

# Global Economic Crisis and Protectionism: Implications for Services Trade and GATS

*by*

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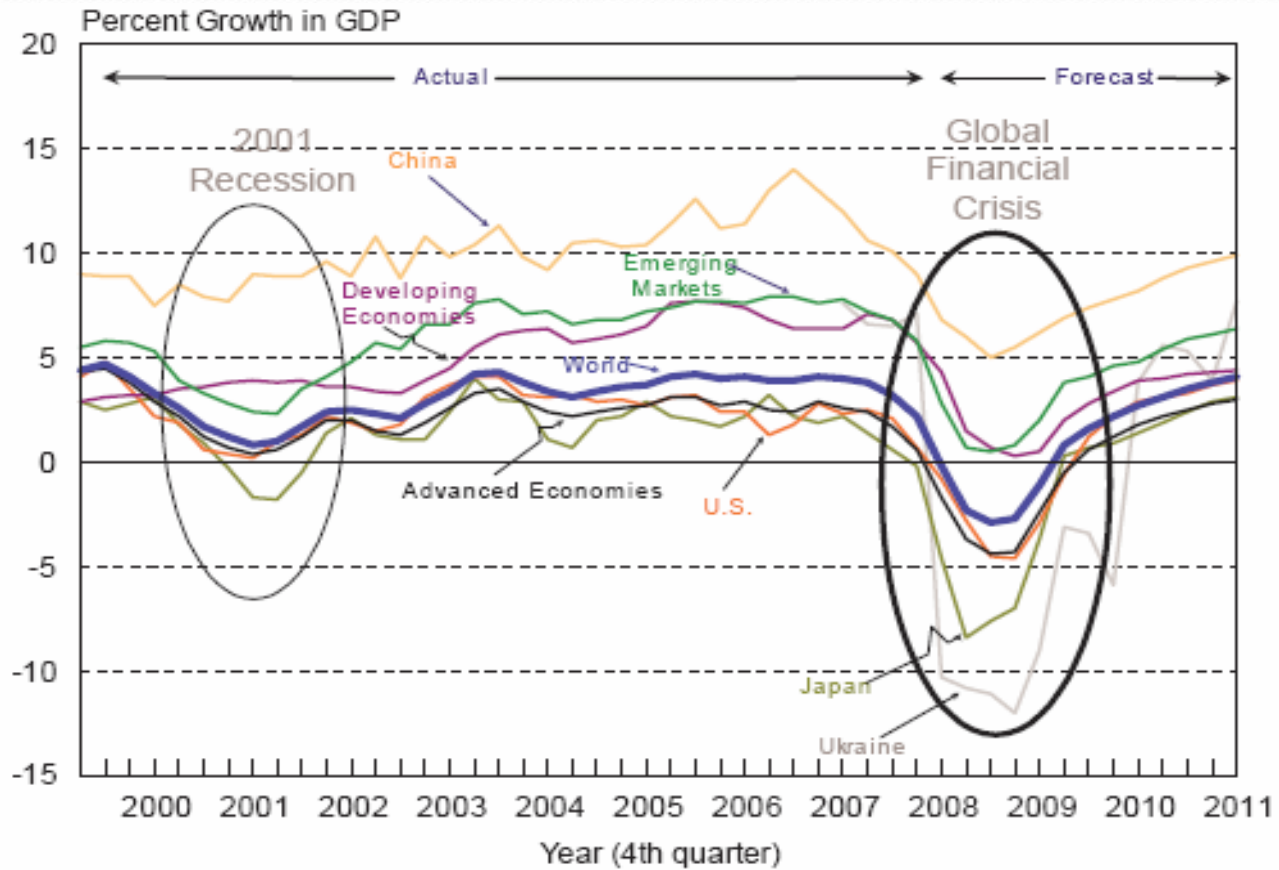
# Outline

- Recent trends in global trade
- Recent protectionist policy trends
- Protectionism and movement of professionals (mode 4)
- Protectionism and outsourcing (mode 1)
- Protectionist proposals and GATS commitments
- The crisis, GATS, and financial services negotiations
- Summary and concluding thoughts

## Recent Trends in Global Trade

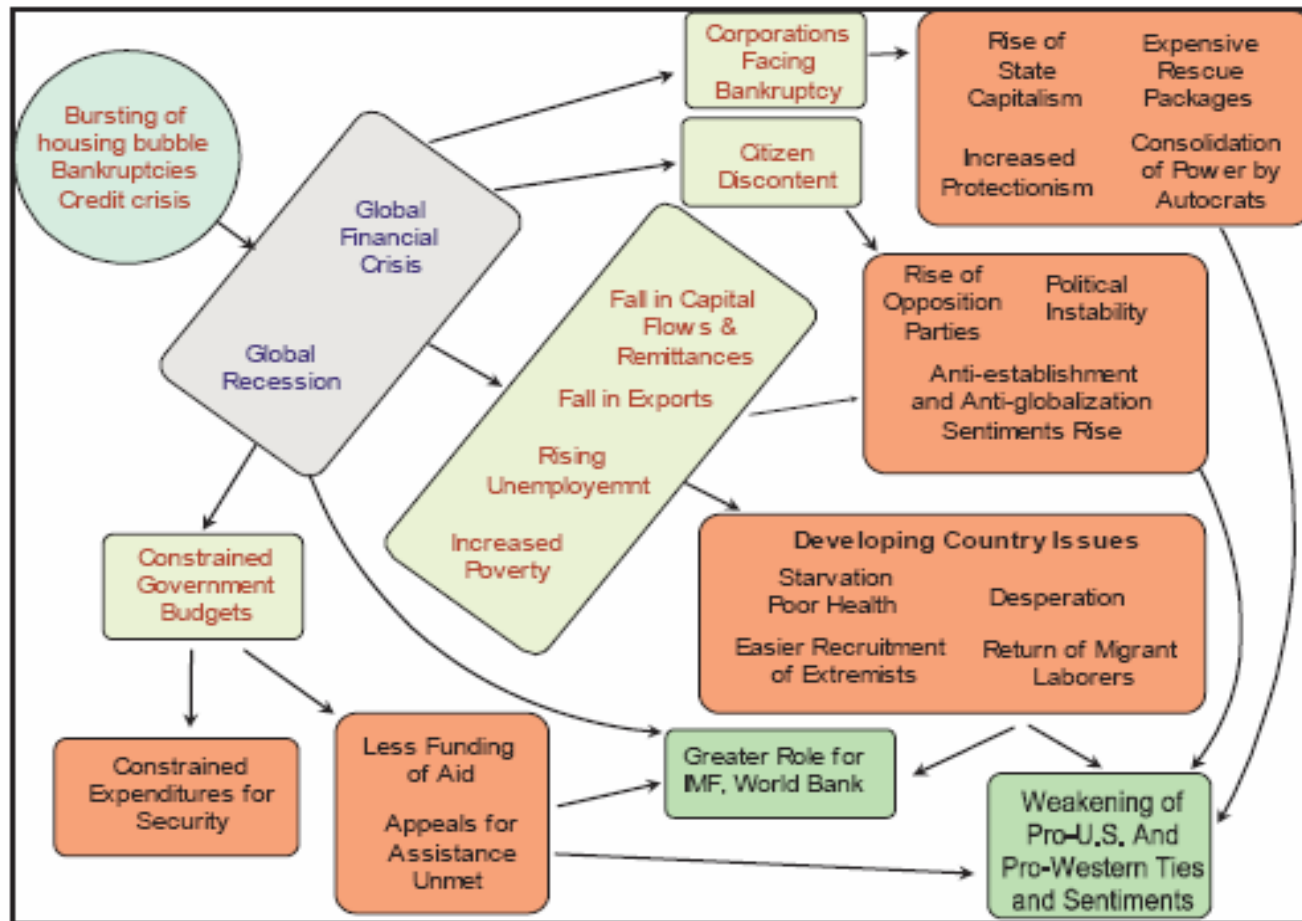
- Global economic activity to contract by 0.5 to 1% in 2009 according to IMF
- Economic crisis has led to slowdown in trade
  - US GDP declined by 6.2% during October-December 2008, exports and imports declined by 23.6% and 16%, respectively in this period
  - Of 41 countries reporting monthly data for exports, 39 countries reported decreases in exports in Jan 2009, half reported substantial declines of over 30%
  - Chile, Hungary, Philippines, Russian Federation, Singapore, Sweden reported export declines of over 40% compared to Jan 2008
- Liquidity crunch and drying up of trade credit is main cause of trade slowdown given 90% of international trade transactions involve trade finance

Actual and forecasted economic growth rates for country groups and for selected countries (annualized quarterly changes)



Congressional Research service, March 2009

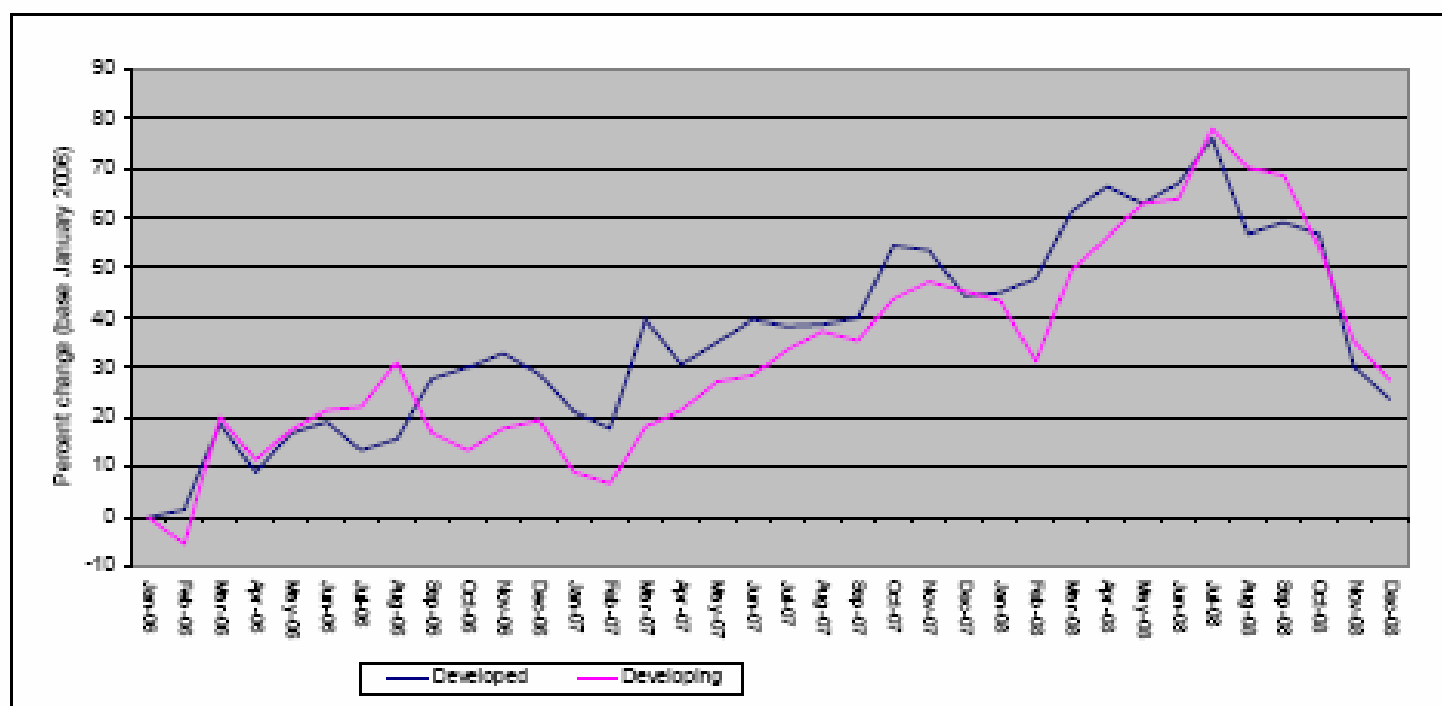
# Actual and potential foreign policy and related effects of the global financial crisis



Congressional Research Service

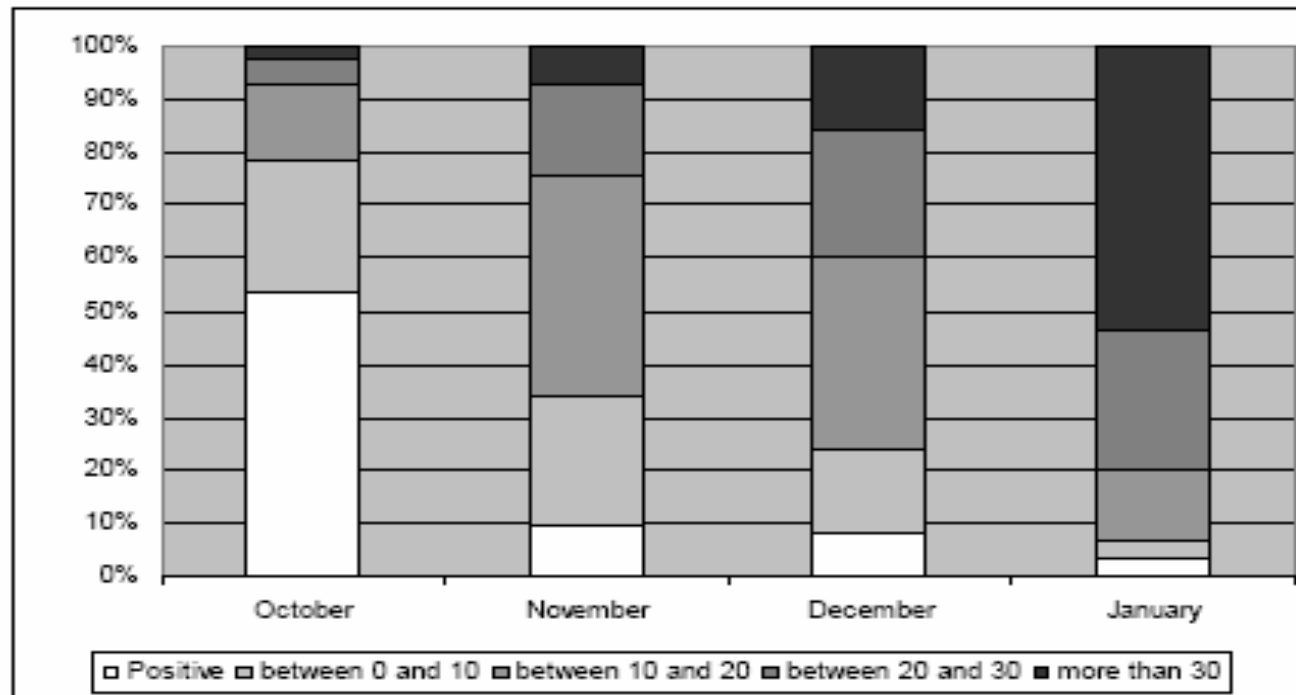
## Export trends, 2006-08

(Percentage change relative to January 2006 – based on United States dollar values)



Source: UNCTAD calculations

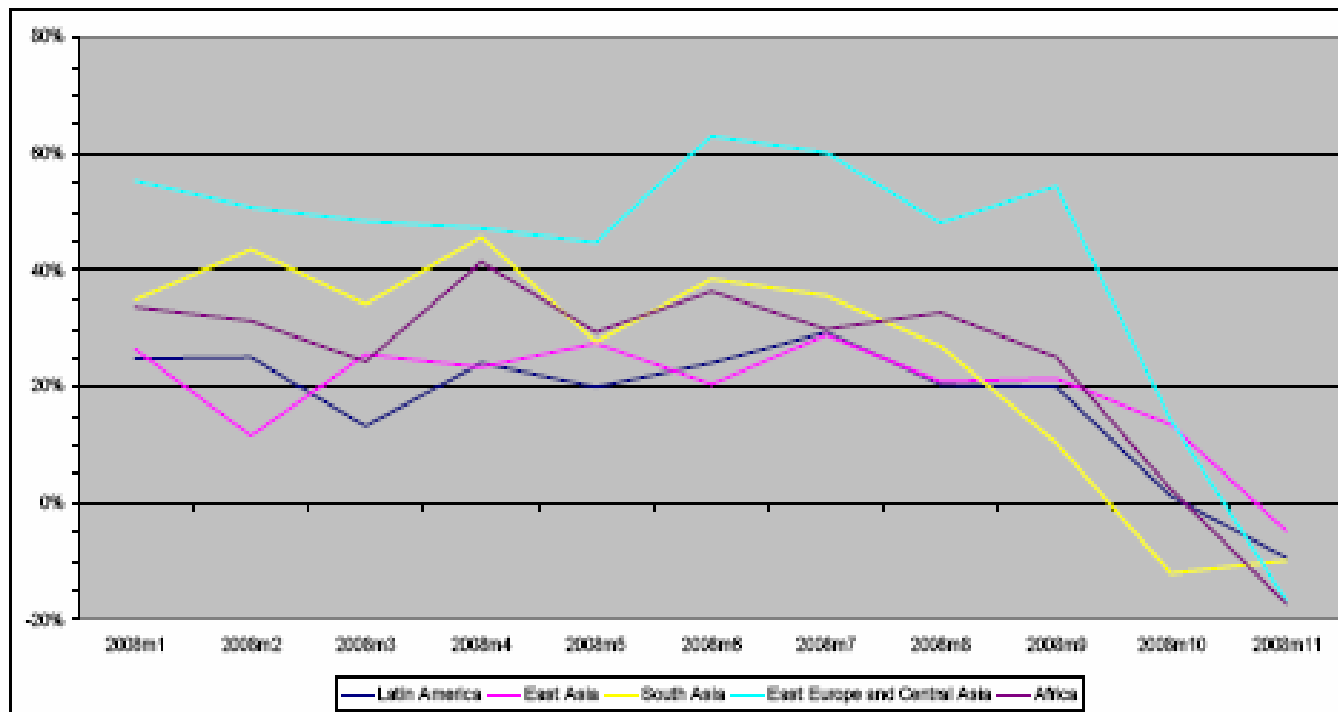
**Distribution of 41 countries by rate of decline in exports**  
 (percentage change in exports relative to the same month of the previous year:  
 October, November, December 2008; and January 2009)



Source: UNCTAD calculations

## Changes in exports by developing country regions, 2008

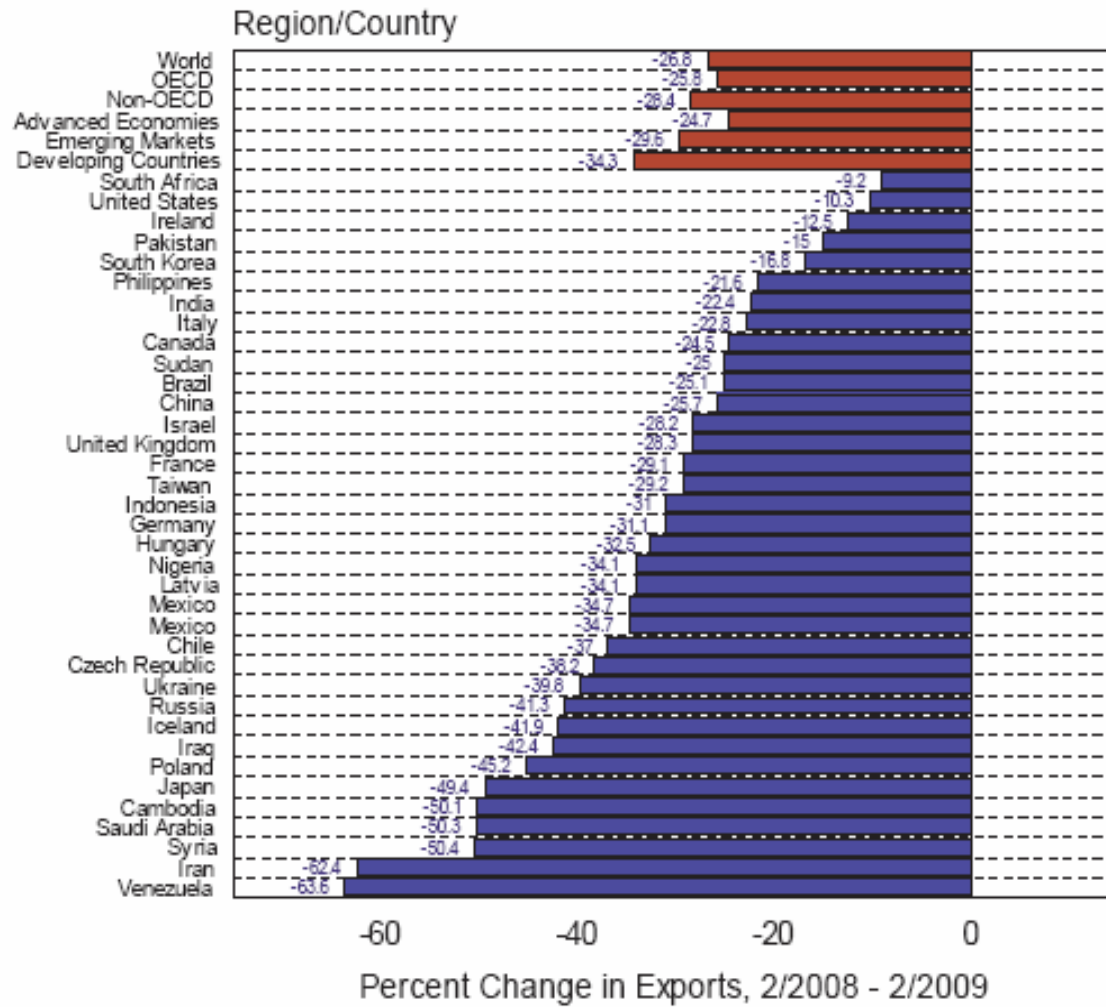
(United States dollar monthly percentage changes, with respect to the same month in 2007)



Source: UNCTAD calculations

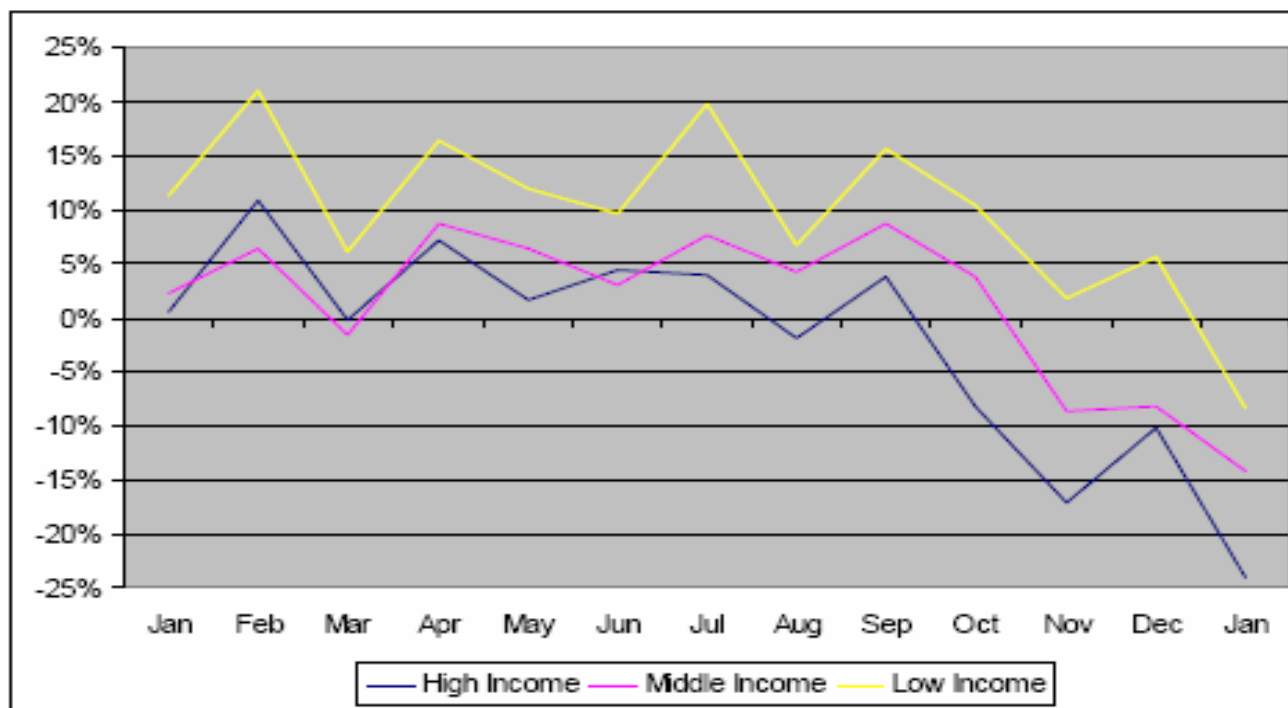


## Change in merchandise export levels for selected regions and countries, Feb 2008-Feb 2009



Congressional Research Service, March 2009

Year on year percentage change in US imports  
(excluding oil), by origin (Jan 2008-Jan 2009)

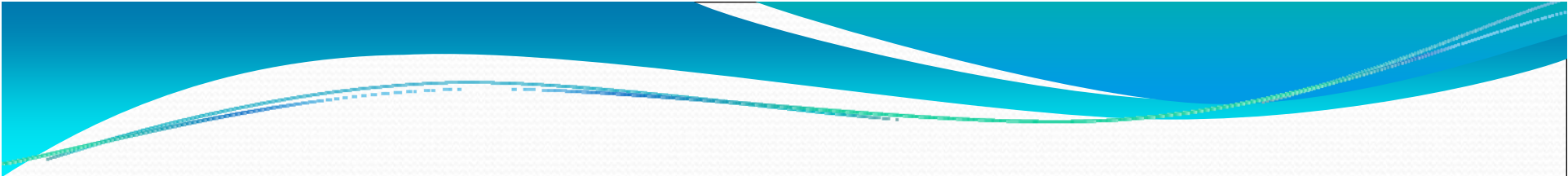



Source: UNCTAD calculations


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- Estimates suggest continued trade slowdown in 2009 with unprecedented drop in trade volumes
    - Global trade to contract by 2.8% in 2009 following 4.1% growth in 2008, 7.2 % growth in 2007 (IMF)
    - World merchandise trade to fall between 6 -8 % in 2009 (UNCTAD)
    - Volume of exports from developing countries and economies in transition could decline between 7-9 % in 2009 (UNCTAD)
    - Developed countries' exports projected to fall by up to 8 % in 2009 (UNCTAD)

## Impact on services trade

- Crisis is also affecting trade and FDI flows in services through various channels
- While services exports rose by 11% in 2008 (y-o-y), 8.5% for developed countries and 15% for developing countries, decline evident from 4th quarter of 2008
  - Developed country services exports fell by 12% from 3<sup>rd</sup> to 4<sup>th</sup> quarter of 2008
  - Some developing countries also reported declines of 6-9% in this last quarter

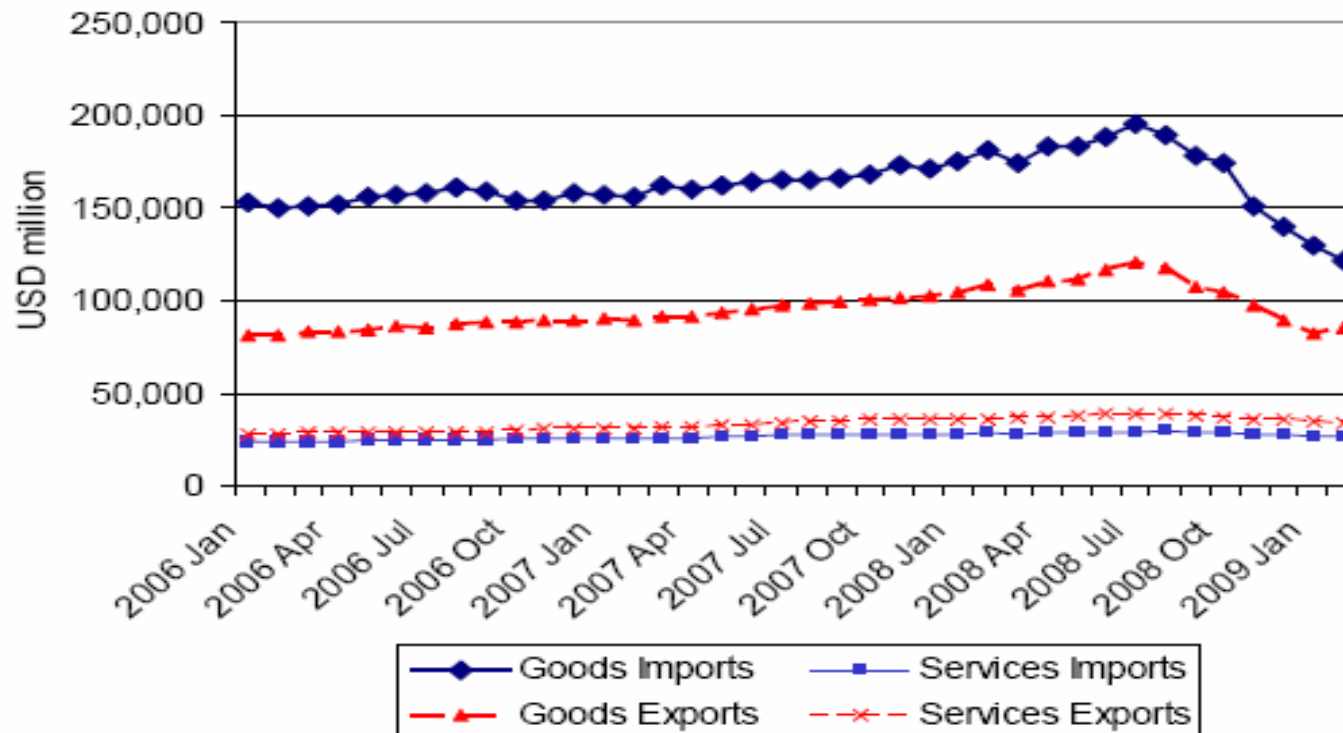
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- Crisis expected to affect services trade through its impact on global employment, thus migrant worker flows and remittances
    - ILO projects an increase in global unemployment by 20mn persons
    - Will affect remittances to developing countries especially in sectors such as construction and tourism which are most affected by crisis and where large share of migrant workers
  - Crisis affecting service sectors closely linked to goods trade and production
    - Demand declined for transport services, including maritime transport (containerized trade, port traffic, deployment of ships)
    - Services linked to manufacturing activity- financial, transport, telecom, energy

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- Some services affected by fall in income and demand: construction, retail distribution, tourism and travel
    - International tourist arrivals declined in last 6 months of 2008, decline of 2% projected for 2009
    - Construction services fallen sharply and expected to shrink globally
  - Services like ICT seeing decline in discretionary spending, most affected segment being banking and financial services (Forrester Res.)
    - NASSCOM estimates India's IT sector will have grown by 16-17% in 2008-09, compared to 24% growth in 2007-08
    - But ICT may be less affected as also growing interest to offshore to increase competitiveness

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- Services trade also affected by slowdown in FDI flows for developed and developing countries
    - Estimated decline of 15% in FDI inflows in 2008, continued decline in 2009 (UNCTAD)
    - Affected by tighter credit conditions, lower corporate profits , increased risk aversion
    - FDI flows to financial services, services related to sectors such as automotive, building materials, and some consumption goods (engineering, construction, retail, tourism and travel) likely to be affected most
  - However, FDI in areas like environmental services, new opportunity areas and sectors benefiting from economic stimulus programs could see a boost


- Despite negative impact of crisis on services trade and FDI, services trade may be more resilient, remain less affected than goods trade

US Monthly Imports and Exports of Goods and Services,  
January 2006 – February 2009



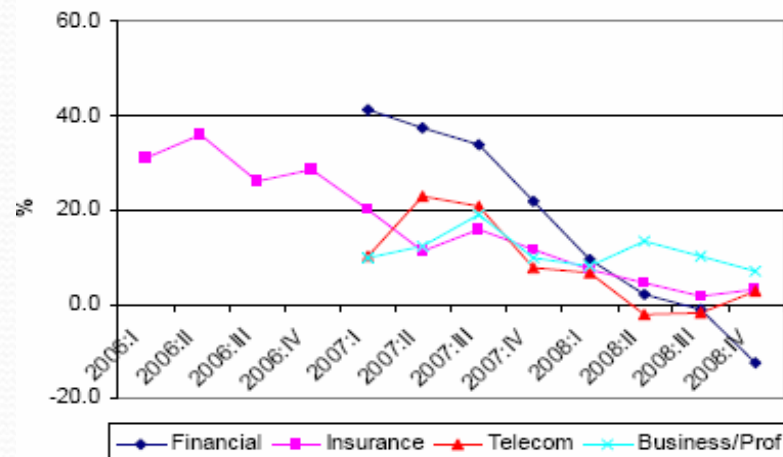
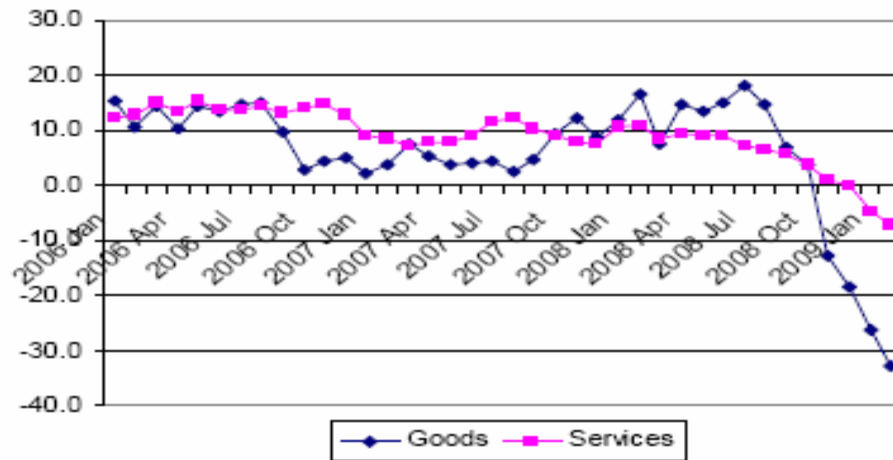
Source: BEA, US International Trade in Goods and Services, millions of dollars, months seasonally adjusted.



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- Services trade may remain less affected than goods trade for certain reasons
  - Less affected by finance constraints, especially business services and IT-enabled services depend less on trade finance than goods trade
  - Demand for services may contract less than demand for goods
    - because services not storable, can't keep inventories
    - international demand for certain services may be less discretionary than for goods as some services less related to scale of production
    - Services commerce often involves long term relationships
  - New services may get traded (outsourced) due to margin pressures and cost reduction imperatives
  - But those services more closely related to goods trade (transport and freight services), financial services have been greatly affected

# US Imports of Goods and Services, Shares (2008) and Year-on-Year Growth


- (a) Total Goods and Services (monthly)
- (b) Sub-Categories of Services (monthly)
- (c) Sub-Categories of "Other Private Services" (quarterly)



Source: BEA, US International Trade in Goods and Services and US International Transactions Accounts Data, Tab. 3a, millions of dollars, seasonally adjusted.

## Recent Protectionist Policy Trends

- Risks of protectionism grow in times of global recession, although lessons learnt from Great Depression about the need to prevent beggar-thy-neighbour policies
- G-20 summits in November 08 and April 09- pledges to refrain from protectionism
- But 17 out of 20 G-20 countries including US and China have recently erected trade barriers or measures which would restrict foreign businesses
- Main protectionist measures relate to higher tariffs, *subsidies*, antidumping, *preferential government procurement*, and environmentally motivated trade intervention
- WTO has identified 85 verified trade measures imposed by 23 countries between Sept 2008 and March 2009, mostly trade restrictive

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- Several risks posed by such protectionist measures
    - Possible overuse of these measures even if WTO consistent
    - Increased state intervention and role of governments could affect investment policies
    - Large economic stimulus programs of developed countries could alter conditions for competition and future investment decisions by MNCs
    - Countries may try to capture a larger share of the declining volume of international trade rather than trying to stimulate trade as they provide assistance to their companies
    - Various forms of loans, credit, tax exemptions to targeted industries could risk issues of WTO compliance and retaliation by trading partners

## Impact on services trade


- Emerging protectionist sentiment could affect services trade in explicit and implicit ways
- Growing social and political disapproval of outsourcing
  - Proposed measures to disincentivize and curb outsourcing
- Growing social and political aversion to immigration
  - Proposed legislation to curb inflow of foreign service suppliers, explicit restrictions on employing or contracting foreign service providers
- Such measures could curb demand for developing country services exports

Buy American provisions in recent American Recovery and Reinvestment Act 2009 have raised concerns given increased government ownership of firms and conditions relating to financial assistance from government

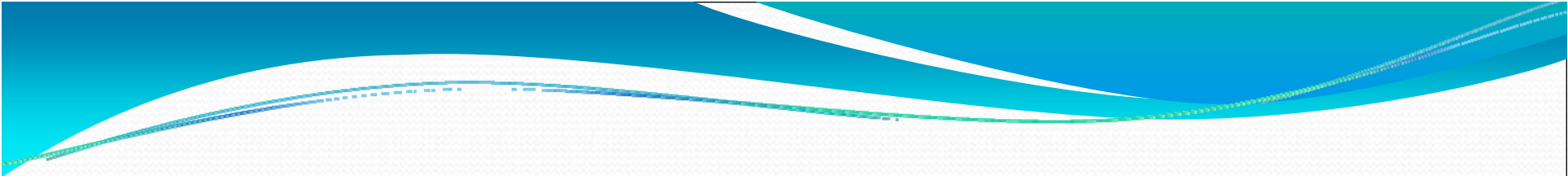
- US government's spending under Capital Purchase Program with holding of stocks in more than 200 financial companies and large investments in financial giants and other major companies
- Main concerns:
  - might lead to national bias in firms' procurement choices and in location of economic activity
  - threaten to cut foreign suppliers off from US market, bring in administrative complexities that make procurement practices less transparent and accessible for foreign suppliers
  - When might subsidies and financial assistance to private sector constitute unfair trade?
- *However, Buy American provisions will be administered in a way consistent with US' obligations under international agreements*

## Protectionism and Movement of Professionals (Mode 4)

- Explicit provision in recent US stimulus bill (American Recovery and Reinvestment Act) has bearing on mode 4
- Provision makes it difficult for financial institutions that have received taxpayers' funds to hire specialty occupation (H-1B) visa holders if they have recently made US workers redundant
  - As there is overall binding quota on H-1B visas, impact may be limited to certain sectors and specific skills
- Supporters argue this provision will dispel myths that H-1B program
  - is used only when no US workers available
  - is for special workers
  - prevents outsourcing of US jobs
  - provides sufficient bargaining power to foreign workers
- Critics note this provision is “antithetical to innovation and domestic prosperity”, turns away talent that US needs

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- Bill on immigration reform likely to be introduced later in 2009, recession and its impact on workers is likely to play a central role in the debate on
    - How to cope with 12 mn undocumented workers
    - Whether employers should use an electronic system of verification for potential hires' legal status
    - *Whether guest worker programs like H-1B will be expanded and reformed*
    - *Whether guest worker programs for both highly skilled and less skilled (H2-B) should be expanded*
  - AFL-CIO and others called for reform not expansion of guest worker programs (also proposed by Obama)
  - Services Employee International Union argued that current 3 tier system of citizens, guest workers and undocumented workers depresses wages for all US workers, need to regulate immigration flows according to economy's needs
  - But employers in nursing, food processing, farming and other industries want to expand guest worker programs as need additional employees
  - High tech companies want to raise annual cap on H-1B program (65,000 + 20,000) despite slowing demand for high skilled workers



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- Grassley-Durbin bill introduced recently to reform visa procedures
  - This bill if passed into law would put various conditions on H-1B visa hiring (though diluted from original proposal to ban all H-1Bs)
    - “The H-1B visa program should complement the US workforce, not replace it... The program is plagued with fraud and abuse and is now a vehicle for outsourcing that deprives qualified American workers of their jobs.”
  - Bill provisions require employers to show good faith effort to hire Americans first and to pay H-1B workers market wages





- Bill provisions:

- Employers must advertise a job opening for a month on labour dept website before seeking a visa for such a position
- Forbids employers from advertising a job as available for H-1B visa holders only
- Bars employers from replacing US workers with H-1B holders in 180 day period before filing H1B or L1 petition
- Requires payment of highest local prevailing wage for H1B and L1 jobs to curb misuse of such visas and payment below mandatory wage, will raise company wage bills and reduce margins
- Prohibits companies from hiring additional H-1B and L-1 employees if 50 percent of employees already in those categories

Bill provisions touch on enforcement issues for H-1B visas given fraud and technical violations in this program

- More than 20% violation rate according to USCIS
- Federal agents have arrested 11 people across 6 states for violations
- Bill proposes:
  - Random audit of at least 1% of companies using H-1B program to ensure compliance with rules
  - Annual audits of companies with more than 100 workers, where 15% or more of these workers on H-1B visas
  - Authorizes 200 additional Labour Dept employees to administer, oversee, investigate, enforce guest worker programs
- However, bill would not reduce current cap of 85,000 visas per year
- Bill introduces several changes in L-1 visa program (intracompany transfers of employees for upto 7 years)
- Establishes process for labour dept officials to investigate, audit, penalize L-1 visa abuses

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- US tech workers have supported Grassley-Durbin bill while IT firms and industry associations have criticized it for targeting Indian firms
  - Nasscom has argued that this bill indirectly brings in protection and disrupts business
  - Nasscom has argued for comprehensive reform to prevent illegal immigration or fraud and how green cards given, but not to prevent foreign IT companies from doing business in the US
    - Indian companies allocated only 12,000 visas in 2008 out of 85,000
  - Microsoft and other tech companies have noted that main problem is shortage of talent and not issue of foreigners depriving Americans of employment


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- Protectionist sentiment and campaigns for increased restrictions on foreign workers not limited to US
  - In the UK, dispute arose over use of Portuguese and Italian contractors in oil refining at a time of growing domestic unemployment
    - Strike in January 2009 and sympathy protests across the UK as workers concerned that foreign companies were overlooking skilled British workers
  - In January 2009, Malaysia banned hiring of foreign workers in factories, stores, restaurants to protect own citizens from mass unemployment given economic slowdown

## Some interesting developments

- Swiss voted in February referendum to accept EU labour rules including foreign labour from newly acceded countries
- EU Blue Card scheme has recently been approved to facilitate entry and stay of skilled workers from developing countries in EU
  - Provides a fast track working visa for skilled workers
  - Will speed up application process, make it easier to bring families, get housing and other public benefits, and obtain long term resident status in EU countries
  - Will allow a foreign worker to work in one EU country, after first 18 months allow worker to move to another country, though would need to apply for a new Blue Card within a month of arrival in other country
  - Still would not provide a single EU market like the US

## *Elements of EU Blue Card*


- To be eligible must be offered a job with gross annual salary of at least 1.5 times the average wage in the EU country, as low as 1.2 times average earnings in areas where strong labour gaps
- Need equivalent of Bachelors degree or minimum 5 years of professional experience of comparable level to apply for this card
- Governments may refuse to issue the card if there are labour market problems or if exceed national quotas
- Each EU state to decide validity of the card, max of 4 years, valid for at least three months if lose job

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- Employers required to carry out tougher pre-recruitment checks on 3rd country nationals under national authority monitoring, subcontractors also liable
  - Failure to carry out checks could mean penalties, loss of national or EU subsidies or temporary disqualification from public contracts
  - Worker to be given equal treatment as EU national with respect to:
    - working conditions, freedom of association, education training and recognition of qualifications, social security and pensions, access to goods and services, free access to entire territory of member state
  - Will enter into force 30 months after EU governments endorse it




## Protectionism and Outsourcing (mode 1)

- Recently proposed tax measures could affect outsourcing by US firms
- Obama's tax proposals target three offshore tax savings strategies commonly used by US MNCs, in order to generate additional revenue for US government and plug loopholes in tax regime for US MNCs
- 3 components to tax proposal
  - Tougher rules for when profits generated abroad should be taxable in the US
  - Target practice of shifting profits from foreign subsidiaries in countries with high tax rates to offshore tax havens
  - Tighter tax limits on credit companies receive for foreign taxes they pay which offset what they owe on US income

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- Worth noting that protectionist legislation/ proposals in US against outsourcing not new
  - 2001-02 New Jersey bill was introduced to prevent offshoring, but was gradually diluted
    - made applicable only to government funded projects
    - automatic waiver granted where cost differential exceeded 15-20% making Act ineffective
  - But would today's changing political climate and economic crisis could make such proposals more acceptable?

## *Elements of proposals*

1. Currently US laws allow businesses to claim credit in US for taxes paid abroad on overseas profits, by attributing all repatriated overseas income to high tax countries
  - Under proposal, US MNCs would not be allowed to get credit for all foreign taxes paid
  - Indian subsidiaries of US firms may not remain eligible for benefits under Indo-US DTAA
  - Today such subsidiaries in India pay only 11% MAT and 15% dividend distribution tax in India, claim credit on these in US, but now would have to pay 35% tax in US on entire income from operations in India



2. Bill proposes to remove relaxations that allow US firms with foreign subsidiaries to deduct expenses on their overseas operations while paying taxes in US, by ending tax deferrals

- Earlier companies could take deductions immediately but defer paying corporate tax on income earned overseas till some later date when income brought back to US either as dividends or as retained profits on their balance sheets
- Under proposal, companies will get deductions on their US taxes for foreign expenses only when bring the income home and pay taxes on their foreign profits in the US
- Now would need to repatriate income to take deductions on expenses like interest costs and general administrative costs
- US MNC subsidiaries overseas may not be able to deduct costs like employee wages when filing tax returns in US

3. Under proposal, US MNCs would not be allowed to shift incomes of subsidiaries to tax havens, subsidiaries would have to be considered as separate corporations for US tax purposes




- Implications of tax proposals

- Tax liability of US MNC subsidiaries will increase

- Proposals could disincentivize outsourcing of business to overseas arms of US companies, though outsourcing to overseas third parties may not be directly affected

- Implications for setting up of overseas subsidiaries for undertaking outsourcing work

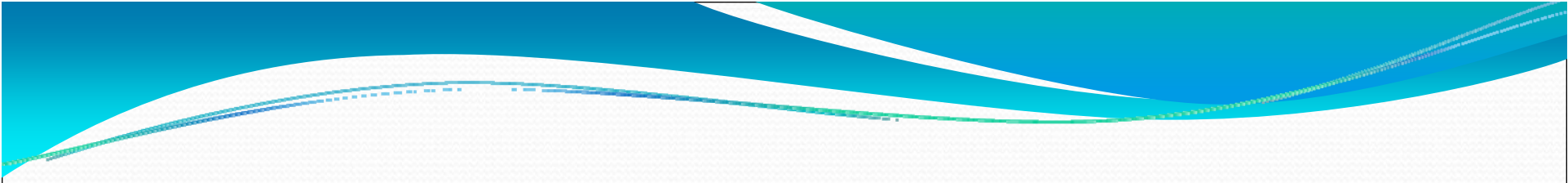
- Net effect will depend on cost increase due to increased tax liability versus cost reduction from outsourcing

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- Some concerns:
    - Implications of increased government stakes in companies
      - Could be difficult for such bailed out companies to outsource jobs for reasons of efficiency, with short term impact on Indian IT sector
      - Infosys pointed out that private sector companies working with governmental entities could be restricted from outsourcing projects which related to government contracts in such institutions
  - Governments in Europe which have injected taxpayer money for bailing out companies are also under pressure to offer protection
  - Might other countries take cues from US and consider adopting protectionist policies regarding outsourcing?

# Protectionist Proposals and GATS Commitments

## Mode 4


- US Bill provisions concerning mode 4 have mixed implications for WTO commitments
  - To the extent that the recent US bill's provisions do not lower the existing H-1B cap below the bound ceiling of 65,000 given in the US' mode 4 horizontal commitment, no WTO compliance issues
  - Enforcement and audit related provisions, search requirements are also permissible given members retain autonomy over domestic regulation, as long as done transparently and non discriminatorily, do not violate national treatment provisions
  - Higher costs of compliance due to stricter requirements and enforcement provisions even if applied non discriminatorily and transparently will de facto discourage hiring of foreign workers, as evident from reduced number of applications for H-1B this year
- Where countries may have banned hiring of low and semi skilled workers, given mode 4 commitments by and large do not cover such categories, unlikely to have issues of WTO compliance

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- But some possible violations if US Bill enacted:
    - Bill's requirement barring firms from replacing US workers with skilled foreign workers could be a violation of market access commitments where such categories of service providers are covered by US commitments on mode 4 and no labour displacement conditions included in commitments
    - Requirement prohibiting companies from hiring more foreign workers if 50% or more employees under L-1 and H-1B categories may also violate market access commitment as such conditions not laid down in US mode 4 commitments
    - Although restrictions on outsourcing of government contracts can be exempted under GATS carve out clause for services rendered in the exercise of governmental authority, can this carve out be applicable to private firms receiving financial assistance and subsidies from government in executing private contracts?




## Mode 1

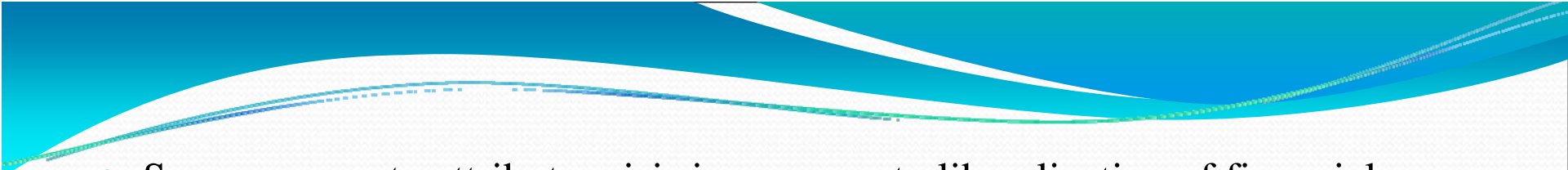
- Tax proposals would not raise any WTO compatibility issues as affect operations and competitiveness of US firms and not market access commitments
- But may need to assess if US' horizontal entries and any sector specific entries regarding taxes and subsidies violate any national treatment commitments made


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- Larger question arising from proposed legislation affecting modes 1 and 4 is the issue of government subsidies or government stakes in private institutions and to what extent:
    - carve out applicable to operations of such entities
    - such assistance is permissible under existing GATS commitments
    - these interventions have a market distorting effect and could impede market access by foreign service providers
  - Is there a case to revisit the discipline on subsidies?
  - How would such protectionist sentiment affect the course of mode 1 negotiations?


# The crisis, GATS, & financial services negotiations


- Some critics have blamed financial services liberalization under GATS as being partly responsible for the current financial crisis
- Argued that GATS (and FTAs) have made it difficult for countries to take measures to improve regulation and supervision by forcing
  - liberalization of financial services without heed to regulatory capacity
  - liberalization of risky financial products and operations
  - legally binding commitments to deregulate
  - removal of prudential regulations
- Critics argue that developing countries have received requests to liberalize all kinds of financial services, including trade in derivative products and investment banking without heed to regulatory capacity and status
  - EU request that some emerging economies liberalize according to far reaching GATS Understanding on Commitments in Financial Services which requires that foreign financial service providers be given permission to introduce any new financial services

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- Such criticisms have led to demands that:
    - Countries should not make commitments to open up their financial services sector under GATS
    - Countries should refrain from commitments that liberalize trade in speculative financial products that could lead to financial instability
    - Countries should ensure that right regulations are in place, review and strengthen role of public sector and regulatory oversight agencies
    - Countries should renegotiate their commitments
  - How valid is this view?
  - Did GATS commitments precipitate the crisis?
  - Does GATS curb national autonomy in regulating the financial sector?
  - What does the current crisis imply for the course of future financial services negotiations?


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- Seems wrong to attribute crisis in any way to liberalization of financial services under GATS given scope and flexibilities under GATS
  - GATS and capital movements – International Payments and Transfers (Art. XI)
    - Current transactions: A Member shall not apply restrictions on international transactions relating to its specific commitments, with the exception of exchange actions in conformity with the IMF Articles of the Agreement
    - Capital transactions: A member shall not impose restrictions on any capital transactions inconsistently with its specific commitments regarding such transactions except under Article XI (BoP safeguards) or at the request of the Fund


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- Cross border supply (mode 1)
    - If a member undertakes a market access commitment in relation to the cross border supply of a service, and if the cross border movement of capital is an essential part of the service itself, that member is thereby committed to allow such movement of capital
  - Commercial presence (mode 3)
    - If a member undertakes a market access commitment in relation to the supply of a service through commercial presence, that member is thereby committed to allow related transfers of capital into its territory
  - Thus implications of GATS in financial services sector depend on nature of commitments made, how much policy space retained in key modes and segments


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- Although many countries have scheduled financial services and made commitments in insurance and banking services, majority of commitments subject to market access limitations on modes 1 and 3 regarding:
    - number of service suppliers
    - value of assets
    - number of operations
    - type of legal entity
    - foreign equity participation
  - Most commitments in modes 1 and 3 also subject to national treatment limitations:
    - Domestic investment requirements
    - Special tax or subsidy privileges to domestic institutions
    - Special operational limits
    - Restrictions on acquisition of land by foreign financial institutions
    - Nationality or residency requirements for directors of financial institutions
  - Thus it would appear that countries have retained sufficient regulatory autonomy and policy space when scheduling their commitments, informed by 1997 Asian crisis

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- Scope of financial services under GATS also provides room for flexibility
  - Annex on Financial Services states
    - Application to measures affecting the supply of financial services... except “services provided in the exercise of governmental authority”
    - Monetary and exchange rate policies
    - Statutory systems of social security or public retirement plans (without competition)
    - Activities conducted by a public entity for the account or with the guarantee or using the financial resources of the government
  - Members are allowed to take measures for prudential reasons including:
    - For the protection of investors, depositors, policy holders
    - To ensure the integrity and stability of the financial system



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- Typical prudential measures would include:
    - Capital adequacy ratios and solvency margin requirements
    - Requirements for preserving asset quality
    - Liquidity ratios
    - Control of market risk
    - Check of management controls
    - Fit and proper tests for members of the board of directors
  - But these measures are not to be used as a means to avoid commitments or obligations under the GATS
  - Although there is an Understanding on Commitments in Financial Services as an alternative approach to committing more liberally in this sector, only 31 members have made commitments in accordance with this understanding
  - Therefore key is how countries commit, what limitations they inscribe, what is the scope of their commitments


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- Are recent measures taken by governments to strengthen the financial sector and bail out financial institutions consistent with GATS commitments?
  - Clearly Annex on Financial Services gives governments autonomy to assist public sector entities via guarantees or financial assistance
  - Government assistance to private financial institutions also permissible as prudential measures are allowed to protect stability of financial system and protect depositors, investors, policyholders
  - But some ambiguity about the hierarchy of objectives when undertaking prudential measures
    - Is it protection of domestic financial system or meeting GATS obligations (as such measures should not be used as a means to avoid obligations)?
    - If such prudential measures do have a market access implication and there is a related commitment, then is it permissible?
    - Would permissibility of such measures then be contingent on its recognition by other members?

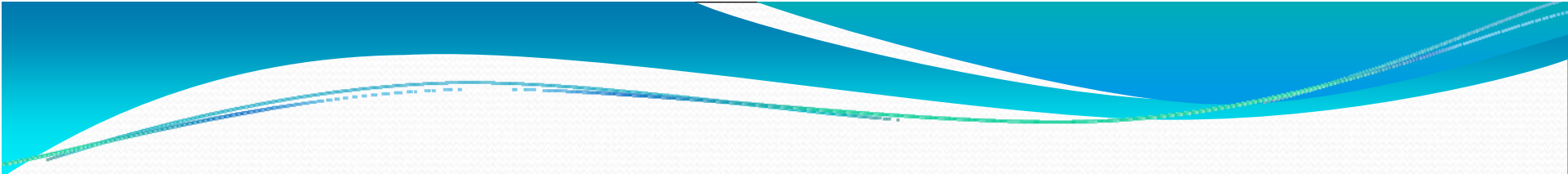
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- Issues to consider for future financial services negotiations
    - Financial services have a public function, public interest aspect is especially important now that government is bailing out financial institutions and nationalizing them
    - Not commit in areas which could lead to financial instability
    - Consider renegotiating/rolling back commitments made in any speculative activities like trading in futures and options, where threat to financial stability
    - Not offer any financial product till officially approved to be safe for consumers
    - Review implications of commitments for social lending and mandatory/preferential lending policies
    - Review requests that seek to eliminate prudential regulations in financial services
    - Need to retain flexibility to fully apply prudential regulation measures



## Summary and Concluding Thoughts

- Evidence clearly suggests that opening markets and supporting liberalization with appropriate policies can boost economic growth globally
- Protectionism will only increase costs, restrict availability of products and services, reduce demand, income and jobs- no one will win
- In such an environment, international monitoring and public commitments to the multilateral trading system will be important to prevent protectionism

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- Several questions arise in the wake of the crisis and resurgence in protectionism
    - What are the implications of the economic crisis and protectionist measures for WTO negotiations?
    - Will they give an impetus to or slow down the negotiations?
    - What are the implications for FTAs/RTAs?
    - Will alternate agreements slow down or continue to witness rapid growth seen in recent years?
    - Might protectionist trade policies lead to retaliation from larger countries and rethinking on multilateral commitments?
    - What does the G-20 undertaking to refrain from erecting new barriers or implementing WTO inconsistent measures mean? Is it a standstill understanding?
    - When do government loans and bailouts become an unfair subsidy under international trade rules?

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- Might protectionist impulses be weaker now than in past crises?
    - lessons have been learnt from the Great Depression
    - firms are much more global in their operations and have lesser incentive to lobby for protection
    - more elaborate rules exist under the multilateral trading system
    - Countries more aware of their interdependence due to globalization

## Some issues specific to GATS

### Mode 4:

- Will recent protectionism in key modes of delivery impede the GATS negotiations in mode 4?
- What WTO inconsistencies with respect to mode 4 commitments may arise if these bills are passed into law?
- Unlikely to see any progress in near future on mode 4, especially on proposals to expand coverage to include skilled categories of interest to developing countries in near future



## Mode 1:


- Will mode 4 restrictions have a dampening or promoting effect on outsourcing?
- Will recent tax proposals indirectly affect market access conditions for overseas firms engaged in outsourcing?
- Industry lobbies in developed and developing countries will need to play an active role to keep markets open, resist further protectionism on outsourcing






## Financial services:

- GATS did not precipitate the financial crisis, roots lie elsewhere in lax monetary policy combined with lack of regulatory oversight
- But current crisis draws attention to the importance of:
  - committing with appropriate regulatory limitations
  - keeping out sensitive segments and modes
  - retaining sufficient autonomy in undertaking prudential measures
  - building regulatory capacity
  - linking negotiations to regulatory capacity

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- Some broader questions arise in the context of services trade and GATS
    - How much of a negative impact is evident in services due to the general economic slowdown, decline in merchandise trade, recent stimulus measures?
    - What role can industry play to curb protectionist challenges in the service sector?
    - What role can the larger emerging economies play in curbing protectionist challenges to services and spillover effects from measures taken in other sectors?

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- Should larger developing countries like India push further to bind existing levels of openness in service markets, especially in cross border supply?
  - Does GATS provide sufficient policy space in the wake of financial crisis or is there risk of WTO inconsistent actions in the service sector?
  - What is the learning from this crisis for the GATS negotiations on financial services, outsourcing, movement of service providers, and disciplines on domestic regulation?



Thank You