FAO TRADE POLICY TECHNICAL NOTES
on issues related to the WTO negotiations on agriculture

No. 9. A special safeguard mechanism for developing countries

CONTENTS

1 Introduction

As countries reduce tariffs and bind them at lower levels, they become increasingly vulnerable to external agricultural market instability[1] and to import surges that could damage viable agricultural production activities. Vulnerability to such external shocks is of particular concern to developing countries endeavouring to develop their agricultural potential and to diversify production in order to enhance their food security and alleviate poverty.

Recourse to the Special Safeguard (SSG) of the Agreement on Agriculture (AoA) was limited to those countries undertaking tariffication. As a result, there is now the anomaly that some countries have the right to use the SSG to deal with import surges, whereas others, including many developing country Members, do not. In view of this, there is agreement in the WTO that there should be a special safeguard mechanism (SSM) accessible to all developing countries.

The purpose of this technical note[2] is to discuss various technical aspects of special safeguards, with a view to providing inputs to the design of the SSM. The next section provides background information on the issue of import surges and an overview of the experience with the use of the SSG by developing countries. Under the assumption that the SSM is likely to operate under similar mechanisms to the existing SSG, section 3 discusses various elements, or building blocks, of the SSM: country coverage, product coverage, triggers, remedy, and duration of the safeguard, with reference to the detail of the SSG. Section 4 draws conclusions and recommendations on the key aspects of the design of an SSM.

2 Experience with import surges and the use of the SSG by developing countries

- *Import surges and depressed import prices*

The term “import surge” is used in a general sense to indicate two different types of external shocks. One is the phenomenon of volume surges – where imports rise suddenly and sharply over and above a base level or trend. The other phenomenon is depressed import prices, mostly due to movements in world market prices, which undermine, or threaten to undermine, an otherwise viable domestic production.

There have been increasing reports of developing countries, particularly lower-income food-deficit countries (LIFDCs), experiencing surges in imports of various food products since the mid-1990s, often with negative effects on local production and economy. Examples include the experience of Jamaica with respect to chicken, Kenya with respect to dairy products, Senegal with respect to tomato paste, and rice in Haiti (FAO 2000, 2003a, 2003b; Sharma et al. 2005).[3] There is concern that these problems will intensify in the coming years as tariffs are further reduced while economies lack alternative forms of safeguards. In several of these cases, imports increased as much as 10 to 20 fold within a short period of time with declines in domestic production, industry and employment.

[1] Agricultural markets are by nature cyclical and subject to wide fluctuations due, among other things, to weather variability. Other sources of instability include the subsidization of production and exports, as well as anti-competitive behaviour of trading firms (both state-owned and private).

[2] Preparation of this Technical Note was assisted by an informal consultation of experts held on 9 – 10 December 2004 at FAO in Rome.

[3] Several national and international civil society organizations have also reported or discussed the phenomenon of import surges (e.g. Action Aid 2002, OXFAM 2002a, OXFAM 2002b).

Table 1: Number of cases of import surges (selected countries and food products, 1984-2000)

	Wheat	Rice	Maize	Vegetable oils	Bovine meat	Pigmeat	Poultry meat	Milk
Bangladesh	5	6	9	7	5	6	2	3
Benin	6	4	3	3	6	7	8	7
Botswana	6	4	0	6	4	9	7	7
Burkina Faso	6	9	4	3	8	8	6	4
Cape Verde	3	6	3	5	7	11	10	3
Comoros	4	5	4	6	5	3	11	4
Côte d'Ivoire	1	4	0	9	7	7	10	3
Dominican Republic	2	-	0	3	8	6	6	3
Guinea	6	5	8	9	7	5	9	6
Guinea-Bissau	6	10	2	6	6	5	9	4
Haiti	1	2	4	7	4	9	8	5
Honduras	8	5	0	8	6	8	11	3
Jamaica	3	4	3	9	3	6	3	1
Kenya	11	3	5	7	4	6	5	4
Madagascar	8	5	7	5	3	8	5	5
Malawi	7	3	9	7	5	7	10	2
Mali	4	5	5	8	8	8	5	7
Mauritania	5	2	4	5	4	5	9	2
Mauritius	2	0	2	1	7	9	6	0
Morocco	6	4	10	0	5	-	13	0
Niger	8	7	9	8	5	6	5	6
Peru	3	4	4	4	4	9	9	6
Philippines	7	9	7	9	12	9	14	5
Togo	6	8	7	7	3	3	8	5
Uganda	10	4	8	11	4	3	2	1
United Republic of Tanzania	8	5	6	10	6	7	4	5
Zambia	4	2	4	4	8	8	5	6

Note: An import surge is defined as a 20 percent positive deviation of imports (in volume terms) from a 5-year moving average. All calculations based on FAOSTAT data. A dash (-) indicates that the country is either not a producer of the product or that data were not available. *Source*: FAO. 2003b).

An import surge was defined by FAO (2003b) as a 20 percent (positive) deviation from a five-year moving average of imports for each commodity/country.[4] The number of import surges identified over the period 1984-2000 is depicted in Table 1, which shows that the frequency of the surges is marked, occurring on average in about one-third of the years in the period covered for each product in each country.

The phenomenon was relatively frequent for some product groups, notably some meats and vegetable oils. Similarly, although all countries experienced import surges, some were affected more often than others, Guinea, Malawi, Niger, Philippines and the United Republic of Tanzania being examples.

Figure 1 shows fluctuations in world market prices for some basic foods, indicating the nature of the sustained depression in world market prices. These figures show that the slump in world market prices of agricultural commodities can linger for considerable periods. Some studies have found that the typical length of price slumps for all primary commodities analysed (including non-agricultural products) was 39 months during the past 3 to 4 decades, with a range of 25 months (coconut oil) to 70 months (bananas) (Cashin, McDermott and Scott (1999);Cashin, Liang and McDermott (1999)).

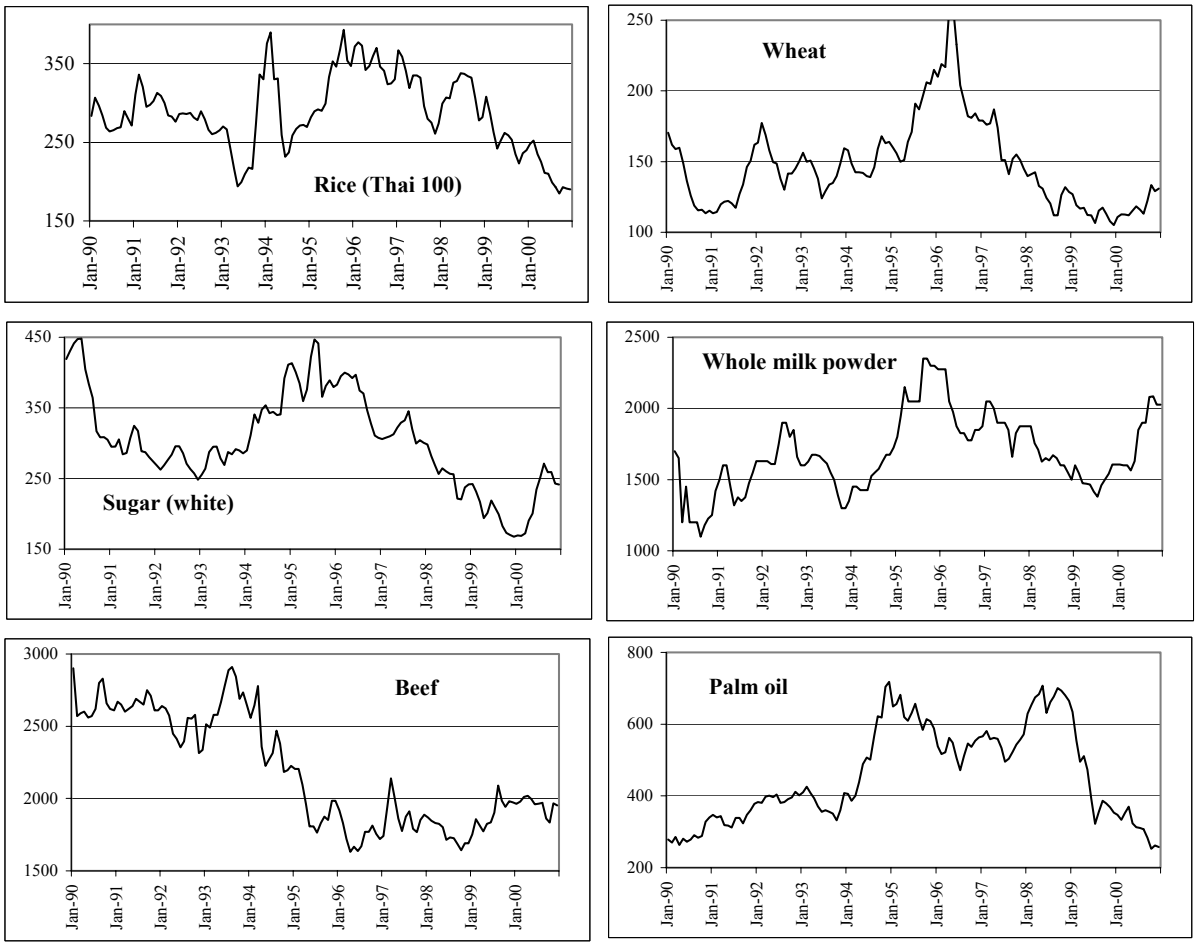
- *Developing country experience with the SSG*

Since it is assumed that the new SSM will be similar in its mode of operation to the existing SSG, this section reviews the frequency with which the SSG has been used. Of the 22 eligible developing countries, only six were SSG users during 1995-2004.

Table 2 shows designated numbers of tariff lines and products eligible for the SSG on which the SSG could potentially have been applied. A total of 39 WTO Members reserved this right for a total of 6 156 tariff lines. Of the 39 Members, 22 are developing countries with the right for 2 125 tariff lines (35 percent of the total). Meat products top the list in terms of SSG tariff lines, followed by cereals and oilseeds/oils. Table 3 provides information on the actual use of the SSGs by these countries.

[4] In the WTO Agreements on general trade remedy measures (i.e. anti-dumping, countervailing and emergency safeguard), there is no specific definition of an import surge, i.e. with reference to a threshold. The phenomenon is stated generally as significant increase in imports, or in such increased quantities, in absolute terms or relative to production or consumption. In the case of the Agreement on Agriculture (Article 5), however, there is a specific definition – current volume of import exceeding some given trigger level.

Figure 1: Trends in world market prices of selected basic food products, January 1990 to December 2000 (in US$/tonne)



Source: FAO.

The number of SSGs triggered by these six countries is 163. This is a fairly small number relative to the potential use of the SSGs. A rough calculation shows that the overall "SSG utilization rate" - the ratio of actual use to potential use – is about one percent when the potential uses by all 22 countries are taken into account.[5] When the potential use of only the six countries that used the SSG is taken into account, the utilization rate is about 5 percent. At the country level, this pattern is reflected: Republic of Korea 7 percent, Nicaragua 2.4 percent, Costa Rica 1 percent and the Philippines 0.8 percent. Chinese Taipei[6] is an exception in that the utilization rate is 45 percent.

Eighty-nine of the total of 163 triggers (55 percent) are volume SSGs and the rest are price SSGs. Chinese Taipei alone accounts for 84 percent of the volume SSGs; when this is excluded, over 80 percent of the triggers are price SSGs. Four groups of products stand out: primary and processed fruits and vegetables (HS07 and HS08) amounting to 21 percent of the total SSGs, various meat products but dominated by poultry (HS02 and HS16), also amounting to 21 percent of all SSGs triggered, rice and beans and peanuts (HS 10 and HS12). The rice figures are dominated by the 24 triggers by Chinese Taipei, which include both rice in grains and various rice products like flour and pasta. There are also some cases where both price and volume SSGs are triggered for the same product, e.g. buckwheat, wheat starch and beans by the Republic of Korea and preserved poultry meats by the Philippines.

In some cases, both safeguards were triggered in the same year. The AoA rule does not allow both SSGs to be triggered at the same time, and these refer to different months of the year. However, in one case, it was found that a Member did trigger both safeguards for the same period. For some products, SSGs are triggered for several years in row – often beginning in January and ending in December when the safeguard must be terminated as per the AoA rule.

[5] Given the total tariff lines eligible for the SSG as 2 125, and assuming that a country triggers the SSG once every year, the total potential use would be 21 250 lines in 10 years (1995- 2004) or 17 000 in eight years (1995-2000), the period for which most WTO notifications are available.

[6] The full official name in the WTO is "Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu".

Table 2: Potential application of the SSG by developing country WTO Members and product category (number of tariff lines)

Member	Cereals	Oilseeds and oils	Sugar/confectionary	Dairy	Meats	Beverages/ spirits	Fruits/ vegetables	Others	Total
Barbados	1	1*	1	2	5	5	21	2	37
Botswana	37	16	4	6	37	19	29	13	161
Chinese Taipei	2	6	7	13	29	-	22	5	84
Colombia	10	24	3	5	6	1	1	6	56
Costa Rica	7	3	4	26	32	-	1	14	87
Ecuador	-	-	-	7	-	-	-	0	7
El Salvador	6	27	15	15	12	-	-	9	84
Guatemala	16	16	4	21	22	7	10	11	107
Indonesia	-	-	-	12	-	-	-	1	13
Korea Rep.	42	2	-	-	6	-	12	49	111
Malaysia	1	-	10	4	38	-	1	18	72
Mexico	44	32	24	37	54	44	11	47	293
Morocco	98	98	56	77	45	-	-	0	374
Namibia	40	18	4	6	37	19	29	13	166
Nicaragua	7	3	1	3	6	-	1	0	21
Panama	-	-	-	6	-	-	-	0	6
Philippines	14	-	2	-	86	-	7	9	118
Swaziland	40	18	4	6	37	19	29	13	166
Thailand	4	12	4	4	-	1	9	18	52
Tunisia	2	-	4	8	14	-	4	0	32
Uruguay	2	-	-	-	-	-	-	0	2
Venezuela	26	29	3	6	5	-	-	7	76
Developing (DC) total	399	304	150	365	471	115	187	235	2 125
Developed total	690	407	148	464	885	214	644	579	4 031
All Members	1 089	712	298	728	1 356	329	831	814	6 156
DC as percent of total	37	43	50	36	35	35	23	29	35

*Whole HS Chapter 15.

Source: Based on WTO, Special Agricultural Safeguard Background Paper, G/AG/NG/S/9/Rev.1, 19 February 2002 (WTO 2002).

It is not clear how a Member decides whether to apply the price trigger or the volume trigger[7], or indeed not to apply either trigger even when the relevant conditions for the SSG are met. For example, calculations based on import and consumption data for 1995-2002 show that both Costa Rica and Nicaragua could have triggered volume SSG twice (i.e. the conditions were met), and yet while Costa Rica applied price SSG for rice in 1999 and 2002, Nicaragua did so only once in 2002.

The SSG experience indicates that the concern that the SSM would be misused if extended to all products is not supported. It is unlikely that governments would actually behave that way because the application of an SSG is not without cost, administrative in particular. Other reasons for limited use could be that although import prices fell or/and imports surged, the authorities may have determined that there was no need for a response, because these phenomena would not necessarily lead to injury that the economies could sustain. Another reason why SSGs were not used much could be that the levels of the bound tariffs were high enough for countries to raise applied rates to the extent required to offset the effects of depressed import prices and import surges. There is some evidence that many countries followed this approach, in particular during 1998-2000, when world market prices of several basic foods declined to low levels.[8]

[7] The issue of the preference for one or the other SSG has some significance for the design of the SSM triggers (discussed below in the "triggers" sub-section).

[8] These are documented in *inter alia* FAO's annual publications on food policies (e.g. FAO 2001).

Table 3: Developing country users of the SSG during 1995-2004

HS. No.	Product	Number of tariff lines	SSG type	When applied?
	Barbados (total 23)			
HS0207	Turkey wings, necks	3	Price	Aug-02
HS07....	Vegetables	14	Price	Jul-Sep 2002
HS1601-2	Sausages, hams	6	Price	Jul-02
	Chinese Taipei (total 75)[1,2]			
HS02, HS16..	Chicken legs and wings	4	Volume	Mar-03, Apr-04
HS1701..	Sugar	7	Volume	Sep-03
HS07	Garlic bulb	3	Volume	Dec-03, Feb-04
HS0808..	Oriental pears	1	Volume	Jan-04
HS04.., HS19	Other liquid milk	13	Volume	Mar-04
HS071...	Dried shiitake	1	Volume	Mar-04
Several HS	Rice and products	24	Volume	Apr-04
HS04..	Fresh/fluid milk	4	Volume	Apr-04
HS12, 15, 20	Peanuts	11	Volume	May-04
	Costa Rica (total 7)			
HS0713...	Black dried beans	1	Price	May-99
HS1006 ...	Rice (in husk, husked and semi-milled)	3	Price	Nov-99, Sep-02
	Korea, Republic (total 45) [1]			
HS1008	Buckwheat	1	Price	1995 through 2000
HS1008	Buckwheat	1	Volume	2000
HS1202	Groundnuts (in shell)	1	Price	1995, 96, 97, 99, 2000
HS1202	Groundnuts (shelled)	1	Price	1995 through 2000
HS1108	Starch of wheat	1	Price	1996, 2000
HS1108	Starch of wheat	1	Volume	2000
HS1108	Starch of sweet potatoes	1	Price	1996, 98, 99, 2000
HS0713	Other bean	1	Price	1997 through 2000
HS0713	Other bean	1	Volume	2000
HS0713	Other small red bean	1	Price	1997 through 2000
HS0713	Other small red bean	1	Volume	2000
HS1201	Soybeans	1	Price	2000
HS11...	Cereal products (groats, meals)	4	Volume	2000
HS1108	Starches, others	1	Volume	2000
HS12.., HS21..	Ginseng and products	4	Volume	2000
	Nicaragua (total 4)			
HS1006 ...	Rice (in husk, husked and semi-milled)	3	Price	Jul-02
HS1006 ...	Rice (rice in husk)	1	Price	Jul-02
	Philippines (total 9)			
HS0703..	Onions and shallots (fresh or chilled)	1	Price	Aug-02, Oct-04
HS1602...	Poultry meats (preserved)	1	Volume	Sep-02
HS1602...	Poultry meats (preserved)	1	Price	Sep-02
HS0207...	Poultry meats (fresh, chilled)	4	Price	Sep-02
HS0207...	Chicken parts	1	Price	Oct-04

[1] Note that the total by country accounts for multiple triggers in various years. For example, in Chinese Taipei, 8 triggers were recorded for chicken legs and wings, 6 for garlic bulb, etc.

[2] The official name in WTO is "Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu".

Source: Compiled from information in WTO (2002) and in WTO notifications by Members (notifications posted at the WTO website as of end 2004).

3 The building blocks of an SSM

On the SSM, the 1 August 2004 Framework Agreement states simply that:

"... an SSM will be established for use by developing country members".

A quick reading of the main proposals on the SSM since the draft Modalities of March 2003 (see Table 4) shows that compared with the August 2004 text, which does not attach any conditions, all other proposals had one or more conditions attached, notably on product eligibility:

- The two Cancun texts speak of "subject to conditions and for products to be determined";
- The G20 text made a link to the depth of tariff reductions reached through the formula cuts:
- On the other hand, in the EU-US text, the SSM would be limited to "import-sensitive products";
- The March 2003 draft Modalities refer to food security and rural development, but it is not clear from the text whether these are considered as objectives or justifications, or the criteria for product eligibility.

None of the texts calls for limiting the SSM to a sub-set of developing countries. Similarly, while product coverage received explicit attention in all texts, these say little about the design aspects of the SSM, notably triggers and remedies.

On the basis of the existing SSG, the five key "design" elements discussed below are country eligibility, product eligibility, triggers, remedy and duration.[9]

- ***Country eligibility***

The Framework Agreement does not limit the SSM to particular developing countries. The justification for the proposal that the SSM should be accessible to all developing countries follows largely from the difficulties involved in developing the criteria required to determine eligibility, whether these be based on threshold levels of food insecurity or vulnerability, or developed on the basis of the level of domestic support and bound tariffs.

- ***Product eligibility***

The Framework Agreement does not limit the SSM to particular products or tariff lines. Issues that have been debated in relation to product eligibility may be grouped into four categories: use of one or more multilaterally agreed, development-related criteria; the depth of the tariff cuts and/or the level of the bound tariff; self-designation by WTO Members, subject to agreed number of products and/or tariff lines; and access to all tariff lines.

Development-related criteria

Several negotiating proposals argued for limiting the SSM to "food security crops". According to a proposal by some Caricom countries (Caricom, 2002), such objective criteria could be the contribution of the product to food security and food nutrition status (e.g. contribution to consumption) in the case of food security, and the share of the product in rural GDP in the case of rural development. To use criteria such as these, there has to be some agreement on the level of the thresholds e.g. the specific level of contribution to the rural economy. The proposal made in the EU-US framework text of 13 August 2003 to limit access to SSM to import-sensitive products also falls into this category. Although little else is said on how to operationalize this idea, "import-sensitive" may be interpreted in similar way to products vital for food security or rural development.

Linking access to SSM with the depth of the tariff cut or/and the level of the new bound tariff

The underlying rationale is that an SSM is essential only when bound tariffs are low. It is also suggested that the access to SSM should be an incentive for Members to reduce bound tariffs. For example, the SSM should be made accessible only when the depth of the tariff cut exceeds some threshold, e.g. a 50 percent cut. This proposal is also not without problems. For instance, a 50 percent cut of a 100 percent tariff will result into the new bound rate of 50 percent whereas a 50 percent cut on a 50 percent duty results in a new bound rate of 25 percent. A safeguard is obviously more valuable when bound tariffs are lower. In other words, the depth of the tariff cut as a rule may not be appropriate. It is for this reason that the second proposal is made whereby access to SSM is related to the level of the new bound tariff. It has been argued by some that the maximum rate should be 35 percent[10].

[9] Various aspects of the SSM and related issues, including those related to the development concerns like food security, are also discussed in Bernal (2003) and Stevens (2004).

[10] Sharma (2002) shows that the maximum bound rates that would allow countries to vary applied rates upwards so as to stabilize completely domestic prices in the face of depressed world prices is in the range of 40-60 percent for basic food products. Valdés and Foster (2004) argue that the threshold for the SSM should be lower than this 40-60 percent range because otherwise countries would have no need for the safeguard.

Table 4: The changing fortune of the SSM in the Doha Round negotiations

Modalities/ Framework texts	Dated	Text on SSM
Harbinson modalities	18 March 2003	➢ An outline of a possible new SSM to enable developing countries to effectively take account of their development needs, including food security, rural development and livelihood security concerns, is currently subject to technical work and will be included at the appropriate stage in Attachment 2.
	1 August 2004	➢ The right to invoke this mechanism shall be reserved (with "SSM" symbol) for the products concerned.
EU-US text	13 August 2003	AN SSM shall be established for use by developing countries as regards import-sensitive tariff lines.
G-20 text	20 August 2003	Under conditions to be determined in the negotiations, an SSM shall be established for use by developing countries, the scope of which would depend on the impact of tariff cuts as per 2.6 above.[1]
Draft text for Cancun	24 August 2003	AN SSM shall be established for use by developing countries subject to conditions and for products to be determined.
Cancun Ministerial text	13 Sep 2003	AN SSM shall be established for use by developing countries subject to conditions and for products to be determined.
Framework Agreement	1 August 2004	AN SSM will be established for use by developing country Members.

[1] This reference to para 2.6 is to the tariff reduction formula for developing countries in the G20 text.

There are two additional implications of the proposal. First, it is possible that no SSM would be accessible for the sensitive and special products because of limited tariff cuts. Second, this proposal produces the outcome that the least developed countries (LDCs) would not have the access to the SSM because they will not be obliged to cut tariffs, although perhaps they need the safeguard more than others.

Self-designation of products or/and tariff lines

In this case, the debate on the selection of the SSM products or tariff lines would take place in the countries themselves. This approach nevertheless requires multilaterally negotiated agreement on the number of tariff lines or products for the SSM.

No restrictions on product coverage

Given the difficulties in determining a priori, which products should be eligible, there is a strong case for making the safeguard accessible to all tariff lines subject to their meeting the requirements to trigger the safeguard. This case is grounded in the fact that it is not feasible to negotiate objective criteria (e.g. food security) for the identification of the SSMs, or a fixed number of SSM products or tariff lines for self-designation. There is also a case for extending the SSM to cover products that are not produced in the country, but which may be close substitutes for products that are produced and which may be undermined by volume surges in the competing product and/or price depression.

Some countries with a large and diversified agriculture may justify the need for the SSM for numerous products, when taking into account various like or import competing products not necessarily produced by the country, while the need of the others with a small and less diverse agriculture would be for far fewer SSMs. On the other hand, critics to the proposal of extending the SSMs to all tariff lines hold that the instrument could be misused, with many SSMs triggered at the same time, although evidence on the use of the SSG suggests that this is unlikely.

- *Triggers*

Neither the Framework Agreement nor the other key negotiating texts say anything about the triggers for the SSM. Various negotiating proposals and statements made in the WTO have stressed some or all of the following basic characteristics as being desirable for the SSM:

- simple and transparent;
- relatively easy to invoke, i.e. not burdensome administratively;
- triggered in reaction to exceptional market conditions;
- remedy measures to be temporary in nature;
- no requirement for proof of injury;
- should not lead to misuse, e.g. too frequent triggers.

Given that the SSM triggers are expected to be similar to the SSG triggers, the technical work on the former should be based on an analysis of the latter. To this end, this sub-section covers the following four aspects of the triggers:

- introduction to SSG price and volume triggers;
- comments on the SSG price trigger for the purpose of the SSM;
- comments on the SSG volume trigger for the purpose of the SSM;
- whether the SSM should have a price trigger only, or a volume trigger only, or both.

Introduction to the SSG price and volume triggers

The SSG price trigger

Under the price-based SSG, the trigger price is defined as the average c.i.f. unit value during the 1986-88 base period, expressed in domestic currency. The permitted level of the additional duty, added to the applied tariff level, depends upon the degree to which the import price falls below this trigger level (see Box 1 for the formula and Figures 2 and 3 for an illustration). The greater the decline in the import price below the trigger level, the higher is the duty that can be applied. However, the additional duty does not completely offset the fall in the import price.[11]

Box 1. Special Agricultural Safeguard: price trigger levels

Let: P_M = current c.i.f. import price of the shipment (expressed in domestic currency)
P_T = trigger price (average c.i.f. price for 1986-88)
D = $(P_T - P_M)/P_T$ (the percentage fall in the import price below the trigger price).

In accordance with Article 5, paragraph 5, of the AoA, an additional duty, expressed in ad valorem equivalent (t), may be imposed according to the following schedule:

If:	(a)	D ≤ 10 percent	then t = 0
	(b)	10 percent < D ≤ 40 percent	then t = 0.27 (P_T/P_M) - 0.3
	(c)	40 percent < D ≤ 60 percent	then t = 0.39 (P_T/P_M) - 0.5
	(d)	60 percent < D ≤ 75 percent	then t = 0.47 (P_T/P_M) - 0.7
	(e)	D > 75 percent	then t = 0.52 (P_T/P_M) - 0.9

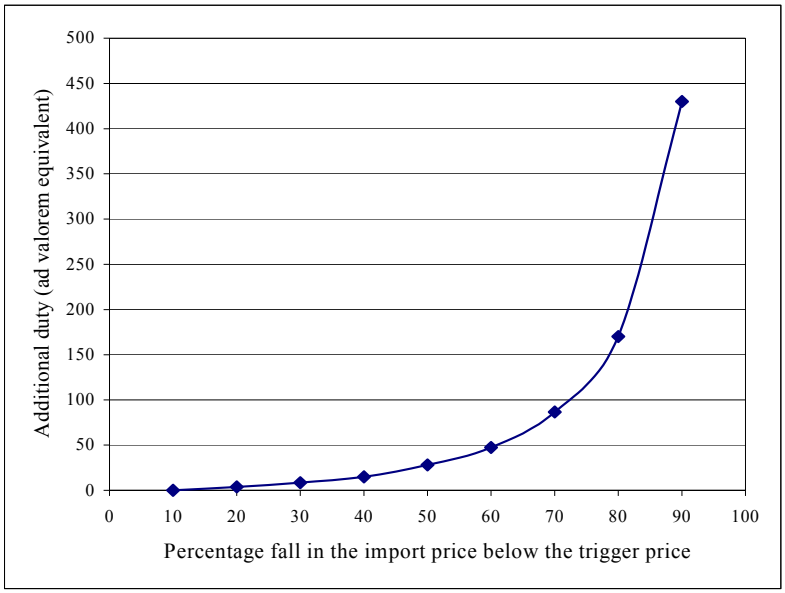
Example: Assume a trigger price of US$120 per unit and that the current c.i.f. import price is US$60. Since the import price is 50 percent of the trigger price, case (c) applies. Consequently, an additional duty equivalent to 28 percent of the c.i.f. import price could be levied, which would bring the price of the imported product to US$76.8.

The additional duty can only be imposed on the shipment concerned and cannot be applied to imports taking place within tariff quotas.

Source: FAO (2002)

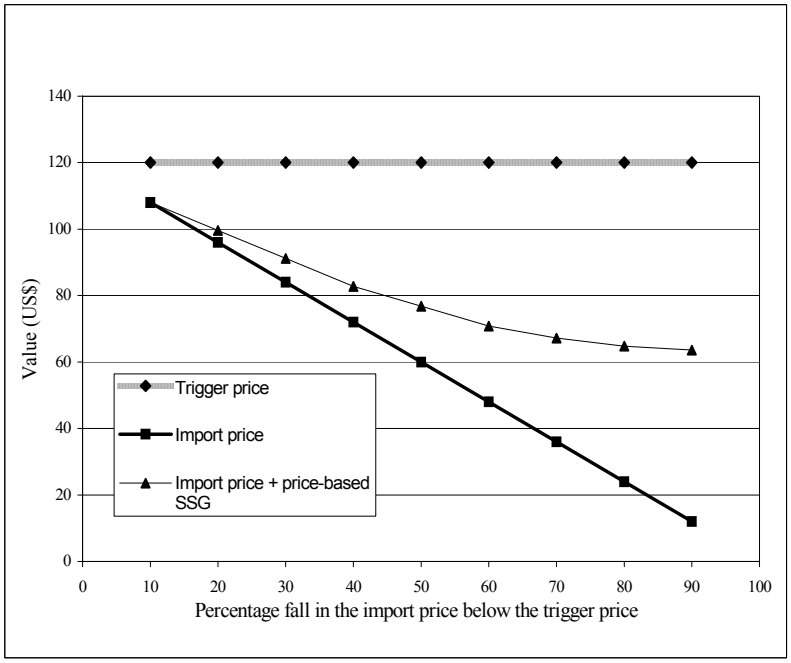
[11] As shown in Figures 2 and 3, the additional duty that can be imposed under the price-based SSG would respectively be 4 percent, 34 percent and 170 percent where the import price falls below the trigger price by 20 percent, 50 percent and 80 percent. Levying the additional duty in each of these cases would offset only part of the fall in the import price.

Figure 2: Graphical illustration of the price SSG - additional duty under price-based SSG



Source: FAO (2002).

Figure 3: Graphical illustration of the price SSG - effect on import price of additional price-based SSG, assuming a trigger price of US$120



Source: FAO (2002).

The SSG volume trigger

Under the volume-based SSG, the trigger volume is derived from: i) actual imports averaged over the preceding three years; ii) the share of imports in domestic consumption over the same period; and iii) the absolute volume change in consumption over the most recent year for which data are available (see Box 2). The trigger level is higher (and the probability of using the trigger lower), the greater the three-year average level of imports, the lower the share of imports in domestic consumption, and the faster the growth in domestic consumption. The maximum extra duty may not exceed 30 percent of the ordinary level of duty in effect during the year in which the SSG is invoked; it may not be levied beyond the end of the year in which it has been imposed; and it cannot be applied to imports taking place within tariff quotas.

Box 2. Special Agricultural Safeguard: quantitative trigger levels

In accordance with Article 5, paragraph 4, of the AoA, an additional duty may be imposed in any year where the absolute volume of imports (M) exceeds the sum of the base trigger level (x) multiplied by the average quantity of imports during the three preceding years for which data are available ($\overline{M}$) and the absolute volume change in domestic consumption of the product concerned in the most recent year for which data are available compared to the preceding year (y). In algebraic terms this is expressed as:

$$M_T = \overline{M}x + y$$

where, M_T is the trigger level of imports and x (the base trigger level) is defined according to the following schedule based on the share of imports in domestic consumption during the three preceding years (*S*).

Thus:

x = 125 percent, if $S \leq 10$ percent

x = 110 percent, if 10 percent $< S \leq 30$ percent

x = 105 percent, if $S > 30$ percent

For example, if the share of imports in domestic consumption during the preceding three years is 7 percent, then x will be equal to 1.25. Thus an additional duty can be imposed if current imports (M) exceed the trigger volume (M_T), i.e.

$$M > M_T \quad \text{where} \quad M_T = 1.25\overline{M} + y$$

The maximum extra duty shall not exceed 30 percent of the level of the ordinary customs duty in effect in the year in which the action is taken, it shall only be maintained to the end of the year in which it has been imposed and cannot be applied to imports taking place within tariff quotas.

Source: FAO (2002).

Comments on the SSG price trigger for the purpose of the SSM

It is generally agreed that the SSM should respond to short-term price depressions below a trigger level threshold but not to longer-term price declines. The key parameter that ensures this is the reference price used for triggering the safeguard. In the SSG, the reference prices were fixed at the level of the average 1986-88 import prices. A high reference price, relative to the current import price, has the effect of reducing the chance of a SSG trigger, and vice versa. The problem arises when current prices bear no relationship to the fixed reference prices. In view of this, some proposals have been made for having more realistic reference prices for the SSM. These include, for example, updating base prices periodically (e.g. every four or five years) or using moving averages.[12]

Several possibilities have been reviewed[13]: price trends and moving averages of various lengths, base-period average prices, the preceding year's price, and a minimum average cost of production of the world's efficient exporter.

The base period price, despite its simplicity, does not incorporate long-term trends, and, unless updated periodically by some appropriate rule, would isolate producers from long-run changes in world prices, and also trigger safeguards inappropriately.

By contrast, moving averages and regression-trends would incorporate the long-term tendency of commodity price declines, although there are some practical issues to be considered with both types of reference prices. Long-memory price trends have the advantage of reflecting long-run opportunity costs of domestic production, but do not guarantee that future prices will stay on the historic trend. The shorter the memory, the more sensitive is the trend to sharp but short deviations in prices, not representative of long-run opportunity costs.

While attractive as a means of smoothing price fluctuations, a moving average produces some results inconsistent with the objective of protecting against exceptionally low prices. For example, a moving average would trigger surcharges in some years when the domestic price would be above trend prices, and similarly there are some periods during which a moving average would not trigger surcharges although prices are below trend.

A regression-trend reference would avoid this particular difficulty associated with moving averages. But the true future trend is unknown and historical price observations are imperfect predictors of future opportunity costs. This suggests that a regression-trend reference price would have to be recomputed periodically, if not annually. One could also argue that recomputed regressions are contradictory to the ideal of a long-term trend, given that the sample regression line will change with the incorporation of the new data.

Principles that should govern the choice of the reference price are that excessive interference with the world market should be avoided by setting the price at a sufficiently low level to cover extremely low prices that threaten to cause injury to domestic producers. In addition, there is a need for periodic adjustments to the trigger level to reflect possible long-term trends in commodity prices and to allow a reasonable degree of transmission of world price changes to the domestic market.

Furthermore, the formula for the price SSG seems to be unnecessarily complicated. It should be possible to develop a simpler, single formula to

[12] Note that in contrast some of the parameters in the volume SSG are updated, e.g. the use of import levels for the latest three years. Ruffer and Vergano (2002) also consider periodic updating of the reference price for the SSM.

[13] See for example Valdés and Foster (2004).

replace the current use of five bands, at the same time maintaining the basic principle that the remedy (additional tariff) should vary with the depth of the price depression.

Comments on the SSG volume trigger for the purpose of the SSM

The volume SSG formula includes some variables in addition to the volume of imports, namely, the change in consumption and the degree of market penetration. As a result, this formula is complex, and there is scope for simplifying it for the purpose of the SSM.

In order to do so, it is essential to understand the significance of the role played by different variables and parameters:

The formula is biased against countries with lower degrees of openness: In the trigger formula, $M_{trigr} = M_{avg} * x + \Delta C$, the scaling factor, x, varies with the degree of openness. Thus, where the openness is lower, the value of x is large (e.g. 1.25) and so the chance of triggering a SSG is smaller. In other words, the formula is biased (in terms of the chance of triggering a SSG) against products and countries with a low degree of openness. For a wide range of agricultural commodities, especially food products, the LDCs and other lower-income countries tend to be less open.[14] For example, imported foods accounted for less than 10 percent of the total consumption for countries with higher incidence of hunger (those with more than 15 percent population undernourished) while food imports amounted to more than 25 percent of the needs for the more food secure countries (FAO, 2003c),. According to the SSG formula, the scaling factor for the former would be 1.25 and only 1.10 or 1.05 for the latter.[15]

The SSG implicitly rewards "openness". The SSM, on the other hand, is often linked to concerns like food insecurity. If that is the case, there may be a justification to remove that bias. This may be done in two ways within the formula – first, by removing, or reducing, the scaling factor, x, and second, by reversing the scaling factors in the SSG formula so that the formula favours less open sub-sectors.

The formula is biased where consumption is rising: In the trigger formula, $M_{trigr} = M_{avg} * x + \Delta C$, the term ΔC is defined as $(C_t – C_t\text{-}1)$ or a change in the consumption level. This means that where ΔC is positive, or current consumption is higher than the previous year's consumption, the trigger level is raised and so the chance of triggering the safeguard is reduced. The reason for adding the term in the formula is presumably to prevent a SSG trigger when imports rise to offset a shortfall in domestic production. It is, however, difficult to visualize a scenario where a government would raise the tariff and trigger the safeguard when there is a shortfall in production and when imports need to be encouraged, rather than discouraged, to maintain consumption levels. Thus, the addition of the ΔC term would appear to be unnecessary to prevent the misuse of the instrument. Although there is wide variation in trends in agricultural consumption across countries, it is possible that the formula may be biased to some extent against LDCs and lower-income countries in the case of food products because their food consumption trends are typically positive and often strong – for reasons of population and income growth - whereas food consumption may be flat or even falling in richer countries.

The formula raises the level of the trigger imports where consumption statistics are missing: In Article 5 of the AoA it is stated that where consumption data are not available, and so the term ΔC is ignored in the calculations, the higher scaling factor, (x = 1.25), will have to be used. Thus, the probability of triggering a safeguard is lowered. This will work against many LDCs and lower-income countries because they lack resources to assemble the necessary consumption statistics in the short period that is required for triggering a safeguard.

Use of the price trigger, or the volume trigger, or both?

The choice or preference of one trigger over another by various countries and for different commodities has not been analysed carefully. In the case of the experience with the SSGs, the price safeguard has been more popular. For example, during 1995-2000, of the 743 SSGs applied, almost 500, or 67 percent of the total, were price safeguards and the rest were triggered by volume. In the case of the developing country experience reported earlier, about 55 percent of the triggers were volume SSGs and the rest were price SSGs. Chinese Taipei alone accounted for 84 percent of the volume SSGs - when these data are excluded, over 80 percent of the triggers are price SSGs. Thus, while price SSGs have been relatively popular on the whole, volume SSGs are also used extensively.

[14] This is not because of the preference for an autarkic trade regime but an outcome of the lower level of economic development – the poorer a country is the more self-reliant it tends to be because it is less able to purchase (import) goods and services.

[15] A similar point was made in a recent G-33 statement (G-33, 2004, para 21) as follows: "Moreover, the trigger level is less sensitive to low levels of imports with the implication that when the national food supply is based largely on domestic production, imports have to increased by more than 25 percent in one year for invoking the measure. Yet, from a food security perspective in developing countries, these are often the most sensitive situations and such a large threshold for triggering the measure severely restricts its responsiveness to the particular circumstances of developing countries."

Targeted export sales, with or without export subsidies, are often seen as a potential source of volume surges without necessarily depressed world or import prices. Where export subsidies are available, it is possible that an exporter targets a country or region with sales for strategic trade reasons, incurring some losses from the sales but recouping these from the export subsidy. A "predatory" trading behaviour can also create a situation where volume surges take place without necessarily depressing export prices. Another argument sometimes made in favour of a volume surge is the limitation of an ordinary tariff to stem the surging imports. This may happen when information on import prices is either lacking or the country in question has poor customs administration resulting in under-invoicing. In such cases, a tariff may not be effective to limit the surging imports.

It has been argued[16] that volume triggers should not be the basis of a safeguard policy because such triggers, where they are not necessarily related to low prices, would not be consistent with the principle of protecting potentially competitive sectors. While the use of volume triggers has the advantage of being based on a verifiable event, the damage to the domestic sector is not volumes of imports, but the reduction in net producer income related to the price decline. An example is a sharp rise in imports associated with harvest shortfall, where domestic prices could rise while imports are rising, and so it would be difficult to justify the imposition of additional duties on the basis of maintaining a price floor to protect a viable industry. In this case, the volume trigger would not reliably indicate the harm to the industry, which is the ultimate event to be verified. Moreover, import volume surges often follow price drops. A decline in the c.i.f. price, by contrast, could lead to a reduction in domestic producer prices, even prior to import surges.

In the WTO general safeguards only volume import surges are addressed as a potential problem, not depressed import prices, i.e. a safeguard is triggered only when imports surge. In the ongoing WTO agricultural negotiations, some Members have indicated that price safeguards are not transparent and are difficult to monitor because prices can be manipulated by governments. Why this is the case only with prices and not with import volumes is not explained.

- ***Remedy***

The word "remedy" or "action" refers to response, i.e. what action is to be taken following a trigger - e.g. application of an additional tariff, a Tariff Rate Quota, or a quantitative restriction – and to what extent, i.e. how much additional tariff.

In the case of the *price SSG*, the additional duty varies with the extent of the price depression below the fixed trigger level, as shown in Figure 2. The SSG response was designed to offset only a part of the price depression. For example, extra tariffs are 4 per cent for a price depression of 20 percent, 15 percent duty for a depression of 40 percent and 100 percent duty for a depression of 72 percent. The additional tariff escalates to 170 percent for a depression of 80 percent and can be even higher. As the SSG is assumed to be triggered only when the WTO bound tariff is insufficient to cure the problem, the total tariff applied should normally be the bound rate plus the additional SSG duty. For example, if the bound rate is 50 percent and the price depression is 40 percent, the total duty applied will be 65 percent.

As regards *volume SSG*, "any additional duty imposed ... may only be levied at a level which shall not exceed one third of the level of the ordinary (applied) customs duty in effect in the year in which the action is taken". Thus, the fixed nature of the additional duty – irrespective of the depth of the problem - is one important distinguishing feature of the remedy between the two triggers. This may influence the choice between the two safeguards if conditions are met for triggering both the safeguards. Moreover, as the additional duty levied in the case of the price safeguard is on a shipment by shipment basis, the actual levels of the additional duties are known only after the event. On the other hand, additional duty is always up to one third extra in the case of the volume SSG.

The following two issues have been prominent in negotiating proposals:

- Should the remedy be an ordinary tariff only, or also a quantitative restriction?
- What would be the desirable level of the remedy?

Ordinary tariff only or an additional quantitative restriction?

In the SSG, the remedy is additional ordinary tariff – there is no provision for any quantitative restriction. In contrast, the general WTO trade remedy measures (anti-dumping, countervailing and emergency safeguards) allow quantitative restrictions. Perhaps in view of this, some proposals have called for the option to apply quantitative restriction in the case of the SSM as well.

In Article 5.1 of the Safeguards Agreement, it is said that a Member shall apply safeguard measures *only to the extent necessary* to prevent or remedy serious injury and to facilitate adjustment (emphasis added). Thus, no specific level of remedy has been prescribed. It is further said that if a quantitative restriction is used, such a measure shall not reduce the quantity of imports

[16] Valdés and Foster (2004).

below the level of a recent period which shall be the average of imports in the last three representative years for which statistics are available, unless clear justification is given that a different level is necessary to prevent or remedy serious injury.[17] This guideline may be useful for the SSM, including for the design of the volume trigger, in case an agreement is reached that there should be provision for quantitative restrictions also.

One of the general parameters suggested by the G-33 for guiding the negotiations of modalities on SSM is that both additional duties and quantitative restrictions shall be envisaged as measures to provide relief from import surges and decline in prices. Some countries, however, have spoken against this proposal. Their main argument is that quantitative restrictions will be a regressive step in the WTO context.

What would be the desirable level of the remedy?

The level of the remedy in the case of the volume SSG is up to one third of the tariff in place, while the additional duty[18] increases with the depth of the price depression in the case of price SSG. Are these levels of remedies also appropriate for the purpose of the SSM? There is no standard benchmark or particular guideline from economic theory on what should be the desirable level of the remedy. The guideline in the Safeguards Agreement that "a Member shall apply safeguard measures only to the extent necessary to prevent or remedy serious injury and to facilitate adjustment" is logical but provides little operational insight.

In the case of the *remedy under price safeguard*, additional duties offset only a part of the full range of the price depression. For example, extra tariff is only 4 percent for a depression of 20 percent, 15 percent for a depression of 40 percent, 100 percent duty for a depression of 72 percent, 170 percent duty for a depression of 80 percent, and so on. In other words, there is a strong non-linearity in the formula in that additional duties are fairly low in the lower range of the price depression, e.g. up to 40-50 percent, after which additional duties escalate. Is this feature also desirable for the SSM?

It is very difficult to pinpoint a particular level of offset that is most appropriate for a configuration of a country and commodity. The issue here is one of knowing the degree of vulnerability of the commodity or sub-sector in question, assuming that more vulnerable sub-sectors may require a greater degree of insulation from the external shock. Aside from the special case of the LDCs, it is virtually impossible to agree on criteria of vulnerability. Second, an analysis of the actual level of price depressions of agricultural commodity markets (e.g. in Figure 1) shows that maximum price depressions are typically in the range of 30-50 percent, and not in the 70-90 percent range. This means that the SSG duties are typically in the 10-15 percent range. In other words, in typical cases, the SSG duties offset only about one third of the total price depression. Some would consider this level of remedy to be too low while others may consider this to be reasonable or adequate. If Members agree that the level of the remedy is not adequate, it is straightforward to modify the parameters in the price SSG formula to raise the level of the remedy in the lower range of the price depression also.

In the case of the *remedy under volume safeguard,* the maximum additional duty is one third of the level of the ordinary customs duty in effect in the year in which the action is taken. Similar questions as above may be asked here for the purpose of the SSM, i.e. is this level adequate? The reference to in effect in the year may need some clarification. Although most references to tariffs in the WTO legal texts are to bound rates, the wording "in effect in the year" gives an impression that the reference is to applied rate because the tariff in effect in any given particular time is the applied rate. This point is also important for the developing countries because when faced with import surges legislation may prevent the government raising the applied tariff by decree without going through some legislative process, which may take time. Therefore, the reference to the extra duty should be from the bound rate, and not necessarily from the tariff in effect at the time a safeguard is triggered.[19]

If the reference is indeed to the bound rate, it is desirable to say so clearly. This is of particular significance for the developing countries because their applied tariffs are often significantly below the bound rates. A one third extra tariff from a low applied rate could be very small, e.g. 3-5 percent when applied rates are 10-15 percent.

Finally, it may be worth considering whether it is desirable for the volume SSG duty to vary with the depth of the surge, as it is in the price safeguard. The issue is one of asymmetry in the two remedies and its conceptual basis. The conceptual aspect of this is the relationship between the level of remedy (additional duties) and the gap between actual imports and base level of imports. Are progressively higher duties essential to limit increasingly surging imports? There is no easy answer to this question, and

[17] Note that a provisional safeguard measure should instead take the form of tariff increases.

[18] The duty is additional to the applied tariff level.

[19] It is also possible that applied rates may be changed 3-4 times even within a year, in which case the reference to the word "year" in the language "in effect in the year" can be confusing.

arguments can be made on both sides. It will not be difficult to modify the volume SSG formula to incorporate this feature, if it is agreed that the level of the remedy should vary with the depth of the surge. For example, the level of the remedy can be progressively raised for three to four bands that characterise the depth of the surge, just as in the case of the price SSG.

- ***Duration of the SSM application***

A safeguard is by definition a temporary instrument meant for addressing problems of a temporary nature. Under the current rules for the SSGs, a safeguard is in effect until the end of the calendar year in which it is triggered, which could mean 12 months if the SSG is triggered on 1 January, or only one day if triggered on 30 December. The SSG can be triggered again in the beginning of the next year if this can justified with new data. There are some cases where a SSG has been triggered for some products on an almost permanent basis, i.e. every year since 1995. In general, it is desirable to avoid this because it gives the impression that the problem is not of a temporary nature and so the solution cannot be a safeguard.

There are two key questions here. First, what should be the duration of the SSM once it is triggered? Second, what should be the total length of time (or number of times) an SSM can be triggered for the same product? As for the first question, it does not appear that there is a particular problem with the current duration of the SSG, i.e. until the end of the calendar year. Nevertheless, some options may be considered. For example, there is no reason why the end of the calendar year has to be the end of the safeguard period. Thus, a particular safeguard can have a life of six months or 9 months, or 12 months, from the date of the initiation, rather than end abruptly on 31 December. It may be that statistical or reporting considerations influenced this rule.

As for the second question, one may adopt the principle that "an SSM for a particular product may remain in place until the problem being addressed is over". In the case of the price-based SSM, such a basis would be the cycle of depressed world market prices. The duration of the cycle of depressed prices was discussed earlier. It was noted that the typical length of a price slump for primary commodities was 39 months during the past 3-4 decades. Thus, three years would appear to be the average period of the slump, which also appears in the world market prices of the six basic foods presented in Figure 1. If the maximum length of an SSM trigger is 12 months (to be determined as per the first question posed above), this means that the SSM could be triggered a total three times (the initial application and up to two extensions) for the same product.[20,21] This would be followed by a period of three years during which the safeguard could not be applied. There is no similar guidance grounded on some behaviour of the world agricultural markets in the case of the volume SSM, but the same rule may be used – three triggers in a row to be the maximum length for the volume SSM, and then a three-year period during which the SSM could not be used on the product.

The justification for the suggested duration is that where an SSM is required beyond this length, then the problem at hand is of a different nature – no longer a temporary problem eligible for the SSM but one requiring adjustment, which is the domain of the Safeguards Agreement.

4 Concluding remarks

That import surges and periods of depressed world market prices are problems and that the developing countries in particular require a simple-to-use safeguard does not seem to be questioned in the WTO. The response is the establishment of a Special Safeguard Mechanism (SSM) for the developing countries, as stated in the August 2004 Framework Agreement. However, little else is said, notably on the "design" elements of the SSM.

On the basis of the review in this technical note, a number of recommendations can be made:

- It seems very difficult, if not impossible, to agree to a set of objective criteria for the purpose of determining country eligibility within developing countries for the SSM. The Framework Agreement rightly does not raise this issue, although it received some attention during the negotiations. The SSM should be available to all developing countries.
- It seems somewhat more feasible to develop criteria for product eligibility of the SSM. However this would not be easy, since criteria such as food security or rural development are difficult to operationalize for this purpose and linking access to the SSM to the level of the bound tariff is also likely to be problematic. This provides a solid justification for the Framework Agreement not limiting the SSM to particular products or tariff lines. It is

[20] According to Valdés and Foster (2004), if the reference price accurately reflects long-term trends in opportunity costs, there would be no need for the time limit on the application of the surcharge.

[21] Ruffer and Vergano (2002) are also of the view that the number of times an SSM can be re-invoked for the same tariff line should be three consecutive triggers, as the maximum. They further add that if a moving average method is used for the reference prices, such limitations are not required.

difficult to state, a priori, which products should be eligible and therefore all products should be eligible, but consideration may need to be given to the number of products that can consecutively have access to the SSM. For example, the number of products to which an SSM can be applied simultaneously may be set at 5 product (e.g. rice), or sub-product (e.g. butter or milk powder) groups.

- The formula for both price and volume SSGs are unnecessarily complicated. These can be simplified. For example, the formula for volume SSG has some built-in biases that may work against the interests of lower-income economies. Improvements are also needed on the fixed reference price, especially that these should be realistic and reflect long-term changes in world market prices. There is a justification for both price and volume safeguards, as is the case in the current SSG.
- On the desirable level of the remedy, it was noted that there is an asymmetry in the current SSG remedies – with additional tariff limited to up to one third of the tariff in place at the time a safeguard is triggered in the case of volume SSG - but the scope to apply additional duties responds to a greater extent to the depth of the price depression in the case of the price SSG. Why this should be so is not clear, and an SSM based on these triggers may require some refinement to allow for higher levels of additional duties to be applied where import volumes increase sharply. It was also noted that in the lower range of the import price depression, notably when price depressions are below 40 percent or so, the level of the remedy is on the low side, and may not be adequate to address the problem. It is difficult to draw conclusions as to whether the remedy should be limited to ordinary tariffs only, or also include quantitative restrictions.
- On the duration of the SSM, it was noted that a safeguard is by definition a temporary measure and has to be limited for short periods, e.g. up to one year as with the SSG now. On the question of the total length of time (or number of times) an SSM can be triggered for the same product, it was noted that in the case of the price safeguard, this should be linked to the total period of price depression, which is about three years for a majority of agricultural products. This means that the SSM may be triggered up to three times for the same product. There is no similar guidance grounded in the behaviour of the world agricultural markets in the case of the volume SSM, but the same rule, i.e. three triggers may be used.

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