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JECH/2008/084855 – World Trade Law and a Framework Convention on Alcohol Control [editorial]

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Spurred by the creation of the Framework Convention on Tobacco Control (FCTC), there have been increasing calls for the adoption of a similar agreement for alcohol, usually termed a 'Framework Convention on Alcohol Control' (FCAC). The American Public Health Association and Indian Government have both explicitly called for such a convention, as have editorials and articles in leading medical journals.[1] Furthermore, the World Medical Association has been broadly positive, as has the WHO Commission on Social Determinants of Health.

Why are these influential groups calling for such a convention? On one level it is because alcohol is both a major public health and social welfare problem, accounting for 3.8% of global mortality and 4.6% of the global burden of disease [2] as well as around \$210-665bn of social costs.[3] But beyond this, there is a need to show how an FCAC could help, and leading supporters cite three main arguments. [4, 5]

Firstly, an FCAC could combat the treatment of alcohol as an 'ordinary commodity' in world trade law such as the World Trade Organisation (WTO) agreements, which advocates claim interfere with nation states' ability to reduce harm. An FCAC is unlikely to simply over-rule previous trade agreements; the 'last in time' rule may be commonplace in domestic law but the WTO parties are unlikely to accept this challenge to its authority – indeed, this could lead to the breakdown of the entire world trade law system – and instead the WTO is likely to use its powerful enforcement mechanisms to ensure compliance.[6] Nevertheless, the convention could help defend alcohol policies in trade courts by showing an international community of support for effective policies addressing alcohol-related threats to human life. Furthermore, the confidence and information exchange of an FCAC could help countries avoid rejecting effective policies in the false belief that they are prohibited by the WTO, and may even contribute to a greater WHO role in future trade negotiations.

Secondly, an FCAC would help countries deal with alcohol issues that transcend borders in a globalised world. For example, liberalisation of media products can make it difficult for one country to restrict access to alcohol marketing that occurs on channels based elsewhere. Similarly, the combination of ever-easier travel, high alcohol taxes in some countries and trade liberalisation has increased the potential for both smuggling and legal cross-border purchases of alcohol, undercutting the ability of nation states to fully control their own alcohol policies.[7]

Finally, and perhaps most importantly, an FCAC could counterbalance the forces that threaten to increase global alcohol-related harm [1] – forces that have been described as a 'perfect storm' for developing countries.[8] Policies purely motivated by health are likely to be maintained if challenged at the WTO, but protectionist policies like tariffs will not, leading to demonstrable increases in harm and consumption.[9] Simultaneously, rising incomes make alcohol more affordable to ever-increasing numbers of people. And in a climate where high-income countries as a whole tend to show high but stable consumption, the alcohol industry has been pushing for growth in middle- and low-income countries that often lack effective regulation.[4]

Against this tide, an FCAC could encourage nation states to implement effective alcohol policies, and could also have more indirect impacts such as helping global NGO movements.[4] Indeed, it seems likely that even the public debate about the FCAC could lead to decreases in harm before any policies were implemented.[5] A convention may also prompt more technical assistance to low- and middle-income countries, particularly given that the global alcohol industry has been promoting industry-friendly draft strategies in some African countries.[10]

It therefore seems clear that an FCAC would help reduce the significant health and social burden of alcohol – yet politically it seems that there is simply too little support for it to be

implemented at the present time. It was discussed by the WHO Executive Board in 2005 but while there was some support there was also vociferous opposition.[11] Of itself this should not deter action; if anything it shows the need for health professionals to lend their political support. However, it reflects the wider problem that there is little public enthusiasm for effective policies in many countries, partly due to the dominance of discourses around individual responsibility and partly due to a lack of understanding of 'what works' [12] – explanations that themselves reflect successful campaigns by political opponents.

To achieve an FCAC, then, reducing global alcohol-related harm requires a global movement that persuades sceptical publics that easy policies are rarely effective, and that there may be better balances between the pleasure from alcohol and the harms that result. Moreover, such a global movement may realise in the short-term at least some of the gains that an FCAC could more fully deliver in the long-term: greater international support and technical assistance, improved confidence in the face of trade law, and collaborations between countries.[4] The WHO has already made tentative steps in this direction, with Member States in 2008 calling for the Secretariat to develop a global strategy on alcohol. Yet the outcome of this process in 2009 is far from a foregone conclusion. In this situation, health professionals who are silent risk their opinions being sidelined. Those believing in the need for global action can only ensure this is recognised by mobilising whatever networks they possess to support the WHO process.

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Competing interests

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