

CPATH ♦ Center for Policy Analysis on Trade and Health

Bringing a Public Health Voice to Trade and Sustainable Development

Why USTR Must Take Action to Represent Public Health on U.S. Trade Advisory Committees: A Brief Timeline June 16, 2006

1948 – General Agreement on Tariffs and Trade (GATT) established to provide the rules for world trade.

1974 – The U.S. Trade Act of 1974 directs U.S. Trade Representative (USTR) and Dept. of Commerce to obtain advice and information from trade advisory committees.

1977 – The U.S. Federal Advisory Committee Act requires the membership of all federal advisory committees to be “fairly balanced in terms of the points of view represented.”

1994 – North American Free Trade Agreement (NAFTA) passed covering Canada, U.S., Mexico. Subsequent **NAFTA trade disputes threaten the environment and tobacco control**. For example, a NAFTA tribunal orders Mexico to pay \$16.7 million compensation to the U.S.-based Metalclad Corp. for denying Metalclad permission to open a hazardous waste dump in Mexico.

1995 – World Trade Organization (WTO) formally established to deal with the rules of trade between nations. Incorporates GATT agreements, and adds new agreements with implications for health, including the General Agreement on Trade in Services (GATS), Trade-Related Aspects of Intellectual Property Rights (TRIPS), and the Agreement on Government Procurement.

1998 – The Pharmaceutical Manufacturers Association of South Africa and 39 multinational pharmaceutical companies file a lawsuit to **prevent the South African government from purchasing generic versions of HIV/AIDS drugs** from other countries, and to enforce the companies’ patents on those drugs under TRIPS.

2001 – The South African medicines suit is withdrawn in response to pressure by international public health groups.

- The WTO meeting in Doha, Qatar, adopts the **Doha Declaration** on the TRIPS Agreement and Public Health: the TRIPS Agreement “does not and should not prevent [WTO] Members from taking measures to protect public health.” Disputes continue nevertheless.

2002 – The Government Accountability Office states: “new stake holders in the trade process such as public health...have...no participation in the formal committee system, even though topics such as intellectual property are of interest to them....”(GAO-02-876 International Trade)

- **Congress passes Trade Promotion Authority Act, requiring the USTR to adhere to the Doha Declaration.**

2004 – CPATH alerts Congress and the public that the U.S.- Australia Free Trade Agreement includes provisions **forbidding reimportation of drugs into the U.S., and limiting options for US government health programs to negotiate drug prices.**

- **Congress demands public health representation in trade negotiations, and greater transparency and accountability in trade policy.**

2005

March: Judy Wilkenfeld of the Campaign for Tobacco Free Kids responds to request for applications to the Agricultural Technical Advisory Committee for Trade (ATAC) on Tobacco, Cotton and Peanuts, with support from public health groups.

May 2: CPATH, 8 other national public health organizations, and tobacco control advocates write to USTR requesting creation of a new public health trade advisory committee, public health representation on the

over-arching Advisory Committee for Trade Policy and Negotiations (ACTPN), and representation on 7 additional area-specific Industry Trade Advisory Committees (ITACs):

ITAC 4. Consumer Goods
ITAC 5. Distribution Services
ITAC 8. Information and Communications Technologies, Services, and Electronic Commerce
ITAC 10. Services and Finance Industries
ITAC 11. Customs Matters and Trade Facilitation
ITAC 15. Intellectual Property Rights (IP)
ITAC 16. Standards and Technical Trade Barriers

May 31: Public health groups meet with Office of the USTR to request representation.

June 1: Assistant USTR Chris Padilla responds in writing that the **USTR is giving careful consideration to the request, and expects to respond more fully soon.**

July: Senators Vitter, Stabenow and McCain, and Reps. Northup and DeLauro introduce **S. 1551 and H.R. 3583, which would compel public health representation on trade advisory committees.**

August 22: Judy Wilkenfeld appointed to the ATAC. Requests appointment of a substitute due to her illness. No immediate response.

September: Shawn Brown of the Generic Pharmaceutical Association is named to ITAC 3 on Chemicals, Pharmaceuticals, Health/Science Products & Services, but not informed on how to finalize his appointment.

September – December: Public health groups repeatedly seek updates from USTR about their request for representation, and are told that plans are underway to open only ITACs 3 and 15 to public health.

December 15: Public health groups file suit to compel appointments to ITACs 4, 5, 8, 10, 11, and 16, following months of inaction.

December 16: USTR publishes Federal Register notice soliciting public health representatives to ITAC 3 on Chemicals, Pharmaceuticals, Health/Science Products & Services, and to ITAC 15 on Intellectual Property Rights.

2006

February 16: Sen. Wyden notes in a hearing with USTR Portman that after almost a year, no public health representatives serve on any advisory committees, and that USTR's office told Shawn Brown to stop calling.

March - At least seven public health representatives have applied to ITACs 3 and 15, with support from AARP, the Public Hospital Pharmacy Coalition, the National Legislative Association on Prescription Drug Prices, the Student Global AIDS Campaign, Families USA, Physicians for Social Responsibility, the West Virginia Pharmaceutical Cost Management Council, and CPATH.

- Eric Lindblom of CTFK appointed to replace Judy Wilkenfeld on the ATAC on Tobacco, 9 months after the initial request; Shawn Brown seated on ITAC 3.

April - **ITAC 3 establishes subcommittee on pharmaceuticals.**

- Numerous pending agreements threaten rules on nursing services, tobacco control, access to medicines. **U.S.-Oman Free Trade Agreement proposal to eliminate Oman's tariffs on tobacco products would likely lead to increased smoking. IP/medicines rules exceed WTO/Doha policies.**

- CPATH makes several attempts to contact USTR for updates on appointments to ITACs 3 and 15.

May - May 10 - Reps. Stark, Rangel and Emanuel write to urge USTR to appoint well-qualified applicants to ITACs 3 and 15 immediately.

- USTR tells CPATH the office has no information on appointments to ITACs 3 and 15. CPATH requests 2-week deadline for USTR to announce a process for making appointments to ITACs 3 and 15. USTR declines.

June 12: Office of the USTR meets with public health groups, declines to provide a timeline or process for making appointments to ITACs 3 and 15 that were publicized in December, 2005.