

Trade Agreements: Who Will Protect the Public's Health?

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TRADE AGREEMENTS & PUBLIC HEALTH

- Context: Economic Globalization
- Public Health: How Are We Doing?
- Trade Agreements: Threats to Public Health
 - Public Health's Right to Regulate
 - Occupational Health & Safety, Tobacco Control
 - Health-related Services: GATS
 - Affordable Medicines: Australia, CAFTA
- CPATH: A Public Health Voice in Global Trade

Context: Economic Globalization

Economic Globalization

- Accelerated pace of cross-border financial transactions and exchanges
- Growth of services sector in developed nations
- Who will control and benefit?

What's New?

<u>Year</u>	<u>Transnational Corporations</u>	<u>TNC Foreign Affiliates</u>
1992	37,000	200,000
2002	63,000	800,000

Policy Agenda: Public Interest Vs. Corporations

- Stronger corporate power
- Weaker labor rights
- Shift funds from public to private sector
 - Privatization and cuts in services
 - Tax cuts for corporations and the wealthy
- “Free” trade agreements
 - Reduce right to regulate in the public interest

Policy Agenda: Global Trade Agreements

- Reduce right to regulate in the public interest
- Loosen national controls over capital flows
- Corporations manufacture abroad
 - Pay low wages
 - Reimport to US without tariffs
- Race to the bottom vs. sustainable development

Public Health: How Are We Doing?

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Public Health Priorities

- Achieve and protect the health and wellbeing of individuals, communities and populations
- Requires economic and social equity and justice, democracy, and equitable access to health-related services

Institute of Medicine, UN

Threats to Global Health

- Widespread threats to global health persist

Billions lack safe water and sanitation

AIDS, TB, Malaria

Health care unaffordable

- Coexisting with both unprecedented wealth and economic inequality

U.S. Health Outcomes 20th Century

- Infant mortality down, life expectancy up
- Vaccines, antibiotics: life-threatening illness preventable or less serious
- Safer homes, workplaces, roads, cars
- Sanitation improved
- Medical advances

Global Reversals, 1990s

- Life expectancy plummeted in a number of nations
- AIDS pandemic in Africa
- Infant and maternal mortality increased in countries such as India

Trade Agreements: Threats to Public Health

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INTERNATIONAL TRADE AGREEMENTS: THREATS TO PUBLIC HEALTH

- Challenge Democratic Rights to Protect Health
 - New rules: Health and safety measures must be no more burdensome than necessary to trade
 - New enforcement tools: Corporations can sue governments if laws restrict trade
 - Examples: Occupational Safety & Health, Tobacco Control
- Privatizing Health-Related Services
- Medicines Unaffordable
 - Protect patents and high prices for US drug co.s
 - Prevent low-cost generics

Challenging Democratic Rights to Protect Health

- Eliminate government laws and regulations that act as “barriers” to trade
- Barriers to trade in steel = tariffs
- Barriers to trade in services = “measures”
 - Regulations
 - Laws
 - Administrative rulings

WTO Enforcement and National Sovereignty

- WTO agreements supercede the internal laws and regulations of member countries
- WTO can impose economic sanctions if a trade policy has been violated
- Challenges domestic sovereignty to regulate and protect health and health-related services

CHALLENGING DEMOCRATIC RIGHTS: NAFTA

- Canada, Mexico, US - 1994
- Chapter 11 provides a unique “investor’s rights” mechanism.
 - Foreign corporations can directly sue governments for the loss of current or future profits, even if the loss is caused by a government agency prohibiting the use of a toxic substance.

NAFTA Suit: MTBE

- Methanex Corporation of Canada sued the United States for approximately \$1 billion, because the state of California banned the use of methyl tertiary butyl ether (MTBE), a gasoline additive, due to suspected carcinogenicity.
- Due to the possible sanctions from this case, other states have withdrawn their plans to prohibit this product from use in gasoline.

Occupational Safety and Health

- NAALC: North American Agreement on Labor Cooperation (side letter on labor)
- 28 cases filed with National Administrative Offices, 7 related to workplace safety/health
- No change in enforcement, regulations
- Grounds: Country's own regulations
- Critical partners excluded: Workers not involved in dispute resolution
- Process: No time lines for decisions
 - Maquiladora Safety and Health Support Network

Tobacco and Trade

- Pan American Health Organization:
“Transnational tobacco companies...have been among the strongest proponents of tariff reduction and open markets. Trade openness is linked to tobacco consumption.”

D. Woodward, N. Drager, R. Beaglehole, D. Lipson. Globalization, global public goods, and health. In: Trade in Health Services: Global, Regional and Country Perspectives. N. Drager and C. Vieira, Eds. Washington, DC: PAHO, 2002. pp 6-7.

Chilling Effect on Tobacco Control Regulations

- Canada withdrew its intent to legislate "plain" packaging for cigarettes when American tobacco companies threatened to sue the Canadian government for "expropriation" of their intellectual property, i.e. their trademarks.

Reactions to Trade Agreements: States, Cities, Towns

- **“State and local officials are gravely concerned ... no provision remotely similar to [NAFTA’s investors’ rights chapter] should be included in future agreements...”**
 - Executive Directors of National Conference of State Legislators, National League of Cities, National Association of Towns & Townships
 - Comments to USTR, Fed. Register, August, 2002

GATS: Health Protections Take Second Place

- General Agreement on Trade in Services (GATS)
- Covers 148 countries in World Trade Organization (WTO)
- **Laws and regulations which are “more burdensome than necessary” can be challenged as trade barriers**

GATS Can Challenge:

- Measures to protect human, animal or plant life or health
- Public services
- “Some fear the agreements will require governments to open up the delivery of health care services to private for-profit delivery by foreign health care companies.”

Romanow Commission, Canada

HEALTH CARE SERVICES AND TRADE

“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 .

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

Expanding Corporate Power in Services

“(S)erious barriers in OECD countries include restricting licensing of health care professionals, and excessive privacy and confidentiality regulations.”

European GATS Requests to US: Cover Water, Postal

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

INTELLECTUAL PROPERTY: Barriers to Affordable Medicines

- Trade Agreements Protect Prices for US Pharmaceutical Industry
 - US Pharma: High drug prices needed for R&D
 - Marketing higher expense than R&D
- Brazil, Central America compete, manufacture affordable generic drugs

TRIPS

■ TRIPS:

- World Trade Organization (WTO) agreement
- 20 –year patents on drugs
- Companies can own the rights to seeds

(Agreement on Trade-Related Aspects of
Intellectual Property= TRIPS)

Doha Declaration on TRIPS and public health

- “TRIPS does not and should not prevent members from taking measures to protect public health.”
 - **WTO Ministerial Meeting, Doha**
 - Adopted November 14, 2001
- May, 2004: 40 million with AIDS untreated
- New FTAs undermine Doha Agreement

RECENT PROPOSALS: Regional, Bilateral Agreements

- Since failure of large international trade negotiations in 2003, US is focusing on individual countries and smaller regions.
- Australia: 2004
- CAFTA: Central America + Dominican Republic
- FTAA: Free Trade Area of the Americas

Blocking Drug Reimportation: Australia Trade Agreement, 2004

- Australia FTA: change effective methods for controlling drug prices
- US: Need to raise drug prices abroad so drug companies can lower prices in US
- CPATH Analysis: Agreement can block reimporting lower priced drugs into US
- Could affect popular US drug price programs for VA, Medicaid, Medicare

Congress Objects

- Australia FTA achieves corporate policy agenda without public debate
- Kennedy, Schumer, McCain, Gutknecht: Need public health representation
- Graham, Strickland, Evans: Protect VA
- Allen, Rangel, Levin: Not a precedent

Sen. Schumer

- The nature of trade agreements is changing. They are not just about tariffs anymore. They are getting into other substantive policy issues which dictate the parameters for health care delivery around the world. These are fundamental policy decisions with serious implications for access to affordable health care which can and will affect millions of people both overseas and here at home.

Senator Kennedy

- **It's time for the U.S. Trade Representative to start standing up for the interests of the American people, not just the interests of the pharmaceutical industry.**

DR-CAFTA

Income, Infant Mortality

1998

<i>Country</i>	GDP Per Cap	Infant Mortality/1000
<u>US</u>	\$34,000	7
<u>El Salvador</u>	\$2,000	30
<u>Guatemala</u>	\$1,680	41

CAFTA: Combines WTO Rules

- US-Central American Free Trade Agreement (CAFTA)
 - Weakens labor standards
 - TRIPS-Plus, Health-Minus
 - Longer patents than TRIPS
 - Barriers to generic drugs
 - Would cover all services
 - Could require states to open all contracts to foreign companies:
 - Challenge to medical and financial privacy

CAFTA and Labor

- Enforces only country's existing labor laws
 - Weaker in this way than NAFTA
- Weakens enforcement of occupational health and safety standards
 - Undermine ILO, GSP pressures on labor standards
 - No right to organize
 - No enforcement under FTA dispute rules

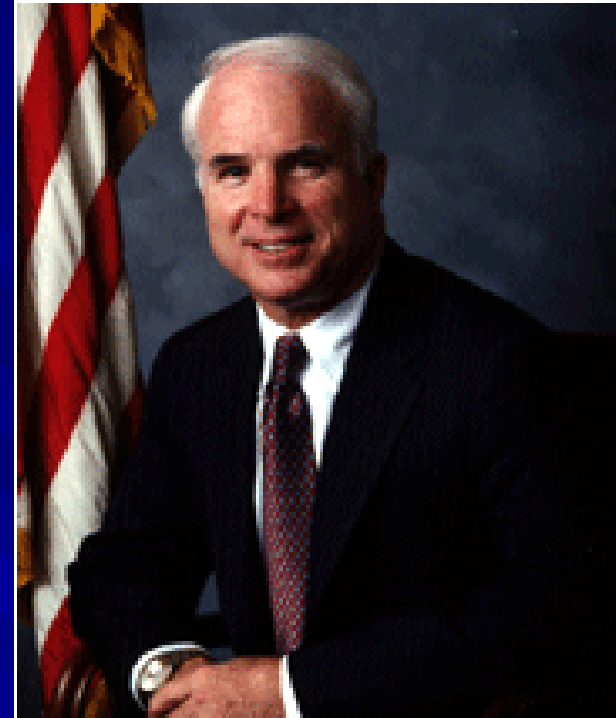
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US Trade Policy – Who Decides?

“So a simple question comes to mind: What is our U.S. Trade Representative, who is charged with representing the interests of the American people, doing? ...It seems to me that the special interests have found friendly territory.”

U.S. Senator John McCain



Trade Advisory Process: Who Is Involved?

Pharmaceuticals	20
Tobacco	7
Alcohol	6
Health Insurance	5
Food	4
Public Health	0 (Zero)

CPATH Goal: Public Health Voice in Trade

1. Increase visibility of health leaders and activists in the global trade debate
2. Educate and mobilize public health and health care
3. Develop alternative approaches
4. Assure that trade policy promotes and protects health

Health Leaders Prescribe Caution on Trade Agreements: 2003

Drs. David Satcher, Joyce Lashof, Victor W. Sidel, Anthony Robbins, Donald Zeigler, APHA, ANA, CPATH, Nov. 2003:

- New trade rules threaten ability of nations to protect public health
- Issue Call for Public Health Accountability



Call for Accountability: Health Must Take Priority Over Commercial Interests

- Include public health in negotiations
- Assess impact of trade agreements on health
- Exclude provisions that could harm health, access to medications, vital human services
- Assure universal access to health care, water and sanitation, affordable meds, education, and environmental safety

Public Health Positions on Trade

■ APHA

■ AMA

■ CCLHO

■ NACCHO

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)

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Protect Global Health

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