-Related Aspects of Intellectual Property Rights. WHO's application for observer status at WTO's General Council was submitted in June 1997, but for reasons unrelated to WHO, to date this designation has not been made.

Consequences for health of trade expansion

6. Trade liberalization can affect health in various ways. Sometimes the impact is direct and the effect is obvious, as when a disease crosses a border together with a traded good or when a disease outbreak causes disruptions in trade and traffic. Other times the effects are more indirect. For example, reducing trade tariffs may lead to lower prices for medical equipment and health-related products, such as drugs and blood products; changing international rules concerning patent protection affects access to essential medicines, diagnostic devices and transfer of technology; and with regard to health services, may affect national health systems. Conversely, national and international health standards and rules can have important implications for trade, for example the Codex Alimentarius standards, guidelines and recommendations, for trade in foodstuff, the International Health Regulations, for international traffic, and the Framework Convention on Tobacco Control, for trade in tobacco products.

7. Increasing trade in health services challenges the capability of ministries of health to assess accurately and respond rapidly to the risks and opportunities for population health. There may also be

¹ *WTO Agreements & Public Health: A joint study by the WHO and the WTO Secretariat*. Geneva, World Trade Organization/World Health Organization, 2002. Brundtland GH, Moore M, Foreword, page 1.

the potential of increasing openness in the health sector under GATS.¹ The definition of trade in services in the Agreement hinges on four types of transactions or “modes of supply”, namely the cross-border supply of services (e.g., telemedicine, eHealth), consumption of services abroad (patients who travel abroad for medical treatment), commercial presence (establishment of health facilities in the country concerned), and presence of natural persons (foreign doctors or nurses who seek to practise in other countries).² Informed and evidence-based approaches are needed to manage any future efforts to liberalize health-related services so as to ensure greater access to affordable, better quality, and effective services, leading to increased choice for consumers and greater equity in health outcomes.

8. Countries also face challenges in ensuring compliance with the disciplines of SPS and TBT. This is particularly the case in the areas of food safety, diagnostic devices and medicines quality, safety and efficacy, respectively, in which the trade agreement creates obligations to draw up regulations based on science, conduct required risk assessments, and implement international standards through independent and effective national regulatory authorities.

9. Generally, ministries of health need the capability, in terms of expertise and access, to provide their colleagues in the trade and finance ministries with the best evidence on the potential impact of trade and trade agreements on health outcomes, so that ongoing multilateral, regional, or bilateral trade negotiations may be properly informed. This need creates demands on WHO’s Secretariat from Member States and from the international organizations involved in trade, including for guidance on international standards for health-related goods and services, advice on potential implications of trade rules from a public-health perspective, provision of tools and methodologies to assess the possible implications of trade and trade agreements on public health, and information on best practices in trade negotiations that might affect health. In addition to the more traditional demand for technical support in areas of trade and health related to access to medicines and TRIPS, or food safety and SPS, requests have increased significantly in the area of trade in health services and GATS. Moreover, some countries – especially those which are negotiating accession to WTO – are increasingly looking for a more integrated approach that would encompass all trade and health-related issues. One option might be to establish specialized units within health ministries with overall responsibility for this area.

WHO’S WORK IN TRADE AND HEALTH

10. WHO’s Secretariat responds to this demand through three main functions: performing analysis and research better to inform policy decisions, negotiations, dispute settlement and agenda setting; creating tools and training materials to build capacity in Member States; and meeting country requests for support in specific trade and health issues, either through country missions or regional or interregional workshops. These functions are carried out across a number of departments and with staff in all regional offices and coordinated by a technical working group on globalization, trade and health. The work is guided by various resource groups of outside experts, which helps to ensure that there is an overall strategic approach to trade and health and supports achievement of the highest attainable standard of health for all persons.

¹ Negotiations are under way progressively to liberalize trade in services within the framework of GATS.

² For an overview, see *GATS and Health Related Services*. Trade and Health Notes, February 2004, World Health Organization. Accessible at http://www.who.int/trade/resources/en/GATSfoldout_e.pdf.

Analysis and research to inform policy and practice

11. WHO has examined the interrelationship between trade and health-related goods for many decades. For example, to implement resolution WHA23.13, adopted in 1970 on the safety of medicines, WHO established a voluntary international system for monitoring adverse reactions to drugs. Collaborating with the International Trade Centre UNCTAD/WTO, WHO has developed a new analysis of the information in an existing database on trade in health goods. Data are now categorized into seven major health-related product groups and several subgroups. For each health-related product, the database provides an overview of actual import and export values, quantities, and trends to the level of country of origin or destination.

12. Research undertaken by, and on behalf of, WHO on the effects of trade on public health has produced a substantial body of findings. For example, in consultation with the WTO secretariat and with input from experts worldwide, the WHO Secretariat is preparing detailed, article-by-article legal analyses on GATS and SPS from the perspective of public-health policy in order to improve understanding of possible public-health implications of the agreements. Various Web-based resources, such as working papers on selected trade and health issues and a glossary of globalization, trade and health terms, further disseminate the Organization's research and analysis. WHO's food safety newsletters, issued five times a year, provide information on the implications of trade rules for food safety.¹

13. WHO's Secretariat also conducts research on a number of topics covered by other reports to the governing bodies, such as on potential implications of trade agreements for the Framework Convention on Tobacco Control and for the revised International Health Regulations.² It is undertaking similar work with ILO and the International Organization for Migration on the possible effects of trade rules on migration of health professionals. It also monitors and analyses implications of TRIPS for access to essential drugs, in partnership with four WHO collaborating centres, and has issued a report related to the Doha Declaration on TRIPS and public health.³

Tools and training materials

14. Jointly with the WTO secretariat, WHO's Secretariat has developed and conducted a training course on the multilateral trade agreements and public health aimed at improving understanding of key trade and health issues, the WTO accession negotiations, and policy coherence in trade and health. Regional and national training courses have also been held on specific trade and health issues such as adapting national legislation to make full use of flexibilities provided for in TRIPS.⁴ WHO has also provided health modules for a course and a workshop sponsored by the World Bank. Web-based teaching materials are accessible online.⁵ A practical handbook on trade in health services and GATS, designed to provide health and trade practitioners with evidence and tools to assess and monitor potential implications of trade in health services for public health is being produced by WHO, WTO, World Bank and other international organizations.

¹ <http://www.who.int/foodsafety/publications/newsletter/en/>.

² Document A/IHR/IGWG/INF.DOC./1.

³ Document WHO/EDM/PAR/2004.4.

⁴ Recent examples include support to Brazil, Cambodia, China, Colombia, Indonesia and Thailand.

⁵ www.who.int/trade/en.

Technical support and building capacity at country level

15. WHO's Secretariat has organized a number of workshops and meetings to respond to the needs of countries that wish to increase their capacity to address the health-related aspects of international trade and to achieve coherence between health and trade policy, including an interregional workshop for Member States in the South-East Asia, Eastern Mediterranean, and Western Pacific regions.¹ It also provides support for trade and health country analysis and national workshops.

16. WHO's Secretariat has undertaken capacity-building initiatives in trade and health services in the South-East Asia and Eastern Mediterranean regions, and plans to extend them to the African Region. The Regional Office for the Americas, where activities related to trade and health have a long history, is continuing its work in this field, focusing on regional trade agreements.

17. In partnership with FAO, the World Bank, WTO and OIE, WHO provides technical support to developing countries and builds their capacities in trade and sanitary and phytosanitary measures through the Standards and Trade Development Facility.

TOWARDS POLICY COHERENCE IN INTERNATIONAL TRADE AND HEALTH

18. The intersection between the framing of national public-health policies and the need to comply with international trade agreements offers opportunities to find common ground. Policies that minimize possible conflicts between trade and health and maximize mutual benefits will serve both interests.

19. Greater interaction is needed between policy-makers and practitioners in the trade and health sectors in order to improve the coherence of domestic and international policy. In view of current and emerging international trade rules, ministries of health need to become more aware of trade issues under consideration within WTO and other international organizations, and need to help colleagues in the ministries concerned with international trade to understand relevant aspects of public health at both national and international levels. In so doing, ministries of health need to consult health providers, consumers and other key private and public stakeholders, and to collaborate more closely with their trade colleagues when trade policies and agreements are formulated that have possible implications for public health.

20. Such interaction requires rigorous research on the potential implications of trade agreements on health and of trade liberalization in health-related sectors on health-sector performance and health outcomes. This work includes the systematic compilation of essential data sets, especially information on trade in health-related services, and the design of methodologies and indicators for assessing and tracking the possible health consequences of international trade and trade agreements. More experts knowledgeable and experienced in trade and health issues are needed in Member States, including at national centres of excellence.

¹ New Delhi, 12-14 October 2004.

ACTION BY THE EXECUTIVE BOARD

21. The Executive Board is invited to note the above report.

= = =