

# Experts Say Consensus Should No Longer Be Deal Breaker in World Trade

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The Warwick Commission, a panel of leading specialists on world trade is this week publishing the results of its 10 month study of the state of the world trade system. They are concerned about what they see as a dwindling commitment to multilateralism in global commerce and critical of national political leaders' reliance on "the politics of blame and responsibility avoidance" in trade talks.

They call for an end to the reliance on consensus decision-making in future negotiations; a bigger role for the World Trade Organization in the delivery of Aid for Trade to developing countries; escalating financial compensation as a means to resolve some trade disputes and a high level 'reflection exercise' on the future of the trade system by the members of the WTO.

The Warwick Commission is chaired by the Honourable Pierre S. Pettigrew, PC who has held office in Canada as both Minister for Trade and Foreign Affairs. The Director of the Commission is Professor Richard Higgott of Warwick's Centre for the Study of Globalisation and Regionalisation. The Commission's report is entitled *The Multilateral Trade Regime: Which Way Forward?* It will be launched at the WTO headquarters in Geneva at 11am on Thursday 6th December 2007.

One of the key recommendations of the Warwick Commission relates to the WTO's long tradition of relying on consensus in decision-making. The Commission notes that "consensus-based decision-making can be cumbersome if the need for a consensus enables a single player or a few

players to block outcomes and stifle progress."

"Preventing a decision from being taken may be entirely legitimate where vital interests are at stake, the more so if there is a shared perception among a significant group of countries that a particular outcome is undesirable. But equally, blocking may lack legitimacy where its aim is more to prevent others from moving an agenda forward than it is about avoiding a policy outcome perceived as harmful by those exercising a veto. In the history of GATT/WTO, there have undoubtedly been occasions where some parties have seen the action of others as less than fully legitimate in this regard."

The Warwick Commission therefore recommends that serious consideration be given to what has come to be known as 'critical mass' decision-making. This 'variable geometry' solution would bring together a critical mass of countries with clear direct interests in the particular trade issue to be discussed. Again, there would be no vote but consensus on the issue would be reached by that critical mass of countries avoiding tactical vetoes from nations with little or no real interest in the issue at hand.

However the Warwick Commission also recommends that in these circumstances all nations that did not form part of the initial critical mass agreement must have the unchallengeable and unqualified right to join the accord at any time in the future on terms no more excessive than those accepted by signatories to the original critical mass accord. The Commission notes that there are precedents for critical mass arrangements in the basic telecommunications, financial services and Information Technology Agreements of the second half of the 1990s.

The second significant recommendation of the Warwick Commission is that the option of financial compensation should be added to the list of possible remedies available to the WTO as a means of penalising non-

complying states. From the perspective of a system one of the goals of which is to liberalise trade, the imposition of trade sanctions, or restrictions, is both counter intuitive and counterproductive. In most cases, sanctions increase the cost of imports and harm weaker nations that have won their case. Thus, the Commission proposes that WTO Members consider introducing an obligation to provide cash compensation to aggrieved parties where compliance or trade-related compensation is not forthcoming.

This approach is not only less trade-distorting, it would also offer developing countries the possibility of neutralising what is otherwise a major asymmetry in the WTO's dispute settlement system. Indeed, in certain circumstances the Commission argues it would be appropriate to provide for an escalating amount of compensation until an offending party complies or compensates through trade measures.

The Commission argues that the WTO must deliver more for its weaker members and identifies as a "key challenge" the reconciliation of trade and development under conditions of globalisation. The Commission's Report makes it clear that the multilateral trading system must offer meaningful support to developing countries so that they can take advantage of the trade opportunities open to them in an increasingly global world. The Commission concentrates on the importance of the Aid for Trade initiative and the Special and Differential Treatment arrangements available to WTO Members and recommends that the WTO should have a clearly defined role in the implementation of the Aid for Trade initiative. It also recommends that Special and Differential Treatment arrangements should, in future, recognise the different development needs of individual Members rather than the perceptions of developed countries donors of what is best for weaker Members.

The Commission is also critical of national political leaders' failures to

defend the multilateral trading system. Leaders, the Commission says, "have often failed to explain adequately to the public what is at stake. Instead they have preferred silence, or worse, the politics of blame and responsibility avoidance. Governments must look beyond the electoral cycle and confront more directly the vested interests that benefit from protection and the inefficiency it breeds." The Commission calls for the membership of the WTO to engage in a reflection exercise that will consider the challenges and opportunities facing the multilateral trading system and draw up a plan of action to address them.

Source: University of Warwick

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