

COLMUN 2010
BACKGROUND GUIDE: GENERAL ASSEMBLY
WTO: WORLD TRADE ORGANIZATION COMMITTEE

Welcome to the WTO COLMUN Committee! Once the Conference takes place, you will try to solve some of the biggest issues of our current economy, and hopefully will carry on with your life integrating the solutions we expect to find over the course of three exciting, yet challenging, days. You will learn what different nations expect from the future economic trends, but most importantly, you will be able to propose your own solutions in an environment that will embrace initiative and creativity. That is exactly what we want to see in you, delegates: an eagerness to learn and participate. Next you will find a brief summary of what you should know once you attend COLMUN II.

Sincerely,

Cristina Andrade and Juan Fernando Gonzalez.

1. Free Trade vs. Fair Trade

“Never before have had so many people so much in common, but never before have the things that divide them seem so obvious”

--- Sir Shridath Ramphal, The Commission on Global Governance

INTRODUCTION

The world is becoming more globalized. Nevertheless, the current form of globalization, open markets, neoliberalism, and free trade comes with many challenges. While most people would like to see all nations develop fairly and equitably, the real picture is completely different. Some people blame slow economic growth on the Fair Trade systems, saying that they don't encourage economic initiative. Others believe Free Trade agreements are the way for nations to mutually benefit each other, while others sustain that the weaker economies would suffer. But the truth is that economy has a great

influence over every nation and a great portion of our world's nations are yet to be considered "developed". Is there a way to construct an economic system that benefits both points of view?

STATEMENT OF THE PROBLEM

Capitalism has been successful promoting initiative, and in creating wealth, so economists believe that, in general, capitalism can help states develop. Likewise, there is growing criticism of the current model of neoliberalism and capitalism that has resulted. This criticism comes from NGOs, developing nation governments and ordinary citizens.

To understand these opposing points of view, you must thoroughly understand the implications of both free trade and fair trade. In basic terms, free trade is a system of trade policy that allows traders to act without interference from the government. Fair Trade is a social movement that seeks better trading conditions to help producers in developing countries. In other words, it proposes that producers get more benefits in trade rather than encouraging competition between markets.

HISTORY AND DEVELOPMENT OF THE TOPIC

Adam Smith stated that trading helped many cultures flourish, such as Egypt, Greece, and Rome, Bengal (East India) and China. When the Netherlands declared Free Trade and Freedom of thought, the Free Trade/Mercantilist became the main issue in economics for centuries.

Nevertheless, protectionism is used throughout the world. In most developed nations, there are agricultural tariffs. In the developing world, average tariffs on manufactured goods are approximately 34%.

Currently, the World Bank believes that, at most, rates of 20% can be allowed by developing nations. On the other hand, Ha-Jon Chang believes higher rates should be justified because there is not a level playing field between developed and developing nations, so free trade is unfair to those most in need. This theory is known as import substitution industrialization.

The current fair trade movement began in Europe in the 1960s with an emphasis on the establishment of fair trade relations with the developing world.

Throughout the 1960s and 1970s, important segments of the fair trade movement worked to find markets for products from developing countries. The movement was meant to promote the ideals of Nelson Mandela, Julius Nyerere, and the Nicaraguan Sandinistas: the right to independence and self-determination, to equitable access to the world's markets and consumers.

Sales of fair trade products became successful thanks to the Fairtrade certification, created by Max Havelaar in the Netherlands in 1988. This eventually led to the creation of Fairtrade Labelling Organizations International (FLO) in 1997.

In 2002, FLO launched for the first time an International Fairtrade Certification Mark, in order to increase the sales of fair trade products on a globalized scale. The certification mark is used in over 50 countries and on dozens of different products.

MUCH TO BE DONE

In 2008, Fair Trade certified sales amounted to approximately US\$4.08 billion (€2) worldwide, a 22 % year-to-year increase.[1] Although this seems like an advantage, fair trade has drawn both praise and criticism. The Adam Smith Institute sees "fair trade" as a marketing strategy that impedes growth. Segments of the left, such as French author Christian Jacquiau, criticize fair trade for not adequately challenging the current trading system.

The World Trade Organization, (WTO) is the main international body to help promote free trade, by making the rules of international trade. It is our duty to ensure that these rules benefit the most nations, specially taking into account developing nations. As delegates, you should focus on finding the solution to the following questions.

- Questions to be answered:

What is the future of free trade economy?

Does fair trade impede growth, or does it increase it?

How are developing countries going to keep up with developed world economies and standards?

Can there be a balance between fair trade and free trade?

- Links you should visit:

<http://www.globalissues.org/article/42/the-wto-and-free-trade>

www.fairtrade.net

- Glossary:

Free Trade: “system of trade policy that allows traders to act and or transact without interference from government.”

Protectionism: “the economic policy of restraining trade between states, through methods such as tariffs on imported goods, restrictive quotas, and a variety of other government regulations designed to discourage imports, and prevent foreign take-over of domestic markets and companies”

Fair Trade: An alternative way of trading promoted by various organizations, establishing a fair and equitable commercial relationship between producers and consumers.

FLO: Standards and certification body for the Fairtrade movement

2. Trade-Related Aspects of Intellectual Property Rights, patents, and pharmaceuticals and public health

“It is becoming ever more apparent that the patent system isn’t working”

--- *The Economist*, November 13, 2004, at 71.

INTRODUCTION

Over the last decade, public health and development issues have become topics of great international concern. Equitable and appropriate health is universally considered as a basic human right, and pharmaceuticals are an integral part of the health care system. It is alarming that while most illnesses are preventable or treatable, the World Health Organization (WHO) estimates nearly one third of the world’s population have inadequate access or no access to these essential medicines. Often pharmaceutical industry and the World Trade Organization (WTO) and its agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) are to be blame because of the patent regulations and lack of accessibility and affordability of needed drugs in developing countries.

It is clear that the entry into force of the TRIPS agreement transformed the international intellectual property system. Indeed this agreement attempts to strike a balance between the objective of providing incentives for inventions and creations and the objective of allowing people to use existing inventions and creations. Patents for pharmaceuticals are only a subject of this agreement.

STATEMENT OF THE PROBLEM

Public concern is that the introduction of strict patent regimes required by the TRIPS agreement is causing the price of patented drugs to be at high levels, consequently unreachable for poor people. This concern aims to question whether if the system on intellectual property and health is really working, if the decision designed to improve access to medicine is working. In addition the flexibility provisions to promote access to medicines for all must be ensured. A great question can be inferred, and it is: if the balance, which the WTO in the TRIPS agreement and Public Health attempts, is really achieving the objective “that was and remains cheaper medicines for the poor”? And if a

more flexible differential treatment with respect to patents should be applied and how these should be applied?

HISTORY AND DEVELOPMENT OF THE TOPIC

To know the relation between public health and the WTO a correct guideline must be traced. These are some of the most important meetings and decisions regarding the topic.

In the final acts of the Uruguay round, an agreement on Trade Related Aspects of Intellectual Property Rights is included. It recognizes various standards in the protection of intellectual property rights, part I of the agreement sets out provisions and principles included the clauses known as most-favored nation and the clause of national treatment. Part II addresses intellectual rights successions, such as copyright, trademarks, and service marks. Industrial designs are also protected as well as layout designs of integrated circuits. Part III sets out obligations of member government to provide procedures and remedies under the domestic law. In the agreement a council for TRIPS was to be established to monitor operations, and a transition period to bring legislation and practices into conformity was established.

Although this agreement did not mention public health, it is important to recognize how the TRIPS started.

In 2001 the main Doha Declaration was adopted by the Fourth WTO Ministerial Conference, Doha, Qatar. As a result in paragraph 17 of the declaration, members agreed to stress the importance of TRIPS agreement in a manner supportive of public health. In this sense the Declaration on the TRIPS agreement and public health was adopted on the 14th of November 2001, stressing in 7 articles the need to protect public health and promote access to medicines for all.

In 2002, a decision of the council for TRIPS extended the transition period for least developed countries, establishing least-developed countries will not have to protect pharmaceutical patents and test data until January 1, 2016. The same year another decision made by least developed countries with respect to pharmaceutical products was

established, saying least-developed countries will not have to give exclusive marketing rights to pharmaceuticals that are subject of a patent application until January 1, 2016.

In 2003, a decision of the general council regarding the implementation of paragraph 6 of the Doha Declaration on TRIPS agreement and public health was decided. Some meanings as pharmaceutical products, eligible importing members and exporting members and some obligations for the members were established. It is important because limitations on exports under compulsory licenses were removed. It is called the waiver decision.

In 2005 an amendment of the TRIPS agreement was decided reforming article 31bis. But it would only entry into force when two thirds of the WTO's members have accepted the change. The same year in Hon Kong Ministerial Declaration in paragraph 40, members reaffirmed the importance of the 2003 decision and welcome the decision on the amendment of the TRIPS agreement.

In 2007 and 2009 a decision to extend deadline for accepting TRIPS agreement amendment was established.

MUCH TO BE DONE

Members around the world are considering whether to ratify and accept the amendment to the TRIPS agreement which would add an article that reflects the terms of the waiver decision. It establishes a certain obligation under the TRIPS agreement to permit exports of patented medicines under government use and other compulsory licenses that might be prevented by the terms of the TRIPS agreement ad it entered into force.

Many have criticized the agreement for adding more bureaucratic burdens to the process of compulsory licenses and by not making clear how developing countries could prove that their domestic pharmaceutical industry is unable to satisfy domestic demand.

It is virtually impossible to predict whether the negotiating environment will change in improving the terms of the amendment or if another amendment should be done taking

into account public health in a biggest sense, what is sure is that an amendment “can play a net positive role from the standpoint of public health, even if it is not the optimal solution from the perspective on any interested stakeholder”.

It is important to remind that WTO works along the World Intellectual Property Organization and the World Health Organization in patents and public health cases. As delegates you must try to find a balance between generics and patented medicine, in order to benefit the countries that produce the medicine and the nations that desperately need low-cost medicine.

- Questions to be answered:

How can the TRIPS agreement be carried out in developing nations?

Can there be a balance between the needs of the World Intellectual Property Organization and the WHO?

- Glossary:

WHO: World Health Organization

WIPO: World Intellectual Property Organization

TRIPS: Trade related aspects of intellectual property rights

Doha Declaration: declaration “adopted by the WTO Ministerial Conference of 2001 in Doha on November 14, 2001. It reaffirmed flexibility of TRIPS member states in circumventing patent rights for better access to essential medicines”

Uruguay Round: “8th round of multilateral trade negotiations (MTN) conducted within the framework of the General Agreement on Tariffs and Trade (GATT), spanning from 1986-1994 and embracing 123 countries as “contracting parties”. The Round transformed the GATT into the World Trade Organization.”

CONTACT US:

Cristina Andrade, crisacol@yahoo.com

Juan Fernando González, juanfergon@gmail.com