"Stiglitz Commission" Calls for WTO financial services reform

The Commission of Experts on Reforms of the International Monetary and Financial System was convened by the United Nations General Assembly president in the fall of 2008, in the early days of the financial crisis. It was chaired by Nobel Prize winner Joseph Stiglitz, with the participation of a host of distinguished academics from around the world. In September 2009, the Commission released a comprehensive report calling for changes to the global regulatory ceiling imposed by trade pacts like the World Trade Organization. Among the report's findings:

- "Many developing countries have entered into (North-South) free trade agreements (FTAs), bilateral investment treaties (BITs), and World Trade Organization (WTO) commitments that prevent them from regulating the operations of financial institutions and instruments or capital flows. For example, if a developing country decides to nationalize some services such as banking, this can require compensation if the sector has been liberalized under the WTO GATS Financial Services Agreements (FSA) or under an FTA or BIT. When these agreements and commitments are enforced, developing countries have to pay compensation or suffer the imposition of tariffs on their exports to the complainant if they do not or cannot comply."[1]

- "The framework for financial market liberalization under the Financial Services Agreement of the General Agreement on Trade in Services (GATS) under the WTO and, even more, similar provisions in bilateral trade agreements may restrict the ability of governments to change the regulatory structure in ways which support financial stability, economic growth, and the welfare of vulnerable consumers and investors."[2]

- "Capital and financial market liberalization, pushed not only by the IMF but also within certain trade agreements, exposed developing countries to more risk and has contributed to the rapid spread of the crisis around the world. In particular, trade-related financial services liberalization has been advanced under the rubric of the WTO's General Agreement on Trade in Services (GATS) Financial Services Agreement with insufficient regard for its consequences either for growth or stability. Externalities exerted by volatility in the financial sector have severe negative effects on all areas of the economy and are an impediment to a stable development path. Chapter 3 and discussions earlier in this chapter emphasized how inadequate regulation in one country may harm others. Unfortunately, while the GATS Financial Services Agreement provides the only significant regulatory framework for international financial services, it was not conceived and negotiated with these broader considerations in mind but rather was driven by sectoral interests. These special interests often do not realize (or care about) the vulnerabilities that these commitments impose on other aspects of their economy or the international economy."[3]

- "Policy space is restricted not only by a lack of resources but also by multilateral and bilateral agreements and by the conditionalities accompanying assistance. Many bilateral and regional trade agreements contain commitments that restrict the ability of countries to respond to the current crisis with appropriate regulatory, structural, and macroeconomic reforms and support packages. Developing countries have had imposed on them deregulation policies akin to those that are now recognized as having played a role in the onset of the crisis. In addition, they have also faced restrictions on their ability to manage their capital account and financial systems (e.g. as a result of financial and capital market liberalization policies). These policies are placing a heavy burden on many developing countries."[4]

- "Agreements that restrict a country's ability to revise its regulatory regime—including not only domestic prudential but, crucially, capital account regulations—obviously have to be altered, in light of what has been learned about deficiencies in this crisis. In particular, there is concern that existing agreements under the WTO's Financial Services Agreement might, were they enforced, impede countries from revising their regulatory structures in ways that would promote growth, equity, and stability."[5]

- "More broadly, all trade agreements need to be reviewed to ensure that they are consistent with the need for an inclusive and comprehensive international regulatory framework which is conducive to crisis prevention and management, counter-cyclical and prudential safeguards, development, and inclusive finance. Commitments and existing multilateral agreements (such as GATS) as well as regional trade agreements, which seek greater liberalization of financial flows and services, need to be critically reviewed in terms of their balance of payments effects, their impacts on macroeconomic stability, and the scope they provide for financial regulation. Macroeconomic stability, an efficient regulatory framework, and functioning institutions are necessary preconditions for liberalization of financial services and the capital account, not vice versa. Strategies and concepts of opening up developing economies need to include appropriate reforms and sequencing. This is of particular importance for small and vulnerable economies with weak institutional capacities. But there has to be a fundamental change in the presumptions that have guided efforts at liberalization. As noted in previous chapters, one of the lessons of the current crisis is that there should be no presumption that eventually there should be full liberalization. Rather, even the most advanced industrial countries require strong financial market regulations."[6]

---

[1] Commission of Experts of the President of the UN General Assembly on Reforms of the International Monetary and Financial System, September 2009 Report, at 38-39. Available at: http://www.un.org/ga/econcrisissummit/docs/FinalReport_CoE.pdf.
[2] At 82.
[3] At 103.
[4] At 104.
[5] At 104.
[6] At 105.