
Legal justifications to fulfil public health obligations

El Poder del Consumidor A.C.



Outline

- Internal obligations:
 - The right to adequate food
 - The right to health
 - The right to a healthy environment
- Is there any violation to international trade law?
 - Public health goal
 - Necessary measures
 - Limited natural resources
 - Precautionary principle in phytosanitary measures measures

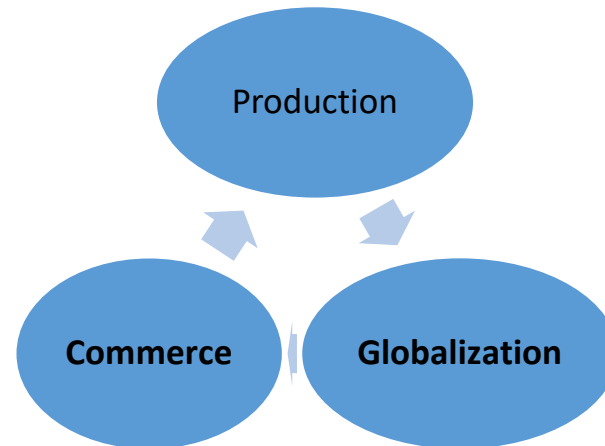
The relation between right to food and right to health

- “The right to health not only encompasses determinants of health such as the sufficient supply of healthy food, but its exercise is inextricably linked to the implementation of the right to food. **“Access to healthy and nutritious food as a determining factor of the right to health is related to the concepts of food and nutritional security.”**”
- Prevention.
- Regulation of health risks: precautionary principle and preventive principle.



The right to adequate food.

- “The right to food cannot be limited to the right not to go hungry. It must also include the right to an adequate diet that provides all the nutritional elements that a person needs to lead a healthy and active life, and the means to access them.”
- Constitutional right



- A/HRC/19/59, Special rapporteur, Olivier De Schutter, december 26, 2011

The right to a healthy environment.

- Precautionary and preventive principles
- Precautionary: when empirical experience reflects that an activity is risky for the environment and measures must be adopted to avoid or mitigate the risk, even when there is no certainty of the damage.
- Prevention: The State must use all means at their disposal in order to prevent activities carried out under their jurisdiction from causing significant damage to the environment, whether within or outside the territory of the State of origin.



Violations to trade law...really?

- Legitimate objective (GATT Article XX): allowing States to take measures to protect public morals, human life or health, and public order
- Necessary measures (Article XX(b) of the GATT)
- Exhaustible natural resources (Article XX(g) of the GATT)
- Precautionary principle in phytosanitary measures (article 9.6.10 of the T-MEC and article 5.6 of the SPS Agreement)

