

**THE PRICE-BASED SPECIAL SAFEGUARD MECHANISM
(SSM):
TRENDS IN AGRICULTURE PRICE DECLINES AND
ANALYSIS OF THE CONDITIONALITIES IN THE DECEMBER
2008 WTO AGRICULTURE CHAIR'S TEXT**

SYNOPSIS

This paper begins by highlighting the frequency of price declines experienced by developing countries. It then touches on the use of the price-based Special Safeguard Provision (SSG) by developed countries.

The paper then looks at the conditionalities of the WTO Agriculture Chair's December 2008 text (TN/AG/W/4/Rev.4). These include exclusion of en route shipments from the price-based SSM coverage; the trigger and remedy, and the omission to take into account the value declines in ad valorem duties when prices drop; the cross-check; and the exclusion of preferential trade from SSM coverage.

An analysis of these conditionalities is provided. Some of these clauses, if agreed upon, will severely curtail countries' ability to invoke the price-based SSM. In addition, once invoked, the remedies, as they are currently drafted, are not likely to be effective in shielding domestic producers from price volatilities.

November 2009
Geneva, Switzerland

This Analytical Note is produced by the Trade for Development Programme (TDP) of the South Centre to contribute to empower the countries of the South with knowledge and tools that would allow them to engage as equals with the North on trade relations and negotiations.

The South Centre thanks Evangelischer Entwicklungsdienst EED, Germany; Bread for the World, Germany; Interchurch Agency for Development Cooperation ICCO, Netherlands; Bread for All, Switzerland; APRODEV; and Fin Church Aid, Finland for contributing to the research of the paper

Readers are encouraged to quote or reproduce the contents of this Analytical Note for their own use, but are requested to grant due acknowledgement to the South Centre and to send a copy of the publication in which such quote or reproduction appears to the South Centre.

Electronic copies of this and other South Centre publications may be downloaded without charge from:
<http://www.southcentre.org>.

THE PRICE-BASED SPECIAL SAFEGUARD MECHANISM (SSM): TRENDS IN AGRICULTURE PRICE DECLINES AND ANALYSIS OF THE CONDITIONALITIES IN THE DECEMBER 2008 WTO AGRICULTURE CHAIR’S TEXT

TABLE OF CONTENTS

EXECUTIVE SUMMARY.....	1
I. INTRODUCTION:	4
II. FREQUENCY OF PRICE DECLINE.....	5
III. USE OF THE PRICE-BASED SSG BY THE US AND EU.....	13
III.1 EU PROTECTION OF SUGAR WITH THE SSG.....	13
III.2 UNITED STATES’ USE OF THE PRICE-BASED SSG.....	14
IV. CONDITIONALITIES FOR THE PRICE-BASED SSM IN THE DECEMBER 2008 CHAIR’S TEXT (TN/AG/W/4REV.4).....	16
V. WHAT ARE THE IMPLICATIONS OF THE CONDITIONALITIES?.....	16
V.1 THE PRICE TRIGGER AND REMEDY, AND INTERACTION BETWEEN A VALOREM DUTIES AND DECLINING PRICES.....	16
V.1a SETTING THE TRIGGER PRICE AT A HIGHER LEVEL; REMEDY TO COVER 100% THE DIFFERENCE BETWEEN IMPORT AND TRIGGER PRICES	17
V.1b REFINING THE DEFINITION OF ‘PRICE’	20
V. 2 THE PRE-DOHA BOUND TARIFF AS THE UPPER LIMIT FOR THE PRICE REMEDY MEANS THE CEILING FOR THE REMEDY DECLINES AS PRICES DECLINE.....	24
V.3 CROSS CHECK SHOULD BE DELETED.....	26
V.4 EN ROUTE SHIPMENTS SHOULD ALSO HAVE SSM COVERAGE.....	28
V.5 PREFERENTIAL TRADE TO BE BROUGHT BACK UNDER SSM COVERAGE.....	29

EXECUTIVE SUMMARY: Key Recommendations

1a. Setting the Trigger Price at a Higher Level

The trigger price sets the ceiling level for the SSM remedy (according to the Chair's text where the remedy is the difference between the trigger and import prices). If the trigger price is below the domestic price, then the SSM remedy is unlikely to be able to stop the imports that could be undercutting domestic producers.

The following are suggestions in order of desirability in terms of making the SSM more effective:

- i) Peg the trigger price at 100% of the domestic price or better still, at 105% of the domestic price or the reference price, whichever is higher;
- ii) Peg the trigger price at 95% or 90% of the reference price (as the G33 is suggesting), but as in the G33 position, the remedy will have to make up the difference between the import price and the reference price, not the trigger price.

1b. The Remedy Should be Improved

The suggestions are as follows in terms of desirability:

- i) In order for domestic prices to remain competitive, the Remedy should be the difference between the import price and at least 5% above the domestic price, or the reference price, whichever is higher.
- ii) Alternatively, it should be 100% of the difference between the import price and the reference price (the G33 position).

1c. Refining the Definition of 'Price'

If the remedy is to bridge the difference between the import and domestic price, then it will have to take into account the value decline of the ad valorem duty when prices go down. Therefore, the definition of 'price' should be refined so that 'price' refers not only to the 'c.i.f. import price' but 'c.i.f. import price plus duty in price terms'. This definition would have to apply to both the reference price (c.i.f. price plus duty in price terms of the last 3 years, or a fixed period) and the new import price (c.i.f. price plus duty in price terms). With this definition, the SSM remedy, would therefore also cover the drop in price terms of the ad valorem duty applied.

2. The Pre-Doha Bound Tariff as the Upper Limit for the Price Remedy Means the Ceiling for the Remedy in Money Terms Declines as Prices Decline

As prices fall, the remedy required in money terms has to be larger to compensate for the price decline. Most developing countries' pre-Doha bound tariffs are expressed in ad valorem terms, meaning that they decline in money terms when prices decline. Setting the pre-Doha Round bound rate as the ceiling level for the remedy therefore implies that this ceiling, in money terms, will decline as prices decline.

This pre-Doha bound tariff ceiling should therefore be deleted if the remedy for the price-based SSM is to be effective and if this remedy is allowed to increase (as is only logical), as prices decline.

This remedy ceiling also effectively means that products that are scheduled as Special Products where duties are not cut in the Doha Round, will not enjoy SSM treatment.

3. Countries should have a choice of using a Fixed or Moving Reference Period

Countries should have a choice of reference periods – whether it is a fixed or a moving one, and they can decide on this when they are invoking the SSM.

This kind of flexibility for the reference period is already present in the SSG. Footnote 2 of the price-based SSG provides SSG users the opportunity to change the reference price. It says:

‘The reference price used to invoke the provisions of this subparagraph shall, in general, be the average c.i.f. unit value of the product concerned, **or otherwise shall be an appropriate price in terms of the quality of the product and its stage of processing.** It shall, following its initial use, be publicly specified and available to the extent necessary to allow other members to assess the additional duty that may be levied’ (emphasis added).

Language providing flexibility can similarly be crafted for the fixed or moving reference period for the price-based SSM, allowing countries to decide when invoking the safeguard, which form may be most suitable for them.

4. Cross-Check Should be Deleted

As a first option, delete the cross-check clause. Putting in a cross-check (volumes should not be declining) will delay countries’ use of the price-based SSM, where at least in theory, it should be possible for countries to invoke the SSM as shipments arrive. Trade statistics would not be available then. Therefore this cross-check would nullify the positive aspects of the price-based SSM – the ability of countries to act quickly even if import statistics on volume import surges are difficult to obtain.

A look into the price-based triggers of 56 developing countries from 2004 – 2007 (Diagram 14) shows that if a cross-check is used, the price-based SSM could not be used for about 20% of cases where there are price declines.

The SSG has a watered down cross-check. Article 5.7 of the Special Safeguard Provision (in the WTO’s Agreement on Agriculture) states, ‘Members undertake, as far as practicable, not to take recourse to the provision of subparagraph 1(b) (i.e. the price-based SSG) where the volume of imports of the products concerned are declining.’

At the worst, the words ‘as far as practicable’ (as in the SSG) should be inserted into the Chair’s text to weaken the cross-check. Nevertheless, the SSM should be a stronger instrument than the SSG, and a cross-check would place serious limitations on the benefits of a price-based SSM.

5. En Route Shipments Should also have SSM Coverage

The clause exempting en route shipments from the price-based SSM application will effectively make the SSM instrument, as the text now stands, impossible for the majority of developing countries to invoke. The SSG operates by importing countries levying duties at the border only when shipments arrive and it is clear that the price of the shipment has declined below a trigger price. Without the same possibility, developing countries are unlikely to be able to invoke the price-based SSM.

Importers could invoke the SSM if there is a fairly sophisticated monitoring system of imports and their changing price levels into a country shipment-by-shipment, and a system of advanced calculation of price triggers and early warning provided to exporters. All of these administrative requirements are currently unavailable and would be cumbersome to put in place. This clause should therefore be deleted.

6. Preferential Trade to be Brought Back under SSM Coverage

As with the volume-based SSM, preferential trade should be covered by the SSM. The language could be

‘Where preferential trade is included in the calculation of volume or price triggers, the additional SSM duties shall be applied also to preferential trade.’ (Chair’s text TN/AG/W/4/Rev.1 para 134, 8 Feb 2008).

A second best choice, and the least that developing countries should be entitled to given that this is a Special and Differential Treatment clause in a Development Round, is for the SSM to be silent on the issue of MFN or preferential trade, as with the SSG. This would mean that countries would be able to apply the SSM to preferential trade should they choose to do so, but they need not apply it to preferential trade if they do not want to.

The text in Rev.4 para 135 will have to be amended. The paragraph currently notes that the reference price is the ‘average monthly MFN-source price for that product for the most recent three-year period preceding the year of importation for which data are available...’. ‘MFN-source’ should therefore be deleted to allow for the preferential trade price to be included in the calculation of the reference price.

I. INTRODUCTION

1. There are two variations to the Special Safeguard Mechanism proposed by the WTO's Group of 33 (G33) – the volume-based SSM and the price-based SSM. This is similar to the Special Safeguard Provision (SSG) which the key developed countries (such as the US and EU) have used in the WTO.¹

2. As its name implies, the price-based SSM can be invoked when import prices fall below a certain price trigger level.

3. So far in the Doha Round negotiations, both the technical and political discussions have mainly been centered on the volume-based SSM. Nevertheless, the price-based SSM is likely to be even more important than the volume-based SSM, due to difficulties of getting real-time data necessary for making the volume-based SSM effective.

4. It should also be noted that countries such as the US and EU used the price-based SSG much more frequently than they did the volume-based SSG. In fact, the EU writes in its notifications that whilst the volume-based SSM has been 'operationalised' for certain fruits and vegetables, it has not been implemented i.e. it has not been used. Similarly, in the past 9 years, the US has submitted only once, a full notification of the volume-based SSG for 'American type cheese'.

5. Why is the price-based SSM *in theory* more useful and how is it that it can *in theory* be more easily invoked? ('In theory' because some of the conditionalities in the Chair's text will make the price-based SSM very difficult, perhaps even impossible to use).

6. In the price-based SSG, countries can ascertain their import prices on a 'real-time' basis. As shipments arrive at the border (or earlier if importers apply for a license), it will be established whether or not the price of the shipment falls below a pre-established trigger price. If it does, the SSG duty is imposed. It should be possible for a price-based SSM to work in the same way.

7. Therefore, if countries have an effective price-based SSM in place, the SSM should allow countries the possibility of responding quickly to import price declines *as* they are happening, rather than after the fact (as is the case for import surges and

¹ Most developing countries did not convert non-tariff barriers to tariffs in the Uruguay Round (a process known as 'tariffication') since most were already using tariffs as their border protection. Only the countries that 'tariffied' had recourse to the WTO Agreement on Agriculture's Special Safeguard Provision (SSG). This amounted to 22 developing countries on a selected number of products, and 16 developed countries (including US and EU). Other developing countries did not have this special and automatic safeguard for agriculture. See also South Centre's Analytical Note on the Volume-based SSM and Analysis of the Chair's Conditionalities.

the volume-based SSM, if the conditionalities on the volume SSM in the December 2008 Agriculture Chair's texts are adopted²).

8. The price-based SSM is also particularly important as commodity and food prices are extremely volatile on the world market. The price increases and drops in the last year and the half is evidence of this. Contributing in no small degree to this volatility is financial speculation on commodity markets. Developing countries that have already liberalized their agricultural and financial markets, or are in the process of further liberalizing these markets are extremely susceptible to these volatile price transmissions from the world market.

9. In addition to the more recent problems of price volatilities resulting from speculation in the last decade, declining prices are in any case a common feature on world agricultural markets. According to Valdes and Foster, 'high prices tend to have short duration spikes and low prices have extended duration troughs'.³

10. Cashin, McDermott and Scott (1999), in an IMF Working Paper (Booms and Slumps in World Commodity Prices, November), examined world prices for 36 commodities from the period 1957 – 1999. They found that price slumps last on average 36 months. In comparison, price spikes lasted for an average of 29 or so months. They also found that the duration of the price slumps for different commodities were very varied – from 70 months for bananas to 25 months of coconut oil.

11. The price-SSM could therefore potentially be a critical tool for developing countries to protect themselves against such volatilities. Most developing countries do not have the means to provide their producers with price supports. Hence, the SSM would be valuable if it could be invoked without difficulty as shipments arrive.

12. This paper begins by highlighting the frequency of price declines experienced by developing countries. It then touches on the use of the price-based SSG by developed countries; looks at the conditionalities of the Chair's text; and provides an analysis of these conditionalities. Several clauses in the Chair's text (TN/AG/W/4/Rev.4), if agreed upon, will severely limit countries' ability to use the price-based SSM. In addition, once invoked, the remedies, as they are currently drafted, are not likely to be effective in shielding domestic producers from price volatilities.

II. FREQUENCY OF PRICE DECLINES

13. Diagrams 1 – 3 below illustrate the frequency of price declines in a sample of 56 developing countries⁴ between 2004 – 2007. Diagram 1 shows the maximum

² These texts are TN/AG/W/4/Rev.4 and TN/AG/W/7.

³ Valdes A and Foster W 2005 'The New SSM: A Price Floor Mechanism for Developing Countries', International Centre for Trade and Sustainable Development (ITCSD).

⁴ Figures from the South Centre Import Database 2009. This data used is based on trade statistics received from TradeMap, managed by the International Trade Centre (ITC). ITC TradeMap uses the UN Comtrade database administered by the United Nations Statistics Division. Only developing

number of price triggers that could have been invoked if the price-based SSM had been in place. The price trigger was set at 85% of the average import price of the preceding three years. This average import price is also known as the 'reference price'.

14. Diagram 2 provides the numbers based on a 90% price trigger of the reference price, and Diagram 3 uses a 100% price trigger of the reference price.

countries that reported their trade statistics to the UN in all of years between 2001 and 2007 have been considered. Malaysia has been excluded due to large irregularities in the trade data (transshipments counted as imports). The resulting representative sample consists of 56 developing countries. Products in HS Chapter 1 (live animals), 6 (plants and flowers) and HS Code 2402 (cigars, cigarettes) have not been considered due to incomparability across years (units vs tons). No other data modifications have been performed on the data received.

Diagram 1: Number and Percentage of Tariff lines that Could have been Subject to a Price-based SSM duty if the price trigger is 85% of the reference price.

Country	Number of tariff lines (HS6)					% of tariff lines					
	2004	2005	2006	2007	Average 2004-2007	2004	2005	2006	2007	Average 2004-2007	Unique 2004-2007
Botswana	163	211	222	169	191	25.4%	32.9%	34.6%	26.3%	29.8%	60.4%
Honduras	286	102	129	114	158	47.6%	17.0%	21.5%	19.0%	26.2%	60.6%
Swaziland	80	122	188	155	136	12.7%	19.3%	29.7%	24.5%	21.6%	53.5%
Mozambique	91	141	162	88	121	16.0%	24.8%	28.5%	15.5%	21.2%	37.0%
Philippines	140	128	149	101	130	22.0%	20.2%	23.5%	15.9%	20.4%	47.7%
Indonesia	137	126	123	107	123	21.5%	19.7%	19.3%	16.8%	19.3%	46.9%
Tanzania	86	131	113	108	110	13.7%	20.9%	18.1%	17.3%	17.5%	41.1%
Zambia	51	89	124	113	94	8.8%	15.4%	21.5%	19.6%	16.3%	40.7%
Kenya	76	107	103	97	96	12.5%	17.6%	17.0%	16.0%	15.8%	37.1%
Uganda	54	89	94	75	78	10.1%	16.6%	17.6%	14.0%	14.6%	32.2%
Thailand	110	101	85	80	94	16.9%	15.5%	13.0%	12.3%	14.4%	37.0%
India	83	84	105	82	89	13.3%	13.5%	16.9%	13.2%	14.2%	34.6%
Guyana	62	63	80	78	71	12.4%	12.7%	16.1%	15.7%	14.2%	32.5%
Jamaica	95	71	89	63	80	16.3%	12.2%	15.2%	10.8%	13.6%	31.8%
Guatemala	94	72	98	68	83	15.4%	11.8%	16.0%	11.1%	13.6%	35.8%
Barbados	59	89	90	70	77	10.3%	15.5%	15.7%	12.2%	13.4%	34.6%
Ukraine	88	79	89	70	82	14.0%	12.5%	14.1%	11.1%	12.9%	31.0%
South Africa	74	100	87	73	84	11.1%	15.0%	13.0%	10.9%	12.5%	32.5%
China	74	88	96	77	84	11.0%	13.1%	14.3%	11.4%	12.4%	29.6%
Brazil	90	78	75	55	75	14.4%	12.5%	12.0%	8.8%	12.0%	30.3%
El Salvador	69	79	69	75	73	11.3%	12.9%	11.3%	12.3%	11.9%	31.6%
Niger	32	52	72	64	55	6.9%	11.2%	15.6%	13.8%	11.9%	30.9%
Argentina	93	75	69	52	72	15.2%	12.3%	11.3%	8.5%	11.8%	30.1%
Maldives	58	44	50	39	48	13.8%	10.5%	11.9%	9.3%	11.3%	31.1%
Trinidad and Tobago	80	65	65	48	65	13.9%	11.3%	11.3%	8.3%	11.2%	32.7%
Nicaragua	70	64	69	49	63	12.5%	11.4%	12.3%	8.7%	11.2%	29.5%
Bolivia	87	47	48	50	58	16.5%	8.9%	9.1%	9.5%	11.0%	27.2%
Peru	65	67	68	46	62	11.5%	11.8%	12.0%	8.1%	10.8%	26.6%
Malawi	32	48	63	87	58	6.0%	9.0%	11.9%	16.4%	10.8%	30.7%
Turkey	58	70	79	53	65	9.6%	11.5%	13.0%	8.7%	10.7%	27.3%
Mexico	82	72	67	63	71	12.3%	10.8%	10.1%	9.5%	10.7%	29.6%
Mali	28	46	67	55	49	6.0%	9.8%	14.3%	11.7%	10.4%	26.0%
Saint Kitts and Nevis	59	49	44	50	51	12.1%	10.1%	9.1%	10.3%	10.4%	30.9%
Dominica	55	33	39	38	41	13.8%	8.3%	9.8%	9.5%	10.3%	27.6%
Republic of Korea	72	74	70	56	68	10.7%	11.0%	10.4%	8.3%	10.1%	25.5%
Ecuador	75	59	44	49	57	13.3%	10.5%	7.8%	8.7%	10.1%	26.8%
Senegal	48	60	65	55	57	8.4%	10.5%	11.4%	9.6%	10.0%	25.3%
Tunisia	42	49	64	56	53	7.5%	8.7%	11.4%	10.0%	9.4%	25.1%
Colombia	67	51	44	51	53	11.3%	8.6%	7.4%	8.6%	9.0%	24.8%
Madagascar	57	36	53	41	47	10.9%	6.9%	10.2%	7.9%	9.0%	24.8%
Cape Verde	25	31	64	54	44	5.1%	6.3%	13.0%	10.9%	8.8%	24.3%

Uruguay	63	49	47	27	47	11.5%	9.0%	8.6%	4.9%	8.5%	25.0%
Jordan	62	50	36	33	45	11.3%	9.1%	6.6%	6.0%	8.3%	21.9%
Kyrgyzstan	36	42	39	48	41	7.1%	8.3%	7.7%	9.5%	8.2%	19.8%
Mauritius	34	55	60	40	47	5.7%	9.3%	10.1%	6.7%	8.0%	21.9%
Albania	52	47	50	36	46	8.6%	7.7%	8.2%	5.9%	7.6%	21.1%
Oman	30	22	21	118	48	4.8%	3.5%	3.3%	18.8%	7.6%	23.8%
Rwanda	22	33	35	32	31	5.3%	7.9%	8.4%	7.6%	7.3%	17.2%
St. Vincent and the Grenadines	41	30	28	32	33	8.9%	6.5%	6.1%	6.9%	7.1%	21.9%
Armenia	53	35	25	24	34	10.5%	6.9%	5.0%	4.8%	6.8%	19.0%
Gambia	7	6	4	107	31	1.5%	1.3%	0.9%	22.9%	6.6%	23.9%
Georgia	37	39	36	29	35	6.5%	6.8%	6.3%	5.1%	6.2%	16.6%
Grenada	25	23	15	33	24	5.2%	4.8%	3.1%	6.8%	5.0%	15.5%
Paraguay	4	7	50	33	24	0.8%	1.4%	9.8%	6.5%	4.6%	14.9%
Belize	8	7	18	44	19	1.8%	1.6%	4.0%	9.8%	4.3%	13.7%
Viet Nam	2	3	8	35	12	0.3%	0.5%	1.2%	5.3%	1.8%	6.3%
Total	3,723	3,690	4,046	3,645	3,776	11.8%	11.7%	12.8%	11.5%	11.9%	30.1%

Source: South Centre Import Surge Database 2009 covering 56 developing countries. The database draws on trade data from ITC TradeMap. ITC TradeMap uses the UN Comtrade which is based on trade statistics received from national authorities.

NB: The trigger price is calculated by averaging the annual average import prices of the preceding 3 years (reference price). It is assumed that the SSM is triggered for a tariff line when the average import price of the current year falls below 85% of this reference price.

Diagram 2: Number and Percentage of Tariff lines that Could have been Subject to a Price-based SSM duty if the price trigger is 90% of the reference price.

Country	Nr of tariff lines					% of tariff lines					
	2004	2005	2006	2007	Average 2004-2007	2004	2005	2006	2007	Average 2004-2007	Unique 2004-2007
Botswana	168	225	241	183	204	26.2%	35.0%	37.5%	28.5%	31.8%	62.5%
Honduras	292	115	141	122	168	48.6%	19.1%	23.5%	20.3%	27.9%	62.4%
Philippines	166	160	184	122	158	26.1%	25.2%	29.0%	19.2%	24.9%	53.1%
Swaziland	88	130	203	167	147	13.9%	20.6%	32.1%	26.4%	23.3%	56.6%
Mozambique	97	151	171	99	130	17.1%	26.6%	30.1%	17.4%	22.8%	39.4%
Indonesia	159	148	152	122	145	24.9%	23.2%	23.8%	19.1%	22.8%	52.7%
Tanzania	101	141	122	116	120	16.1%	22.5%	19.5%	18.5%	19.2%	42.3%
Kenya	88	124	118	113	111	14.5%	20.4%	19.4%	18.6%	18.2%	40.0%
Zambia	59	103	132	121	104	10.2%	17.9%	22.9%	21.0%	18.0%	43.2%
Thailand	131	125	117	95	117	20.1%	19.2%	17.9%	14.6%	17.9%	42.9%
Barbados	78	122	110	96	102	13.6%	21.2%	19.1%	16.7%	17.7%	43.1%
Uganda	61	106	106	86	90	11.4%	19.8%	19.8%	16.1%	16.8%	36.1%
India	104	98	121	93	104	16.7%	15.8%	19.5%	15.0%	16.7%	39.9%
Jamaica	120	84	104	81	97	20.5%	14.4%	17.8%	13.9%	16.7%	37.8%
Guatemala	105	94	119	77	99	17.2%	15.4%	19.4%	12.6%	16.1%	41.2%
Guyana	71	69	90	82	78	14.3%	13.9%	18.1%	16.5%	15.7%	34.5%
El Salvador	96	96	88	96	94	15.7%	15.7%	14.4%	15.7%	15.4%	38.5%
Ukraine	106	92	101	88	97	16.8%	14.6%	16.0%	14.0%	15.4%	35.6%
Maldives	79	65	62	50	64	18.8%	15.4%	14.7%	11.9%	15.2%	39.2%
China	90	101	120	96	102	13.4%	15.0%	17.8%	14.3%	15.1%	35.7%
South Africa	89	112	109	90	100	13.3%	16.8%	16.3%	13.5%	15.0%	37.2%
Brazil	112	92	100	68	93	18.0%	14.8%	16.1%	10.9%	14.9%	36.1%
Mexico	107	103	95	79	96	16.1%	15.5%	14.3%	11.9%	14.4%	37.7%
Argentina	116	89	79	62	87	19.0%	14.6%	12.9%	10.1%	14.2%	34.9%
Nicaragua	87	82	87	61	79	15.5%	14.6%	15.5%	10.9%	14.1%	35.1%
Trinidad and Tobago	98	81	80	59	80	17.0%	14.1%	13.9%	10.3%	13.8%	36.9%
Peru	81	83	88	58	78	14.3%	14.6%	15.5%	10.2%	13.7%	31.9%
Niger	37	59	82	75	63	8.0%	12.7%	17.7%	16.2%	13.7%	33.5%
St Kitts and Nevis	69	62	55	76	66	14.2%	12.8%	11.3%	15.6%	13.5%	36.6%
Republic of Korea	93	99	94	75	90	13.8%	14.7%	13.9%	11.1%	13.4%	32.8%
Bolivia	103	57	61	59	70	19.6%	10.8%	11.6%	11.2%	13.3%	32.1%
Turkey	71	88	94	63	79	11.7%	14.5%	15.5%	10.4%	13.0%	32.6%
Ecuador	88	73	59	62	71	15.6%	12.9%	10.5%	11.0%	12.5%	32.3%
Senegal	61	73	83	66	71	10.7%	12.8%	14.6%	11.6%	12.4%	31.6%
Malawi	41	50	71	99	65	7.7%	9.4%	13.4%	18.6%	12.3%	33.3%
Dominica	64	38	50	42	49	16.0%	9.5%	12.5%	10.5%	12.2%	31.3%
Uruguay	92	67	62	43	66	16.8%	12.2%	11.3%	7.9%	12.1%	33.8%
Colombia	84	70	57	63	69	14.2%	11.8%	9.6%	10.6%	11.6%	29.3%
Tunisia	50	56	82	67	64	8.9%	10.0%	14.6%	11.9%	11.4%	29.8%
Mali	31	51	72	58	53	6.6%	10.9%	15.4%	12.4%	11.3%	27.5%
Cape Verde	28	39	79	65	53	5.7%	7.9%	16.0%	13.2%	10.7%	28.1%
Madagascar	65	46	60	48	55	12.5%	8.8%	11.5%	9.2%	10.5%	27.8%

Jordan	74	63	48	43	57	13.5%	11.5%	8.8%	7.8%	10.4%	27.0%
Kyrgyzstan	43	56	50	55	51	8.5%	11.1%	9.9%	10.9%	10.1%	23.8%
Mauritius	48	64	77	50	60	8.1%	10.8%	13.0%	8.4%	10.1%	26.8%
Albania	58	59	61	49	57	9.5%	9.7%	10.0%	8.1%	9.3%	24.8%
St Vincent and the Grenadines	52	34	37	43	42	11.3%	7.4%	8.0%	9.3%	9.0%	27.1%
Oman	34	27	26	132	55	5.4%	4.3%	4.1%	21.0%	8.7%	26.9%
Armenia	70	39	29	24	41	13.9%	7.7%	5.7%	4.8%	8.0%	22.4%
Rwanda	23	37	37	36	33	5.5%	8.8%	8.8%	8.6%	7.9%	17.4%
Georgia	38	46	47	36	42	6.6%	8.0%	8.2%	6.3%	7.3%	19.6%
Gambia	8	7	5	108	32	1.7%	1.5%	1.1%	23.1%	6.8%	24.1%
Grenada	32	28	19	48	32	6.6%	5.8%	3.9%	9.9%	6.6%	20.1%
Paraguay	5	8	68	50	33	1.0%	1.6%	13.3%	9.8%	6.4%	19.6%
Belize	9	8	19	56	23	2.0%	1.8%	4.2%	12.4%	5.1%	16.9%
Viet Nam	2	3	10	50	16	0.3%	0.5%	1.5%	7.5%	2.4%	8.6%
Total	4,422	4,398	4,834	4,323	4,494	14.0%	13.9%	15.3%	13.7%	14.2%	34.6%

Source: South Centre Import Surge Database 2009 covering 56 developing countries.

NB: The trigger price is calculated by averaging the annual average import prices of the preceding 3 years (reference price). It is assumed that the SSM is triggered for a tariff line when the average import price of the current year falls below 90% of this reference price.

Diagram 3: Number and Percentage of Tariff lines that Could have been Subject to a Price-based SSM duty if the price trigger is 100% of the reference price.

Country	Nr of tariff lines (HS6)					% of tariff lines					
	2004	2005	2006	2007	Average 2004-2007	2004	2005	2006	2007	Average 2004-2007	Unique 2004-2007
Philippines	219	218	248	162	212	34.5%	34.3%	39.1%	25.5%	33.3%	62.2%
Honduras	302	157	177	154	198	50.2%	26.1%	29.5%	25.6%	32.9%	64.6%
Indonesia	215	198	193	144	188	33.7%	31.0%	30.3%	22.6%	29.4%	63.3%
Thailand	181	196	183	140	175	27.8%	30.1%	28.1%	21.5%	26.8%	57.2%
Barbados	126	177	169	145	154	21.9%	30.8%	29.4%	25.2%	26.8%	53.6%
Swaziland	103	147	233	191	169	16.3%	23.3%	36.9%	30.2%	26.7%	60.8%
Mozambique	105	168	190	142	151	18.5%	29.6%	33.5%	25.0%	26.6%	45.1%
Maldives	121	119	110	89	110	28.7%	28.3%	26.1%	21.1%	26.1%	56.5%
Mexico	182	189	173	137	170	27.4%	28.4%	26.0%	20.6%	25.6%	59.1%
El Salvador	158	148	146	146	150	25.9%	24.2%	23.9%	23.9%	24.5%	53.7%
Guatemala	155	150	175	114	149	25.3%	24.5%	28.6%	18.6%	24.3%	56.0%
India	140	142	183	133	150	22.5%	22.8%	29.4%	21.4%	24.0%	52.3%
South Africa	125	178	193	139	159	18.7%	26.7%	28.9%	20.8%	23.8%	53.5%
Brazil	160	156	154	110	145	25.7%	25.0%	24.7%	17.7%	23.3%	52.8%
Tanzania	128	164	152	135	145	20.4%	26.2%	24.3%	21.6%	23.1%	46.5%
Jamaica	171	116	131	118	134	29.3%	19.9%	22.4%	20.2%	22.9%	48.5%
China	144	159	174	139	154	21.4%	23.6%	25.9%	20.7%	22.9%	53.3%
Kenya	114	155	157	129	139	18.8%	25.5%	25.9%	21.3%	22.9%	46.1%
Republic of Korea	148	153	178	133	153	22.0%	22.7%	26.4%	19.7%	22.7%	52.4%
Argentina	170	137	135	102	136	27.8%	22.4%	22.1%	16.7%	22.3%	49.9%
Nicaragua	126	123	140	109	125	22.4%	21.9%	24.9%	19.4%	22.2%	47.2%
Zambia	79	131	160	140	128	13.7%	22.7%	27.7%	24.3%	22.1%	47.1%
Trinidad and Tobago	161	130	130	84	126	28.0%	22.6%	22.6%	14.6%	22.0%	50.4%
Ukraine	132	132	150	126	135	21.0%	21.0%	23.8%	20.0%	21.4%	44.8%
Peru	127	131	132	95	121	22.4%	23.1%	23.3%	16.8%	21.4%	45.3%
Colombia	138	121	126	105	123	23.3%	20.4%	21.2%	17.7%	20.7%	46.9%
Ecuador	143	106	114	102	116	25.4%	18.8%	20.2%	18.1%	20.6%	47.5%
Uruguay	153	116	101	70	110	28.0%	21.2%	18.5%	12.8%	20.1%	49.5%
Uganda	81	122	123	104	108	15.1%	22.8%	23.0%	19.4%	20.1%	39.4%
Turkey	100	130	148	102	120	16.5%	21.4%	24.4%	16.8%	19.8%	47.1%
Guyana	97	92	107	95	98	19.5%	18.5%	21.5%	19.1%	19.6%	38.8%
Dominica	99	74	69	65	77	24.8%	18.5%	17.3%	16.3%	19.2%	42.6%
St. Kitts and Nevis	100	87	85	100	93	20.6%	17.9%	17.5%	20.6%	19.1%	44.4%
Jordan	124	111	104	66	101	22.6%	20.3%	19.0%	12.0%	18.5%	43.6%
Senegal	85	104	126	98	103	14.9%	18.2%	22.1%	17.2%	18.1%	40.7%
Bolivia	140	85	80	75	95	26.6%	16.2%	15.2%	14.3%	18.1%	40.3%
Niger	48	79	100	97	81	10.4%	17.1%	21.6%	21.0%	17.5%	38.0%
Tunisia	67	87	136	99	97	11.9%	15.5%	24.2%	17.6%	17.3%	40.3%
Cape Verde	48	62	127	98	84	9.7%	12.6%	25.7%	19.8%	17.0%	42.3%
Mauritius	72	103	136	86	99	12.1%	17.4%	22.9%	14.5%	16.7%	41.5%
Malawi	51	66	102	115	84	9.6%	12.4%	19.2%	21.7%	15.7%	37.7%
Madagascar	87	68	94	62	78	16.7%	13.1%	18.0%	11.9%	14.9%	35.7%

Mali	44	64	93	76	69	9.4%	13.6%	19.8%	16.2%	14.8%	32.6%
St. Vincent and the Grenadines	78	59	58	69	66	16.9%	12.8%	12.6%	15.0%	14.3%	36.9%
Kyrgyzstan	65	72	69	74	70	12.9%	14.3%	13.7%	14.7%	13.9%	30.2%
Albania	72	95	97	69	83	11.8%	15.6%	16.0%	11.3%	13.7%	33.9%
Armenia	95	52	47	31	56	18.8%	10.3%	9.3%	6.1%	11.1%	29.5%
Oman	39	37	36	168	70	6.2%	5.9%	5.7%	26.7%	11.1%	33.1%
Grenada	44	42	36	87	52	9.1%	8.7%	7.5%	18.0%	10.8%	30.4%
Georgia	50	63	66	58	59	8.7%	11.0%	11.5%	10.1%	10.4%	26.6%
Paraguay	5	10	103	76	49	1.0%	2.0%	20.2%	14.9%	9.5%	27.8%
Rwanda	29	41	43	42	39	6.9%	9.8%	10.3%	10.0%	9.2%	17.9%
Viet Nam	16	26	50	136	57	2.4%	3.9%	7.5%	20.5%	8.6%	27.1%
Belize	12	11	30	87	35	2.7%	2.4%	6.7%	19.3%	7.8%	24.2%
Gambia	10	8	6	110	34	2.1%	1.7%	1.3%	23.5%	7.2%	24.4%
Total	6,176	6,327	7,053	6,096	6,413	19.5%	20.0%	22.3%	19.3%	20.3%	45.1%

Source: South Centre Import Surge Database 2009 covering 56 developing countries.

NB: The trigger price is calculated by averaging the annual average import prices of the preceding 3 years (reference price). It is assumed that the SSM is triggered for a tariff line when the average import price of the current year falls below 100% of this reference price.

15. These tables complement similar tables in the South Centre's Analytical Note 'The Volume-Based SSM and the Conditionalities in the December 2008 WTO Agriculture Chair's Texts' (October 2009) on the volume-based SSM (Annexes 1-3 in that Note). What is different for the price-based SSM compared to the volume-based SSM is that in the period between 2004 - 2007, the price-based SSM could be triggered less often than the volume-based SSM. With a volume trigger of 110%, the number of import surges amounted to an average of 9,239 in a year. This figure is 4,494 for the price-based SSM (90% the reference price - Diagram 2). (It should be noted that the 9,239 figure is the maximum number of import surges, but for various reasons explained in Annex 4 of the South Centre Analytical Note on the volume-based SSM (SC/TDP/AN/AG/9), it is likely that the actual utilization of the volume SSM will only be a very small fraction of this figure).

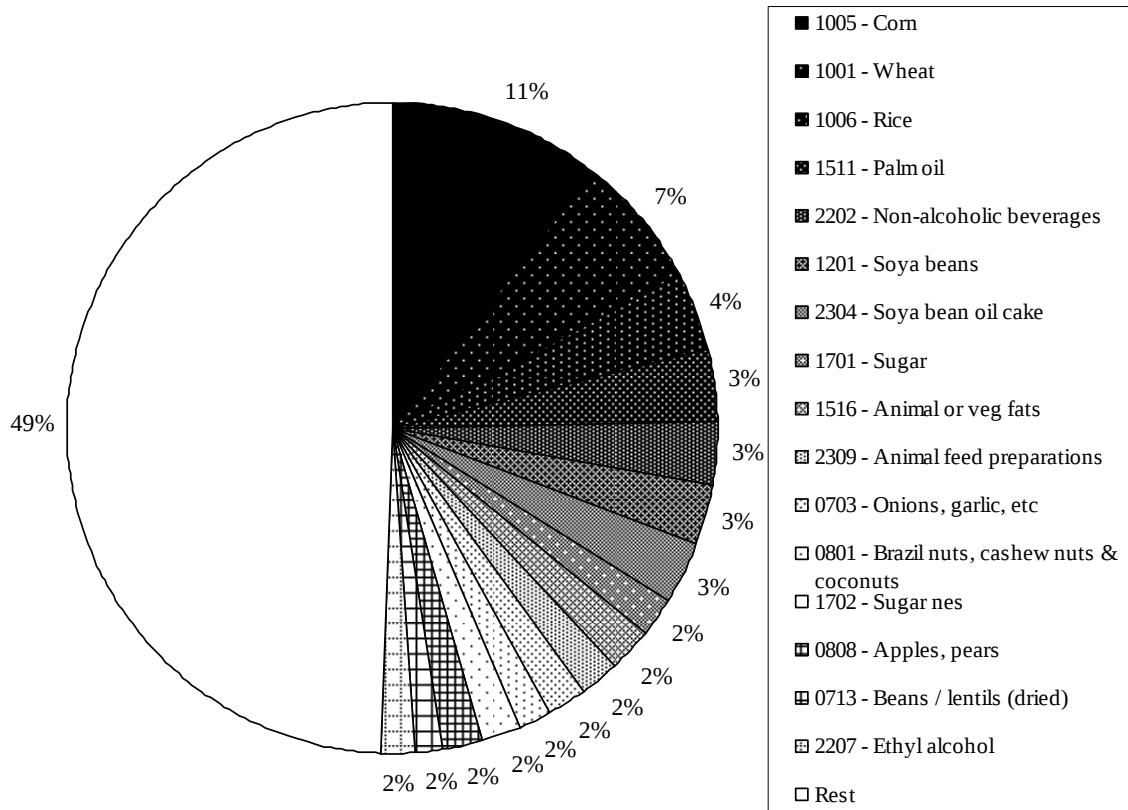
16. Another interesting though not surprising feature is that the smaller food importing countries (with smaller domestic markets) seem to experience more price volatilities in their agricultural imports. The top 10 countries with the highest number of triggers for which sufficient data was available include Botswana, Honduras, Swaziland, Mozambique, Philippines, Indonesia, Tanzania, Zambia, Kenya and Uganda.⁵ This shows that the price-based SSM is potentially a very important instrument for these economies. (The Philippines and Indonesia - both with large populations - are clearly exceptions to this list).

17. Diagram 4 below shows the products in the 56 developing country sample for which the price-based SSM could have been most frequently invoked, i.e. where prices have been most volatile. These are corn, wheat, rice, palm oil, non-alcoholic

⁵ This ranking is sorted by the average percentage of tariff lines (compared to a country's total tariff lines) subject to price triggers in the period 2004-2007 (from high to low).

beverages, soya beans, soya bean oil cake, sugar, animal /vegetable fats, onions, garlic, nuts etc.

Diagram 4: Key Products for which Developing Countries Experience the Highest Number of Price Declines



III. USE OF THE PRICE-BASED SSG BY THE US AND EU

18. A look at the way the price-based SSG has been used by the US and the EU is instructive for developing countries as they negotiate the SSM.

19. Both these countries used the price-based SSG frequently to protect a small group of very sensitive products. It seems that such protection has been very effective for them.

III.1 EU PROTECTION OF SUGAR WITH THE SSG

20. In the EU's most recent Trade Policy Review, it is noted that the SSG is one of the principle trade policy instruments for the protection of the EU's sugar sector.⁶ In fact, according to the European Commission itself, EU's sugarbeet production, which

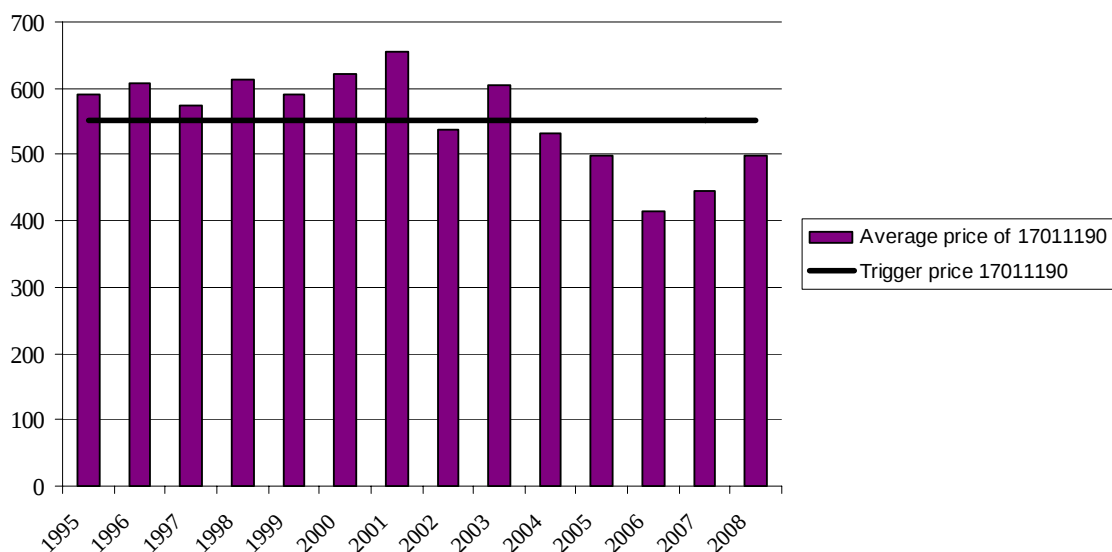
⁶ WTO WT/TPR/S/214/Rev.1, March 2009, page 105

faces stiff competition from cane sugar has only survived as a result of ever greater tariff protection.⁷

21. Diagram 5 shows the price of imports per ton of sugar over the past decade and the half. It is clear that as the EU itself has liberalized the sugar sector and import prices are falling, the trigger (100% of the average 1986-88 price) is consistently being activated so that the SSG seems to be almost a permanent policy instrument.

Diagram 5
Price per Ton

EU and sugar: price based SSG gains in significance



Source: Data from ITC TradeMap; WTO G/AG/N/EEC/2 8 August 1995 for the trigger price.

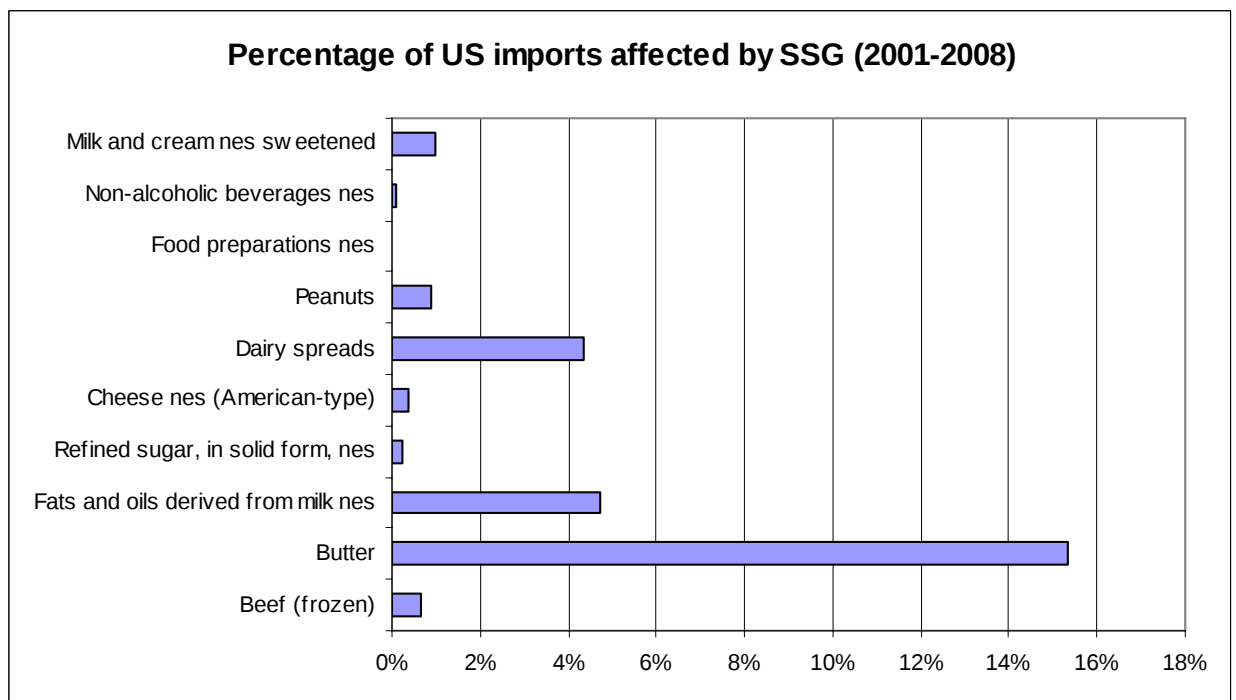
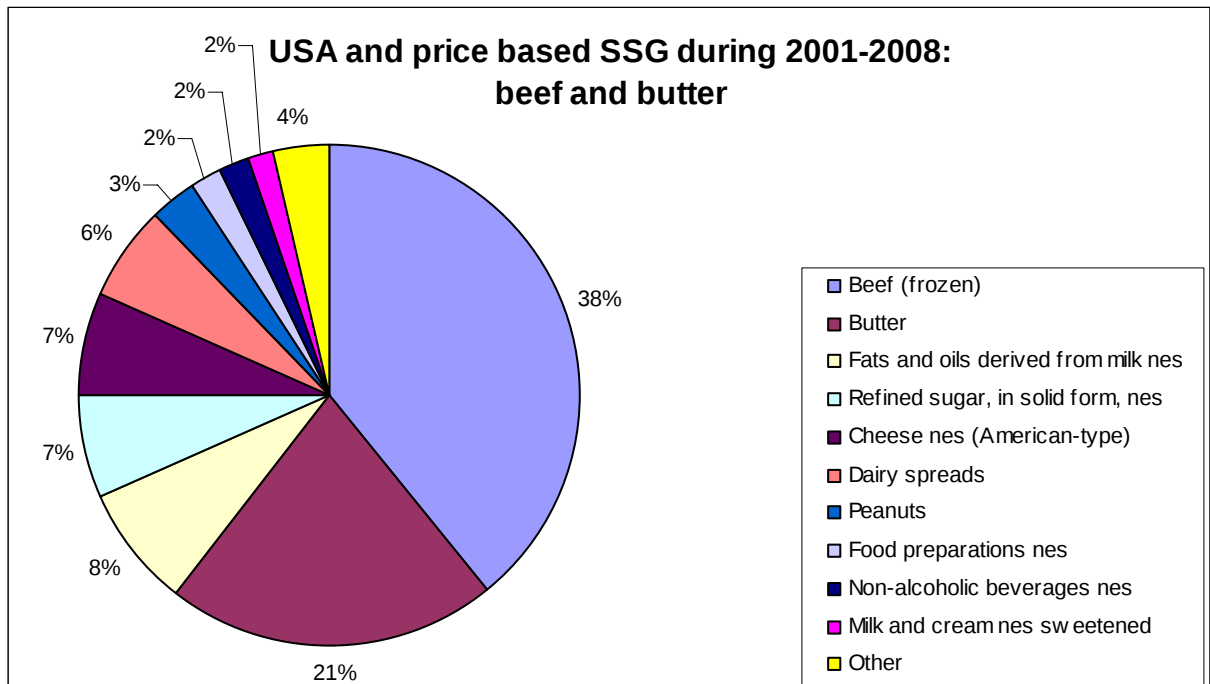
III.2 UNITED STATES' USE OF THE PRICE-BASED SSG

22. Like the EU, between 2001 – 2008, the US has used the price-based SSG frequently. Diagram 6 below shows the products for which the US has repeatedly invoked the SSG, organized in value terms. Beef and butter come out as the top products.

23. The bottom chart of Diagram 6 shows in percentage terms the total imports for several products into the US and the proportion of this for which the SSG has been applied. The top products in quantity terms where the SSG has been applied are butter, fats and oils from milk nes, followed by dairy spreads, sweetened milk and cream, peanuts, beef, cheese, sugar.

⁷ Commission Staff Working Paper, Reforming the European Union's sugar policy, SEC (2003), http://ec.europa.eu/agriculture/publi/reports/sugar/fullrep_en.pdf

Diagram 6



IV. CONDITIONALITIES FOR THE PRICE-BASED SSM IN THE DECEMBER 2008 CHAIR'S TEXT (TN/AG/W/4/REV.4)

24. The following are conditionalities the Chair has included in his text on the price-based SSM:

1. **Trigger.** The reference price is the average of the price of the most recent three-year period for which data is available. The trigger used is 85% of the average of the reference price (para 135, TN/AG/W/4/Rev.4).
2. **Remedy.** The additional duty can only cover 85 percent of the difference between the import price and the trigger price. (para 136, TN/AG/W/4/Rev.4).
3. **Cross-check.** If the volume of imports are declining, the price based SSM 'shall not normally' be used (para 137, TN/AG/W/4/Rev.4).
4. The application shall be for **MFN trade** only (para 138, TN/AG/W/4/Rev.4). Paragraph 135 states that the reference price should be the average of the **MFN-sourced price** for the most recent three-year period for which data is available.
5. **En route shipments** shall not be subject to the SSM duty (price or volume-based) (para 139, TN/AG/W/4/Rev.4).
6. The **uppermost limit for the price-based SSM remedy is the pre-Doha bound tariff levels** (para 142, TN/AG/W/4/Rev.4).
7. The reference price (or base period) against which the price decline is measured is a **moving reference period** defined as 'the most recent three-year period preceding the year of importation for which data are available'.

V. WHAT ARE THE IMPLICATIONS OF THE CONDITIONALITIES?

V.1 THE PRICE TRIGGER AND REMEDY, AND INTERACTION BETWEEN AD VALOREM DUTIES AND DECLINING PRICES

25. There are five main elements determining whether or not the remedy for the price-based SSM is effective:

- i) The level of the trigger price, and how far this is from the domestic price as well as the gap between the trigger price and reference price. (The reference price is the average price of the preceding 3 years).
- ii) The remedy – to what extent the remedy covers the difference between the import price and the trigger price.
- iii) Most importantly, the interaction between ad valorem tariffs and price declines.
- iv) The pre-Doha bound tariff rate, as the upper limit to the remedy (para 142 of TN/AG/W/4/Rev.4) means a shrinking remedy in money terms, as prices decline.

- v) A fifth issue that will not be dealt with in this paper is the issue of exchange rates. The Chair's text states that should a country's currency decline by more than 10% against the international currency or currencies which it is normally valued, the import price will be computed using the average exchange rate of the domestic currency against the international currency/currencies of the reference period. If the exchange rates decline have been dramatic during the 3 year reference period, it is likely that taking an average of the exchange rate will not cover adequately the cost of this exchange rate decline for the country.

26. All of these elements are critical to the effectiveness of the price-based SSM. However, the issue of ad valorem tariffs and their interaction with prices (items iii and iv) has perhaps the most far-reaching effect and it seems to have been overlooked in the negotiations so far.

V.1a SETTING THE TRIGGER PRICE AT A HIGHER LEVEL; REMEDY TO COVER 100% THE DIFFERENCE BETWEEN IMPORT AND TRIGGER PRICES

27. The Chair in the draft agriculture modalities TN/AG/W/4/Rev.4 provides a trigger level of 85% that of the reference price (price of the average 3 preceding years for which data is available). The remedy is 85% of the difference between the import price and the trigger price.

28. The G33 position is better. Previously, the group had asked for the trigger price to be the reference price. In order to illustrate flexibility, they have now adopted the position that the trigger price will be 90% of the reference price. The remedy they are proposing is 100% of the difference between the trigger and import prices. Diagram 7 summaries these positions.

Diagram 7: Chair's Proposals Compared to G33 Positions on Trigger Price and Remedies

	Trigger price (as a percentage of the average import price of the preceding 3 years, or reference price)	Remedy
Chair's text (TN/AG/W/4/Rev.4)	85%	85% (Difference between the <i>trigger price</i> and the <i>import price</i>)
G33	90%	100% (Difference between the <i>import price</i> and the <i>reference price</i>) ⁸

⁸ According to the G33, the remedy they seek is not the remedy as defined by the Agriculture draft modalities (which is a percentage of the difference between the trigger price and the import price). The G33 defines the remedy as 100% of the difference between the import price and the reference price.

29. Assuming that a product is imported duty-free into a country, should there be a price decline, the level at which the trigger price has been set (in combination with the remedy) becomes essential in determining whether or not the price-based SSM remedy is sufficient.

30. A few scenarios are listed in Diagram 8 below. *It is important to underscore, however, that these scenarios apply only in a context where ad valorem tariffs on these tariff lines are zero.* The issue of the ad valorem duty is dealt with later.

Diagram 8: Import Price Declines, SSM Triggers and Remedies: A Comparison between the Chair's text and G33 position for 4 Scenarios

	Ref erence price	Dom estic price	Import price	Trigger price (Chair's text)	Remedy: SSM Duty (Chair's text)	Import price + SSM Duty (Chair's text)	Trigger price (G33 position)	Remedy: SSM Duty (G33 position) Differenc e between import and reference px	Import price + SSM Duty (G33 position)
Scenario1	10	9	8	8.5	0.425	8.425	9	2	10
Scenario2	10	9	6	8.5	2.125	8.125	9	4	10
Scenario3	10	9	4	8.5	3.825	7.825	9	6	10
Scenario 4	10	9.5	4	8.5	3.825	7.825	9	6	10
Scenario 5	10	11	5	8.5	2.975	7.975	9	5	10

31. In all scenarios, the reference price (price of preceding 3 year average for which data is available) is \$10, and domestic producers are selling the product at \$9 (except in Scenario 4 where domestic price is \$9.50 and in Scenario 5 where the domestic price is \$11), and the product faces no ad valorem duty.

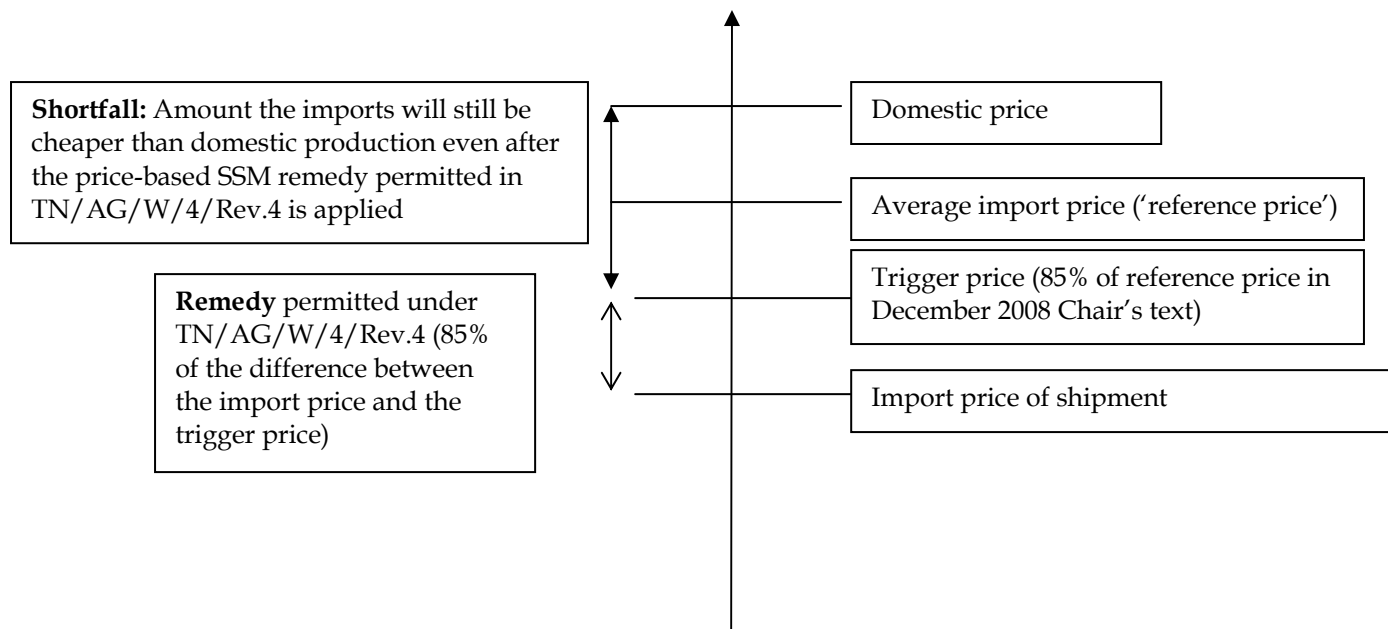
32. It should be observed that in the way which the Chair's modalities defines the remedy, 'the additional duty shall not exceed 85 percent of the difference between the import price of the shipment concerned and the trigger price), the trigger price sets the maximum ceiling level that the import price plus SSM duty can reach. With a remedy of 85% of the difference between the trigger and import price, the remedy progressively declines from the ceiling trigger price level i.e. \$8.50 downwards.

33. With the G33 remedy (100% of the difference between the import price and the reference price), the final import price plus SSM remedy will always return to the reference price.

34. Whether the G33 proposed remedy is sufficient will depend on the gap between the domestic price and the reference price. If the domestic price is the same or above the reference price, the imported product will still pose a problem for domestic producers. For example, in Scenario 5, where the domestic price is \$11 but the import price plus remedy (G33 remedy) is \$10.

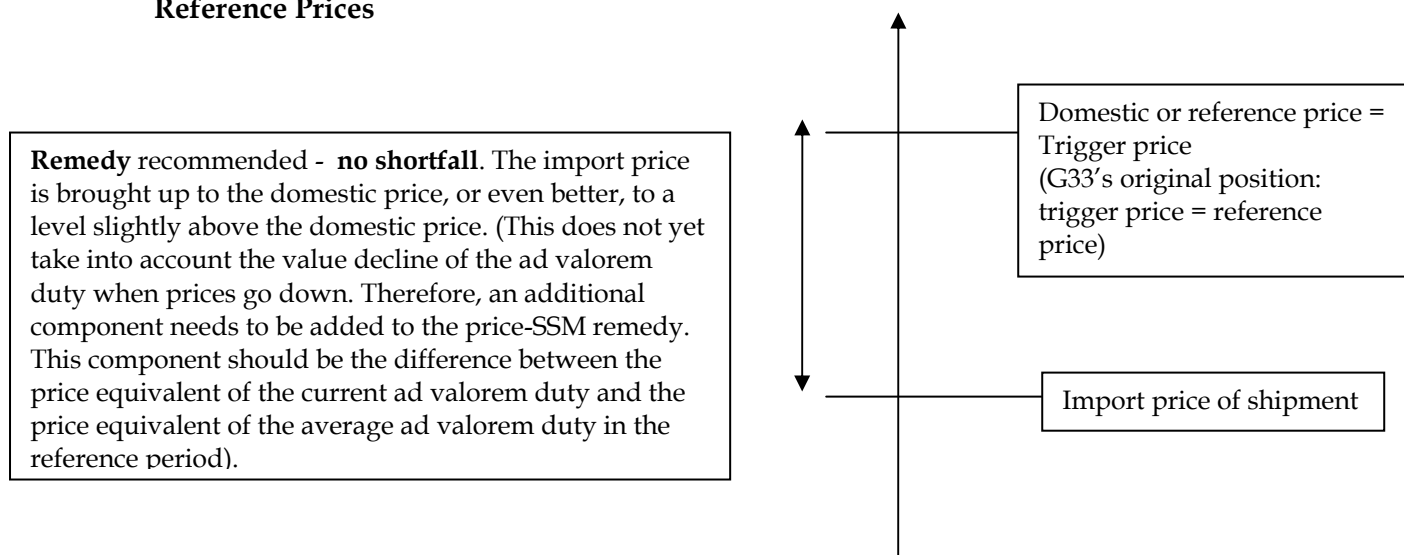
35. Diagram 9 illustrates the shortfall between the domestic price (or reference price) and the remedy suggested by the Chair (which is 85% of the difference between the import price and trigger price).

Diagram 9 Gap between the Remedy and the Domestic or Reference Prices.



36. There is therefore a need to bring the trigger price either to the level of the reference price, or slightly above the domestic price, whichever is higher, if this gap between the import price and domestic price is to be effectively addressed. This can be seen from Diagram 10.

Diagram 10: Addressing the Shortfall between Domestic Price and the Trigger or Reference Prices



37. However, these scenarios become theoretical should the product also have an ad valorem import duty. It will be seen then that the same remedies provided are much too little to be effective.

V.1b REFINING THE DEFINITION OF 'PRICE'

38. By far the most important element in determining what remedies and triggers would be sufficient in ensuring an effective price-based SSM is the way in which ad valorem tariffs interact with price declines.

39. In Diagram 8, there were no duties on imports in all of the scenarios. When there are duties on the imports, a very different picture emerges on the effectiveness (or not) of the price-based SSM remedies.

Diagram 11: Interaction between Ad Valorem Duties and Price-SSM Remedies

	Reference price	Import price	Ad valorem duty (50%)	Import price + duty	Domestic price	Trigger price (Chair's text)	Remedy: SSM Duty (Chair's text)	Import price + Duty + SSM (Chair's text)	Trigger price (G33)	Remedy: SSM Duty (G33) 100% difference in import and reference prices	Import price + Duty + SSM (G33)
Scenario1	10	10	5	15	13	8.5	-	-	9	-	-
Scenario2	10	8	4	12	13	8.5	0.425	12.425	9	2	14
Scenario3	10	6	3	9	13	8.5	2.125	11.125	9	4	13
Scenario4	10	4	2	6	13	8.5	3.825	9.825	9	6	12
Scenario5	10	2	1	3	13	8.5	5.525	8.525	9	8	11
Scenario6	10	1	0.5	1.5	13	8.5	6.375	7.875	9	9	10.5

40. Diagram 11 shows a variety of scenarios. For all scenarios, the reference price is \$10. An ad valorem duty of 50% is charged on the import price for all the scenarios explored. Let us assume that the domestic price is \$13. In the base Scenario 1, domestic producers are competitive since their domestic price is \$13, and the import price plus ad valorem duty is \$15.

41. Import prices decline in Scenarios 2-6. The impact of the price decline has a huge effect on the ad valorem duty. As the import price shrinks, the duty in dollar terms also shrinks.

42. For example, in Scenario 4, import prices have declined by 60%, from \$10 to \$4. In dollar terms, the 50% ad valorem tariff has also shrunk to \$2 (50% of \$4). Domestic price remains at \$13. With the Chair's text, the import price plus ad valorem duty plus SSM duty (remedy) will bring the final price only to \$9.825 (This does not take into account Para 142 of TN/AG/W/4/Rev.4, which sets the pre-Doha Round bound tariff as the final duty ceiling level. This issue is dealt with later). Whilst this is an improvement from the \$6 (import price plus duty) if no SSM is levied, it is still a wide gap compared to the domestic price of \$13.

43. The G33's position would help improve the remedy – bringing the final import price, duty, plus SSM duty to \$12. However, this is still below the domestic price of \$13, i.e. domestic producers will still not be competitive.

44. This issue of ad valorem tariffs is an important one. Most developing countries have converted the large majority of their tariff lines to ad valorem rates. However, a significant number of developed countries still have a significant proportion of tariffs defined in specific rates. Specific tariffs (see Box below for explanation) have the advantage of protecting domestic producers against import price declines. Ad valorem tariffs do not.

Box: The Effect of Ad Valorem Tariffs Compared to Specific Tariffs

Ad Valorem Tariffs

Ad valorem tariffs are tariffs charged as a percentage of the customs value of a shipment i.e. as a percentage of the import price of a product. For example, 20% of duty for \$100 (import price) of wheat amounting to 100 kg of wheat means that the duty is therefore \$20. The import price plus duty means that the importer pays \$120.

If the price of wheat declines to \$50, the 20% duty charged will be \$10. That is, the import price plus duty is now \$60.

Ad valorem tariffs are easy to compare and to negotiate and the majority of tariffs schedules of developing countries are expressed in ad valorem terms.

Specific Tariffs

In contrast, specific tariffs are expressed in terms of the volume of the product. For example, \$20 for 100 kg of wheat. If a 100 kg of wheat costs \$100, the ad valorem equivalent of the specific tariff is 20%. However, if the price of wheat declines to \$50, the specific tariff remains at \$20 for the same 100 kg. Therefore, in total, the importer pays \$70. Effectively, the same specific duty equates to an increased ad valorem duty of 40% (\$20/50).

Specific tariffs therefore protect domestic producers much more effectively against price import declines. This can be seen in Diagram 11 below.

Unlike developing countries, developed countries make extensive use of specific tariffs and compound tariffs (i.e. a duty that is a combination of specific and ad valorem tariffs). The percentage of non-ad valorem agricultural tariff lines are as follows for these countries⁹:

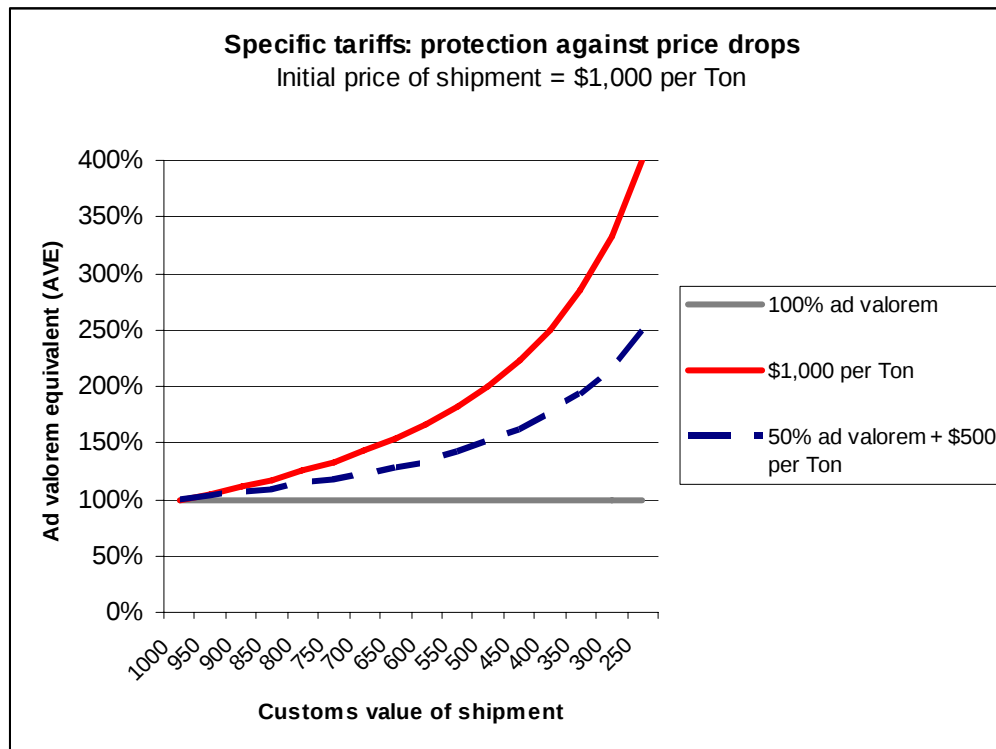
- 39.4% - United States
- 32% - European Union
- 17.7% - Canada
- 15.3% - Japan

⁹ WTO, World Tariff Profiles, Summary on Agricultural Products.
<http://stat.wto.org/TariffProfile/WSDBTariffPFHome.asprice?Language=E>

65.4% - Norway
77.3% - Switzerland

45. Diagram 12 illustrates the fact that the protection granted by specific tariffs increases as prices drop, in comparison with ad valorem tariffs.

Diagram 12



46. RECOMMENDATIONS:

1) Setting the Trigger Price at a Higher Level

The trigger price sets the ceiling level for the SSM remedy (according to the Chair's text where the remedy is the difference between the trigger and import prices). If the trigger price is below the domestic price, then the SSM remedy is unlikely to be able to stop the imports that could be undercutting domestic producers.

The following are suggestions in order of desirability in terms of making the SSM more effective:

- i) Peg the trigger price at 100% of the domestic price or better still, at 105% of the domestic price or the reference price, whichever is higher;
- ii) Peg the trigger price at 95% or 90% of the reference price (as the G33 is suggesting), but as in the G33 position, the remedy will have to make up the difference between the import price and the reference price (not trigger price).

2) The Remedy Needs to be Improved Upon

The suggestions are as follows in terms of desirability:

- iii) In order for domestic prices to remain competitive, the Remedy should be the difference between the import price and at least 5% above the domestic price, or the reference price, whichever is higher.
- iv) Alternatively, it should be 100% of the difference between the import price and the reference price (the G33 position).

iii) If the remedy is to bridge the difference between the import and domestic price, then it will have to take into account the value decline of the ad valorem duty when prices go down. Therefore, **the definition of 'price' should be refined so that 'price' refers not only to the 'c.i.f. import price' but 'c.i.f. import price plus duty in price terms'.** This definition would have to apply to both the reference price (c.i.f. price plus duty in price terms of the last 3 years, or a fixed period) and the new import price (c.i.f. price plus duty in price terms). With this definition, the SSM remedy, would therefore cover the drop in price terms of the ad valorem duty applied.

Diagram 13: Addressing the price equivalent decline in the ad valorem duty

47. NB: In the cases outlined below, the reference price is defined according to the proposed definition: (c.i.f. price of \$10) plus duty (in price terms, \$5). It is therefore \$15 for all the scenarios.

	Reference price (c.i.f. plus duty in price terms)	New c.i.f. price)	Ad valorem duty (50%)	New Import price (c.i.f. + duty)	Domestic price	Trigger price (90% of the reference price)	SSM (100% of difference between reference price and new import price)	Duty of	New Import price plus SSM remedy
Scenario 1	15	10	5	15	13	13.5	No SSM		-
Scenario 2	15	8	4	12	13	13.5	3		15
Scenario 3	15	6	3	9	13	13.5	6		15
Scenario 4	15	4	2	6	13	13.5	9		15
Scenario 5	15	2	1	3	13	13.5	12		15
Scenario 6	15	1	0.5	1.5	13	13.5	13.5		15

48. With the new definition of price, the price decline-equivalent in the ad valorem duty is factored into the remedy. It becomes clear that the remedy for the price SSM is much more useful, as in Scenarios 2-6, bringing the total import price plus SSM remedy back to \$15.

V.2 The Pre-Doha Bound Tariff as the Upper Limit for the Price Remedy Means the Ceiling for the Remedy Declines as Prices Decline

49. Paragraph 142 of TN/AG/W/4/Rev.4 states that 'The above provisions on triggers and remedies apply subject to the limitation that the pre-Doha bound tariff is respected as the upper limit and shall prevail as such.'

50. There are several implications:

i) This means that all products in the Doha Round for which tariffs were not cut (eg. some developing countries' Special Products) will not enjoy the price-based SSM, since countries can, without resorting to the SSM, raise their tariffs to the bound rate and in these cases, the bound rate would be the pre-Doha rate).

ii) The ceiling level in money terms for the price-based SSM remedy will be declining as prices decline, instead of increasing to safeguard domestic producers as prices decline.

51. The same scenarios as in Diagram 13 are used in Diagram 14. The additional component we have added is that the bound pre-Doha duty is 80%. The applied duty remains at 50%. Therefore, in this case, the remedy can only be an additional 30% of the price. *The problem we quickly find ourselves in is that this 30% drops in money terms as prices drop, so that the pre-Doha bound tariff ceiling in money terms gets lower and lower.*

52. In the cases outlined in Diagram 14, we are not even considering the refined definition of 'price' and the drop in the 50% applied duty in price terms. Diagram 14 simply provides a simple comparison between the current G33 position on the remedy (column 8), and what the effect is of having a pre-Doha tariff ceiling (columns 12 and 13).

53. In Scenario 2, when prices drop by 20% from \$10 to \$8, the G33 remedy (100% of the difference between the import price and the reference price) i.e. \$2, remains within the pre-Doha Round bound tariff ceiling which in this case is \$2.4.

54. However, when prices drop more drastically, the pre-Doha Round bound tariff ceiling level also decreases (column 12). Therefore, *as price declines further, the remedy in money terms, to make up the shortfall needs to increase. The pre-Doha Round bound tariff ceiling works in the opposite manner – it decreases the remedy that can be provided in price terms.*

Diagram 14: Addressing the price equivalent decline in the ad valorem duty (in dollars)

1	2	3	4	5	6	7	8	9	12	13
	Referenc e price (c.i.f. price)	Import price (c.i.f. price)	Ad valorem duty (50%)	Import (c.i.f.) price + duty	Domes tic price	Trigge r price (assum ing it is 90% of referen ce (c.i.f.) price	SSM Duty (if it is 100% of difference between new import c.i.f. price and reference c.i.f. price)	C.I.F. Import price + Duty + SSM Remedy (assumin g remedy is 100% differenc e between import c.i.f. price and reference c.i.f. price)	If pre-Doha Bound tariff is 80%, Remedy ceiling (30% of price) is:	C.i.f. import price + duty + SSM remedy (with pre- Doha bound tariff as maximum ceiling
Scenario1	10	10	5	15	13	9	-	-		
Scenario2	10	8	4	12	13	9	2	14	2.4	14
Scenario3	10	6	3	9	13	9	4	13	1.8	10.8
Scenario4	10	4	2	6	13	9	6	12	1.2	7.2
Scenario5	10	2	1	3	13	9	8	11	0.6	3.6
Scenario6	10	1	0.5	1.5	13	9	9	10.5	0.3	1.8

55. In Scenario 3, when prices fall by 40% from \$10 to \$6, the additional remedy that can be provided (the 30%) falls now to \$1.8. This limits the import (c.i.f. price) plus duty plus SSM remedy to \$10.8. When prices fall even more drastically, the ceiling for the remedy gets increasingly lower. By Scenario 5, when c.i.f. import prices have dropped 80% from \$10 to \$2, the remedy ceiling is \$0.60. The SSM will not be effective at all.

56. RECOMMENDATION:

As prices fall, the remedy required in money terms has to be larger to compensate for the price decline. Most developing countries' pre-Doha bound tariffs are expressed in ad valorem terms, meaning that they decline in money terms when prices decline. Setting the pre-Doha Round bound rate as the ceiling level for the remedy therefore implies that this ceiling, in money terms, will decline as prices decline.

This pre-Doha bound tariff ceiling should therefore be deleted if the remedy for the price-based SSM is to be effective and if this remedy is allowed to increase (as is only logical), as prices decline.

This pre-Doha remedy ceiling also effectively means that products that are scheduled as Special Products where duties are not cut in the Doha Round, will not have access to SSM treatment since the pre-Doha bound rate will still be the post Doha bound rate.

V.3 Countries should have a choice of using a Fixed or Moving Reference Period

57. There are pros and cons with the fixed or moving reference periods. The fixed reference period works well especially for those with less administrative capacity. Once the reference prices have been calculated, they no longer have to be changed, making it much easier for customs officials. Even exporters will have more predictability since the trigger price will also be known to all.

58. The downside to the fixed reference period is that the prices may not be relevant to current day prices. They may be so low that they cannot be triggered.

59. The benefit of the moving reference period is that prices remain current and relevant. However, having to yearly recalculate reference prices (c.i.f. import price and duty in price terms – shipment by shipment) may not be possible for low-income countries with few resources. The price-based SSM may therefore be used little if countries cannot make these calculations.

60. There is a caveat in the text: 'the most recent three-year period preceding the year of importation for which data are available'. Nevertheless, it is presumed that countries will still make the effort to provide recent data and this may be too burdensome.

61. **RECOMMENDATION:**

It is therefore recommended that countries have a choice of reference periods – whether it is a fixed or a moving one, and they can decide on this when they are invoking the SSM.

This kind of flexibility for the reference period is already present in the SSG. Footnote 2 of the price-based SSG provides SSG users the opportunity to change the reference price. It says:

'The reference price used to invoke the provisions of this subparagraph shall, in general, be the average c.i.f. unit value of the product concerned, **or otherwise shall be an appropriate price in terms of the quality of the product and its stage of processing.** It shall, following its initial use, be publicly specified and available to the extent necessary to allow other members to assess the additional duty that may be levied' (emphasis added).

Language providing flexibility can similarly be crafted for the fixed or moving reference period for the price-based SSM, allowing countries to decide when invoking the safeguard, which form may be most suitable for them.

V.4 CROSS CHECK SHOULD BE DELETED

62. Paragraph 137 of the Chair's text TN/AG/W/4/Rev.4 notes that

'Developing country Members shall not normally take recourse to the price-based SSM where the volume of imports of the products concerned in the current year is

manifestly declining, or is at a manifestly negligible level incapable of undermining the domestic price level.'

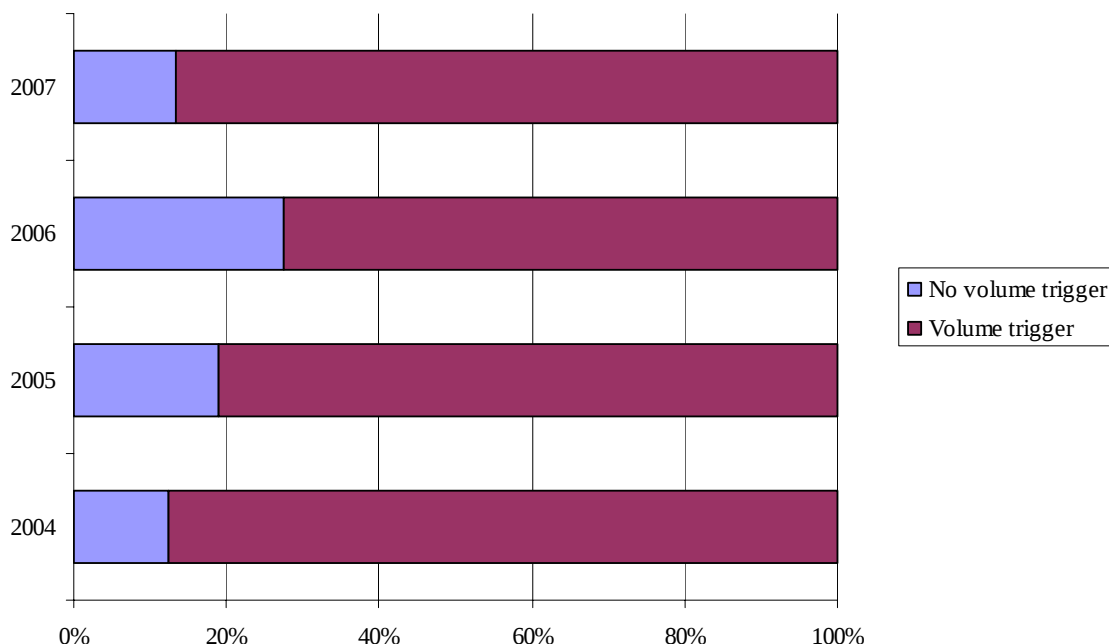
63. There are two main problems with having a cross-check:

i) Putting in a cross-check (volumes should not be declining) will delay countries' use of the price-based SSM, where at least in theory, it should be possible for countries to invoke the SSM as shipments arrive. Trade statistics would not be available then. Therefore this cross-check would nullify the positive aspects of the price-based SSM – the ability of countries to act quickly even if import statistics on volume import surges are difficult to obtain.

ii) It would prohibit the use of the price-based SSM for a significant proportion of cases where there are price declines. There is currently no clear definition about what 'volume of imports ...is manifestly declining' means. For ease, we have simply taken as a proxy that volumes are manifestly declining, when there are no import surge triggers being activated (110% volume trigger). This is obviously only a rough estimate.

64. Between 2004 – 2007, the data shows that if a cross-check is used and there is no volume trigger, but there is a price decline, the price-based SSM could not be used for about 20% of cases.

Diagram 15: All Price-based SSM Declines for 56 Developing Countries between 2004 – 2007; Diagram illustrates the extent of concurrent volume import surges



Source: South Centre Import Surge Database for 56 Developing countries

NB: Price triggers are defined based on the Chair's text of 85% decline in import prices. Volume triggers are defined as 110% import volume compared to average imports of the preceding 3 years. In each year, the total number of price triggers for the 56 developing countries as a group come up to 100%.

65. RECOMMENDATION:

As a first option, delete the cross-check clause or the time taken to establish that volumes are not declining will impede countries from invoking the price-based SSM shipment by shipment.

It is also important to note that the SSG has a watered down cross-check. Article 5.7 of the SSG in the WTO's Agreement on Agriculture states, 'Members undertake, as far as practicable, not to take recourse to the provision of subparagraph 1(b) (i.e. the price-based SSG) where the volume of imports of the products concerned are declining.'

At the worst, the words 'as far as practicable' (as in the SSG) should be inserted into the Chair's text to weaken the cross-check. Nevertheless, as Special and Differential Treatment for developing countries, the SSM should be a stronger instrument than the SSG, and a cross-check would place serious limitations on the benefits of a price-based SSM.

V.5 EN ROUTE SHIPMENTS SHOULD ALSO HAVE SSM COVERAGE

66. One of the most important issues for developing countries is whether countries would be able to invoke the price-based SSM without difficulties.

67. The Chair's SSM text, paragraph 135 notes that the price-based SSM shall be applicable where the c.i.f. import price of the shipment entering the customs territory of the developing country falls below a trigger price'.

68. Paragraph 136 also notes that 'The price-based SSM remedy shall apply on a shipment-by-shipment basis'.

69. Yet, the conditionality in the Chair's text of TN/AG/W/4/Rev.4 (para 139) regarding en route shipments states

'Any shipments of the product in question, which, before the imposition of the additional duty, have been contracted for and were en route after completion of custom clearance procedures in the exporting country, either under the price-or volume-based SSM, shall be exempted from any such additional duty...'

70. This is a very serious clause that would (if the present conditionalities in the Chair's text are accepted), exclude the possibility of countries using the price-based SSM unless countries have a sophisticated import licensing system, which is not the case for most.

71. The price-based SSG operates by importing countries reviewing the import price as shipments arrive, and levying duties at the border when a shipment price is below a pre-established trigger price. Without the same possibility for the SSM, (since cargo arriving at the port is presumably part of what is considered an 'en route shipment'), it remains unclear how developing countries could trigger this SSM.

72. Developing countries are perhaps expected to have a sophisticated monitoring system in place, of what the prices of imports are, shipment-by-shipment before they even leave the exporters' ports. They would also need to communicate with exporters the SSM price triggers in advance, for the myriad number of commodities being imported. Most developing countries do not have such systems in place now.

73. RECOMMENDATION:

The clause exempting en route shipments from the price-based SSM application will make it difficult, even impossible (as the text stands currently) for developing countries to use this instrument. The SSG operates by importing countries levying duties at the border when shipments arrive. Without the same possibility, developing countries may not have a sophisticated enough monitoring and alert system to warn exporters in advance of a possible SSM duty. In order to make this instrument accessible in practical terms, particularly for countries without such sophisticated monitoring and customs systems, this clause should be deleted.

V.6 PREFERENTIAL TRADE TO BE BROUGHT BACK UNDER SSM COVERAGE

74. Like the volume-based SSM, paragraph 138 of the Chair's text (TN/AG/W/4/Rev.4) notes that the SSM can only apply to MFN trade, not preferential trade.

75. Please see the explanation of the importance of the SSM applying also to preferential trade in South Centre's Analytical Note 'The Volume-based Special Safeguard Mechanism (SSM) and the Conditionalties in the December 2008 Agriculture Chair's Texts'. As it is, an increasing amount of trade is now taking place through preferential trade agreements. This proportion will further escalate in the future given the free trade agreements and customs unions being formed today. Excluding preferential trade from SSM coverage therefore means that countries are possibly excluding the major part of their trade from SSM application.

76. RECOMMENDATION:

In an earlier draft of the Chair's text, preferential trade was included for SSM treatment (see TN/AG/W/4/Rev.1 para 134, 8 Feb 2008). The text said:

'Where preferential trade is included in the calculation of volume or price triggers, the additional SSM duties shall be applied also to preferential trade.'

It would be beneficial to the majority of developing countries if this language is brought back into the SSM text.

A second best choice, and the least that developing countries should be entitled to given that this is a Special and Differential Treatment clause in a Development Round, is for the SSM to be silent on the issue of MFN or preferential trade, as with the SSG. This would mean that countries would be able to apply the SSM to preferential trade should they choose to do so, but they need not apply it to preferential trade if they do not want to.

In either case, the text in Rev.4 para 135 will have to be amended. The paragraph currently notes that the reference price is the 'average monthly MFN-source price for that product for the most recent three-year period preceding the year of importation for which data are available...'. 'MFN-source' should therefore be deleted to allow for the preferential trade price to be included in the calculation of the reference price.

READERSHIP SURVEY QUESTIONNAIRE
South Centre Analytical Note

THE PRICE-BASED SPECIAL SAFEGUARD MECHANISM (SSM): TRENDS IN
AGRICULTURE PRICE DECLINES AND ANALYSIS OF THE CONDITIONALITIES IN THE
DECEMBER 2008 WTO AGRICULTURE CHAIR'S TEXT

An important objective of the South Centre is to provide concise and timely analytical inputs on selected key issues under ongoing negotiation in the WTO and other related multilateral fora such as WIPO. Our publications are among the ways through which we try to achieve this objective.

In order to improve the quality and usefulness of South Centre publications, we would like to know your views, comments, and suggestions regarding this publication.

Your name and address (optional): _____

What is your main area of work?

- | | |
|---|--|
| ☐ Academic or research | ☐ Media |
| ☐ Government | ☐ Non-governmental organization |
| ☐ International organization | ☐ Other (please specify) |

How useful was this publication for you? [Check one]

- ☐ Very useful ☐ Of some use ☐ Little use ☐ Not useful

Why? _____

What is your assessment of the contents of this publication? [Check one]

- ☐ Excellent ☐ Very Good ☐ Adequate ☐ Poor

Other comments: _____

Would you like to be on our electronic and/or hardcopy mailing lists? ☐ Yes ☐ No

If yes, please indicate:

- ☐ **Electronic** – please indicate your name and email address:
☐ **Hardcopy** – please indicate your name and mailing address:

Personal Information Privacy Notice: Your personal contact details will be kept confidential and will not be disseminated to third parties. The South Centre will use the contact details you provide solely for the purpose of sending you copies of our electronic and/or hardcopy publications should you wish us to do so. You may unsubscribe from our electronic and/or hardcopy mailing lists at anytime.

Please return this form by e-mail, fax or post to:

South Centre Feedback
Chemin du Champ d'Anier 17
1211 Geneva 19
Switzerland

E-mail: south@southcentre.org

Fax: +41 22 798 8531



Chemin du Champ d'Anier 17
Case postale 228, 1211 Geneva 19
Switzerland

Telephone : (41 22) 791 8050
Fax : (41 22) 798 8531
Email : south@southcentre.org

Website:
<http://www.southcentre.org>