

GATS: The End of Democracy?

Richard Sanders investigates the forces behind its unseemly haste.

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(Some paragraphs omitted from the published version for space reasons have been re-included in [square brackets])

"The liberty of democracy is not safe if the people tolerate the growth of private power to a point where it becomes stronger than that of the state itself. That, in essence, is fascism – ownership of government by an individual, by a group, or any controlling private power."

Franklin D. Roosevelt's warning of the fascist threat is as urgent today as it was in the 1930s, particularly since the public is blissfully unaware of the stealthy corporate assault on democracy occurring right now. We are witnessing the economic colonisation of the world by corporate interests. This is achieved through 'free' trade agreements designed to run the world on economic rationalist lines.

Since negotiations began earlier this year, anti-globalisation activists have been warning that the General Agreement on Trade in Services (GATS) poses a major threat to democracy and that proposed changes being negotiated will lead inevitably to the demise of most public services including health and education.

Little notice has been taken of these dire warnings, probably because they sound so outrageous. After all, what government in its right mind would voluntarily sign away public services and allow democracy to be severely eroded?

Yet close scrutiny of the GATS text and related World Trade Organisation (WTO) documents reveals that there is a great deal of substance to these warnings. For example, WTO head Mike Moore and Trade Minister Mark Vaile want the public to believe that *all services provided by government are excluded* from the scope of the GATS. As we shall see, WTO documentary evidence proves that most government services including health and education will in fact be subject to the GATS in spite of the assurances from Moore and Vaile.

The GATS is one of seventeen international trade agreements administered by the WTO. These agreements are so complex and full of jargon that possibly only their architects fully comprehend their detail and more importantly, their implications for society. Most people, including our government ministers and elected representatives, have little understanding of the secretive world where an unelected elite shape the destiny of humanity.

The first step to understanding the GATS is to understand the forces driving it and the other WTO trade liberalization agreements. On the face of it, the WTO consists of representatives of 141 governments sitting around the table negotiating international trade agreements that are mutually beneficial and in the public interest.

However, the European Commission's website on Services alerts us that the GATS is "not just something that exists between governments, but it is first and foremost an instrument for the benefit of business."

Few realise that the GATS and even the WTO itself are part of a global corporate power grab. As David Hartridge, the former Director of the WTO Services Division explains: "Without the enormous pressure generated by the American financial services sector, particularly companies like American Express and Citicorp, there would have been no services agreement and therefore perhaps no Uruguay Round and no WTO."

Few realise that the agendas for these negotiations are set behind the scenes in private meetings involving a small but very powerful elite who are avid proponents and beneficiaries of the free trade ideology.

Let us for a moment observe one such meeting that played a key role in setting the GATS agenda. Our window is <http://www.globalservicesnetwork.com/Ditchley%20Park.htm>. It is April 26, 1998, and we are at Ditchley Park, an English country estate near Oxford.

We are looking into a large room with bookshelves to the ceiling and valuable paintings on the walls. Forty-two people are seated around an enormous oval table. [The chairman of the meeting, Jaime Serra, a former Mexican Trade Minister, was responsible for drafting the original GATS text.]

From a press release lying on the table entitled "Trade Experts and Policymakers Gather at Ditchley Park to Determine Future WTO Role in Services" we learn they are meeting "to chart a new direction for liberalizing global trade in services". It tells us that this select group of people includes corporate executives, public officials, academics and advisers from the OECD, UNCTAD, and the WTO. This is clearly a private and unofficial meeting as we read they are all "acting in their personal capacity".

[The company executives there that day also launched the Global Services Network, a powerful corporate lobby to "take the lead in building support for liberalization of world services trade in the next big round for services negotiations to begin in 2000". They emphasised that "greater attention must be given to the importance of enlisting regulators in furthering liberalization."]

This raises the question of how we, the public, can place trust in our unelected and unaccountable public officials when they are being enlisted by corporate interests to work unofficially behind the scenes [to promote the corporate agenda of tying the hands of government so it can no longer do its job of protecting the public interest?]

Corporations see government regulation and the provision of public services as barriers to trade in services. The corporate agenda to remove these is achieved through the process of 'progressive liberalisation' that lies at the heart of all WTO agreements. It involves regular rounds of negotiation where governments progressively negotiate away their regulatory authority with no back-tracking allowed between rounds. The WTO calls this 'disciplining governments'. Like the ratchets on a

pair of handcuffs, the ties on the hands of government are progressively tightened. This is a subtle but very real corporate assault on democracy as public control over the economy, society and the environment is progressively removed.

Although the WTO denies it, the inevitable ultimate outcome of 'progressive liberalisation' is the commercialisation, privatisation and deregulation of the world's domestic economies. Essentially, it is like imposing National Competition Policy at the global level.

The specific aim of the GATS is to remove barriers to trade in services. Because most trade in services occurs within a country, rather than targeting external barriers such as tariffs, it targets all internal domestic laws, regulations and policies that may possibly discriminate against foreign service providers or even limit their profitability.

At the heart of the GATS lies the noble sounding concept of non-discrimination. Its aim is to eliminate existing (and prevent new) government measures which either discriminate between the services or service suppliers of other member countries (Most-Favoured-Nation Treatment) or between its own and those of other member countries (National Treatment).

The GATS rules place enforceable restrictions (disciplines) on what government measures are allowed. Government measures are defined broadly as any "law, regulation, rule, procedure, decision, administrative action, or any other form" of measure and also include subsidies and grants. It also covers every possible means (mode of supply) by which an individual or firm based in one country may provide a service to a party in another member country.

The GATS document consists of two sets of rules. The first, called General Obligations and Disciplines, contains 17 Articles or sets of rules that already apply to all government measures. Those requiring the closest scrutiny are Article 6 (Domestic Regulation), Article 15 (Subsidies) and Article 13 (Government Procurement).

The second set of rules, called Specific Commitments, has three Articles that apply only to government measures in those sectors that a government has committed to in negotiations. Article 16 (Market Access) requires the closest scrutiny. The negotiating process pressures governments to increase the number of service sectors they will expose to these disciplines in each successive round.

The GATS contains a 'built in agenda' to renegotiate the agreement every five years. [The first round was agreed to in January 1995 and the second round started in January 2000.] Serious negotiations started on 19th March this year and it is the implications of proposals currently on the negotiating table that are the major cause for concern.

[Before considering these implications, it is worth noting that the implications of the first round still remain obscure and many countries are seeking clarification before moving on. This uncertainty arises because these texts are wide open to interpretation and there will be no certainty until there is a dispute and a WTO tribunal consisting of three trade officials, wedded to the free trade ideology, adjudicate on the matter.]

Because of this, and the sheer complexity of the agreements, governments are often unsure of what exactly they are signing up to. Yet the WTO claims that certainty is a benefit of GATS.]

The most serious concern about the GATS in current negotiations is the extent to which WTO disciplines will apply to the provision and funding of public services such as health and education. Based on the GATS text and WTO documents there are very strong grounds for concern.

Echoing the WTO, and apparently seeking to allay growing public concern that public services will be subjected to GATS disciplines, [Australian Trade Minister, Mark] Vaile recently claimed: "Services supplied in the exercise of government authority, such as public education, are not covered by the GATS." However, according to Article 1:3(c) of the GATS, "a service supplied in the exercise of governmental authority" means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers." Very few public services would appear to be excluded by this definition.

According to a 23 page Government of British Columbia [discussion paper](#) devoted solely to interpreting this definition, "only a small sub-set of services - those that are provided by completely non-commercial, absolute monopolies - appear to be protected by this exclusion." In other words, most public services would be subject to GATS disciplines.

Even the minutes of a WTO Council for Trade in Services meeting support this view:

"Members drew attention to the variety of policy objectives governing the provision of health and social services, including basic welfare and equity considerations. Such considerations had led to a very substantial degree of government involvement, both as a direct provider of such services and as a regulator. However, this did not mean that the whole sector was outside the remit of the GATS; the exceptions provided in Article I:3 of the Agreement needed to be interpreted narrowly."

[There is also a legal precedent likely to be accepted by WTO dispute panels that supports an even narrower interpretation. The European Court of Justice has ruled that a virtually identical clause in the European Treaty did not exclude Italy's non-profit job placement service provided as a pure public monopoly with no private sector competition.]

If the GATS disciplines do apply to most public services, then this has profound potential implications for the future of all publicly funded services including health, education and the Australian Broadcasting Commission, to name a few. The reason is that public funding is seen as a subsidy under these agreements and GATS will treat subsidies as unfair competition or barriers to entry for foreign services and suppliers.

National Treatment commitments already mean a country has to give out subsidies on a non-discriminatory basis. Once Article 16 disciplines on subsidies are developed and agreed to, governments will not be able to discriminate between government and

foreign service providers in their funding decisions. This will massively reduce, and could end, public sector funding.

As the WTO Secretariat has said, an obligation to give out subsidies on an equal basis to foreign and domestic suppliers is a powerful inducement to get rid of government subsidies altogether.

[Here is the WTO's public relations response to this concern: "The GATS has no implications for the funding or subsidy of services provided in the exercise of governmental authority. Negotiations are under way on subsidies "with a view to developing the necessary multilateral disciplines" to avoid distortive effects on trade. Whatever disciplines are developed will not apply to governmental services, because these are simply outside the scope of the GATS."]

Because the WTO can't deny that disciplines on subsidies are already included in the GATS, or the impact of these disciplines on public services, it dismisses these concerns by saying public services are excluded under Article I:3. Yet as we have just seen, very few services are likely to be excluded on these grounds.

Current negotiations on Domestic Regulation (Article 6) could impose new and severe constraints on the ability of governments to maintain or create environmental, health, consumer protection and other public interest standards. Proposals include a 'necessity test' whereby governments would bear the burden of proof in demonstrating that any of their countries laws and regulations are the 'least trade restrictive,' regardless of financial, social, technological or other considerations.

Market Access (Article 16) commitments are the basis under which countries open up their markets to foreign service suppliers. Governments have a single opportunity to list their market access restrictions when they first sign up to the GATS. All signatories to the first round have a Schedule of restrictions. These restrictions are the main bargaining chips traded off in negotiations. In the current negotiating round, the pressure will be on for each government to reduce the number and scope of their restrictions. *[The thrust of negotiations will be a push to expand the number and scope of specific commitments in national schedules, to remove existing limitations within already committed sectors, and to bind more new and existing commitments so that future governments cannot reverse them.]*

It wasn't protestors who scuttled the Millennium Round of the WTO in Seattle in 1999. It was the discontent among less developed countries over bullying and the undemocratic negotiating processes of the WTO. In spite of this major setback, a year ago at the GATS 2000 negotiations in Geneva, the president of the U.S. Coalition of Service Industries, said the U.S. services industry lobby was very satisfied with the progress made in the GATS: "Considering Seattle, we have every reason to be pleased. Where we are now is effectively where we would have been if the Seattle meeting had succeeded."

[The GATS is now the spearhead of a highly organised corporate campaign to systematically sweep away government regulations that restrict corporate activities and stand in the way of corporate profits. It will effectively transfer the responsibility for balancing the public interest with commercial considerations from elected

government representatives to appointed tribunals or WTO panels. It will place foreign commercial interests above the public interest. It will intrude into many domestic policy areas including environment, culture, natural resources, health care, education and social services.]

There is one more thing we need to know - the theoretical basis for 'free' trade is a sham. The theory of Comparative Advantage, formulated in 1817 by David Ricardo, only applies under conditions where capital is not mobile between nations as was the case in 1817. Under modern conditions of high capital mobility there is no such thing as comparative advantage - only absolute advantage and that means strong economic players win and the weak lose. In the global scheme of things, Australia is a weak player.

Why then, is this subtle coup on democracy being allowed to happen? Indeed, why is government actively facilitating it?

The WTO Training Package provides a powerful explanation: "there are various economic and political advantages associated with liberalisation commitments under the GATS ... [including] ... overcoming domestic resistance to change." In other words, it provides an excuse for governments wanting to impose economic rationalist policies against the democratic wishes of the public. But why would they want to impose such policies?

The simple answer is that they have been conned by a long running corporate propaganda campaign that stretches back half a century and arose as a reaction against the prescriptions of Keynes. The message endlessly repeated through the '60s, '70s and '80s was that the private sector is efficient while the public sector is inefficient. In reality the efficiencies of both sectors are, on average, similar. However, the public sector can provide a service 10% more cheaply because a profit dividend does not need to be extracted.

The more recent propaganda is that repetitive mantra: "Globalisation is Inevitable". Of course, in the sense that it means running the world on economic rationalist lines, globalisation is not inevitable as The Economist admitted in its editorial in September last year. This clever use of language serves two political purposes. First, if decision makers believe this mantra, they will develop policies that accord with what they see as 'inevitable' and turn this 'inevitability' into a self-fulfilling prophecy. Secondly, it creates a mood of resigned acceptance on the part of the population being impacted on by the structural changes flowing from economic liberalisation. This also assists in allowing this 'inevitability' to become a self-fulfilling prophecy.

The propaganda tells us economic liberalisation increases economic growth. While this is true, what we are not told is that GDP does not subtract the costs of economic growth from the benefits. A new measure that does this, called a Genuine Progress Indicator (GPI), shows that for most countries the costs of growth equal, or are greater, than the benefits. According to the UN, the gap between rich and poor has continued to grow over the past fifty years and that the rate has been greatest over the thirty-year history of economic liberalisation. The reality is that economic growth is taking us slowly backwards.

The propaganda tells us we'll all be better off. The reality is that business privatises benefits and socialises costs where possible. Consequently, the benefits of economic growth flow mainly into private hands while the social, environmental and economic costs (such as bailing out HHH) are borne by society. Trade and investment liberalisation serve the interests of the wealthy at the expense of society in general. Remember, the words 'private' and 'privatise' derive from the Latin 'privare' meaning 'to deprive'.

Finally, there are the bureaucrats who negotiate these agreements and advise our ministers and as mentioned earlier, we must ask whose interests they serve. The myopia of the bureaucracy is illustrated in the following response from a Treasury official when a Parliamentary Inquiry was being held into the Multilateral Agreement on Investment (MAI), a very similar agreement to the GATS.

The official was asked: "So Treasury has made no attempt to quantify the potential benefits or cost to Australia?"

Treasury replied: "As economists, Treasury would argue that trade and investment liberalisation is good for economic growth, both domestically and worldwide."

This reply based on faith and without a fact in sight had the Committee members shaking their heads in disbelief. This probably marked the turning point in the demise of the MAI. Similarly, if the facts about the GATS, rather than the baseless assertions and half-truths, are allowed to enter the public debate, it is almost certain that the public will rally behind democracy and the GATS will be scuttled.

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