

## "FREE TRADE'S" FOOTPRINT A DECADE AFTER SEATTLE

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On this Tenth Anniversary of the "Battle for Seattle," we could celebrate, we should commemorate, but we must evaluate.

Right, then. What seemed so important at the time? It is difficult to even see back to 1999 without becoming lost among other landmark events soon to bask in their own tenth anniversaries.

The last decade's memory palace hosts the Y2K kerfuffle, a muffed Bush election, the burst of the Dot-Com bubble, Nine-Eleven, war, another muffed Bush election, war, the Obama election, war, a worldwide economic meltdown, war, and a "jobless recovery" fueled by a "New Deal"-style rescue plan for banks, investors, hedge fund managers, and insurance and automobile corporation executives. Oh, and more war. Even for those who were embattled in Seattle, who trotted with the Teamsters or tacked with the Turtles, or watched it on television, or read the book, saw the movie, or got the T-shirt, that's a lot of water over the dam. Yet, the Battle for Seattle was iconic.

### What Happened In Seattle?

At the World Trade Organization's 1999 Ministerial meeting in Seattle, the incumbent A and B Team elites—from the US and the European Union—

though not themselves seeing eye-to-eye, assumed that as usual they would be calling the shots on world trade. Ministers from the rest of the world (expected to play the supporting cast of lesser elites) begged to differ, and declined the privilege of carrying water yet again for the usual overlords.

Meanwhile, outside on the streets, and representing the 99.99% of humanity who do not make the world's trade rules, thousands of protesters besieged trade envoys already embarrassed by their own disarray. The opening ceremony for the WTO Ministerial was canceled. The mayor of Seattle declared a state of emergency and imposed a curfew. The National Guard and Washington State Patrol were called in to "maintain order" (i.e., protect property and intimidate demonstrators). The meetings collapsed, trade ministers slunk away. Cleanup, recriminations, firings, finger-pointing, bragging, spinmeistering, and trials went on for years. For all the crowing, one might have thought that "free trade" had bit the dust.

"Thousands of people teaching the masters of the universe that they could no longer conduct business as usual." That's how a "flagship of the left" described the outcome of the days-long fracas around the WTO meetings. What grade would we give

those "masters" after a decade has passed? Did they "get" it? Did we "get" it? Just what did we get?

### The View from 2009

Seattle's events helped elevate "free trade" to marquee status among activists, giving it a reputation transcending individual manifestations in disputes about tires, shrimp, Mexican trucks, wheat flour, automobile parts, hormones, garlic, batteries, or olive oil. "Free trade" agreements and organizations gained a seemingly permanent place on the list of things to rail against.

In 1999, around the Seattle Ministerial events, a broad swathe of activists began to realize what trade envoys have long understood: the point of all "free trade" is to flat-out prevent communities of any size (villages, cities, provinces, states, countries) from protecting themselves.

- Against unlabeled meat or other foodstuffs.
- Against corporations coming in and selling off their natural resources or water.
- Against imports of cheap, subsidized goods from abroad that will devastate local industry.

Under "free trade," a government cannot ban imports manufactured under unfair labor practices (child or

prison labor, union-busting, and so on), or medical tubing made from “mystery” ingredients. It cannot prohibit the taking and export of plants, animals, or even water and soil.

“Free trade” turns a government into a powerless citizen advisory board in a democracy theme park. Unelected trade envoys and tribunals then freely void any laws that cut into their profits. Without the “Battle for Seattle,” many people still might not realize that “free trade” is about much more than a steel tariff or tortilla tax.

### **Forced Trade’s Footprint**

“Free trade” means forced trade. A community concerned about its present and future well-being may not put its values into policy, but is forced to do business on terms set by outsiders. From the town hall perspective, a “free trade” regime shrinks the realm of governance and expands coercion from without.

A “free trade” zone is a democracy-free zone. Democracy and “free trade” cannot co-exist, because “free trade” denies the most basic democratic principles.

That said, where does that leave us today? Is forced trade’s footprint in the US any different from what it was a decade ago?

- Can a local government prevent a corporation from coming in and buying up and selling off local water? How about other resources, such as natural gas?
- Can a government facility refuse to accept hazardous waste unless it meets certain treatment standards?
- Can locals refuse to accept garbage imports from faraway non-recyclers?

- Can locals at least require that imported goods be labeled with such earth-shaking information as county of origin and ingredients?
- What about other consumer protection laws (food product inspection, liability, etc.), labor laws (from wages and hours to occupational safety) and public safety laws (transportation, vehicle standards, other hazards?)

Effective laws of this nature are not allowed in the US, and it’s not because of WTO or NAFTA rules. International trade organizations do not spend much effort ruling on most US laws, because the work has already been done. The US Supreme Court and its lower federal court helpers have been throwing protective laws out as “trade barriers” since Ulysses S. Grant was president. The Constitution’s commerce clause was re-envisioned at about that time as the “peg” on which to hang these pronouncements.

So where today international tribunals use “trade barrier” to justify voiding laws, US federal courts need say only “commerce clause” to accomplish the same thing. In both cases, unelected tribunals take the place of legislatures, and procedures that are blatantly anti-democratic are glossed as being mere matters of trade/commerce.

### **The Invisible Tarp**

And so, the story in 2009 is not the great strides democracy has made against forced trade in the decade since Seattle. Nor is it the great strides forced trade has made against democracy in that time.

The story, even in this day of corporate bailouts and military escalation, is still what it was in 1999. Both internationally and domestically,

forced trade is firmly ensconced, not only in law but in lore.

In the US, most efforts by local communities or states to protect themselves have been unconstitutional for a century. Until 1870, the Supreme Court had not voided a single local, state, or national law as a trade barrier, an interference with interstate commerce. But then, even as hopes for Reconstruction were crushed, the federal judiciary and newly emerging corporate counsel locked hands to invalidate almost any effort by government to rein in corporate expansion.

Over the next sixty years, 237 state laws alone were thrown out. Each toss sent a chilling message to other states considering similar laws. Between 1910 and 1930, the rate was greater than one law per week. Valiant state efforts to protect resources, economies, public health, and worker safety, were swept aside as the Supreme Court propped open the great corporate window of opportunity with commerce clause verbiage.

Starting about 1937, the rate of state and local laws voided as “trade barriers” by the Supreme Court slowed precipitously. States had finally gotten the message that preserving the general welfare against gross corporate expansionism was no longer constitutionally allowable. In recent decades, the Supreme Court has thrown out state laws only once or twice a year, on average, if that.

State and local governments, having been popped by the Supreme Court’s gavel hundreds of times already, seldom try any more. The “free trade” tarp has been so expertly and consistently tacked down over state and local efforts that rarely is it questioned. In fact, it is rarely noticed.

The “invisible hand” of the market has given way to the “invisible tarp” of a forced trade zone. Forced trade’s footprint? Near-complete coverage in 1999. Ditto, 2009.

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Today, as in 1999, we live under a “free trade” regime presided over by a president who campaigned passionately against the ravages of international “free trade” agreements like NAFTA and the WTO’s GATT. A decade ago, the masters of the universe were squabbling even before the Teamsters and Turtles took to the streets. They’re still squabbling today. More importantly, they’re still masters of the universe. They learned that they could conduct “business as usual” with impunity.

Efforts to address climate change, protect our bioregions from the depredations of foreign corporations, respond to peak oil (peak “resource,” really), bend our economies toward local food and local energy, and craft the sustainable and locally self-reliant communities the future requires will not be successful unless we learn to focus on and remove the “free trade” tarp that sits undisturbed over local and state governments. Perhaps at the twentieth anniversary of the Battle for Seattle, we will see some signs of that happening.

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*on the city’s proposed new public library. Her recent book, Gaveling Down the Rabble: How 'Free Trade' Is Stealing Our Democracy (Apex Press, 2008) explores the US domestic “free trade” zone.*

**Resources:**

*Tom Hayden, “The Legacy of the Battle for Seattle,” The Nation, Sept. 12, 2002.*

*Discussion of hundreds of examples can be found in Jane Anne Morris’, Gaveling Down the Rabble: How "Free Trade" is Stealing Our Democracy (Apex Press, 2008).*

*North American Free Trade Agreement (NAFTA), World Trade Organization (WTO), General Agreement on Tariffs and Trade (GATT).*

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