

THE REGULATION OF TRADE AND PUBLIC HEALTH IN ASIA-PACIFIC: A CASE FOR “INTER-REGIME REGULATORY CO-OPETITION”

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ABSTRACT

Traditional medicine is usually characterized by a holistic approach to health that attempts to integrate body, mind, and spirit so as to achieve harmony and well-being. If the role of law is compared to one of “social medicine”, then enhancing the harmony between the many laws and notably between the different international legal regimes governing health at the global level will also contribute to the well-being of the subjects they were designed to regulate. Enhancing their harmony can be achieved by a so-called “inter-regime regulatory co-opetition”, which is deemed to be of great relevance in view of the risks associated with the spread of pandemics based on increased global travel and migratory flows. It also assumes greater relevance in the worldwide trend of mutual convergence between traditional and conventional or Oriental and Western models of medicine. Furthermore, convergence also takes place between different industries, such as health, food, and cosmetic industries, which have already led to the development of many novel products known as convergence products, like cosmeceuticals or nutraceuticals. These convergence products cause serious problems

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in their exact legal classification and categorization in terms of the levels of fragmentation between existing legal regimes. In fact, in many areas, the inadequate coordination between the regimes of international trade, intellectual property, competition law, health law, and private business law is already causing legal problems and disputes. This paper argues that several problems related to the establishment of a global health governance framework can be avoided by way of a more holistic approach of inter-regime regulatory cooperation, i.e. an approach which simultaneously combines regulatory cooperation and competition between processes led by governmental and non-governmental actors at both the national and international level, and additionally, between different international legal regimes as well.

KEYWORDS: *Asia-Pacific, public health, regulatory convergence, regulatory cooperation, traditional medicine, WTO*