

**SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE
REFERENCES COMMITTEE**

**INQUIRY INTO GENERAL AGREEMENT ON TRADE IN
SERVICES AND AUSTRALIA/US FREE TRADE AGREEMENT**

SUBMISSION

Submission No: 80

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3rd April 2003

Secretariat
Senate Foreign Affairs, Defence & Trade Committee
Parliament House
Canberra
ACT 2600

Dear Sir/Madam

Proposed GATS and Free Trade Agreements

The inclusion of services such as education, water, health, waste disposal and environmental services in our commitment to GATS will amount to criminal negligence because it would allow external forces to override local, state and federal government regulations which may be required to protect the interests of the local communities.

In a democracy the government has a responsibility and a duty of care to safeguard the rights and interests of the governed.

In the run up to the FTA negotiations the USA made it clear that it is seeking :

Abolition of the Pharmaceutical Benefits scheme

Reduction in quarantine standards

Abolition of the Foreign Investment Review Board and controls of foreign investment

Removal of Australian local content rules

Removal of local preferences in government purchasing

None of these items are in the interest of the Australian People and should be regarded as non-negotiable.

Examples of the intrusive nature of these agreements follow:

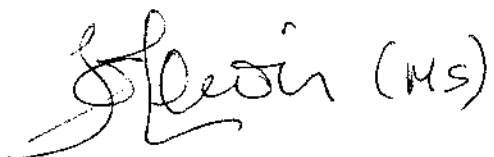
In response to community concerns the European Union declared a moratorium on the introduction of GE crops. The population has a marked preference for non-GE food and there is concern about the contamination of Organic produce. The USA is now to challenge this in the WTO in an attempt to force the acceptance of GE food.

I also attach an article by Maude Barlow covering the Bolivian water debacle.

These two incidents serve to demonstrate the dangers inherent in these agreements and the way that Trans National Corporations can manipulate the WTO in order to override the wishes and best interests of the local populations.

In my view the agreements already concluded should be abandoned unilaterally in the same way that the US abandoned the Ballistic Missile treaty.

Yours sincerely

A handwritten signature in cursive script that reads "Jo Lewis (MS)". The signature is fluid and somewhat stylized, with the letters "J" and "L" being particularly prominent.

Jo Lewis

The Last Frontier - explaining GATS

Date Published: 22/01/01

Author: Maude Barlow

A global agreement currently being negotiated will allow corporations to take over the world's public services; whether people want it or not. If implemented, it will spell the end of the public sector. Maude Barlow explains why it must be stopped.

If you were Bolivian, you'd know why the world should be worried about GATS. Take a trip back in time to spring 2000, to the city of Cochabamba in the South American nation. Under pressure from the World Bank, the Bolivian government had just sold off the city's public water system to a US water corporation. This was all part of the World Bank's programme to streamline; the Bolivian economy; in other words, to open it up to Western-based corporations. It was, the Bolivians were assured, all in the name of economic efficiency.

The people of Cochabamba soon found out what that efficiency amounted to. Just weeks after the corporate flag had been raised over what had been a public utility, water rates were hiked up massively. Many of the peasant families of Cochabamba were required to pay up to a third of their wages for their water; more than they spent on food. The charges were crippling, and there was no alternative; even collecting rainwater to drink was made illegal.

Complaints had no effect on the water company, whose aim was now profit rather than public provision of a basic need. So Cochabambans took to the streets. In April, hundreds, then thousands, joined in demonstrations against the privatisation of this most basic resource. Four days of strikes brought the city to a standstill.

The government gave in and promised to lower water rates. Then they changed their mind. The protests began again, and got bigger. Tear gas was used, and martial law was declared. Cochabamba descended into chaos. Still the government, and the company, refused to give way. Protest leaders were rounded up at night. Dissenting media outlets were shut down. The profits of a foreign corporation took priority over the everyday needs of the Bolivian people.

But those people did not give up. The protests grew still further. Eventually, after the military shot a 17! -year-old boy in the face for protesting, even the government realised the game was up. Two days later, they signed an accord agreeing to return the city's water supplies to public control.

But it was a victory that may not last. And next time, however big the protests, the people will be wasting their time.

COMING YOUR WAY

Just a few months earlier, in the north American city of Seattle, the November 1999 meeting of the World Trade Organisation (WTO) was shut down also by mass protests. It was, it seemed, an event that had stopped the forces of corporate globalisation in their tracks at least for the time being.

But not so fast. Just months after the smoke and pepper spray had lifted and the protesters, government officials and reporters had gone home, a whole new round of international talks was quietly launched in Geneva. They took place under the auspices of a little-known agreement called the General Agreement on Trade in Services; or GATS.

You probably haven't heard of GATS; few people have. That's the idea. But you should know what it will mean for you. For those negotiations are still, quietly, going on. Their purpose is, simply and starkly, to prise open the whole world's public services to corporate takeover; to make the very concept of public services not only unlikely, but probably illegal.

That's what GATS is about. If it had been in force last April, it would, quite simply, have been illegal for the Bolivian government to renationalise the Cochabamba water company. Good news for corporate profits. Bad news for people.

GATS is paving the way for the privatisation of public services across the world. Nothing will be exempt; education, healthcare, social services, postal services, museums and libraries, public transport; all will be opened up to corporate interests. Every and any service currently provided by governments in the name of the public good will be opened up to private corporations, and run for profit. GATS could, quite simply, be globalisation's last frontier: the end of the very concept of not-for-profit public services.

GATS will come into force in over 130 countries, quietly, and with little fuss, in less than two years. If nothing is done.

WHAT IS GATS?

The General Agreement on Trade in Services is one of more than twenty trade agreements administered and enforced by the World Trade Organisation. The GATS was established in 1994, at the conclusion of the Uruguay Round; of the General Agreement on Tariffs and Trade (GATT), which led to the WTO's creation. GATS was one of the trade agreements adopted for inclusion when the WTO was formed in 1995. Negotiations were to begin five years later with the aim of progressively raising the level of [trade] liberalisation. These talks got underway as scheduled in February 2000. The plan is to reach a final agreement by December 2002.

The mandate of GATS is the liberalisation of trade in services. In plain English, this means the dismantling of government barriers to the privatisation of public services. Its aim is to make it impossible for governments to run public services on a not-for-profit basis, without the participation of private companies. GATS will allow the WTO to restrict government actions relating to public services through a set of legally binding constraints. Any government disobeying the rulings of the WTO will face sanctions.

So what will happen if GATS is implemented? Charlene Barshefsky, the US Trade Representative, can tell you. Before the GATS negotiations started early last year, she asked the powerful US lobby group, the Coalition of Service Industries, what it would want included in the GATS agreement. The European Commission did the same with its industry coalition, the European Services Forum. Between them, the

corporations identified the following priority areas for trade liberalisation: health care; hospital care; home care; dental care; child care; elder care; education; primary, secondary and post-secondary; museums; libraries; law; social assistance; architecture; energy; water services; environmental protection services; real estate; insurance; tourism; postal services; transportation; publishing; broadcasting and many others.

The implications of this are chilling. It means that the 137 member countries of the WTO are about to agree to open up all their public services, lock stock and barrel, to free trade laws, the same laws which have allowed the WTO to strike down health, food safety and environmental laws in dozens of countries. The corporate wolves are being allowed into the last remaining fold. And once they get in, it will be too late to ever get them out.

A BRIEF HISTORY OF GLOBALISATION

How could this happen? How could governments be allowing this removal of the most basic of rights without even asking; or informing their people? To understand the answer, it is necessary to go back to the origins of the world trade system. In 1947, a new trade body; the International Trade Organisation was created, with a very different mandate to today's WTO. The ITO was to promote orderly global trade under the jurisdiction of the UN. The pursuit of trade was to explicitly take into account important social considerations, including full employment and the human and social rights guaranteed by the UN's Universal Declaration of Human Rights. The new ITO even had the right to regulate transnational capital to ensure it served these social ends.

But the ITO was stillborn, killed by the US, which was intent on building a very different global trade and investment regime based on fewer, not more, regulations; a regime which would benefit itself, its big corporations and its international interests. So the US created the GATT and removed it from the jurisdiction of the UN.

Since the formation of the GATT in 1947, there have been eight rounds of trade negotiations, each focused on progressively spreading the bounds of global trade. The first six rounds concentrated exclusively on reducing tariffs (border taxes), and the growing power of the GATT went largely unnoticed by civil society.

But the seventh Tokyo Round; (1973-1979) coincided with the emergence of the so-called Washington Consensus, a global economic model based on the principles of privatisation, free trade and deregulation and the rise of giant transnational corporations who, because they were now global operations, had escaped nation state regulations and wanted international deregulation as well. These included giant service corporations eager to get their hands on government monopolies, particularly in the social services sectors.

For the first time, the GATT began to deal in non-tariff barriers, the rules, policies and practices of governments, such as environmental laws and publicly-funded social services, that can impact on trade. The Uruguay Round of negotiations (1986-1994) expanded the scope of subjects dramatically, naming services for the first time, and covering many areas not normally associated with trade.

WAKEY WAKEY WORLD

Suddenly, it became clear to many NGOs, social justice advocates and environmentalists that, while they had been busy lobbying their governments and the UN, much of the power they previously held had shifted quietly into a new arena, unelected, and largely unseen, global trade regimes.

The architects of the final agenda for the Uruguay Round wanted to put in place a body of rules governing the global economy rules that would benefit them, and which would be backed up by the powers and tools of a global government. It was the Uruguay Round which led to the creation of the WTO, the global policeman for the trading agenda of rich corporations. Unlike the GATT, which was effectively a business contract between nations, the WTO was given legal personality. It has international status equivalent to the United Nations, but with the addition of having enormous enforcement powers.

Unlike any other global institution, the WTO has the legislative and judicial power to challenge the laws, practices and policies of individual countries and strike them down if they are seen to be too trade restrictive. The WTO contains no minimum standards to protect labour, human rights, social or environmental standards; every single time (but one) that the WTO has been used to challenge a domestic health, food safety, fair trade or environmental law, the WTO has won. Over the past six years, the operations of the WTO show that it has become the most powerful, secretive, and anti-democratic body on Earth, rapidly assuming the mantle of a global government and actively seeking to broaden its powers and reach.

CARVING UP THE SERVICES

Public services are next in line for the WTO's corporate battering ram. Global corporations have been so successful in persuading governments everywhere that their agendas are the same, that the pursuit of corporate profit and the good of society are one and the same; that their access to many areas of public life has already been improved. Now they want to go the whole hog.

Services is the fastest-growing sector in international trade, and offers rich pickings for canny corporations. And of all public services, health, education and water are shaping up to be the most potentially lucrative. Global expenditures on water services now exceed \$1 trillion every year; on education, they exceed \$2 trillion; and on health care, they exceed \$3.5 trillion. In many parts of the world, what GATS will accelerate has already, tentatively, begun.

The USA might suggest a model for the dismantling of public services which GATS will unleash all over the world. In America, health care has already become a huge business, with giant healthcare corporations registered on the New York Stock Exchange. Rick Scott, the president of Columbia, the world's largest for-profit hospital corporation, is clear that health care is a business, no different to the airline or ballbearing industry. He has publicly vowed to destroy every public hospital in North America. Doctors, he says, are not good corporate citizens.

Meanwhile, investment houses like Merrill Lynch are already predicting that public education will be globally privatised over the next decade the way public health has been. They say there is an untold amount of profit to be made when this happens.

The European Union recently announced that every publicly-run school in Europe must be twinned with a corporation by the end of the decade. The conquest of foreign markets has now become a key common strategy among higher education institutions around the world.

Many parts of the Third World have been forced to dismantle their public infrastructures in recent decades under International Monetary Fund-imposed structural adjustment programmes. In order to be eligible for debt relief, for example, dozens of developing countries have been forced to abandon public social programmes over the last 20 years, allowing foreign corporations to come in and sell their health and education products to consumers, who can afford them and leaving millions without basic social services. Latin American countries are currently experiencing an invasion of US healthcare corporations and Asian countries allow branch plants of foreign-based university and health care chains. Recently, the World Bank has been forcing the same countries to privatise their water services and are openly working with corporate water giants like Vivendi and Suez Lyonnaise des Eaux, to establish their rights to profiteer in the Third World.

Now, through the GATS negotiations, these corporations want binding, global and irreversible rules guaranteeing them access to government service contracts everywhere in the world. And they are succeeding. Already, over 40 countries, including all of Europe, have listed education within the realm of the GATS, opening up their public education sectors to foreign based corporate competition. Almost 100 countries have done the same with healthcare. As the new talks progress, it will be very hard for any country to swim against the tide even if any are brave enough to try.

WHAT'S IN THE GATS?

The existing GATS agreement which is by no means finalised, and could get even worse covers all service sectors and most government measures, including laws, practices, regulations and guidelines, written and unwritten. No government measure that affects trade in services, whatever its aim, even for environmental or consumer protection, universal coverage or to enforce labour standards, is beyond the reach of GATS. Nothing public is safe.

Essentially, the agreement would prohibit discrimination against a foreign corporation which applies to run a public services, even if that corporation has a bad track record in environmental or social areas. It has also already been agreed that some existing WTO rules will apply horizontally to public services across the board, whether or not the area has already been listed with the GATS. One such horizontal rule is Most Favoured Nation, which says that, once the corporations from one country are operating in your market, you must allow the corporations from all countries in. This rule will apply to all services, even ones still protected in some countries, like health and education. Similarly, under the horizontal rule, all regulations in any given sector, including social services, must be Least Trade Restrictive and in English, all public services, even social welfare, will have to operate market mechanisms.

Defenders of GATS insist that its opponents are being hysterical. There is nothing to worry about, they say. They point to the exemptions within GATS for some public services provided by governments. Some countries, they will point out, have

already claimed exemptions for their publicly-funded social security programmes. But it's not as simple as that. Under GATS article 1.3C, for a service to be considered to be under government authority, it must be provided entirely free. That means that, the service in question must be completely financed by government and have no commercial purpose. Since hardly any service sector in the world is entirely free, this exemption is increasingly meaningless.

WHAT'S PROPOSED FOR THE GATS?

In his new book, *GATS, How the WTO's New Service Negotiations Threaten Democracy*, Canadian researcher Scott Sinclair identifies the three priorities of the current round of negotiations. First, GATS officials will attempt to expand corporate access to domestic markets. Governments will be under great pressure to list more of their services and exempt fewer. The most potent weapon will be the push to have National Treatment applied horizontally. National Treatment is a fundamental tenet of free trade; it forbids governments from favouring their domestic sectors over foreign-based companies. Already, National Treatment applies to certain services in the GATS; the goal is to apply it across the board.

On top of this, the powerful Western countries will be pressing for more binding Market Access provisions, pressing developing countries for guaranteed, irreversible access to their markets, and diminishing democratic government authority.

Secondly, GATS officials are seeking to place severe restraints on domestic regulations, thereby limiting governments ability to enact environmental, health and other standards that hinder free trade. Article VI:4 calls for the development of any necessary disciplines, to ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade. Translation: don't let your pesky national standards get in the way of foreign corporate interests. This provision would also apply horizontally.

Governments would be compelled to demonstrate that regulations, standards and laws were necessary to achieve a WTO-sanctioned objective, and that no less commercially-restrictive alternative was available.

Third, the new talks are aimed at developing new GATS rules and restrictions, intended to further restrict the use of government subsidies, such as those used in public works, municipal services and social programmes. A particularly threatening development is the demand for an expansion of the bland-sounding, Commercial Presence rules. Commercial Presence allows an investor in one GATS country to establish a presence in any other GATS country and compete not only for business against domestic suppliers but for public funds against domestic publicly funded institutions and services.

Together, these proposals will hugely expand the authority of the WTO in the day-to-day business of governments. They will make the exercising of democratic control over the future of basic public services a virtual impossibility.

HOW GATS WILL AFFECT YOU

Every single aspect of public life will be affected by GATS. Already, as a result of economic globalisation, every country in the world is undergoing a fundamental

transformation. Wealth is gushing to the top as a growing economic chasm separates those who are benefiting from the system from an ever-expanding underclass. To ensure what American education writer Jonathan Kozol calls survival of the children of the fittest, a tiered system of education and social security is becoming the norm all over the world as we collectively abandon an earlier dream of universal rights. We are creating top schools and healthcare systems for the elite of the world and a tiered system or no system at all for those who don't count.

The GATS serves this corporate, profit-driven vision of society. It's important to understand, in no-nonsense terms, what is at stake.

Under the proposed GATS regime, foreign health and education corporations will have the right to establish themselves in any WTO country. They will have the right to compete for public money with public institutions like hospitals and schools. Standards for health and education professionals will be subject to WTO rules to ensure they are not an impediment to trade. Degree-granting authority will be given to foreign-based education corporations. Foreign-based telemedicine services will become legal. And countries won't be able to stop the trans-border competition of low-cost health and education professionals.

Already, the WTO Services Division has hired a private company called the Global Alliance for Transnational Education to document worldwide policies that discriminate against foreign education providers. The results of this study will be used to pressure those countries that still retain a public education sector to relinquish it to the global market.

Disturbingly, GATS also includes authority over environmental services and natural resource protection. Our parks, wildlife, river systems, and forests could all become contested areas as global transnational environmental service corporations demand the competitive model for their management. Profit-hungry child care chains would invade every country, as would prison chains like Wackenhut, with its reputation for violence and abuse against both prisoners and staff. Virtually unlimited access to foreign suppliers would have to be given to municipal contracts in construction, sewage, garbage disposal, sanitation, tourism and water services.

Simply put, the commons and or what's left of it, will come under full assault if GATS is enacted. What used to be areas of common heritage, like seeds and genes, air and water, culture and heritage, health care and education, will be slated to be commodified, privatised and sold to the highest bidder on the open market. Countries like Canada and France, which have (and cherish) national, universal health care and education systems will lose them. Countries like Britain and Chile, which once had universal social programmes, or the US, which has never had public health care, will have a public model closed to them in the future, as would countries like India and South Africa, struggling now to ensure such rights to their people.

The ultimate end of this exercise is perhaps best summed up by one top US WTO official, who said bluntly of the GATS/WTO process. Basically, it won't stop until foreigners finally start to think like Americans, act like Americans and most of all, shop like Americans.

WHAT CAN BE DONE

If GATS is to be defeated, there really is no time to lose. The world needs to wake up and fast, to what is being done behind its back. We urgently need an international movement of the kind that came together to fight the Multilateral Agreement on Investment (MAI) and went on to shut down the streets of Seattle. (For a list of groups and individuals already fighting GATS, see below.)

We need research on every aspect of the GATS in every country, and we need to share it. We need to form common fronts in every country which would include all the major sectors involved educators, health care workers and advocates, public sector unions, environmentalists, farmers, writers and artists, indigenous peoples, and others. We need solidarity, co-operation and speed.

We need GATS-Free Zones on universities and high school campuses, churches and local community centres. We need to go to our local governments and pass local resolutions against GATS. We need to write letters to our governments and local newspapers and alternative media publications.

Simply put, we must make the GATS a household word; and not a nice one.

Opponents of GATS and the mindset behind it should have three basic demands. Firstly, we must call for a full moratorium on the GATS negotiations and on the draconian provisions of the current agreement, such as the assault on domestic regulation. It is entirely unacceptable that our governments are meeting behind closed doors to carve up our rights for the benefit of their corporate friends. This must stop immediately, while we take stock of the situation and take this issue to the public. Essentially, we should demand that the commons be removed from free trade agreements altogether.

Secondly, we need ironclad guarantees from our governments that no future GATS negotiations would prevent governments from providing good public services to their citizens. Furthermore, we need a GATS that would seek to strengthen these domestic programmes through international law, and encourage their development around the world.

Finally, we must move towards true public engagement in the rules governing international trade. While we know that our governments are not going to listen to us because we have good arguments, but because we have political muscle, we must seek to create a global democracy in which governments would serve their citizens and honour their commitments on human rights and ecological stewardship. We must not sit silently by and allow these rights to be traded away. The world's people said no to the MAI. Increasing numbers said no to the Millennium Round of the WTO. We must now say no to the GATS. And we must be heard. There really is no alternative.

Maude Barlow is head of the Council of Canadians and a campaigner for citizens rights. She is the author of several books, including 'MAI: The Multilateral Agreement on Investment' and the 'Threat to Canadian Sovereignty', with Tony Clarke. Her autobiography, 'The Fight of My Life: Confessions of an Unrepentant Canadian,' was published in 1998.