

WORLD TRADE ORGANIZATION

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WORLD HEALTH ORGANIZATION (WHO)

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(As an Observer)

The World Health Organization (WHO) works closely with the World Trade Organization (WTO) and other international organizations involved in trade to support its Member States in developing policies on international trade and health that are mutually coherent and reinforcing and that maximize the health benefits and minimize the risks, especially for poor and vulnerable populations. WHO is therefore encouraged by the agreement reached by Members of the WTO to amend the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) to confirm the right of countries with little or insufficient capacity for pharmaceutical production to import generic medicines from countries with such capacity.

WHO congratulates WTO Members for the unprecedented decision of amending the TRIPS Agreement in a manner that supports countries' right to protect the health of their people. This signals the willingness and flexibility on the part of the WTO Membership to take concrete steps to improve intellectual property rules to ensure the primacy of health.

WHO Works to Improve the Effects of Trade on Health

WHO's work on the relationship between international trade and health focuses on:

- Analysis and research to inform policy and practice;
- development of tools and training to build capacity in Member States to fully understand the public health implications of multilateral trade agreements;
- assistance to ministries of health to provide trade, finance, and foreign affairs ministries with information needed for multilateral trade negotiations.

The liberalization of trade promoted by WTO can affect health in multiple ways. Sometimes the impact is direct and the effect is obvious, as when a disease crosses a border together with traded goods. Other times the effects are more indirect. For example, reducing trade tariffs may impact prices for medical equipment and health related products; changing international rules concerning patent protection affects access to essential medicines, diagnostic devices and technology transfer; and liberalizing trade in health services can affect national health systems. Conversely, national and international health standards and rules can have important implications for trade; for example, the standards, guidelines and recommendations of the Codex Alimentarius can affect trade in foodstuffs, and WHO's recently revised International Health Regulations can directly influence international travel and traffic in goods.

In addition to the TRIPS Agreement, three other WTO multilateral trade agreements are of particular importance to WHO's Member States: the General Agreement on Trade in Services (GATS) as regards the cross-border movement of patients and health professionals and the foreign ownership of health facilities; the Agreement on Application of Sanitary and Phytosanitary Measures (SPS) as it affects food safety and the cross-border spread of infections; and the Agreement on Technical Barriers to Trade (TBT), which is relevant to health norms and standards.

WHO Will Aid Countries in Implementing TRIPS Amendment

WHO will strive to provide relevant technical advice to its Member States on the effective use of the amended Agreement. In its advice, WHO will continue to advocate a simple and workable approach in the interpretation of the amendment to achieve full public health benefits from lower-priced medicines. Given the urgency of the health needs in the poorest countries, the work to implement this Agreement should proceed as quickly as possible. The full impact of the December 2005 amendment will depend on how effectively it can be implemented in countries.

WHO is of the view that a simple and workable system should be based on the following public health principles: the ability to rapidly and effectively respond to public health needs; equality of opportunities for countries in need without regard to its membership in the WTO; the sustainability of quality supply at affordable prices; a multiplicity of potential suppliers, both from developed and developing countries, which can compete to drive prices down; and provision of a wide range of pharmaceutical products to meet a broad range of health conditions.

As new medicines come under the requirement for 20-year patent protection in major generic producing countries, the use of the public health safeguards in the TRIPS Agreement (such as compulsory licensing and government use) for production, import and export may become necessary tools to ensure affordable medicines. Without the possibility of generic competition, WHO is concerned that the new patented medicines may be unaffordable for an increasing proportion of the world's population. In this context, WHO supports the UNAIDS statement calling for available and affordable first-line and second-line medicines for the treatment of HIV/AIDS. In May 2004, the World Health Assembly urged Member States to take into account in bilateral trade agreements the flexibilities contained in the WTO TRIPS Agreement and recognized by the Doha Ministerial Declaration on the TRIPS Agreement and Public Health (Resolution 57.14). WHO continues to urge Member States to consider using to the full the TRIPS flexibilities with regard to the protection of public health and will, in particular, assist countries wishing to adopt the measures needed to implement the new TRIPS provisions.
