

Chapter 1

Introduction

Abstract Good public health generates multiple benefits for a nation's security, stability, economic well-being and relations with other countries. The public health principles of prevention, protection, accountability and equity have broad political, economic and social power. Resilient public health emerges from embedding health in *all* policies. Resilient public health supports strong national health systems, primary health care strategies and effective international and global cooperation on transnational health threats. Resilient public health is simply an integral part of good governance, whatever the political context.

Keywords Public health • Global health diplomacy • Negotiation skills • Collective action • World Health Organization (WHO) • Globalization • Negotiation • Health policy makers

Good public health is also essential for effective sustainable development. Sustainable development depends on the ability of countries, individually and collectively, to maintain and increase the stock of capital—human and social as well as physical and financial. Increasingly, human capital (people's skills, knowledge and productivity) rather than physical capital (natural resources) is the basis of comparative and competitive advantage in the developed world. In many developing countries, however, health hazards and poor sanitary conditions threaten human capital and lead to loss of life, human misery, continued poverty and underdevelopment. Poor health conditions also take a toll on social and financial capital, as social capital is increasingly consumed in addressing the unmet health needs of the poor, and as the productive forces of society that might otherwise have been employed to create financial well-being are sapped by ill health.

Globalization has intensified the public health challenges that countries face, while also constraining their ability to deal with them. Globalization has exposed countries to public health risks that were previously nonexistent or latent. It has introduced or intensified the cross-border transmission of diseases such as HIV/

AIDS, tuberculosis and malaria. It has increased the cross-border transmission of risk factors such as pollution, potentially unsafe foods and environmental phenomena such as climate change. It has also strengthened trade-, marketing- and travel-related cross-border influences on health behavior, especially the production and consumption of unhealthy goods and services (such as tobacco).

Globalization's impact on public health has led to the increased prominence of health on the international agenda (Drager and Sunderland 2007). Health is now competing successfully with other major issues for attention on the global stage, and indeed has risen to the top of many policy-makers' agendas. Consider the following text from the 2007 Oslo Ministerial Declaration on Global Health:

In today's era of globalization and interdependence there is an urgent need to broaden the scope of foreign policy. Together, we face a number of pressing challenges that require concerted responses and collaborative efforts. We must encourage new ideas, seek and develop new partnerships and mechanisms, and create new paradigms of cooperation. We believe that health is one of the most important, yet still broadly neglected, long-term foreign policy issues of our time. Life and health are our most precious assets. There is a growing awareness that investment in health is fundamental to economic growth and development. It is generally acknowledged that threats to health may compromise a country's stability and security. We believe that health as a foreign policy issue needs a stronger strategic focus on the international agenda. We have therefore agreed to make impact on health a point of departure and a defining lens that each of our countries will use to examine key elements of foreign policy and development strategies, and to engage in a dialogue on how to deal with policy options from this perspective (Ministers of Foreign Affairs 2007).

This Declaration was issued and signed by the Ministers of Foreign Affairs of Brazil, France, Indonesia, Norway, Senegal, South Africa and Thailand. Together with the Doha Declaration on TRIPS and Public Health, this document represents a watershed moment for health policy-makers worldwide. Clearly, world leaders now recognize that trade needs to be managed in ways that are sensitive to health promotion, that nations must be able to deal with the health effects of global trade and, perhaps most importantly, that health is a foreign policy priority and not just an item for countries' domestic agendas. In part because of concerns such as the HIV/AIDS pandemic, Severe Acute Respiratory Syndrome (SARS), climate change and bioterrorism, health is no longer considered just "low politics"—an issue of human dignity—but rather a security, trade, economic and sustainable development issue in the realm of "high politics" (Owen 2005; Fidler 2007).

Actors in other sectors—such as trade and environment—are increasingly recognizing the importance of health to the achievement of their own development and economic goals as well. For example, former United Nations (UN) Secretary General Kofi Annan emphasized the importance of health to the attainment of the UN's Millennium Development Goals (MDGs).¹ And Bill Gates, one of the world's wealthiest individuals, and his wife Melinda created a foundation that

¹ In his 2001 speech calling for the establishment of the Global Fund for AIDS, Tuberculosis and Malaria, the UN Secretary General noted that "disease, like war, is not only a product of underdevelopment. It is also one of the biggest obstacles preventing our societies from developing as they should" (Annan 2001).

seeks specifically to improve health and health outcomes, with an eye toward positively impacting the economies of developing and least-developed countries. In short, the broader donor community has begun to recognize the inextricable link between health and economic development.²

The growing importance of health as a global policy issue is also reflected in the expanding scope and impacts of the activities of health-related multilateral institutions. In particular, the World Health Organization (WHO) has leveraged health's increasing political significance to achieve historic global health agreements—for example, the Framework Convention on Tobacco Control (FCTC, 2003) and the International Health Regulations (2005). Public health officials are playing an increasingly important role in influencing the course of events. They are shaping and managing processes of global change by devising new ways forward in implementing the MDGs; crafting global strategies on public health, innovation and intellectual property; formulating global initiatives on diet, nutrition and chronic disease prevention; and working toward global consensus on sharing influenza virus samples and the benefits that research on such samples generates.

At this inflection point in the early 21st century, the public health community has the opportunity and the responsibility to ensure that the health of populations and individuals becomes and remains a key priority of governments as they respond to the challenges of interdependence. Foreign policy and diplomacy can be “health multipliers” when solutions to international problems acknowledge and address direct and indirect threats to human health.

Translating this heightened attention on health into collective action is more problematic, however, as governments' ability to deal with cross-border public health issues is limited in several ways. First, states' capacity to influence health determinants and outcomes cannot be assured through domestic action alone. Health problems and the keys to their resolution now cut across national boundaries and often need international global solutions (Chigas et al. 2007). Second, the traditional biomedical approach to health, emphasizing disease-focused research and policy, is no longer sufficient. Gone are the days when a health crisis was the purview of a medical doctor or a health minister and his or her team. As we emphasize in an earlier article (Chigas et al. 2007: 326): “[H]ealth problems are no longer ‘only’ health problems and are no longer the domain of ‘only’ health officials. The emerging health crises tend to be cross-sectoral crises that spill over into or are spilled over from [other] areas.” Trade, environment, economic and social policies can undermine attempts to deal with health needs, and efforts to address health needs can have negative impacts in other sectors. Tourism, for example, declined significantly after China, the WHO and national governments

² The Foundation's mission is “to help all people lead healthy, productive lives. In developing countries, it focuses on improving people's health and giving them the chance to lift themselves out of hunger and extreme poverty. In the United States, it seeks to ensure that all people—especially those with the fewest resources—have access to the opportunities they need to succeed in school and life. Bill and Melinda Gates Foundation, Factsheet, <http://www.gatesfoundation.org/about/Pages/foundation-fact-sheet.aspx> (accessed April 19, 2010).

issued alerts about SARS (Ng 2003; McKercher and Chon 2004). Third, public health policy making is no longer solely within the purview of government. In order to develop and implement effective policy responses to health risks, health professionals must deal with an increasingly complex web of state and non-state actors with whom they have limited influence (Dodgson et al. 2002), but who also provide opportunities for increased resources and action on health policy. These actors are often organized trans-nationally, and have become increasingly important to agenda setting, knowledge development and dissemination, and monitoring of the health effects of non-health policies.

In short, health policy-making is now a global enterprise. There is now a complex set of goals and institutions for addressing health issues at the global level, and such issues are increasingly dealt with through foreign policy and diplomatic channels. It is unclear whether the ongoing development of global health institutions can keep pace with the spread of global threats or the intertwining of policy areas and actors. What is clear, however, is that health negotiations will be more frequent, more complex and more challenging to address in a globalizing world.

1.1 Challenges for Developing Countries

Currently many countries, particularly in the developing world, are “rule-takers” and not “rule-makers” in the international system. Health policy-makers find themselves even more disadvantaged. Health policy-makers and practitioners, particularly in developing countries, are not normally at the center of international trade or development debates. They often are not included in negotiations at the national level when decision-makers are crafting their development strategies. Even within the WHO, policy-makers have had to fight to bring these issues to the attention of the more powerful member states. The WHO’s Resolution WHA59.26, adopted in May 2006, for example, was a critically important step in empowering the organization to focus more actively on providing the poorest of its members with the support to negotiate effectively responses to their public health needs in an era dominated by international trade concerns:

The Fifty-ninth World Health Assembly, having considered the report on international trade and health...URGES Member States: (1) to *promote multi-stakeholder dialogue* at the national level to consider the interplay between international trade and health; ...REQUESTS the Director-General...(2) to *respond to Members States’ requests for support of their efforts to build the capacity to understand the implications of international trade and trade agreements for health and to address relevant issues* through policies and legislation that take advantage of the potential opportunities, and address the potential challenges, that trade and trade agreements may have for health...” (WHO 2006a) (emphasis added).

The Resolution recognized the tremendous challenges all health policy makers face in managing the health and trade relationship and the health and foreign policy interface, as well as their need simultaneously to work internally (in their own countries) and trans-nationally in a coordinated fashion. The challenge to

developing country health policy-makers is made more difficult by the fact that not all countries have equal skills and resources for participating in the complex negotiation dynamics of the new global health diplomacy.

For health policy-makers, it is not just a matter of increasing knowledge and analytic capacity, although this is important. As we have argued elsewhere, “Achieving more health-friendly negotiated outcomes is not simply a question of enhancing technical capacity to develop, monitor and evaluate health programs, increasing technical knowledge of trade rules and other areas that affect health, or enhancing research on the impacts of globalization on health. While capacity-building in these areas is essential, it is insufficient” (Chigas et al. 2007: 328). Given the new realities described above, health officials’ ability to improve health outcomes is directly related to their capacity to participate effectively in negotiations and consensus-building processes in a range of policy areas and diplomatic channels. These processes take place at both the domestic and international levels and, increasingly, within forums that are not necessarily health-related but that have significant impact on health policy. In these forums, understaffed and under-resourced health ministry officials must promote and seek collective action on policy developments that are sensitive to health. The forums might include, for example, negotiations on intellectual property issues at the WTO, on sovereignty issues relating to the Convention on Biological Diversity, or on agricultural provisions within discussions of biofuels, possibly within the context of climate change policy. What happens in these negotiations has deep impacts on global health policy, but health policy-makers either find themselves absent from these forums or not fully empowered to participate and contribute fully. Health policy practitioners from developing countries find themselves doubly marginalized—not only are they least likely to participate in these discussions, they are also least likely to have the capacity to do so meaningfully.

While a variety of capacity deficits are worthy of attention, our focus in this guide is on the negotiating capacity of developing country health policy-makers. Negotiations in this new era of global health diplomacy are inherently complex. They require much preparation and demand effective and sustained management. In achieving the health outcomes they seek, health decision makers—particularly from developing countries—often face the following three types of negotiation challenges:³

1. **Negotiating “up”** to shape rules and actions at the global level. Ministries of health, which have traditionally focused on protecting their populations from outside health risks, must now proactively seek to influence international and global rules and actions that have spillover effects in their countries. They must understand and navigate not only global health negotiations within the framework of the WHO, but also non-health negotiations in global and regional trade, environment, foreign policy and security forums, on issues as diverse as intellectual property protection, foreign investment and trade.

³ These three key elements were first articulated in Chigas et al. 2007.

2. **Negotiating “across”** to achieve national policy coherence. Health professionals must negotiate more effectively to integrate health issues and goals with their own countries’ trade, development and investment policies. As the health of national populations is increasingly affected by rules and institutions in which non-health ministries and agencies take the lead, ministries of health must engage in national negotiations to shape their countries’ strategies. Health professionals need to identify and influence the behavior of people in other sectors who have different worldviews, different priorities and different “cultures” and who frequently have more power and access to international rule-making forums than do health officials. They cannot simply complain about trade (Fidler 2007). They need to offer constructive solutions to make health and trade, and other sectors, work more productively together for the good of the country.
3. **Negotiating “out”** to build coalitions with diverse actors. With the growth in the number and influence of non-state actors, health professionals must negotiate and build coalitions with an increasingly broad set of actors in order to achieve health goals. The array of actors and processes is diverse and messy, ranging from local and international nongovernmental organizations (NGOs) and multinational companies to academics, scientists and professional organizations. Pharmaceutical manufacturers, health and development advocacy and service organizations, and private health management and insurance companies can all be key allies or obstacles to progress on developing country health goals. At the same time, the sheer diversity of non-state actors with an interest in health may actually make it more difficult to take action. Scientists and technical experts may align with advocates for different viewpoints and form rival epistemic communities that do not share beliefs about cause and effect or value systems that would inform them about whether and how to take action.

At all these levels, health policy-makers are being required to engage in multi-stakeholder negotiations that include the general public, ministries of trade and planning, businesses with global interests, donors and international organizations beyond the WHO. They must also exercise the skills of global health diplomacy and, perhaps most importantly, learn to more effectively shape and manage the global policy environment for health.

1.2 The Importance of Negotiation Skills

Given the global nature and breadth of the crises currently facing countries, global health diplomacy has never been more important than it is today. It is essential that health practitioners and policy-makers acquire the negotiating skills necessary to craft agreements that contribute to good public health outcomes.

How can developing countries participate effectively in negotiating such agreements? With small delegations, limited research capacity, few resources and big power differentials with many of the developed countries, the challenge is daunting. Some resources are available to developing countries—for example, information-sharing and support from NGOs such as the Third World Network and the South Centre and multilateral agencies like the WHO, among others. The WHO, in particular, through its Ethics, Trade, Human Rights and Health Law Program (ETH), supports developing countries by fostering effective global and intergovernmental action for health. The ETH provides guidance to member states and policy-makers on how to integrate ethics, human rights, social determinants and equity into policy. Through research and knowledge sharing, the ETH seeks to identify major global changes that are likely to affect public health and works with other WHO departments and partners to design strategies and possible collective action to improve public health outcomes. The ETH also provides training in health diplomacy, reinforcing the skills of policy-makers from member states in negotiation and relationship management.⁴

This last activity is a critical piece in the capacity-building agenda of the WHO and is the driving force behind this guide. The authors of this guide are motivated by the desire to better prepare health policy-makers—especially those in the developing world—for the evolving realities of global health diplomacy. As new rules, markets, actors and tools help to create a wave of new global health diplomacy, a new generation of health policy-makers must be able to facilitate, support and craft the necessary diplomacy to ensure that globalization is harnessed to deliver better health for those currently left behind in the development process. Within this context, five dimensions of negotiation are of particular importance in enhancing developing countries' leverage:

1. **Issue framing.** The pre-negotiation phase is critical for developing countries. If developing countries can get in early to frame the definition of the problem and the terms of collective debate, they can have enormous influence on the subsequent negotiation and its outcome. This is also a phase in which more “powerful” countries may not fully have formulated their views on an issue; developing countries may thus have an opportunity to influence their perspectives on the problem. Finally, this phase involves the first interaction between science and policy-making and the beginning of a process of making science “policy relevant.”
2. **Managing the negotiation process.** When negotiating global public health issues, the stakes are usually high, and time is of the essence. Reaching agreement on a joint approach to solving the problem can be complicated by conflicting understandings of the facts, linkages among multiple issues and the diverse interests of the parties involved, and, of course, power imbalances among states, as well as among ministries. To deal with these challenges, health

⁴ See <http://www.who.int/eth/en/> (accessed April 19, 2010) for more information on WHO's ETH department.

policy-makers need effective strategies for both *joint fact-finding* (reaching a shared understanding of the facts) and developing a *mutual gains approach* to negotiation. The latter includes effective preparation on interests and alternatives to a negotiated agreement; joint value creation through brainstorming options; fairly distributing value using criteria; and creating effective processes for follow-through and implementation. These strategies can dramatically enhance the credibility and influence of a weak delegation.

3. **Coalition-building.** Given the challenges confronting any individual country or actor when involved in complex global public health negotiations, coalition-building strategies help policy-makers to more effectively deal with the power gaps between developed and developing countries and to advance their health agendas.
4. **Meeting implementation challenges.** Anticipating and securing the resources necessary to implement an agreement is critical to the success of an agreement. This step must begin during the negotiation process and continue throughout the life of the agreement.
5. **Managing institutional change.** Global public health negotiations are rarely, if ever, “one-off” events, but rather recur over time with a kaleidoscope of actors. By enhancing the capacity of individual policy-makers in the developing world to learn and apply lessons from negotiations, they can strengthen the institutional capacity of their governments and organizations to confront the health challenges of the future. With time, institutions have the ability to improve, their culture of negotiation, and the individuals within the institutions must lead that evolution.

These five steps do not constitute a “recipe” for effective negotiation on health issues of global concern, nor a comprehensive approach to global public health negotiations. A number of other important dimensions of international negotiation, including differences in culture and worldview, complicate both communication and the processes of developing mutually beneficial solutions with people from other countries and in other sectors. While recognizing and referring, where relevant, to these complicating factors, the authors believe these five dimensions are key points of leverage for health policy makers in preparing for and influencing a range of global health negotiations.

1.3 Organization of This Guide

The analytic frameworks, tools and general approaches presented in this guide are intended to serve as a broad guide to preparation for and participation in complex, multi-party, multi-sectoral international negotiations in a number of different contexts, to be adapted to the context in which any particular negotiation is taking place. Part I focuses on the fundamental negotiation leverage points, offering

advice and illustrative examples to assist the reader in putting the skills and tools immediately to work. Part II presents three case studies commissioned for this book of successful achievement of developing country objectives in global negotiations that illustrate the effective application of the negotiation principles developed in Part I. These cases are not meant to be comprehensive overviews of the specific topic. They are snapshots of each negotiation, written to capture particularly salient points in the negotiation process and to underscore how effective use of the negotiation tools can advance the health goals of policy-makers. “Analyzing a Complex Multilateral Negotiation: The TRIPS Public Health Declaration” describes how *Issue Framing*, the first of the negotiation leverage points outlined in Part I, was critical to getting public health on the agenda in a forum dedicated to trade. In this case, the Africa Group also succeeded in maintaining the unity of its coalition to balance the greater negotiating power of developed countries and trade-related interests within the World Trade Organization. Case II, “Negotiating Access to HIV/AIDS Medicines: A Study of the Strategies Adopted by Brazil” provides an excellent example of ‘negotiating out’, describing how health officials built coalitions across a wide range of actors to achieve optimum results for AIDS patients, setting a worldwide precedent for negotiating with the pharmaceutical industry. The third case, “Keeping Your Head Above Water in Climate Change Negotiations: Lessons from Island Nations” recounts the experience of small island nations in negotiations on climate change. We chose to include this case, as the experience of developing countries in promoting their priorities in the climate change arena offers valuable lessons for global public health negotiations, especially on influencing global forums where significant power asymmetries exist. This case highlights the nature and importance of effective preparation in negotiation and illustrates how, even in situations of a perceived power imbalance, the “less powerful” party can significantly impact the results of the negotiation.

Finally, in the appendices, the reader will find several practical tools to assist in application of the elements of negotiation presented in Parts I and II, including a glossary of key negotiation vocabulary.