

International Trade Agreements: Implications for Protecting Medicine, Public Health and Democracy



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From Steel to Services

- Traditional trade issues
 - Commodities: steel, textiles
 - Barriers: financial, tariffs
- “Trade” in vital human services
 - Greater power to foreign private corporations
 - Lose democratic rights to protect health care, water
 - Public subsidies for clinics, DSH; public water

Laws and Regulations At Risk Through GATS



- Quality standards for health care services and products & allocation based on need
- Clinician licensing
- Privacy regulations
- Health insurance & patient protection
- Distribution of alcohol, tobacco, firearms
- Occupational safety & health
- Public subsidies for safety net
- Public administration of water & sanitation



Services, standards, solutions

- Trade alphabet soup: WTO, GATS, NAFTA, FTAA
- What's at stake for public services and health
- How can they do this to us?
- How come we didn't know about this?
- What can we do?
- This is a fight we can win!



Economic Globalization

- Greater quantity and accelerated pace of cross-border financial transactions and exchanges
- Who will control and benefit?



Global Economic Agenda

- Corporate power increasing
- Shift of funds from public to private sector
 - Privatization of services
 - Cuts in services
 - Tax cuts for corporations and the wealthy
- Free trade agreements
 - Reduce financial barriers to trade in foreign goods
 - Reduce domestic sovereignty over regulations
- Weaker unions

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Services: Next Business Frontier

- 80% of US economy: USTR
- Finances
- Telecommunications
- Insurance
- **Health care**
- **Water and sanitation**
- **Education**
- **Energy**



Implementing the Agenda

- World Bank and International Monetary Fund: loans to “developing” nations
 - Interest on the loans lead to debt
 - Austerity in social programs
 - Results: greater poverty
- World Trade Organization: agreements set terms, include developed nations



FOUNDATIONS OF “FREE TRADE” IN SERVICES

- WORLD TRADE ORGANIZATION (WTO)
- General Agreement on Trade in Services (GATS)
- North American Free Trade Agreement (NAFTA) (Regional)
- Free Trade Area of the Americas (FTAA) (Regional)



World Trade Organization (WTO)

- Formed 1995--emerged from General Agreement on Tariffs and Trade (GATT)
- Based in Geneva, Switzerland
- 145 member nations
- Ministerial meetings of all member countries every two years (e.g. Seattle, Doha, Cancun)
 - Between Ministerial meetings, ongoing “negotiations” and working group meetings
- Operates by “consensus” - but the “quad” countries dominate process
 - US, EU, Canada, Japan



General Agreement on Trade in Services (GATS)

- Being negotiated by all 146 WTO members
- Goal: progressively liberalize trade in all services & eliminate “barriers to trade” across national boundaries.
- Laws and regulations which are “more burdensome than necessary” can be challenged as trade barriers. (“Domestic Regulation” rule)



General Agreement on Trade in Services (GATS)

- Facilitate private foreign corporations trading in the U.S. in:
 - **Hospitals, equipment and supplies**
 - **Insurance**
 - Nurse registries, MD licensing
 - Water and sanitation
 - Other vital human services: education, energy



“Bottom Up” Process

- Nations request & offer to open services to trade and coverage under certain GATS rules
- Most requests & offers are secret
- Deadline to reach agreement: 2005



Basic WTO Principles

- Most favored nation:" provide equal access among foreign corporations to domestic business opportunities and markets.
- "Harmonization" aims to reduce variation among nations in their regulations and standards for goods and services.
- Diminish the rationale for national differences in regulations and standards.



GATS Rules: Market Access

Restrict ability to legislate or regulate amount of services or how they are supplied, or percent of foreign ownership.

- Number of NICUs on one block
- Number of liquor stores on one block



GATS Rules: National Treatment

- Offer private foreign corporations same treatment as domestic service providers
 - Public subsidies: “trade distortive”
 - Government procurement?
 - Social objectives: services for vulnerable; equal opportunity



Can Nations Protect Health?

- WTO permits national or sub-national “measures to protect human, animal or plant life or health”
- But: government measures to protect health cannot discriminate against foreign corporations or serve as disguised barriers to trade



Are Public Services Protected?

- Services “supplied in the exercise of governmental authority” are excluded from coverage: Article 1.3 (Scope)
- Definition: “supplied neither on a commercial basis, nor in competition with one or more service suppliers.”



Public Subsidies at Risk

- US and HI could be sued in World Trade Tribunals for:
 - Giving preferences to public services (DSH, immunization programs, Medicare AHC payments)



European GATS Requests to US: Water, Postal

- Drinking water and sanitation
- Distribution of alcohol and tobacco products
- U.S. Postal system
- Loans from Small Business Administration



GATS Requests to US (cont'd.)

- India
 - Recognize qualifications of Indian Medical & Dental Professionals and Nurses
- Mexico
 - Eliminate all restrictions on hospitals and health facilities for:
 - Foreign Direct Investment
 - Number and type of services
- Paraguay & Mexico
 - Eliminate restriction of federal & state reimbursement to licensed, certified facilities in U.S. or in a U.S. state



Who Decides: WTO Dispute Resolution

- 3 WTO-appointed trade “experts” decide in close session if a WTO policy has been violated
- Can impose economic sanctions
- Challenges domestic sovereignty to regulate and protect health care and other vital human services



Lack of Transparency

- Requests and offers, and negotiating texts are not open to review (even by Congress)
- Agreements are obscure and complex
- “Fast-track:” Once agreement reached, Congress can only vote up or down



Process is Secretive

- USTR Consults with:
 - Trade Committees in Congress
 - Advisory Committees
- Members sworn to secrecy
- Documents confidential



Health Care In the Cross-Hairs

“Historically, health care services in many foreign countries have largely been the responsibility of the public sector. This public ownership of health care has made it difficult for U.S. private-sector health care providers to market in foreign countries. In most emerging markets...barriers can be erected in the future as laws and regulations are enacted, absent commitments in writing .



Health Care in the Cross-Hairs

"(E)xisting regulations...present serious barriers in OECD countries, including restricting licensing of health care professionals, and excessive privacy and confidentiality regulations."

U.S. Coalition of Services Industries, Nov. 27, 2000



Regional agreements: NAFTA

- NAFTA: North American Free Trade Agreement, 1994
 - US, Mexico Canada
- Created strain on health care safety net
- Created new legal rights for foreign corporations to sue national governments if laws or regulations restrict trade: Investor's rights, Chapter 11



How Much Compensation?

- Methanex case: a Canadian firm brought a nearly \$1 Billion claim based on the State of California's decision to ban the sale of MTBE, a suspected carcinogen, in order to protect the State's drinking water supplies;
- Metalclad case: a U.S. firm recovered \$16 Million under NAFTA, based on the refusal of a Mexican municipality to grant a permit for the construction of a hazardous waste treatment facility in the community.



FTAA: Free Trade Area of the Americas

- Launched in 1994. Negotiating deadline: 2005
- Expands NAFTA to all 34 countries in North, Central, South America and the Caribbean (except Cuba)
- Most comprehensive trade agreement in history, affecting more than 800 million people



FTAA

- Economic integration of the hemisphere
- “Top Down” agreement - all services automatically covered by FTAA
- Includes health care, water and other vital human services
- Legal framework to protect investors and their investments (not in GATS)



Vital Human Services for Sale

“Some kinds of public policy choices should be decided by democratically elected governments, not by unelected trade bureaucrats.”

U.S. Senator Jon Corzine (D-NJ)



What Can We Do?

- Help reframe the debate on global trade and economic development
- Declare health care & water vital human rights
- Engage in dialogue and decision-making process to protect health care services and promote public health



Assess and Protect Health

1. Assess the impact of GATS and FTAA on population health, as provided for in GATS Article XIX, and assure based on such assessment that policy proposals do not have an adverse impact on health.
2. Exclude vital human services such as health and water from trade negotiations and challenge under the GATS and FTAA, both for the U.S. and for all countries.



Transparency and Progress

3. Include public health representatives in the negotiating advisory process, and promote transparency and democratic accountability at all levels of trade negotiations.
4. Support enforceable commitments to advancing population health, and to achieving universal access to health care and to safe, affordable water in the U.S. and internationally



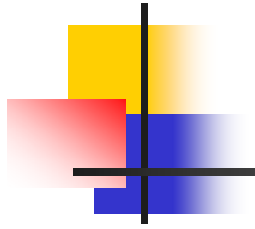
What Can We Do?

- Build support for a global public health agenda
 - Your organization
 - Members of Congress
 - Influence US Trade Representative
 - Circulate and sign “Dear Colleague” on trade and health
 - US Trade Representative
 - World Health Organization



Events

- WTO Ministerial
 - September, 2003
 - Cancun, Mexico
- American Public Health Association
 - November 15-19
 - San Francisco, CA
- FTAA Ministerial
 - November 21, 2003
 - Miami, FL



Save Global Health

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