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GATT, NAFTA, AND THE SUBVERSION OF THE DEMOCRATIC PROCESS

Ralph Nader and Lori Wallach

Ralph Nader has repeatedly been rated in national polls as "the most respected person in America," and he has surely been the single most effective voice in the United States on behalf of consumers, democracy, and the environment over the past three decades. He and his colleague Lori Wallach were among the first American activists to recognize clearly the unique dangers and vast scope of NAFTA, GATT, and the entire globalization agenda. In this chapter, they focus on the undemocratic manner in which the agreements were created, sold, and passed and, should they continue to exist, their crushing effects on worldwide democracy. Ralph Nader is the founder of Public Citizen, and Lori Wallach is a public interest lawyer who is director of Public Citizen's Global Trade Watch.

IN THE FALL OF 1994, just prior to the vote by the Congress on the Uruguay Round of GATT, the vote that would establish the World Trade Organization, we offered a $10,000 donation to the charity of choice of any congressperson who could do the following: (1) sign an affidavit stating that he or she had read the five-hundred-page agreement and (2) successfully answer ten simple questions about its contents.

Not one member of congress accepted.

Here our country was on the brink of a vote that would have corrosive effects on the supremacy of our domestic democratic procedures, including the right of federal, state, and local governments to establish our laws,

and on the ability of the United States of America to maintain some control over the powers of transnational corporations. This vote would essentially decide whether half a century of laws protecting the safety of consumers, workers, and the environment could be expanded or even sustained into the future, and not one member of Congress could state that he or she had read the text.

The text is several hundred pages long, complicated, and duplicitous. However, if legislators are vested with the responsibility to legislate, they should have read what they were voting on.

Finally, after the scheduled fall vote on GATT was postponed until December 1994, one senator, Colorado Republican Hank Brown, stepped forward and accepted the challenge. He read the text, signed the affidavit, and, with the media watching in the Senate Foreign Relations Committee room, answered all ten questions correctly.

He then held a news conference stating that he had planned to vote *in favor* of GATT, but after reading the text of the agreement, he was aghast. Even though he described himself as a supporter of "free trade" and had voted for NAFTA in 1993, he could not support GATT because of its elimination of even the most basic due process guarantees.

On December 1, 1994, Congress approved GATT in the House 235 to 200 and in the Senate 68 to 32 *without knowing what was in it*. Here is a summary report on some of the details that the Congress missed and on the consequences of their uninformed vote.

THE MECHANICS OF POWER

When they approved the far-reaching, powerful World Trade Organization and smaller international trade agreements such as NAFTA, the U.S. Congress, like legislatures of other nations, left much of the United States' capacity to protect its citizens subject to the WTO's autocratic regimes and accepted harsh legal limitations on what domestic policies the country may pursue. Approval of these agreements has institutionalized a global economic and political situation that places every government in a virtual hostage situation, at the mercy of a global financial and commercial system run by empowered corporations. This new system is not designed to promote the health and well-being of human beings but to enhance the power of the world's largest corporations and financial institutions.

Under the new system, many decisions that affect billions of people are no longer to be made by local and national governments but instead, if challenged by any WTO Member nation, would be deferred to a group of

unelected bureaucrats sitting behind closed doors in Geneva. The bureaucrats can decide whether or not people in California can prevent the destruction of their last virgin forests or determine if carcinogenic pesticides can be banned from their food; or whether European countries have the right to ban the use of dangerous biotech hormones in meat. Moreover, once these secret tribunals issue their edicts, no external appeals are possible; worldwide conformity is required. A country must make its laws conform or else face perpetual trade sanctions.

At risk is the very basis of democracy and accountable decision making that is the necessary undergirding of any citizen struggle for sustainable, adequate living standards and health, safety, and environmental protections. The decline of democratic institutions in favor of deepening multinational corporate power has taken place in Western nations over the past several decades; but the establishment of the World Trade Organization (WTO) marks a landmark formalization, strengthening, and politicalization of this formerly ad hoc system.

Best described as *corporate globalization*, the new economic model establishes supranational limitations on any nation's legal and practical ability to subordinate commercial activity to the nation's goals. The objective is to overrule democratic decision making on matters as intimate as food safety or conservation of land, water, and other resources.

One cannot open a newspaper today without facing myriad examples of the problems this system spawns: lowering standards of living for most people in the developed and developing world; growing unemployment worldwide; endemic business criminality and the collapse of associated legal order; environmental degradation and natural resource shortages; growing political chaos and a global sense of despair about the future.

Conspiratorial meetings have not been necessary to fuel the push for globalization. Corporate interests share a common, perverse outlook: The globe is viewed only as a common market with a labor and capital pool. From the corporate perspective, a good new system eliminates barriers to trade on a global scale, whereas from any *other* perspective, such barriers — that is, any nation's laws that foster economic well-being, democratic processes, worker and citizen health and safety, and sustainable use of resources — are seen as valued safeguards on unfettered, harmful business activity. From a corporate perspective, the diversity that is a blessing of democracy is *itself* the major barrier.

On rare occasions, promoters of the economic globalization agenda have been frank about their intentions. "Governments should interfere in the conduct of trade as little as possible," said Peter Sutherland, then director general of GATT, in a March 3, 1994, speech in New York City.

The *Wall Street Journal* was more direct. After the agreement was signed, the *Journal* editorialized that GATT "represents another stake in the heart of the idea that governments can direct economies. The main purpose of GATT is to get governments out of the way so that companies can cross jurisdictions (i.e., national boundaries) with relative ease. It seems to be dawning on people . . . that government is simply too slow and clumsy to manage trade." Should it be corporations, then?

What makes such statements especially alarming is that what is being characterized as "trade" these days includes the workings of a large portion of each nation's economic and *political* structures. GATT and other trade agreements have moved beyond the traditional roles of setting quotas and tariffs and are instituting new and unprecedented controls over investment flows, innovations, public assets, and democratic governance. Undermining national and local laws and erasing economic boundaries via capital mobility and "free trade" have caused the likes of Monsanto, Pfizer, Citicorp, General Motors, Cargill, Shell, and other corporations to rejoice. But the prospect of global commerce without democratic controls suggests impending disaster for everyone else in the world.

As economist Herman Daly warned in his January 1994 "Farewell Lecture to the World Bank," the push to eliminate the nation-state's capacity to regulate commerce "is to wound fatally the major unit of community capable of carrying out any policies for the common good . . . Cosmopolitan globalism weakens national boundaries and the power of national and subnational communities, while strengthening the relative power of transnational corporations."

The philosophy allegedly behind the globalization agenda is that maximizing global economic liberalization will result in broadly based economic and social benefits. However, anyone who believes that corporate economic globalization has any purpose other than to maximize short-term profit need only consider the case of U.S.-China economic relations. In 1994, the Clinton administration ended the historical linkage between favorable trade status and a country's human rights record. However, in early 1995, when there was a threat to property rights, McDonald's lease, and Mickey Mouse's royalties, China was threatened with a billion dollars of trade restrictions. This threat resulted in Chinese government policy changes to enforce intellectual property rights.

GATT and NAFTA do not target for elimination all "fetters" on commerce. Rather, the agreements promote the elimination of restrictions that protect people but increase protection for corporate interests. For instance, the regulation of commerce to protect environmental, health, or other social goals is strictly limited, and labor rights, including prohibi-

tions on child labor, were entirely left out as inappropriate limitations on global commerce. On the other hand, the protection of corporate property rights (such as intellectual property) received expanded monopoly power. The right to invest capital in any country without local restrictions or conditions was also strengthened.

Targeting Democratic Laws

The world community founded GATT after World War II as an international contract that set rules for world trade. At present, more than one-hundred nations responsible for more than four-fifths of world trade belong to it. In its first forty years of existence, GATT concerned itself primarily with tariffs, quotas, and related matters. Periodically, the GATT signatories, called "contracting parties," would meet and negotiate tariff and quota rules for trade in products. Things changed, however, when the GATT Uruguay Round negotiations began in 1986.

The Uruguay Round puts into place comprehensive international rules about which policy objectives so-called independent countries are permitted to pursue and which means a country might use to obtain even GATT-legal objectives. In other words, GATT placed controls over national democracies. In the United States, congressional and presidential approval of GATT and NAFTA gave the agreements the status of U.S. federal law. Thus, GATT and NAFTA rules trump U.S. state and local laws as a matter of U.S. constitutional jurisprudence. As one memo leaked out of the Pennsylvania House of Representatives warned: "GATT will require the federal government to get a state law overturned if the WTO ruled that the state law violated the GATT."

Under WTO rules, for example, certain *objectives* are forbidden to all domestic legislatures, including the U.S. Congress, the state legislatures, and county and city councils. These *objectives* include providing any significant subsidies to promote energy conservation, sustainable farming practices, or environmentally sensitive technologies. Laws with *mixed goals*, such as provisions of the U.S. Clean Air Act that implement the international ozone agreement (which bans the import and sale of products made with ozone-depleting production methods), conflict with the WTO's requirements. In addition, the WTO trumps provisions in pre-existing international agreements, including environmental treaties that conflict with trade rules.

Further, the *means* used to implement even these *objectives* that the WTO allows must be the "least trade restrictive," regardless of whether these are politically feasible. Thus, for instance, policies banning the export of raw logs, adopted in many countries to slow the cutting of forests, would be threatened. Till now, such laws have been the *only* politically viable options to save forests in certain countries, for they provided lumber processing jobs for people who could no longer be loggers. Unfortunately, such export bans are seen as highly "trade restrictive."

Third, most government procurement must meet GATT rules. One such rule is that all corporations must be given *national treatment*, meaning that they must be treated the same way whether local or foreign. In the past the use of tax dollars through government purchases of goods and services has always been considered a key governmental policy tool. Procurement rules advanced economic development in poor regions, promoted certain businesses, and furthered policies such as recycling or alternative energy development. Local preferences also put tax dollars back into communities. But under the recent procurement rules, with few exceptions, governments must allow equal treatment of domestic and international companies for providing government goods and services.

Finally, to limit a vast array of national, state, and local environmental, health, consumer, and worker safety standards, the Uruguay Round expanded coverage of *nontariff barriers* — that is, any measure that is not a tariff but inhibits certain trade. However, what the WTO (and NAFTA) view as nontariff barriers, most Americans see as basic environmental and health protections. Any national, state, or local standard that provides more protection than does a specified industry-shaped international standard must pass a gauntlet of WTO tests to avoid being labeled an illegal trade barrier.

Any WTO Member may challenge any U.S. law as an illegal trade barrier before a WTO tribunal in Geneva. The tribunal has the power to approve sanctions against countries that refuse to remove laws that are deemed GATT-illegal. Such decisions are made by officials of other countries and by lobbies that have no accountability requirements.

The concept of nontariff barriers being illegal gives corporate interests a powerful tool to undermine safety, health, or environmental regulations they do not like. For example, right now, pesticide manufacturers and wine importers are using GATT and NAFTA to claim that the United States cannot institute a planned ban of the carcinogenic fungicide Folpet on food residues.

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There is no mystery as to which U.S. laws other countries consider to be nontariff trade barriers. The European Union, Japan, and Canada publish annual reports describing the U.S. laws they view as illegal trade bar-

riers. Here is a recent sampling of targeted U.S. laws: the Delaney Clause, which prohibits carcinogenic food additives; the Nuclear Non-Proliferation Act; the asbestos ban; driftnet fishing and whaling restrictions; the Consumer Nutrition and Education Labeling Act; state recycling laws; and limitations on lead in consumer products.

The U.S. Corporate Average Fuel Economy (CAFE) standards and gas-guzzler taxes were challenged in 1994 under the old GATT and ruled to be partially in violation. U.S. laws designed to protect dolphins have twice been challenged under the old GATT rules. Venezuela has already submitted a formal challenge against the reformulated gas rules of the U.S. Clean Air Act under the WTO. Laws of other nations — such as Canadian cigarette packaging requirements, Thai cigarette sales limitations, Danish bottle recycling laws, and Canadian reforestation requirements — have also been formally challenged as nontariff barriers under existing free trade agreements or threatened with future challenges under the Uruguay Round rules. There are other laws to be challenged: the U.S., Filipino, and Malaysian bans on raw log export; European bans on smokeless tobacco; laws controlling the capture of animals for fur using brutal steel-jaw leg-hold traps; and laws preventing import of beef tainted with growth hormones. These trade actions have resulted in getting some of these initiatives withdrawn, delayed, or weakened.

It's a very neat arrangement. European corporations target U.S. laws they do not like. U.S. corporations target European laws they do not like. Then European and U.S. corporations attack Japanese laws and vice versa — the process can go on until all laws protecting people and their environment have either been reversed or replaced by weaker laws that do not interfere with the immediate interests of the corporations. Thus, the U.S. government threatens the European ban on Bovine Growth Hormone in its meats (a consumer protection that European citizens want) and threatens to challenge Europe's ban on the sales of furs caught with inhumane steel leg-hold traps. Meanwhile, Europe challenges our fuel-consumption standards and threatens our food labeling laws. Corporations are poised to win at both ends, while citizens and democracy lose.

Most Americans, including members of the U.S. Congress, probably find this unbelievable. After all, most people would suppose that the United States could impose whatever standards it wants on products that will enter our marketplace and be consumed in this country without being second-guessed by anonymous trade bureaucrats. But in approving GATT and NAFTA, the United States has surrendered such laws to the secret judgment of trade bureaucrats.

The Process: Undemocratic from Beginning to End

From start to finish, all elements of the negotiation, adoption, and implementation of the recent globalized "free trade" agreements were designed to foreclose citizen participation.

Negotiations. Trade negotiations invariably have taken place behind closed doors between unelected and largely unaccountable government agents who mainly represent business interests.

Secrecy enveloped the GATT negotiating process itself. Through a variety of stops and starts in the eight years of Uruguay Round negotiations, small cliques of major nations regularly retreated to "green rooms" to make deals that were then forced, on a take-it-or-tough-luck basis, on other GATT signatory countries as "consensus" positions. The conclusion of the Uruguay Round was held hostage as U.S. and European negotiators retreated for a year of private talks, while one hundred other nations waited for the outcome on agriculture. The U.S.-EU negotiations extended grain-export subsidies that promoted the dumping of grain on other nations, putting large numbers of small farmers out of business. Narrowly tailored to suit U.S. and European agribusiness, the conclusions reached at these secret meetings were then announced as the outcome of global agriculture negotiations.

Corporate lobbyists have exerted tremendous influence over the negotiations. The business coalition calling itself the Intellectual Property Committee — whose members include Pfizer, IBM, Du Pont, and General Electric — bragged in its literature that its "close association with the U.S. Trade Representative and [the Department of] Commerce has permitted the IPC to shape the U.S. proposals and negotiating positions." Meanwhile, citizen organizations have not had the resources to post lobbyists in Geneva or coordinate global lobbying campaigns.

As if the advantage in resources were not enough, the corporate lobbying function has been institutionalized in the United States in a set of official trade advisory committees. In 1974, Richard Nixon, a president renowned for his disdain for democracy, proposed *fast track*, a uniquely antidemocratic procedure that requires Congress to vote yes or no on an entire trade agreement and the changes it requires of U.S. law, with no amendments permitted. Congress is required to conduct such a vote within sixty to ninety days of the president's submission of the agreement and its implementing legislation, and debate is limited to twenty hours. As part of the fast-track procedure, Nixon proposed a system of private

sector trade advisory groups appointed by the president with extraordinary access to and influence on the negotiating process.

During the recent Uruguay Round negotiations, the advisory committees were composed of over eight hundred business executives and consultants (with limited labor representation), five representatives from the few environmental groups that were supportive or neutral on NAFTA, and no consumer rights or health representatives. Under intense pressure to provide more public participation, the Clinton administration started the Trade and Environment Policy Advisory Committee, appointing equal numbers of corporate and citizen representatives. But the trade advisory committees on timber, chemicals, and other key environmental and consumer interests have exclusively business representatives.

Meetings of the advisory groups are closed to the public, with representatives required to obtain a security clearance from the government after a background check. All documents are considered confidential.

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Once a trade agreement is completed, any person who wants to figure out what the agreement says faces a herculean task.

The first difficulty is to obtain a copy of the actual text. When then-President Bush announced that he had come to a final NAFTA deal with Mexico and Canada in August 1992, he gave an optimistic spin to the agreement. But the actual text was not made available to the American people at his news conference or any other time. An unofficial text appeared a month later, but the official 752-page text, priced at $41, was not available until after Bush left office in 1993.

The second difficulty is that the agreements are unnecessarily complex. Only those with an expansive knowledge of GATT-ese or NAFTA-ese can comprehend what the texts mean for their jobs, food, or environment.

Third, in many countries, the GATT text was simply not available at all. Although the Uruguay Round negotiations were completed in December 1993, by October 1994 (months after the agreement was to have been approved in most countries) it still had not been translated into Japanese for the Japanese Diet or for the public. Translations of the text became available only a few days before it was approved — *unread* — by the Diet. Many governments around the world failed to translate the agreement into their languages at all but approved it anyway.

This difficulty in obtaining and understanding the actual agreements was no accident; it reflected a purposeful effort by globalization proponents to conceal the agreements' terms and effects from the public, the news media, and even the parliamentary bodies that approved it. The agreements' promoters preferred that citizens only read a sanitized summary suitably interpreted by the agreements' promoters. In their view, it is anathema that citizens should be informed of international commerce and investment issues, never mind actually having a say in their approval.

"Approval." Most legislators worldwide had little idea of what they were approving because they relied on the propaganda of their negotiators rather than independent analysis. Even though the WTO has an agenda rivaling that of the United Nations, it was set up with little public or parliamentary debate. It was little more than rubber-stamped by the very elected officials whose democratic powers it was designed to usurp.

Despite unified opposition by U.S. citizens' organizations — including every environmental and labor group and major family farm, consumer, religious, and civil rights organization — and even though U.S. public opinion polls showed majority opposition to the very concept of the WTO, the U.S. Congress approved the Uruguay Round, just as under similar conditions it had passed NAFTA.

Such perversions of democracy were repeated in many nations. In the Philippines, the Catholic Church had joined the official GATT opposition, along with a broad array of civic groups. Despite this and despite anti-GATT street riots, the Filipino Senate ultimately approved the deal.

In Spain, public opposition had forced the government to keep the vote off the parliamentary agenda. However, on Christmas Eve, without public notice, a rump session of Parliament approved the deal.

In Belgium, police dragged citizen protestors out of the parliament building so the deal could be rubber-stamped.

In India, powerful public opposition forced Parliament to eliminate provisions in the Indian bill that implements the WTO. They specifically eliminated the WTO's hated intellectual property rules. Thus, the Indian parliament only approved a portion of the WTO text rather than fully agreeing to become a WTO Member and abide by all of the WTO rules. However, the Indian prime minister then reinstated the intellectual property provisions by executive decree, making India a full WTO Member despite Parliament's opposition. Six months after that, the Indian parliament vetoed the prime minister's action. The prime minister is seeking another way to sidestep the workings of the democratically elected legislature. [See chapter by Vandana Shiva and Radha Holla-Bhar.]

WTO: GLOBAL ENFORCER

The WTO, the new "governing" structure, was crafted at the end of the Uruguay Round negotiations to organize and enforce this new system of

limits on every nation's laws and policies. The new global agency was not in the original plans for the Uruguay Round when its terms of reference were agreed upon in 1986. The WTO was hatched to provide a global executive branch that would judge a country's compliance with the rules, enforce the rules with sanctions, and provide the legislative capacity to expand the rules in the future.

The WTO gives the trade rules both a permanent organizational structure (powers that GATT did not have) and the kind of "legal personality" enjoyed by the U.N., the World Bank, and the I.M.F. The binding provisions that define the WTO's functions and scope do not incorporate *any* environmental, health, labor, or human rights considerations. Moreover, there is nothing in the institutional principles of the WTO to inject any procedural safeguards of openness, participation, or accountability. The WTO provides no mechanism for nongovernmental organizations to participate in its activities and, in several key provisions, requires that documents and proceedings remain confidential.

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The WTO "dispute resolution system" is the mechanism that enforces WTO control over democratic governance. Disputes are not decided by democratically elected officials or their appointees but by secret tribunals of foreign-trade bureaucrats from a preset roster. Only national government representatives are allowed to participate in the dispute resolution process. State and local government representatives (such as a state attorney general), citizens, and the press are locked out.

For U.S. citizens, the notion of delegating "judicial" review to forums that do not have the procedural safeguards of the U.S. federal and state judicial systems is troubling. Trade dispute panels, whether in the WTO, NAFTA, or 1988 Canada-U.S. Free Trade Agreement, share highly problematic traits:

- Tribunals have no guarantee of impartiality or economic disinterest of decisionmakers.
- There is no required disclosure of potential conflicts of interest. (In a recent timber dispute under the Canada-U.S. Free Trade Agreement, two of the five members of the panel were attorneys from firms representing Canadian lumber interests directly affected by the case.)
- All documents, transcripts, and proceedings are secret.
- No media and no citizens can sit in and observe the proceedings. And there is no outside appeal or review available.

The WTO text lists qualifications for dispute tribunal members that ensures they will represent only a *trade uber alles* perspective. The qualifications primarily include experience in a country's trade delegation or experience as a lawyer on a past trade dispute. Such qualifications produce panelists with a uniformly pro-trade perspective.

There is no mechanism to expose such panelists to any alternative perspectives or expert opinions on environmental, health, labor, consumer, or human rights issues. The WTO tribunal rules also forbid identification of panelists who have supported particular positions and conclusions, adding an additional layer of secrecy and lack of accountability.

Ironically, the only specific procedural requirement for WTO tribunals is that they be conducted in *secret.* Unlike complaints, briefs, and affidavits in the U.S. court system, documents presented to the WTO tribunals are kept confidential. Thus it is only as a result of a Public Citizen lawsuit that the U.S. Trade Representative (USTR) must finally release the U.S. submissions to the GATT panels. Even so, these submissions are censored by USTR officials in order to conceal the arguments of the other party. Documents from other parties in the dispute are *still* not available. So, if a state law were to be challenged, governors or state attorney generals would only have access to those documents or proceedings that the federal government chose to make available.

THE OLD RULES AND THE NEW

A comparison of the rules of the old GATT and the recently established WTO reveals much about the intentions of the people who created the system. At nearly every turn, with nearly every rule, the clear intention is to diminish if not eliminate the democratic process, not only in the internal operations of the GATT bureaucracy and the WTO but also among Member nations. The new rules clearly favor the largest, most developed, and most powerful nations. Here are some examples of those rules:

- Unlike the old rules of GATT, the new WTO requires that all members agree to be bound by all the Uruguay Round accords. The old GATT rules did not require this all-or-nothing standard. From a trade perspective, this rule seems a good idea because it eliminates free riders—countries that do not accept certain provisions but benefit from other countries' compliance. But from the point of view of democracy, the rule forces many countries, usually small ones, to accept trade in areas that might be undesirable in the long run. Their choice is to agree or to forfeit

participation in the world trade system. Such all-or-nothing international laws are very rare, because they pose choices incompatible with national sovereignties.

• When countries join the WTO, they authorize the WTO to conduct ongoing negotiations on WTO provisions; many may never be submitted for approval by any elected legislatures. Only a simple majority vote is required to initiate these WTO negotiations; under the old GATT that vote had to be unanimous. Thus the new rules lead to a higher potential for coercion of small nations by larger ones.

• Perhaps the most ominous change is this one: WTO rules and restrictions are now enforceable as regards all existing federal, state, and local laws, and future laws too. As the text says, "Each Member shall ensure the conformity of its laws, regulations and administrative procedures with its obligations as provided in the annexed agreement." So, U.S. law and the laws of every other nation must "conform" to the WTO and each other. Perhaps with this provision in mind, the Clinton administration announced that all *future* U.S. environmental proposals would be put through trade reviews that ensured their compliance with U.S. trade obligations. In effect, the administration voluntarily sacrificed U.S. sovereignty.

• Under yet another WTO provision, a law of a Member nation can be challenged if "the attainment of any objective (of the WTO) is being impeded" by the existence of the law. The vagueness of this provision makes it possible to "smuggle" into the WTO's grasp many national laws that would seem to be free of any implications for trade.

• One additional point of difference concerns the WTO's attack on its Members' democratic and sovereign decision making: Under the old GATT rules, there had to be unanimous approval of all GATT's contracting parties before trade sanctions were imposed on a GATT nation by the other nations. Under the new WTO rules, the determinations by WTO tribunals become automatically binding. This holds unless *all Member countries vote to stop the decision within ninety days.* This is another case where antidemocratic procedural rules determine much of the outcome; the obvious result is that few, if any, tribunal decisions would ever be voted down unanimously. This requirement of consensus to stop the action of an international institution rather than to authorize it is uniquely empowering for the WTO; it means its bureaucratic decisions will be honored and feared, thus further intimidating any resistant strains among nations. Under the old GATT, the opposite rule applied: Decisions were not adopted unless all countries agreed; any single country had the right to block a GATT ruling and thus maintain greater autonomy.

Thus the Bush administration was able to freeze an old GATT tribunal ruling against the Marine Mammal Protection Act, which prevented the import of Mexican tuna caught in a manner that also killed dolphins. A GATT tribunal called that an illegal trade barrier, but Bush, under massive public pressure, was able to veto the ruling by the requirement of unanimity. The new WTO removes all countries' veto power and effectively their ability to maintain laws that protect people or the environment from WTO challenge.

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As mentioned above, the WTO rules require that Members' *future* laws also comply with WTO rules. So WTO Member countries are now required, when promulgating new federal, state, or local laws, to take into account whether or not the new law will conform with WTO rules. Thus the WTO has a chilling effect on policies that are now being written and rewritten with the fear of a future WTO challenge in mind. In some cases, such as a 1994 child labor law proposed in the U.S. Senate, conflict with the WTO was a primary weapon used to squash the bill's progress. To avoid the time and expense of later having to defend a law against a WTO charge, countries can use regulatory discretion, annual budgets, or legislative reauthorization to alter democratically achieved laws to meet WTO rules.

Another example of the WTO's effect occurred in the 1995 New York State budget. Buried in the voluminous state legislation was a list of laws *to be eliminated* because they conflicted with the rules of the WTO. The list included a tropical timber procurement ban, a law requiring that state contractors only purchase from Northern Ireland companies that maintain certain human rights standards (called the MacBride Principles), and a small preference for New York-produced food. Luckily, an enterprising reporter discovered the provisions. The embarrassing revelations and the outrage they generated ultimately forced New York Governor Pataki to withdraw the provisions — at least for the moment. However, such stealth rollbacks of democratically supported policies undoubtedly lurk in other state-level proposals, and the provisions could be tucked into some other bulky state legislation later.

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As a legal matter, the WTO's rules and powerful enforcement mechanism promote downward harmonization of wages, environmental,

worker, and health standards and the undermining of democratic procedures and policies. However, in practice, the race to the bottom set off by the WTO is even more devastating than the sum of the WTO's provisions. Both NAFTA and GATT have actual provisions requiring harmonization of environmental, safety, food, and other standards. For instance, under NAFTA, the trucking industry is working through a land transportation harmonization committee to get an increase in truck weights and lengths for all North American trucks. Such a move would lower U.S. safety standards through the back door.

By giving up the right to make investment in a country conditional on certain standards or the entry of products into domestic markets conditional on compliance with national rules, countries have eliminated whatever leverage they had on corporate behavior. U.S. corporations long ago learned how to pit states against each other in "a race to the bottom" to profit from whichever state would offer the most miserable wages, the most lax pollution standards, and the lowest taxes. Now, via NAFTA and GATT, multinational corporations can play this game at the global level. After all, externalizing environmental and social costs is one way to boost corporate profits. Paying child laborers slave wages in some countries may increase a U.S. firm's bottom line. It is a tragic lure that has its winners and losers determined before it even gets underway: Workers, consumers, and communities in all the countries lose, short-term profits soar, and the corporation "wins."

Under the WTO, the race to the bottom is not only in standard of living, environmental, and health safeguards but in democracy itself. Enactment of the free trade deals virtually guarantees that democratic efforts to make corporations pay their fair share of taxes, provide their employers a decent standard of living, or limit their pollution of the air, water, and land will be met with the refrain, "You can't burden us like that. If you do, we won't be able to compete. We'll have to close down and move to a country that offers us a more hospitable climate." This message is extremely powerful — communities already devastated by plant closures and a declining manufacturing base are desperate not to lose more jobs. They know all too well that threats of this sort are often carried out.

STOPPING GLOBALIZATION

One of the clearest lessons that emerges from a study of industrialized societies is that highly centralized commerce is environmentally and democratically unsound. Some international trade is useful and productive,

while other global trading favors corporate advantages over those of workers, consumers, and the environment.

But societies need to focus their attention on fostering community-oriented production. Such smaller-scale operations are more flexible and adaptable to local needs and environmentally sustainable production methods. They are also more easily subjected to democratic control, less likely to threaten to shift their operations abroad, and more likely to perceive their interests as overlapping with community interests.

Similarly, allocating power to reachable governmental bodies tends to increase citizen power. Concentrating power in international organizations, as the trade pacts do, tends to remove critical decisions from citizen control. You can talk to your city council representative but not to some faceless international trade bureaucrat in Geneva, Switzerland.

If a foreign country's simple cry of "nontariff trade barrier" can jeopardize local or state laws, if a country must pay a bribe in trade sanctions to maintain its own laws, if a company claims that the burden of citizen safeguards are so great that it will pick up stakes and move elsewhere, then global living standards will continue to spiral downward.

In the United States, where most wages are at their lowest level in real terms since President Johnson initiated the war on poverty in 1964, a major swath of the American population is working harder to earn less. Polling continues to show a growing "anxious" class. A sense of despair and loss of control is at least part of the explanation for the tumultuous electoral behavior of the past two U.S. federal elections. This new anxious class is politicized and looking for answers.

We must make the clear connection between our local problems and the multinational corporate drive for economic and political globalization. If we don't, then others will blame these increasing problems on other causes. "It's the immigrants!" "It's the welfare system!" "It's greedy farmers or workers!" Allowing the camouflage of the real causes of these multifaceted problems means that citizens are divided against each other to the benefit of the corporate agenda.

We now face a race against time: How will citizens reverse the devastating globalization agenda while democratic options and institutions are still available? The degree of suppression and subterfuge necessary to continue to globalize will be hard to maintain in the presence of *any* democratic oversight. To obtain this oversight and to actually reverse NAFTA, GATT, and the push to globalization will require a revitalized citizenry here and abroad. There will be no dearth of provocations.