

## **Alcoholic beverages in trade agreements: industry lobbying and the public health interest**

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Alcohol is the only substance commonly used for intoxication which is not subject to an international agreement regulating its trade in the interest of public health and welfare. (1) Rather, it is commonly dealt with in international trade as an ordinary item of consumption, and indeed is subject to fewer international regulations, for instance on labelling of ingredients, than other foodstuffs. (2) In recent decades, the production and distribution of alcoholic beverages has become increasingly oligopolised, dominated by a relatively small number of transnational corporations. [3] Although only a small proportion of alcoholic beverage production is transported between continents, production, branding and distribution of the beverages are largely controlled by transnational corporations, and their marketing also increasingly reaches across borders with the growth of the digital economy and social media.

Like any other industry producing commodities for international trade, alcohol industry corporations and their industry associations have a strong interest in the terms of trade in their commodity, and also in the protection of their investment in each country they operate in. They are therefore commonly active in politics and policies affecting their interest not only internationally but also at the national level, although a transnational firm will often work through local affiliates or industry associations. Transnational firms, however, are well placed to use information or experience gained in one country elsewhere, as parallel issues come up in other countries.

Apart from exerting their influence directly on the conditions of importation, sale and promotion in a particular country, in the current era alcohol industry interests also have a strong interest in influencing international agreements governing trade and investment across national borders, which can have strong effects on what happens in a national market. Until fairly recently, however, relatively little attention was paid in public health research to this international aspect of the control of alcohol problems.

Seeking to extend scholarship on this and other aspects of the global governance of alcohol, an international conference of the Kettil Bruun Society for Social and Epidemiological Research on Alcohol (KBS) was held in Melbourne on 30 September - 3 October, 2019. Organised by the Centre for Alcohol Policy Research at La Trobe University and by Melbourne Law School, and sponsored also by the Victorian Health Foundation and the Foundation for Alcohol Research and Education, the conference brought together KBS researchers with relevant study interests, and researchers in public health and international law, to present and discuss papers within the conference topic of Public Health and Global Governance of Alcohol.

The general frame of the meeting was set by the opening paragraph of the invitation to it:

Urgent action is needed by governments to control the marketing, labelling and availability of alcohol given the growing evidence about the burden of disease and premature mortality associated with alcohol consumption. But alcohol needs to be seen not just as a domestic issue, but as *a global health problem*. The sources of the harm (especially in the form of global alcohol industry conduct) cross borders, nearly all countries experience a range of harms from alcohol consumption, and the potential solutions to these problems increasingly require international innovation and solidarity through global governance. In this context, 'global governance' refers to the laws, rules, norms, institutions, processes and practices of state and non-state actors across national borders relating to alcohol.

Forty participants, from 15 countries, presented papers at the conference. As customary at KBS conferences, most of the papers were pre-submitted and available on the conference website, with a designated commentator initiating discussion of the paper by participants. Panel discussion sessions considered

research needs arising out of the meeting, and what could be concluded for policy and advocacy initiatives. Paper authors were encouraged by the meeting organisers to revise their papers and submit them for review and publication in clusters of papers in particular topical areas.

The three papers in this special section of Drug and Alcohol Review constitute one of these clusters, concerned with the interplay between alcohol industry interests and the processes of determining, at both national and international levels, issues involving alcohol products and market interests in trade and investment agreements. Three further papers forthcoming in the *Journal of Studies on Alcohol and Drugs* consider issues around conflict of interest and alcohol industry submissions and involvement in national and international policymaking. [4-6] And eight papers forthcoming in the *European Journal of Risk Regulation* are concerned with issues in the global governance of alcohol in the context of the World Health Organization and other intergovernmental organisations and agreements. [1,2,7-12] Revisions of several other papers presented at the conference are also published or forthcoming in other journals. [13-17]

In the 1990s, the focus for discussions of global governance of international trade would have been primarily on multilateral agreements on trade in commodities under the World Trade Organization (WTO) umbrella. In this context, alcoholic beverages are primarily regarded as just another set of items of consumption, subject to trade rules which sought to create an open international market for commodities, free of governmental restrictions which in this context are conceived as “barriers to trade”. “Public health exceptions” in trade treaties in principle offered some protection for measures which controlled and restricted imports in the interest of public health, but justifying exceptions for alcohol on these grounds has proved difficult and uncertain. [18] Recent decades have seen some fragmentation in the system, with multiple bilateral and regional trade agreements becoming the primary forums for negotiation, and the growth of “investor-state dispute settlement” provisions to protect private investments from state actions. Meanwhile, however, the WTO and its institutions remain an important part of the picture.

The paper by Miller et al. [19] examines submissions to a national government agency by the alcohol industry and relevant business associations about alcohol

issues in negotiations on free trade agreements. The submissions available for study are public documents, so that the paper is examining the public side of industry lobbying, not what goes on behind closed doors. [20] Not all of the issues raised in the submissions would be problematic from a public health perspective: whether European producers are granted a monopoly on the term “Prosecco” does not have an obvious implication for public health. But, as the paper notes, a key priority for the submissions was the reduction or elimination of tariffs, which does have public health implications, as can efforts to harmonise regulations or reduce them. The paper thus makes a case for public health input to trade agreement negotiations.

The paper by Gleeson and O’Brien [21] examines some of the outcomes of negotiations like those which were the subject of the submissions studied by Miller and associates. They find that, though the Trans-Pacific Partnership negotiated in 2015 did not go into effect in its original form, the innovation which it had included, a provision that government requirements for health warnings and other health information on containers of alcoholic beverages could be satisfied by putting the information on an ill-defined “supplementary label”, was subsequently adopted in several other trade agreements. The authors found versions of this provision, clearly preferencing industry over public health interests, in five regional or bilateral trade agreements signed between 2016 and 2019. The authors close with several suggestions for how the adverse public health effects of such provisions might be neutralised or mitigated.

The paper by Janardhan [22] situates the issues for alcohol control in the more general context of building public health exceptions into free trade agreements. The article notes that, although bilateral and regional trade agreements have been pursued as a more flexible alternative to the WTO agreements, jurisprudence interpreting and applying them still falls back on rulings about WTO provisions. To limit on public health grounds the application of trade rules to alcohol, Janardhan suggests that one option is “carveouts” specifically for alcohol, as has been done for tobacco in some agreements and for alcohol in one, the Pacific Island Countries Trade Agreement [23], but that a better solution would be “creating stronger and more legally defensible general health exceptions” in the agreements.

These three papers are a timely contribution concerning issues in the global governance of alcohol, applying in the specific area of alcohol problems considerations which arise also more generally concerning how trade agreements may deter governments from pursuing public health and welfare interests. [24] Trade agreements, and the influence on them of alcohol industry interests, are of course only one topical area in the more general issue of the global governance of alcohol, and we commend also to our readers the other papers from the conference which have been mentioned above.

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