

**Statement to the 53<sup>rd</sup> session of the Directing Council of PAHO on:  
Agenda item: 4.11 Strategy on health related law  
Read by: Alberto Polis (Mexico)**

Thank you, Chair, for the opportunity to address the Directing Council on behalf of Medicus Mundi International and the People's Health Movement.

We welcome the health related-law strategy. The effective use of the law is a core principle of public health. However, we have four concerns.

**1. The draft Strategy is silent with respect to trade law and investment agreements.**

This is surprising in view of the debates over the proposed Free Trade Area of the Americas (FTAA) agreement, the ongoing negotiations of the Trans Pacific Partnership and the provisions of Resolution A59.26 adopted by the 59<sup>th</sup> World Health Assembly (WHA59) which mandates the WHO's Secretariat to provide such advice as needed.

The strategy should provide explicit legal guidance regarding:

- the design of domestic legislation to make use of the flexibilities provided for in the TRIPs agreement;
- the use of cost-effectiveness criteria in setting prices for national procurement and/or pharmaceutical reimbursement schemes;
- the avoidance of Investor State Dispute Settlement (ISDS) provisions which reduce domestic policy space and give transnational corporations greater power to intimidate small countries.

In view of the experience of Mexico, Ecuador and Uruguay with investor state disputes it is particularly surprising that ISDS is not mentioned.

**2. The draft strategy is quite selective in its consideration of the 'social determinants of health'.**

There is no mention of economic inequality as a determinant of poor health nor the role of law in supporting cross portfolio collaboration to reduce economic inequality and ameliorate its impact. There are no references to legislative frameworks to support health impact assessment.

**3. There is no mention of litigation in the draft strategy**

despite the many powerful examples of litigation playing a constructive role in relation to occupational health and safety, car safety, tobacco control and other fields. Consideration should be given to shaping the legal environment so that litigation can play a constructive role in population health.

**4. There is nothing in the draft strategy to promote academic capacity building at the national and sub-regional levels.**

As it stands the Strategy is based on an outreach model, drawing on existing centers of expertise. It does not consider capacity building for research, policy analysis and consultation at the national and sub-regional levels.