

The Global Health Symposium on the Interface of Public Health, Innovation and Trade

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The Fifth Global Health Symposium sponsored by the Global Health Programme at the Graduate Institute in Geneva attracted a record audience to the WTO for a high-powered discussion on the interface of public health, innovation and trade on 23 November 2011. We appreciate the leadership of the Graduate Institute, including its Director Philippe Burrin and the Global Health Programme Director Ilona Kickbusch, as well as the sponsorship of the Swiss Government for making this such an invaluable symposium. We think it contributed significantly to the policy debate on the interface of public health, innovation and trade. While there were no decision points at the conclusion of the symposium, the presentations and dialogue throughout the day advanced a better appreciation for the evolving consensus around a balancing of public policies to support incentives for innovation and policies to ensure access to the poor for medicines and new health technologies. Ruth Dreifuss, the prominent Swiss politician who had chaired the WHO Commission on Intellectual Property Rights, Innovation and Public Health that started the balancing debate a few years ago, explained how important it is for the three agencies, the WHO, WTO and WIPO to cooperate on global strategies to promote the right to health within the framework of both global trade rules and intellectual property rights. A panel discussion among the heads of these three agencies, Margaret Chan, Pascal Lamy and Francis Gurry was especially illuminating as each of them described the interplay among their respective mandates.

Dr. Chan emphasized the challenge of making medicines and other health products more affordable and cited the example of the agreement involving vaccine manufacturers and facilitated by the WHO on pandemic influenza preparedness. Mr. Lamy suggested that the amendment to the TRIPS Agreement on trade and intellectual property in the Doha Declaration of ten years ago to clarify and strengthen the right of countries to protect public health was a political turning point. Although there continues to be debate about its impact, Mr. Lamy encouraged the opportunity for an informed debate while also pointing out that the WTO has joined with the WHO and WIPO to beef up the technical assistance in capacity building to use the flexibilities of this provision in the TRIPS Agreement. This is a multi-cultural, multi-governance and multi-sectoral issue which is why the specific knowledge and mandate of the three agencies requires the three to work together. The newly launched joint study by the three agencies together is driven by the recognition that access is still a huge problem but also the further agreement that joint action needs to move beyond compatibility to policy coherence.

Mr. Gurry confirmed the significance of the major shift in the international landscape some ten years ago from a relatively isolated IP regime to the integration of IP with policies to ensure the social benefits of innovation. He described the impact of this from his WIPO perspective in terms of an interesting distinction between "market and non-market" situations. There is far greater space for action, he observed, in the non-market area, by which he meant where no market is at stake, as for example poverty-related targets for action. It is also easier, he said, to move in "non-treaty" areas where negotiations over formal treaties or amendments to treaties are not necessary. The networked society is being mobilized outside of any formal treaty structure, as for example in the sharing of regulatory data where market incentives are not working. Furthermore, these innovation networks are geographically dispersed and more socially focused. Policy-making itself is more complex today and requires consultations with a wider range of actors. We must find a way to mobilize diverse resources and to develop mechanisms to involve industry while retaining the appropriate distance from public policy making bodies. It is no longer possible, however, to conduct an exclusively public dialogue.

These observations by Mr. Gurry stimulated further exchanges from Dr. Chan and Mr. Lamy on how these developments are contributing to greater policy IN-coherence in spite of the pull among the three directors-general to encourage greater policy coherence. The main concern remains the goal of affordable health care for all. The health sector has both private and public financing, and the private sector will exit if there is no profit. So the focus needs to be on finding the right balance between a reasonable profit and access, which requires a strong regulatory capacity from governments. These messages set the tone for the rest of the symposium and for the joint study that is looking at access and innovation in an integrated way, with an ever broadening sphere of medical technologies and mixed partnership opportunities. In spite of the strong and divergent views of the many stakeholders that have participated in this global debate, the symposium did achieve the admirable result of transparency and, as stated by Ruth Dreifuss at the conclusion, the general agreement around the goal of “completing” the IP regime, not its “replacement” by something else.