

INSTITUTIONAL COOPERATION BETWEEN THE WTO AND WHO:
STRENGTHENING GLOBAL HEALTH GOVERNANCE

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<https://doi.org/10.5281/zenodo.15610926>

Abstract. *This research explores the relationship between the World Trade Organization (WTO) and the World Health Organization (WHO) in the context of global health governance. It highlights the need for stronger cooperation due to the intersection of international trade and public health, especially in response to transnational health crises like the COVID-19 pandemic.*

The analysis emphasizes the need for cohesive mechanisms to ensure equitable access to medicines, vaccines, and essential medical supplies while maintaining fair trade practices. The article advocates for enhanced institutional coordination, joint policy development, and improved crisis-response mechanisms to build a resilient global health governance architecture.

Key words: *WTO, WHO, institutional cooperation, global health governance, COVID-19, pandemic preparedness, TRIPS agreement, trade and health.*

Following World War 2, two major organizations were created to oversee global commerce and health: the World Trade Organization (WTO), which took the place of the General Agreement on Tariffs and Trade (GATT) in 1995, and the World Health Organization (WHO). For many years, there was minimal collaboration between the two institutions, and they functioned independently.

Global commerce has grown and expanded over the past 50 years due to economic globalization, and health concerns have become increasingly important to the operation of a more linked globe. These factors have brought the two areas more closely together on a wide variety of topics. The competence of each to manage their separate domains, as well as their willingness to collaborate in addressing challenges at the junction of commerce and health, is paramount.

During the WHO's 59th World Health Assembly, its member nations directed their governments to make sure commercial and health interests are properly balanced and coordinated.

They also urged their relevant ministries to effectively address issues of international commerce that are connected to international health.¹ The numerous and varied organizations that oversee trade as well as health policy are accountable for striking this balance.

¹ WHO. International trade and health. Resolution WHA59.26. Geneva: World Health Organization, 2006. http://www.who.int/gb/ebwha/pdf_files/WHA59/A59_R26-en.pdf (accessed May 1, 2025).

Increasing the representation of health concerns in global trade governance and ensuring that health organizations handle trade issues effectively are currently difficult tasks. Before a fair and well-coordinated trade and health agenda can be accomplished, these imbalances must be addressed.

Although WHO has the majority of official connections, health organizations may participate in global trade policy in a variety of ways. These connections were strictly controlled between 1948 and the 1990s, primarily by the International Sanitary Regulations (which later became the International Health Regulations in 1969). The International Health Regulations, which date back to the 19th century, were first created to outline member nations' obligations for controlling illnesses and other health dangers that are dispersed by international travel and commerce. The International Health Regulations only addressed a small number of acute and possibly pandemic illnesses until they were revised in 2005. Major trade states represented their trading interests by requiring certain procedures, such as quarantine, port of entry control, and disease surveillance and reporting.

As long as there is no discrimination or exploitation of the agreement to cover up protectionism, governments of member states are permitted by WTO law to take trade-related actions to safeguard the lives or well-being of people, animals, or plants under article 20 of the GATT. These two regulatory tools, which were thought to primarily address technical and generally uncontroversial concerns, were utilised for many decades to manage commerce and health issues. However, as the global trading system grew, trade might have a variety of effects on health outcomes and determinants. Additionally, the establishment of the WTO necessitated new ways for the public health community to get involved, such attending meetings pertaining to trade, keeping an eye on trade agreements and discussions, and communicating with trade attorneys.

Furthermore, there are now difficult policy concerns to solve since this broadened trade and health agenda has included a variety of interests, beliefs, and objectives.²

Notably, WHO's access to WTO meetings is limited where trade concerns that potentially have a direct impact on health are considered. As a result, WHO enjoys ad hoc observer status in the TRIPS³ and trade in services councils, as well as observer position in the Committees on Sanitary and Phytosanitary (SPS) measures and Technical Barriers to Trade (TBT).

² Lee, K., Sridhar, D. and Patel, M. (2009b). Series 416 www.thelancet.com, 373.
doi:<https://doi.org/10.1016/S0140->

³ WTO. Declaration on the TRIPS agreement and public health. Fourth Ministerial Conference; Doha; Nov 14, 2001

WHO can participate in debates while maintaining observer status, but it is not formally involved in decision-making.

International organizations like WHO have been granted observer status ad hoc by several WTO committees in the interim due to the political impasse surrounding the issue since 2000.⁴

Importantly, the WHO has little representation since there aren't many trade concerns that are seen to have a direct impact on health. Furthermore, the lack of thorough monitoring and evaluation of trade policies from a public-health standpoint, as well as the limited information exchange between the trade and health sectors, continue to be obstacles to WTO and WHO coordination.⁵

Concerns raised about the possible impact of the TRIPS agreement on medicine access demonstrated the complicated nature of the trade policy framework. In 1997, the action program on essential medications published WHO's report⁶, Globalization and Access to medications, Implications of the WTO/TRIPS Agreement, which purportedly defended public health standards above commerce principles. The report was accompanied by a proposed resolution to the World Health Assembly on a revised drugs strategy, which urged member states to review their options under the Agreement on Trade Related Aspects of Intellectual Property Rights to protect access to essential medications and to prioritize public health over commercial interests in pharmaceutical and health policies.⁷ These early disagreements led WHO to demonstrate "needed leadership" and increase its involvement in trade-related matters.⁸

Notably, a modest program on globalization, trade, and health was launched in 2000 with the goal of advancing knowledge, creating research techniques, and creating educational resources to help member nations deal with trade and health concerns. "WTO agreements and public health", the program's first major report, examined the relationship between specific trade agreements and topics "subject to passionate debate," such as tobacco, food safety, intellectual property rights, and pharmaceuticals.⁹

⁴ www.wto.org. (n.d.). *WTO / The WTO and World Health Organization*. [online] Available at: https://www.wto.org/english/thewto_e/coher_e/wto_who_e.htm

⁵ Fidler DP, Drager N, Lee K. Managing the pursuit of health and wealth: the key challenges. *Lancet* 2009; published online Jan 22. DOI:10.1016/S0140-6736(08)61775-4.

⁶ WHO. Globalization and access to drugs. Implications of the WTO/TRIPS agreement. Geneva: Action Programme on Essential Drugs, 1997

⁷ WHO. Draft resolution on a revised drug strategy. Resolution EB101.R24, WHA 51st session. Geneva: World Health Organization, 1998.

⁸ Singh S. TRIPS and the WHO's revised drug strategy. Third World Network, May 19, 1999. <http://twinside.org.sg/title/drug-cn.htm> (accessed May 1, 2025).

⁹ WHO/WTO. WTO agreements and public health: a joint study by the WHO and the WTO secretariat. Geneva: World Health Organization/World Trade Organization, 2002.

In their joint publication of the report, WHO and the WTO advised that "health and trade policy-makers can benefit from closer cooperation to ensure consistency between their distinct domains of responsibilities."

The COVID-19 pandemic has exposed the weakness of the international legal system and divided the globe during a global health risk, testing the normative underpinnings of global health governance. Since nations breached their human rights commitments to provide fair access to medical resources, WHO has faced ongoing issues in ensuring vaccine equity. During the pandemic response, "vaccine nationalism" over technology, vaccine supply, and intellectual property emerged.¹⁰ Despite WHO's strong declarations that COVID-19 was a public health emergency and that vaccine access was a human rights imperative, many countries with high incomes did not take part in these solidarity measures, and their ongoing use of the World Trade Organization (WTO) to defend intellectual property rights is still in conflict with their global obligations under WHO governance.¹¹ States with existing capacity have been discouraged from using flexibilities under TRIPS to produce necessary vaccines due to efforts to restrict waivers of the WTO Trade-Related Aspects of Intellectual Property Rights (TRIPS) and other legislative infrastructure that maintain the proprietary nature of these technologies.¹² A new basis for legally enforceable international law in the field of health governance has been established as a result of the WHO member states initiating intergovernmental discussions to change global health law in response to the escalating inequities in the COVID-19 response.

Integrating explicit international health law obligations into the trading system would be an alternative strategy in the aftermath of COVID-19. While governments are permitted to violate the norms under the exceptions regime, governments are not guided by the exceptions when planning for and reacting to pandemics or other systemic shocks. In a similar vein, governments are not directed by IP regulations to improve health resilience. Countries could be better equipped to prepare for and lessen the negative effects of the next shock if the trading system more closely mirrored international health legislation. COVID-19 has created the opportunity for trade regulation and health interests to potentially realign.

¹⁰ Gostin LO, Karim SA, Meier BM. Facilitating Access to a COVID-19 Vaccine through Global Health Law. *J Law Med Ethics*. 2020; 48(3): 622–6. <https://doi.org/10.1177/1073110520958892> PMID:33021168

¹¹ Amin T, Kesselheim AS. A Global Intellectual Property Waiver is Still Needed to Address the Inequities of COVID-19 and Future Pandemic Preparedness. *INQUIRY: The Journal of Health Care Organization, Provision, and Financing*. 2022; 59. <https://doi.org/10.1177/00469580221124821> PMID:36124939

¹² Fischer SE, Vitale L, Agutu AL, Kavanagh MM. Intellectual property and the politics of public good in covid-19: framing law, institutions, and ideas during TRIPS Waiver negotiations at the WTO. *Journal of Health Politics, Policy and Law*; 2023.

The trade system has the opportunity to carefully incorporate more concerns into international trade law and experiment with new kinds of economic governance. Given the possibility of new pandemics and other health shocks in the future, policymakers should use this chance to better safeguard commerce and health.¹³

In order to facilitate more meaningful participation, WHO's engagement with the WTO Secretariat and its members has to be significantly improved if it is to play a leading role. WHO should join the WTO's general council as a permanent observer, and in suitable situations, trade and health experts should participate equally on dispute resolution panels. Additionally, the World Bank and International Monetary Fund cooperation agreements with the WTO have given valuable platforms for the extension of programs and operations to address a wide range of trade concerns.¹⁴

The development of such connections between commerce and health would facilitate information and analysis exchange, policy monitoring and evaluation, and increased openness in dialogue. Including incentives for cooperation, such as funds and other resources, in these cooperation agreements is critically important.

In summary, there are several prospects for the mutual enhancement of trade and health. In matters where commerce and health overlap, the public-health community has been unable to play a significant role due to the intricacy of the issues, the strong entrenched interests involved, and the requirement for unambiguous political leadership. In order to overcome these obstacles and create a more sustainable form of economic globalization, a deliberate and coordinated strategy is required. This approach will also help to enhance health promotion and protection.

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¹³ Council on Foreign Relations. (n.d.). Trade Law Confronts an Exceptional Global Health Crisis | Think Global Health. [online] Available at: <https://www.thinkglobalhealth.org/article/trade-law-confronts-exceptional-global-health-crisis>.

¹⁴ WTO. World trade report 2007. Geneva: World Trade Organization, 2007: 332.

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