

WMA STATEMENT ON TRADE AGREEMENTS AND PUBLIC HEALTH

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PREAMBLE

Trade agreements are treaties between two or more countries which include provisions addressing trade in goods and/or services. Trade agreements are tools of globalization and typically seek to promote global wealth through trade liberalization. They can have significant implications for the social, commercial, political and ecological determinants of health as well as the delivery of health care.

International trade contributes significantly to increases in national wealth which is a key factor in building strong health care systems.

While trade agreements are designed to produce economic benefits and global wealth, it is fundamental to identify public health implications that may arise from these agreements.

Negotiations should take into account broad impact to ensure that the right to health and to a healthy natural and social environment are well-prioritized. Trade agreements should be directed at contributing to global health and equity.

Trade agreements may have the ability to promote the health and wellbeing of all people when they are well-designed to protect health and preserve the ability of governments to legislate, regulate and plan for health promotion, health care delivery and health equity.

Recent trade agreement negotiations have sought to establish a new global governance framework for trade and have been unprecedented in their size, scope and secrecy. A lack of transparency and the selective sharing of information with a limited set of stakeholders are anti-democratic.

There must be recognition of the importance of innovation sharing in public health. This is particularly important during health emergencies. Access to medicines and medical supplies is essential to address the major public health problems such as pandemics and trade agreements must not act as a barrier to that access.

Investor-state dispute settlement (ISDS) provides a mechanism for investors to bring claims against governments and seek compensation, operating outside existing systems of accountability and transparency. ISDS in existing trade agreements has been used to challenge evidence-based public health measures including tobacco plain packaging. Inclusion of a broad ISDS mechanism could threaten public health actions designed to support evidence-based tobacco control, alcohol control, healthy and safe food consumption including regulation of obesogenic foods and beverages, access to medicines, health care services, environmental protection/climate change and occupational / environmental health protections. Efforts by industry to challenge domestic public health laws and regulation have targeted nations with limited access to legal resources and some of the world's most vulnerable populations.

Access to affordable medicines is critical to controlling the global burdens of communicable and non-communicable diseases. The World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) established a set of common international rules governing the protection of intellectual property including the patenting of pharmaceuticals. TRIPS safeguards and flexibilities including compulsory licensing seek to ensure that patent protection does not supersede public health.

The WMA Statement on Patenting Medical Procedures states that patenting of diagnostic, therapeutic and surgical techniques is unethical and "poses serious risks to the effective practice of medicine by potentially limiting the availability of new procedures to patients."

Trade agreements should not pose a new difficulty in accessing medicines, especially for developing countries and for the most vulnerable populations.

There must be a fair balance established between the prices of medicines and the protection of intellectual property through patents.

The WMA considers that patenting on medicines/vaccines must be regulated in accordance with the ethical principles and values of the medical profession in order to ensure effective and global action for public health

and therefore recognizes that it may be necessary to temporarily waive patents in times of public health emergencies. Moreover, to produce fast and comprehensive results, sustainable solutions for patent issues must be supplemented by the transfer of technology, knowledge, and manufacturing expertise, global investment in manufacturing sites, training of personnel, and quality control.

The [WMA Resolution on Medical Workforce](#) states that the WMA has recognized the need for investment in medical education and has called on governments to "...allocate sufficient financial resources for the education, training, development, recruitment and retention of physicians to meet the medical needs of the entire population..."

The [WMA Declaration of Delhi on Health and Climate Change](#) states that global climate change has had and will continue to have serious consequences for health and demands comprehensive action.

The [WMA Declaration on Fair Trade in Medical Products and Devices](#) states that purchasing policies for medical goods should be fair and ethical, working conditions should be safe and modern slavery should be eradicated throughout supply chains. Health product manufacturers should establish a plan for continuity of supply of vital and life-sustaining products to avoid production shortages whenever possible. This plan should include establishing the necessary resiliency and redundancy in manufacturing capability to minimize disruptions of supplies.

RECOMMENDATIONS

Therefore, the WMA calls on national governments and constituent member associations to:

1. Call for transparency and openness in all trade agreement negotiations including public access to negotiating texts and meaningful opportunities for stakeholder engagement.
2. Call for a proactive assessment of anticipated effects on health, human rights, and the environment for all trade agreements.
3. Advocate for trade agreements that protect, promote and prioritize public health over commercial or political interests, and secure services in the public interest, especially those affecting individual and public health. This should include new modalities of health care provision including eHealth.
4. Ensure that trade agreements do not have negative impacts on health systems, human resources for health and universal health coverage (UHC). Ensure trade agreements do not interfere with governments' ability to protect and regulate health and health care, or to guarantee a right to health for all. Government action to protect and promote health should not be subject to challenge through an investor-state dispute settlement (ISDS) or similar mechanism.
5. Work to ensure that patents on medicines and vaccines are regulated in accordance with the principles of medical ethics, in order to protect public health in global emergency situations.
6. Therefore, urge NMAs to promote the possibility of temporarily waiving patents on medicines and vaccines to protect public health in global emergency situations while ensuring fair compensation for the intellectual property of the patent holders, global investment in manufacturing sites, and knowledge transfer. Promote public health, equity, solidarity and social justice and protect countries and people who are weaker economically and health-wise, and therefore most vulnerable.
7. Oppose any trade agreement provisions which would compromise access to health care services or medicines including but not limited to:
 - Patenting (or patent enforcement) of diagnostic, therapeutic and surgical techniques;
 - "Evergreening", or patent protection for minor modifications of existing drugs;
 - Patent linkage or other patent term adjustments that serve as a barrier to generic entry into the market;
 - Data exclusivity for biologics;
 - Any effort to undermine TRIPS safeguards or restrict TRIPS flexibilities including compulsory licensing;
 - Limits on clinical trial data transparency.
8. Oppose any trade agreement provision which would reduce public support for or facilitate commercialization of medical education.
9. Oppose any trade agreement which would facilitate the inappropriate privatization of public services in areas such as conservation of natural environment, education, healthcare, and daily necessities such as energy and water.

10. Ensure that trade agreements promote environmental protection and support efforts to reduce activities that cause climate change.

11. Ensure that trade agreements promote equity and human rights and include mechanisms for accountability following implementation.