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THE VOLUME-BASED SPECIAL SAFEGUARD MECHANISM (SSM): ANALYSIS OF THE CONDITIONALITIES IN THE DECEMBER 2008 WTO AGRICULTURE CHAIR'S TEXTS

SYNOPSIS

This paper examines the conditionalities and their implications for the effectiveness of the volume-based SSM in the December 2008 Agriculture Chair's Modalities. These conditionalities include the trigger level; limits on the remedies and remedy caps; limits on the number of tariff lines that can go beyond the Uruguay Round bound rates; the cross-check; 'on/off' periods of SSM application; treatment for seasonal and perishable products; exclusion of preferential trade from SSM coverage; exclusion of negligible trade; and pro-rating clauses in calculating the preceding 3-year volume imports. The paper then makes recommendations on how these clauses can be changed so that the SSM can be a more effective instrument for developing countries.

November 2009
Geneva, Switzerland

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EXECUTIVE SUMMARY: Key Recommendations

1. Lower Yearly Volume Trigger or Use A Quarterly Trigger
The fact that a 110% of the average preceding 3 years' import volumes must be attained before the SSM is operationalised in the first few months of a 12 month period means that the total import surge in that 12 month period would be considerably higher – 200%, or even 500% within the year.

i) The trigger can be set at 100% or 105% of the preceding 3-year average so that countries can take action earlier.

ii) Even more effective is the use of a quarterly trigger, rather than a yearly trigger. A quarterly trigger of 110% rather than a yearly trigger of 110% will enable countries to act *as* an import surge is taking place, rather than after a significant surge has already happened.

2. 'Base imports' Should be the Average of Imports in the Preceding three years for which Data is Available
For low-income and less well-resourced developing countries – also those needing the SSM the most - calculating volume triggers based on imports of the preceding three years could very likely make the volume-based SSM administratively difficult to use due to the lack of timely data.

In order for the SSM to be easily used by all, the language pertaining to the base 3-year imports should also have the caveat 'for which data are available'.

3. Remedy: Importance of 'Beyond the Uruguay Round Tariff' Remedy
The final duty caps on the SSM remedies reflected in TN/AG/W/4/Rev.4 should be deleted. No final duty cap exists for the Agreement on Agriculture's Special Safeguard Provision (SSG)[1]. The US and EU's SSG duties are on average more than 107 - 110% over and above their in-quota tariff levels.

Countries could also consider the implementation of quantitative restrictions (QRs), as also allowed in the WTO's General Agreement on Safeguards. QRs are a parallel to developed countries' use of tariff rate quotas. QRs have already being used by some developing countries in response to difficult political situations.

4. SSM Remedy: Apply to Countries' Bound Tariff Rates
SSM duties should be imposed on a country's bound tariff rate, not its applied tariff rate. No such limitation exists in the SSG.

[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.

5. Remove Limits on Number of Tariff Lines to Avail of Beyond Uruguay Round SSM

The EU enjoys protection for 31% of its tariff lines under the SSG; Norway 49% of its tariff lines and Switzerland 59%. Developing countries should have Special and Differential Treatment and there should be no limits for them. If there are limits, these should be higher than the percentage of tariff lines covered by the SSG for the developed countries.

6. The Cross-Check Severely Reduces Ability to Invoke Volume-Based SSM

A mandatory cross-check could make it impossible for countries to invoke the SSM for the majority of import surges. Over 85% of import surge cases (using 110% as the volume trigger) would not meet this criteria. Even with a non-mandatory cross-check e.g. the 'not normally applicable' wording, which shifts the burden of proof to developing countries, countries could likely be faulted for repeated use of the volume-based SSM in the future without the cross-check.

It is best to delete the cross-check clause to ensure that countries are not constrained in their use of the volume-SSM when import surges are taking place. A second best alternative is to considerably weaken the language.

7. On/Off Periods Constrain Use of SSM When Most Needed

The on/off clause disallows developing countries the right to use an SSM when they have a legitimate volume import surge, and when they most need the instrument to respond to significant increases in imports year after year. The likelihood of a trigger being a 'consecutive' one (when a 110% volume surge takes place) is 50% of the time.

The on/off clauses should be eliminated. The SSG does not have on/off clauses and the SSM should not be more limiting especially given the requirement for Special and Differential Treatment and the supposed development nature of this Round.

8. Seasonal and Perishable Products: Better Treatment in SSG

'Seasonal' and 'seasonal perishable' products should be provided with better treatment than the normal SSM treatment, along the same lines as the SSG. Like the SSG, importing countries should be able to use shorter time periods, or corresponding periods in the base timeframe, as well as different reference prices if these allow them to more easily trigger the SSM.

Since there are no on/off conditionalities in the SSG, and certainly not for seasonal products, such clauses should be eliminated in the SSM.

9. Preferential Trade to be Brought Back under SSM Coverage

Given the increasing trend of preferential trade agreements, it is in the best interest of most developing countries to have the SSM also cover preferential trade. The language was already in an earlier draft of the Chair's text (TN/AG/W/4/Rev.1 para 134, 8 Feb 2008):

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

A second best choice would be for the SSM to be silent on the issue of MFN or preferential trade, as with the SSG, so that countries can choose when and how to use the instrument on a case-by-case basis.

10. Remove Negligible Trade Exclusion

Exclusion of 'negligible trade' from SSM coverage prevents the use of the SSM when absolute levels of imports are small. Such a clause does not exist in the SSG and the SSG remedies were used to block import volumes as small as 14 and 40 kgs in the case of the U.S. It is therefore in the best interest of developing countries to delete this paragraph 133 (d) of TN/AG/W/4/Rev.4.

11. Pro-Rating in the SSM Reference Period Effectively Increases Trigger Volumes

The pro-rating clause effectively increases the trigger volume for an SSM should an SSM used in the preceding reference period have lowered import volumes. In general, pro-rating ensures that trigger volumes are continuously rising and not declining. For example, with pro-rating, a 110% volume trigger could effectively be equivalent to a 129% volume trigger without the pro-rating. This clause is therefore not in the best interest of developing countries.

No such limitation exists for the SSG so it should not be present in the SSM, especially given the requirement for Special and Differential Treatment.

I. INTRODUCTION

1. Given the frequency and extent of agricultural import surges into developing countries, the Group of 33 (G33[2]) at the WTO has been advocating for a Special Safeguard Mechanism (SSM) in the context of the Doha Round negotiations that could shield countries from the worst effects of import surges.

2. Similar to the Special Safeguard Provision (SSG) of the Agreement on Agriculture (which is available to only a limited number of countries - 16 developed countries and 22 developing countries) there are two variations to the SSM – the volume-based SSM, and the price-based SSM. This paper examines the issues of concern for developing countries vis-à-vis the volume-based SSM.

3. The G33 has asked for the SSM to be 'effective, flexible, practical and operable'.[3] According to the Group,

4. 'The SSM shall not be designed with layers and multiple limitations for developing countries and Least Developed Countries (LDCs) to use, which in the end would only provide an ineffective mechanism'.[4]

5. The last versions of the WTO's Agriculture Chair's draft modalities of December 8 2008 (TN/AG/W/4/Rev.4 and TN/AG/W/7), however, have introduced multiple conditionalities that limit the use and effectiveness of the SSM.

6. This paper examines the conditionalities for the volume-based SSM from the point of view of protecting small farmers from volatile trade flows, as well as the objectives of rural livelihoods, employment and food security, and makes some recommendations on how the draft text can be changed so that the SSM can be a more effective instrument for developing countries.

II. CONDITIONALITIES LIMITING THE USE OF THE VOLUME-BASED SSM IN THE DECEMBER 2008 CHAIR'S TEXTS (TN/AG/W/4/REV.4 AND TN/AG/W/7)

7. Below is a list of the conditionalities for the volume-based SSM, suggested by the Chair of the Agriculture negotiations in his drafts. Square brackets used reflect the areas where square brackets have also been used in the Chair's texts – meaning that there is still disagreement amongst WTO members on these conditionalities. Nevertheless, many areas of the SSM which were not square bracketed by the Chair are still deeply contentious. These Chair's texts also sometimes contain more than one proposal on the same issue.

[2] The G33 is a group of 46 developing countries: Antigua and Barbuda; Barbados; Belize; Benin; Bolivia; Botswana; China; Congo; Côte d'Ivoire; Cuba; Dominica; Dominican Republic; El Salvador; Grenada; Guatemala; Guyana; Haiti; Honduras; India; Indonesia; Jamaica; Kenya; Republic of Korea; Mauritius; Madagascar; Mongolia; Mozambique; Nicaragua; Nigeria; Pakistan; Panama; Peru; Philippines; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Senegal; Sri Lanka; Suriname; Tanzania; Trinidad and Tobago; Turkey; Uganda; Venezuela; Zambia; Zimbabwe.
[3] G33 2008 'G33 Coordinator Talking Points on Special Safeguard Mechanism', 18 – 22 February 2008.
[4] G33 2008, ibid.

II.1 Conditionalities in the Draft Agriculture Modalities TN/AG/W/4/Rev.4 Text

8. The **remedies** for the volume-based SSM to be applied are summarised below. Not only are the remedies limited, but the final duty is also capped.

Summary table 1: Remedies and Remedy Cap (para 133; 143; 144; 145 of TN/AG/W/R/ Rev.4)

Import surge as % of base imports (average of preceding 3 years)	**Remedy added to *applied tariffs* (Rev.4)**	**Final duty cap**
110% - 115%	25% of pre-Doha bound rate or 25 percentage points (pp), whichever higher	LDC: 40% of pre-Doha bound rate or 40pp, whichever higher [SVE: 20% of pre-Doha bound rate or 20pp, whichever higher Max 10-15% of tariff lines] (i.e. approximately 76 – 114 lines) Other developing country: 15% of pre-Doha bound rate or 15pp, whichever higher Max 2-6 products on HS6 level (i.e. max. 48 lines)
115-135%	40% of pre-Doha bound rate or 40pp, whichever higher	
> 135%	50% of pre-Doha bound rate or 50pp, whichever higher	

9. Imports that are '**manifestly negligible'** should not face SSM duties. (para 133(d), TN/AG/W/4/Rev.4)

10. **Period of Application / On/Off conditionality.** The volume-based SSM can be in place for 12 months. For seasonal products, this will only be for 6 months or the actual period of seasonality, whichever is the longer (para 140, TN/AG/W/4/Rev.4).

10a. **The volume-based SSM can only be used for 2 consecutive periods**. When this has been utilised, it should not then be invoked (an 'off' period) for a further two consecutive periods (para 140, TN/AG/W/4/Rev 4).

10b. **Pro-rating.** When invoking an SSM, should a safeguard have been in place in the previous 3-year period, the three-year rolling average will include the time period when the SSM was in place. However, where this would have the effect of lowering the 3-year rolling average below the level which triggered the SSM in the initial period, the trigger level for the initial period shall apply (para 140, TN/AG/W/4/Rev.4).

11. The application shall be for **MFN trade** only (para 138, TN/AG/W/4/Rev.4).

12. The volume-based SSM (and price-based SSM) cannot be invoked for **en route shipments** (para 139, TN/AG/W/4/Rev.4).

II. 2 Additional Conditionalities in the TN/AG/W/7 Text (for remedies above-the-Uruguay Round bound rate):

13. In addition to his main agriculture modalities draft TN/AG/W/4/Rev.4, the Chair also wrote an additional paper TN/AG/W/7 proposing further conditionalities for the SSM that would breach the Uruguay Round bound rate. He acknowledges in this paper, however, that 'progress… has still been uneven…we are still short of a clean text, let alone actual agreement on key matters'. Nevertheless, his suggestions are as follows. Many of these further tighten the conditionalities listed above:

14. **Cross-check.** The volume based SSM 'shall not normally be applicable' unless the domestic price is also declining (para 3, TN/AG/W/7).

15. **Pro-Rating.** The pro-rating clause is slightly different from the pro-rating clause in para 140 TN/AG/W/4/Rev.4. If an SSM was in force during the preceding 3-year period, the monthly average of the imports net of that period of SSM application shall be calculated and applied as the proxy imports for the months during which the SSM was in force, unless actual imports during its application were higher (para 3, TN/AG/W/7).

16. The **Remedies / Cap** for the volume-based above the Uruguay Round bound rate SSM are summarized in the table below:

Summary table 2: Remedies / Cap (para 3 of TN/SG/W/7 text)

Import surge as % of base imports (average of preceding 3 years)	**Remedies / cap**	**Limit on tariff lines in 12 month period**
120% - 140%	1/3 of pre-Doha bound rate or 8 percentage points (pp), whichever higher	Max 2.5% of tariff lines (i.e. 18-19 tariff lines)
>140%	½ of pre-Doha bound rate or 12pp, whichever higher	

17. **Period of application and on/off conditionality.** The maximum period of application for the above the bound rate volume-based SSM is [4/8] months. There is also an on/off conditionality - it cannot be applied for the same amount of time thereafter. There can be a spillover into the next 12 month period, but this is only limited for no more than [2/4] months (para 3, TN/AG/W/7).

18. The **maximum no. of tariff lines** in any 12 month period that can avail of the SSM is 2.5%.

19. **Seasonal perishable products.** TN/AG/W/4/Rev.4 says that for 'seasonable products' the SSM can be invoked for 6 months or to cover the duration of the season, whichever is longer.

20. TN/AG/W/7 uses the term 'seasonal perishable product tariff lines'. If there is application of the SSM of 12 months over 2 years on these 'seasonal perishable' lines, the SSM may not be applied for the next 12 months. The Chair has also suggested in brackets that [A review is to take place after 2 years of operation of SSM to ascertain the impact on developing country members' exports] (para 4. TN/AG/W/7).

21. [Should the **SSM be applied for 3 consecutive periods**, a standing group of experts will evaluate whether or not the measure is functioning to deal with import surges of an inherently temporary nature that is not disrupting normal trade, or whether it is a response to an underlying more structural problem. They shall render their views and opinions including non-binding recommendations as appropriate].

III. WHAT ARE THE IMPLICATIONS OF THE CONDITIONALITIES?

III.1 Lower Yearly Volume Trigger or Use A Quarterly Trigger

22. The trigger levels for the volume-based SSM do not seem on the surface to be too high. However, these existing triggers will not be very effective in stopping an import surge – essentially, action will only be taken after the fact for the reasons outlined below.

23. According to the 4th revision of the Chair's text, an import surge occurs when the level of imports is above 110% of the imports equating to the average of the preceding 3-years. In the TN/AG/W/7 document, the Chair has noted that for final applied duties that go above the Uruguay Round, the volume surge must be at least 120%.

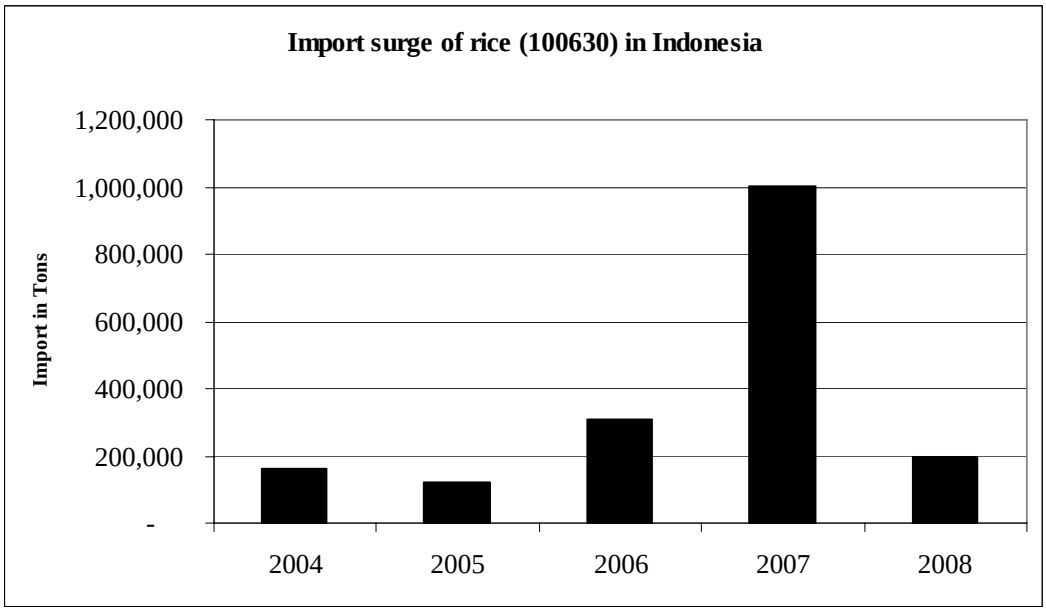
24. Why would the 110% or 120% trigger level render the SSM not very effective? This is because according to the Chair's conditionalities, a 110% or 120% import surge must already have been attained in the first few months of a 12 month period before the SSM can be triggered. This means that the actual volume surge for the current 12 month period is considerably more than 110% or 120%. If in 6 months, a 110% import surge has taken place, it means that effectively, the import surge has been 220%.

25. In addition, there is a time lag between the import surge and the application of the remedy that should be considered. This time lag is due to

i) time taken to obtain trade statistics and
ii) bureaucratic processes needed to put in place the remedies after an import surge has been identified.

26. Therefore, by the time the remedy is implemented, the import surge is likely to have been further amplified. The example of Indonesia in 2007 is a case in point. The country experienced a major rice import surge in 2007 as illustrated in the Diagram below.

Diagram 1: Import Surge of Rice in Indonesia

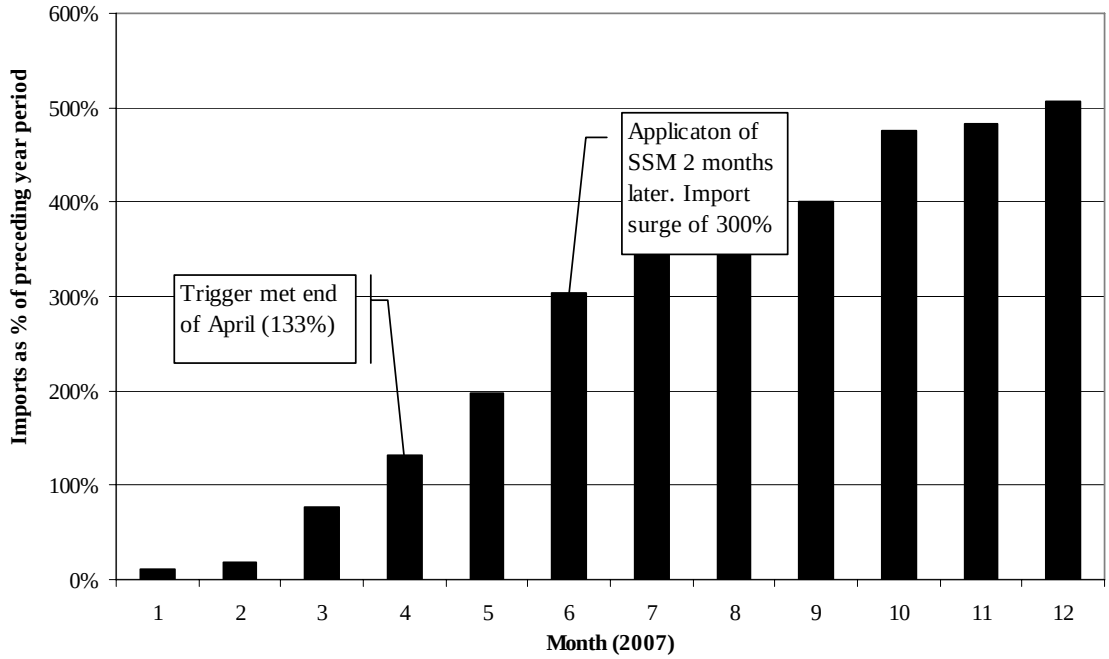


Source: South Centre Import Surge Database 2009[5]

27. The cumulative increase in imports through the 12 months of that year is illustrated in Diagram 2.

[5] The South Centre Import Surge Database uses trade statistics from TradeMap, managed by the International Trade Centre (ITC). ITC TradeMap uses the UN Comtrade database administered by the United Nations Statistics Division. Only 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 2: Indonesia's Cumulative Rice Imports in 2007 as a Percentage of the Preceding 3-Year Period



Source: Data taken from ITC TradeMap, 2009, Calculations by South Centre

28. If we use a trigger of 110%, that level of import surge would have been reached in April 2007. Realistically, even in the best of scenarios, an SSM, if it could have been implemented would only be applied 2 months later due to the time delays referred to above. By then, imports in this case already reached over 300% of the preceding 3-year average.

29. It should be noted that in the Special Safeguard Provision (SSG) which is used most frequently by the EU and US, the starting trigger for the volume-based safeguard is 105% (although such a safeguard level can only be used when imports make up 30 percent of domestic consumption). However, given the requirement for Special and Differential Treatment, the SSM need not have the limitation of imports making up 30% of domestic consumption.

30. **RECOMMENDATION:**

The fact that a 110% of the average preceding 3 years' import volumes must be attained before the SSM is operationalised in the first few months of a 12 month period means that the total import surge in that 12 month period would be considerably higher – 200%, or even 500% within the year, as in the case of Indonesia in 2007.

The trigger could be refined to improve the effectiveness of the SSM. The following are suggestions and they could be options which countries could use.

i) The trigger can be set at 100% or 105% of the preceding 3-year average so that countries can take action earlier. However, this improvement is only marginal.

ii) Even more effective is the use of a quarterly trigger, rather than a yearly trigger. A quarterly trigger of 110% rather than a yearly trigger of 110% will enable countries to act *as* an import surge is taking place, rather than after a significant surge has already happened. The Box below illustrates how this quarterly trigger might work.

BOX: Quarter Trigger of 110%

The Diagram below shows a country where imports volumes in the three preceding years are 90, 100, and 110. The yearly average is 100, and the trigger has been set at 110%. Therefore the quarterly trigger is 27.5.

Diagram 3a Imports in Preceding 3 years

Imports Year 1	90		
Imports Year 2	100		
Imports Year 3	110		
Yearly average	100	**Yearly trigger (110%)**	**110**
Quarterly average	25	**Quarterly trigger (110%)**	**27.5**

Diagram 3b illustrates that with quarterly triggers, and with a variety of import surge scenarios, the SSM could be triggered earlier, rather than later in the year. The quarterly trigger can be reached by quarters 1, 2 or 3, instead of from quarters 2-4 with the yearly trigger. Note that in these scenarios, total import volumes for the *year*, (whether with a yearly or quarterly trigger) are the same. It simply allows countries to act earlier, hence making the SSM a more effective instrument. It should be noted that even if the quarterly trigger volume is reached in Quarter 1, it is unlikely that countries will act with a safeguard in Quarter 1. There will be a time lag before an SSM is in place. It is more likely that the SSM could be in place in Quarter 2 or more realistically even in Quarter 3.

Diagram 3b

Quarterly import surge scenarios	**Q1**	**Q2**	**Q3**	**Q4**	**Total**	**Yearly triggers attained in the following quarters**	**Quarterly triggers attained in the following quarters**
Scenario: even distribution surge	40	40	40	40	160	Q3	Q1
Scenario: surge at beginning of year	90	40	20	10	160	Q2	Q1
Scenario: end of year surge	10	20	40	90	160	Q4	Q3
Scenario: surge in cycles 1	70	10	70	10	160	Q3	Q1
Scenario: surge in cycles 2	10	70	10	70	160	Q4	Q2

31. These recommendations, particularly the quarterly trigger would allow countries to act more quickly to stem an import surge as it is happening, and before the country is inundated with too much imports. The trigger level could still be 110%.

32. However, the practical usefulness of these recommendations (as with the volume-based SSM in general) will depend on bureaucratic efficiency within countries allowing for real time monitoring of import volumes of key commodities, and the ability to act on this information quickly.

III.2 'Base imports' Should be the Average of Imports in the Preceding three years for which Data is Available

33. Rev.4 notes that the base imports shall be 'a rolling average of imports in the preceding three-year period'. In contrast, the price-based SSM notes that the reference price should be the price of the product 'for the most recent three-year period preceding the year of importation for which data are available'.

34. Also, in the SSG, where the base period is referenced to domestic consumption, the language used (para 4 of Article 5, Agreement on Agriculture) is that the volume trigger is set according to the following schedule based on market access opportunities defined as 'imports as a percentage of the corresponding domestic consumption during the three preceding years for which data are available'.

35. **RECOMMENDATION**
For low-income and less well-resourced developing countries – also those needing the SSM the most - calculating volume triggers based on imports of the preceding three years could very likely make the volume-based SSM administratively difficult to use due to the lack of timely data.

In order for the SSM to be easily used by all, the language pertaining to the base 3-year imports should also have the caveat 'for which data are available'.

III.3 Remedy: Importance of 'Beyond the Uruguay Round Tariff' Remedy

36. It is not easy to ascertain exactly how high a remedy (the additional SSM duty) should be in order for it to be effective in stemming an import surge.

37. The limitations in the Chair's texts are contained in summary tables 1 and 2 above. The remedies proposed - a percentage of the pre-Doha bound rate such as 25% (for an import surge between 110% - 115% of the preceding 3-year average) is further limited by a final remedy tariff capping eg. 20% of pre Doha bound rate for SVEs (TN/AG/W/4/Rev.4).

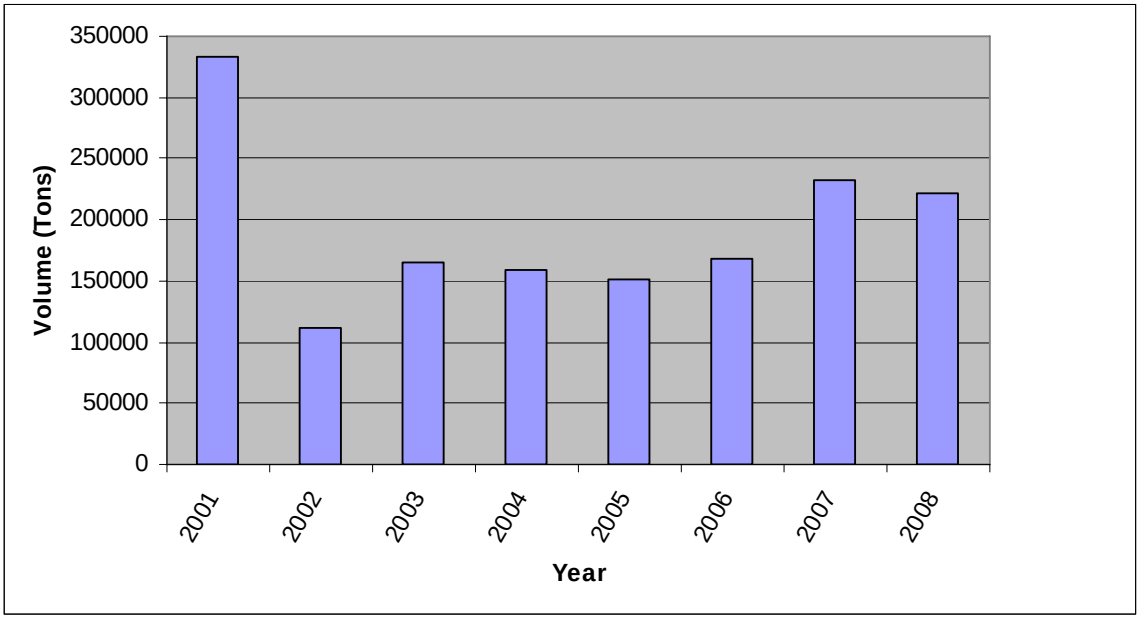
38. These restrictions may render the SSM ineffective. This is particularly true for countries with low-bound tariffs. However, even countries with high bound Uruguay Round tariffs may find that a safeguard of only up to their Uruguay Round rate or

minimally above that is insufficient to stem an import surge. The cases of Kenya and sugar imports, and Cote d'Ivoire in relation to poultry, are instructive.

Box: Kenya's Sugar Imports and The Need for an Above the Uruguay Round Tariff SSM Remedy

As a result of import surges in sugar, between 1995 and 2004, direct employment levels in the sugar sector shrank by 79%. Over 32,000 people lost their jobs through lay offs, retrenchments and factory closures. Whilst imported sugar enjoyed 31% of the domestic market in 1998, by 2004, imported sugar accounted for 41% of the domestic market.

Diagram 4 Kenya Sugar Imports by Volume, 2001 - 2008



Source: ITC TradeMap 2009

The applied tariff was 25 percent at the time of the 2000 – 2001 import surges. The government, using a COMESA safeguard brought applied tariffs to their maximum WTO bound level. Whilst initially, this had the effect of lowering the sugar import surges, it is clear from Diagram 8 that sugar imports have since risen steadily despite the fact that the safeguard is still in place. Clearly a tariff that is above the bound rate is important if the import surges are to be effectively dealt with.

Box: Cote d'Ivoire's Poultry Imports and The Need for an Above the Uruguay Round Tariff SSM Remedy

Poultry imports rose from 1 815 tonnes to 17 226 tonnes in Cote d'Ivoire between 1997 and 2003. Between 2001 and 2003, imports increased more than 650 per cent. During this time, FAO reported that over 1,500 poultry producers ceased production.[6]

The country's total ad valorem bound tariff is around 83%.[7] In 2004 -2005, the country raised its duty from 300 CFA per kg to 1000 CFA.[8] This translates into a total ad valorem duty of about 134%.[9] This is over 50 percentage points above their Uruguay Round bound rate and is beyond the caps for SVEs that are contained in the TN/AG/W/4/Rev.4 or TN/AG/W/7.

As seen below in Diagram 5, the additional tariff the country had levied was quite effective in bringing import rates back to levels in the 1990s.

Diagram 5 Poultry imports of Cote d'Ivoire (quantity in Tons)

1997	2003	2004	2005	2006	2007	2008
1,815	17,226	13,312	6,855	881	1,089	1,060

At the same time, as tariffs were increased, it can be seen in Diagram 6 that since 2003, domestic poultry production, which had dipped (in part due to the civil war) between 1997 – 2003 increased. Nevertheless, the present level is still below the 1988 level of poultry production.[10]

[6] FAO 2007 'FAO Briefs on Import Surges. Countries no. 12. Insights on Rice, Poultry and Sugar Imports into Cote d'Ivoire'.

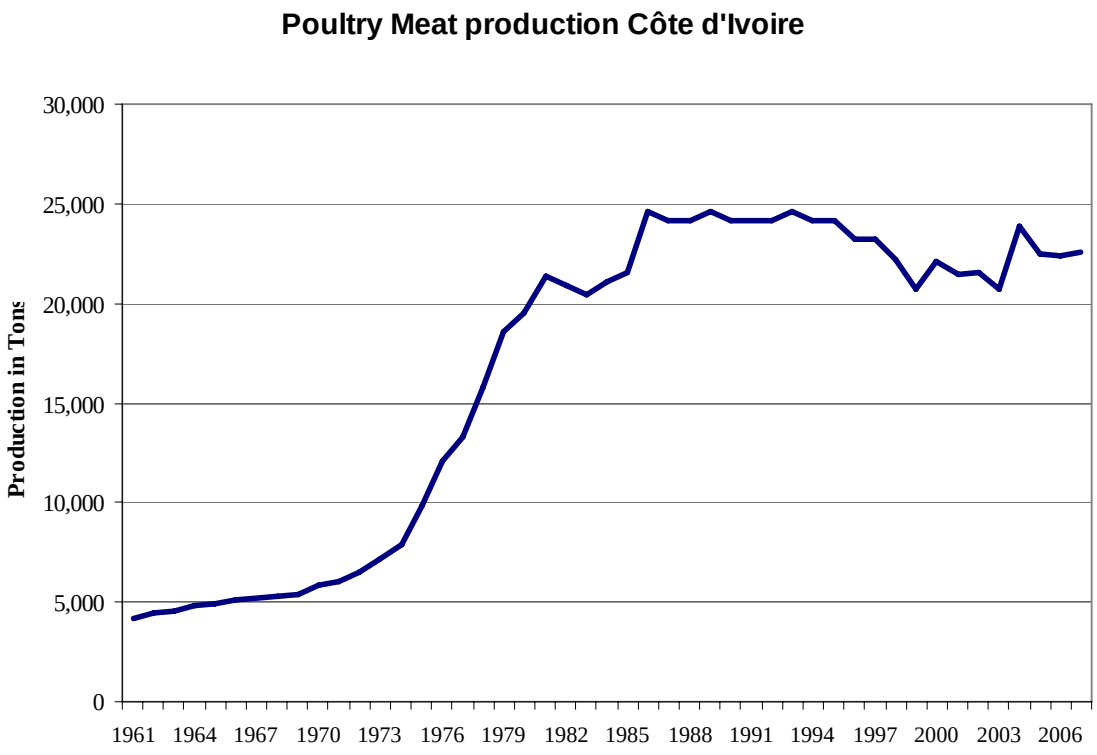
[7] Cote d'Ivoire's current bound for poultry (0207) is 4% plus 600 CFA / kg. 600 francs equals 0.9 euro, which is 900 euro per Ton. With a price of 1,134 euro per Ton (2005 average unit value), this amounts to duty per Ton of 4% x 1,134 + 900 = 945. In other words a bound ad valorem AV duty of around 83% (945/1,134).

[8] International Egg and Poultry Review, Cote d'Ivoire Increases Poultry Import Tariff, 17 May 2005, http://www.thepoultrysite.com/poultrynews/7807/international-egg-and-poultry-review

[9] 100 CFA francs = 0.152449 Euros. 1000 CFA duty is equivalent to a duty of €1,524.49 per kg. The average unit value in 2005 of was €1,134 (ITC Trade Map).

[10] The poultry sector in Cote d'Ivoire illustrates the effect of liberalization on domestic production as a result of structural adjustment. Cote d'Ivoire poultry production between independence and 2000 is clearly associated with its trade policies. These policy periods can be described as follows: initiation and deepening of protection (1960-1984), liberalization (1984-1988), reversal to protection (1988-1990), return to liberalization (1990-1993), consolidation of liberalization (1994) to the present. (http://www.fao.org/docrep/005/y4632e/y4632e0b.htm#bm11.4). While the first liberalization period was associated with an increase in the production of poultry meat – the world had also just came out of a global recession – no increase in poultry production has been recorded since 1988. The present level is still below the 1988 level. The dip during 2000-2004 can be explained by civil strife and the concurrent import surges of poultry meat from the European Union. It is evident that production and import surges are linked. Liberalization in the 1990s is the prime driver of production stagnation, and consequently, import surges.

Diagram 6



Source: FAOStat

Developed Countries' Double Protection: Out-of-Quota Tariffs and the SSG

39. The EU and US have a double 'safeguard' or protection for some of their most sensitive agricultural products. As a rule of thumb, the treatment for developing countries and the SSM should be better than the treatment for the protection of developed countries' agricultural products and their use of the SSG.

40. What is this double protection enjoyed by the developed countries?

i) The tariff rate quota system (TRQ) system that is widely used by both the EU and the US is essentially a permanent safeguard these countries have. Beyond a minimum access import volume or 'quota' of 5% for which a lower tariff should apply, countries with TRQs are able to have a high out-of-quota tariff, i.e. a permanent safeguard. Developed countries therefore have something similar to a quantitative restriction (QR) – essentially, they are better able to regulate the volume of what is imported, and charge a high tariff when this quota has been reached.[11]

[11] This is what should happen in theory. In practice, the issue of quota underfill is well-known, where the quota is not reached, but countries are already charging a higher tariff.

ii) The SSG is applied to the out-of-quota tariff rates when it is invoked. That is, over and above the out-of-quota tariff, there is the additional protection of the SSG when it is used.

41. This two-tier tariff structure has some similarities but also major differences to developing countries' tariff structure. Through structural adjustment conditionalities, developing countries have reduced a large number of applied tariffs to low levels. At the same time, these same countries have bound at the WTO, agricultural tariffs at fairly high levels. The difference between developed and developing countries is that many developed countries do use their out-of-quota (higher) tariffs. In contrast, developing countries use their applied tariffs that are much lower levels than their bound tariffs.

Box: Developed Countries' Agricultural Protection Through TRQs

The OECD Secretariat actually describes the use of developed countries' tariff rate quota in an interesting way:

'Governments (from the OECD) are rather innovative in their use of the TRQ system. An analogy with a drawbridge may be appropriate. Governments use the TRQs as they would a drawbridge over a moat. The drawbridge is down allowing imports at the low in-quota tariff until the TRQ is filled. At this point, the drawbridge is raised; additional imports can only enter by jumping a very high wall (the out-of-quota tariff). However, some governments, for some TRQs, when it is convenient for domestic purposes, allow the drawbridge to remain open and imports above the TRQ level enter at the in-quota rate. The TRQ system enables governments to accomplish this without dismantling their armour and ability to then raise the bridge and limit imports by imposing the higher out-of-quota rates subsequently as desired.'[12]

For the EU and US, most tariff lines that have recourse to the SSG are also the ones which have tariff-rate quotas. According to the OECD, the estimated average in-quota-tariff for typical import surge products such as cereals, oil seeds, meats and dairy is 20.4% for the following countries Australia, Canada, European Union, Hungary, Japan, Korea, Mexico, Poland and the United States. This average is 52.67% if Iceland, Norway and Switzerland are included. The average out-of-quota tariff is 162.35% for the same group of countries named above, and 184.18% if Iceland, Norway and Switzerland are included (See Diagram 7).[13]

The additional duty for these OECD countries (Australia, Canada, European Union, Hungary, Japan, Korea, Mexico, Poland and the United States) for their out-of-quota tariffs is on average 142 percentage points *above* the in-quota-tariff. For the US in 2002, it was 80% *above* its in-quota-tariff and rate for the EU is 73%.

Diagram 7: In and Out-of-Quota Tariffs for Some OECD Countries

	Average Tariff				Number of lines			
	All	**In-quota**	**Out-of-quota**	**Non-quota**	**Total**	**In-quota**	**Out-of-quota**	**Non-quota**
	Percentage				**Number**			
Argentina	33.62	n.a.	n.a.	33.62	138	n.a.	n.a.	138
Australia	4.45	3.46	43.93	2.73	98	5	4	89
Canada	65.61	2.64	201.52	3.67	213	61	67	85
European Union	60.20	23.99	97.33	59.44	679	227	226	226
Hungary	35.50	19.84	43.86	20.63	149	19	96	34
Japan	190.96	18.83	657.79	58.01	245	58	58	129
Korea	66.82	18.78	203.35	25.34	186	45	45	96
Mexico	75.17	46.15	184.06	40.57	168	39	39	90
New Zealand	5.26	n.a.	n.a.	5.26	107	n.a.	n.a.	107
Poland	66.10	30.05	105.53	6.13	79	36	39	4
United States	28.41	10.56	90.82	10.16	329	84	74	171
Average fpr Aglink endogenous countries	63.65	20.40	162.35	30.18	2,391	574	648	1169
Iceland	149.63	58.92	189.76	247.08	250	85	146	19
Norway	240.39	245.65	234.69	244.11	203	66	190	47
Switzerland	218.25	128.82	255.13	232.15	308	69	124	115
Average all above	96.96	52.67	184.18	57.89	3,152	794	1008	1350

Source: OECD 2002 'Agriculture and Trade Liberalisation: Extending the Uruguay Round Agreement', Table 1.5, p. 34.

42. Over and above the high out-of-quota tariffs, the SSG is provided as the second safeguard mechanism when there is an import surge. The SSG duty is one-third of the out-of-quota tariff level. There is no specification in the SSG that the safeguard could go beyond the Uruguay Round bound rate to only a limited level i.e. there was no final remedy cap, as the Chair is suggesting for the SSM. In fact, it was assumed that the SSG duty is levied upon bound duty levels and therefore always breaches the Uruguay Round bound level.

43. Interestingly then, taking the out-of-quota tariff levels of 2002, the US using the SSG would have an average duty of (1/3 x 90.82%) + 90.82% or about 120%. The EU could have a final duty, with the SSG of (1/3 x 97.33) + 97.33 or about 130%. The final

duty for the US would be approximately **110%** *above* its in-quota-tariff rate, and for the EU, **107%** above its average in-quota-tariff rate.

44. This figures should be borne in mind if in the negotiations, it remains the case that the SSM should be imposed only on applied tariff rates of developing countries.

45. **RECOMMENDATION:**
1) The final duty caps reflected in TN/AG/W/4/Rev.4 should be deleted. No final duty cap exists for the SSG.

2) Countries should be able to have an SSM that goes beyond the Uruguay Round bound rate. What should this level be? At the very least, the final duty cap should be larger than what developed countries have enjoyed through their combined out-of-quota tariff rates and their SSG duties – i.e. more than 107 - 110% over and above the applied tariffs.

3) If the additional duty is insufficient (especially as ad valorem tariffs are less effective if prices are also declining), a quantitative restriction, as also provided for in the general WTO Safeguard Agreement should be available to developing countries for a limited period of time. Even though it is not supposedly 'allowed' in the WTO, several developing countries, out of political necessity are already using or have used quantitative restrictions (QRs) in the recent past. The issue of quantitative restrictions for developing countries in agriculture should be revisited. Tariff-rate-quotas enjoyed by the developed countries, as pointed out above, are after all a form of QRs. QRs also have the benefit of not increasing prices locally, unlike tariffs.

Box: Cameroon and Quantitative Restrictions on Poultry

Different countries have in the past added on a second round of additional duties, or have, under political constraints in their countries, taken on quantitative restrictions as the initial additional tariffs were insufficient. Eg. Cameroon in the case of poultry.

The FAO documents that Cameroon experienced prolonged and persistent import surges in poultry between 1999 – 2004. During this time, import tariffs were generally below 25 percent. In 2004, tariffs were raised to 42 percent (their WTO bound rate is 80 percent). In 2005, the Ministry of Livestock issued a ministerial order to restrict poultry imports to 5,000 tons. The quantitative restriction led to higher domestic poultry prices.

III.4 SSM Remedy: Apply to Countries' Bound Tariff Rate

46. As mentioned above, developing countries, according to the Chairman's text (para 133 of TN/AG/W/4/Rev.4) are told to impose their SSM duty on their lower 'applied tariffs', unlike the SSG duties which are applied to countries' bound tariffs. It is not clear why such a discrepancy between the two instruments exists given the requirement for Special and Differential Treatment and Development to be central to this Round.

47. **RECOMMENDATION:**
SSM duties should be imposed on a country's bound tariff rate, not its applied tariff rate. This also makes sense from the point of view that countries are in any case able to raise their applied tariffs to their bound rates at any time. They do not require an SSM to close the gap between their applied and bound rates. Hence an SSM that only allows them to close the gap between their applied and bound rates would provide no protection additional to their current rights under the WTO.

III.5 Remove Limits on Number of Tariff Lines to Avail of Beyond Uruguay Round SSM

48. The Chair's texts suggests that there should be limits on the number of tariff lines that can avail of the SSM where duties go beyond the Uruguay Round bound rate within a 12-month period.

49. The numbers vary between the two Chair's texts. For 'other developing countries', TN/AG/W/4/Rev.4 makes provision for 2-6 products on an HS6 level (i.e. about a maximum of 48 tariff lines can avail of the SSM in any 12 month period). Small and Vulnerable Economies (SVEs), have a maximum of 10-15% of tariff lines. This is approximately 76 – 114 lines.

50. TN/AG/W/7 for above the Uruguay Round bound rate SSM is even more limiting. It suggests that the SSM be used for at most 2.5% of tariff lines in any 12 month period. This is approximately 18- 19 tariff lines (of course the exact number will depend on developing countries' total tariff lines).

51. The tables in Annexes 1-3, which were also published in the South Centre Analytical Note 'The Extent of Agricultural Import Surge in Developing Countries: What are the Trends?' (October 2009) illustrate the number and percentage of tariff lines countries might have invoked an SSM for if they had had the instrument between 2004 – 2007. Data for 3 different scenarios are captured in these Annexes – volume triggers of 105% (Annex 1), 110% (Annex 2) and 200% (Annex 3).[14]

52. The results show that developing countries that are non-SVEs and non-LDCs have a larger number of tariff lines that tend to have import surges. The percentage of tariff lines on average per year (between 2004 – 2007) that are subject to surges are as large as nearly 42% for South Africa for the 110% trigger. The yearly average is 38% of tariff lines for China and 33.3% of lines for India.

53. SVEs and LDCs have imports concentrated on a smaller range of tariff lines. The percentage of tariff lines for which import surges take place (in comparison to each country's total tariff lines) is slightly smaller for the bigger developing countries. However, import surge *quantities* are larger for SVEs and LDCs as a percentage of each country's total imports. El Salvador has volume import surges averaging about 34.8% of its tariff lines, and for Jamaica, the figure is 30%. Tanzania (an LDC) had surges on

about 23.7% of its tariff lines. (The methodology for calculating the quantity of these volume based import surges is explained in Annex 4).

54. Diagram 8 summarises the information in Annexes 1-3 by country groupings. The Diagram illustrates that the number of tariff lines wherein developing countries experience import surges comes to an average of 29.2% of tariff lines a year. This 29.2% figure is broken down as follows for the different groupings:

- a yearly average of 34.2% for other developing countries;
- a yearly average of 28.5% for SVEs; and
- a yearly average of 22.3% for LDCs.

Diagram 8: The Average Percentage of Tariff Lines Experiencing Import Surges for Each Developing Country Grouping (2004 – 2007)

Country group	2004	2005	2006	2007	Average 2004-2007	Unique 2004-2007
LDCs	19.4%	20.1%	24.0%	25.8%	**22.3%**	45.1%
SVEs	27.4%	27.8%	27.9%	31.0%	**28.5%**	56.2%
Other developing countries	31.6%	33.0%	35.0%	37.2%	**34.2%**	62.5%
All developing countries	27.2%	28.1%	29.5%	32.1%	**29.2%**	56.1%

55. This is significantly above the limits in the Chair's texts on the number of tariff lines that can use the SSM in a 12 month period that can breach the Uruguay Round bound rate:

- 2 -6 products on the HS6 level for developing countries (non-LDCs and non-SVEs) (TN/AG/W/4/Rev.4);
- 2.5% of tariff lines for the SSM above the Uruguay Round bound rate (TN/AG/W/7); and
- 10 – 15% per cent of tariff lines for SVEs (TN/AG/W/4/Rev.4).

In addition, the tariff lines that yearly experience import surges are also not necessarily always the same lines.

56. The last column of the Annexes 1-3, 'unique tariff lines' shows the total number of lines wherein these surges have taken place between 2004 – 2007 for each country over these 4 years. For both Indonesia and China, 69% of their respective tariff lines experienced import surges (110% trigger) once or more times within the four years. India experienced import surges on 60.5% of its tariff lines. LDCs on average experienced import surges on 45% of their tariff lines (Diagram 8). The implication here is that import surges take place over a very broad range of products and the narrow SSM coverage of tariff lines that can breach the Uruguay Round bound rate is insufficient.

57. In addition, the limitations on the number of tariff lines enjoying an SSM that can go beyond the Uruguay Round bound tariff is also much below the percentage of tariff lines developed countries have which are covered by the SSG (See Diagram 9).

Diagram 9 Percentage of Developed Countries' Tariff Lines Covered by the SSG

Country / Current total agriculture tariff lines	**No. of tariff lines under the UR allowed to use SSG**	**% of agricultural tariff lines covered by SSG**
EC-12 EC -27 : 2,205 tariff lines	539	31
US : 1,777 tariff lines	189	9
Japan: 1,344 tariff lines	121	12
Switzerland: 2,179 tariff lines	961	59
Norway: 1060 tariff lines	581	49

Source: Information in columns 2 and 3 are from the WTO Secretariat paper TN/AG/S/12, 2004. Countries' tariff lines in column 1 are taken from more recent WTO data.

58. **RECOMMENDATION:**
On average, the developed countries that have access to the SSG can use it for 229 tariff lines each. For some developed countries, this figure is much higher eg. the EU or Norway. The EU has enjoyed 31% of its tariff lines covered under the SSG. Norway has SSG recourse for 49% of its tariff lines and Switzerland 59%. Developing countries should have Special and Differential Treatment and there should be no limits for them, or if there are limits, these should be higher than the percentage of lines covered by the SSG for the developed countries. This is important given their lower income per capita and the proportion of their populations dependent on farming for their livelihoods

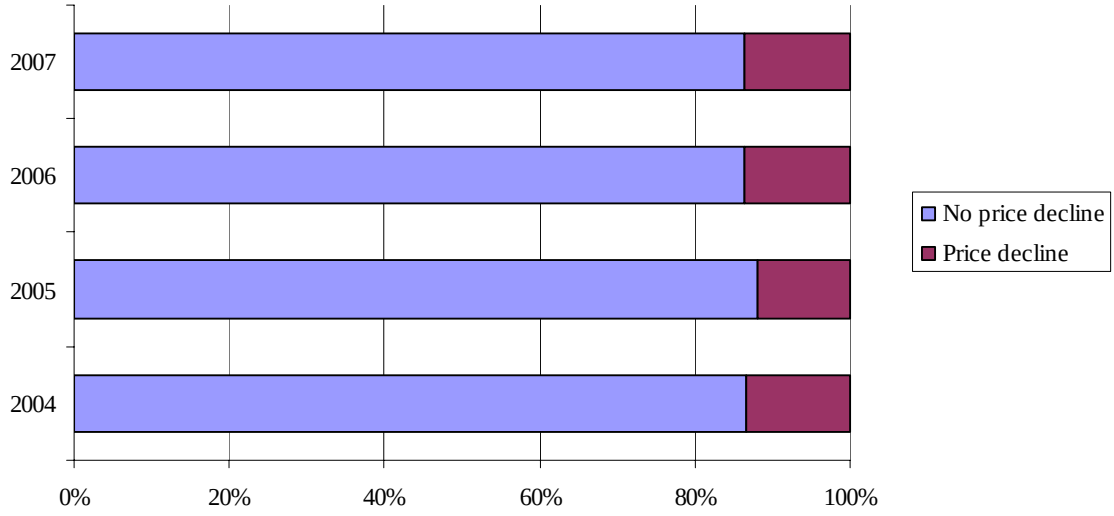
III.6 The Cross-Check Severely Reduces Ability to Invoke Volume-Based SSM

59. The main agricultural draft text itself (TN/AG/W/4/Rev.4) does not contain a cross-check for the volume-based SSM (although it has one for the price-based SSM). However, a volume-based SSM cross-check is mentioned for above the Uruguay Round bound remedies in TN/AG/W/7, where it states that the remedies for a volume SSM 'shall not normally be applicable unless the domestic price is actually declining.

60. So far, the G33 has resisted having a cross-check, and in particular, a mandatory cross-check. Whilst the wording in the Chair's text is not mandatory, nevertheless, there is no definition of what is 'not normally… applicable' and this language could be used against countries in the future if they are seen to be applying the volume SSM repeatedly without the cross-check.

61. A look into the volume import surges between 2004 – 2007 for a 56 developing country sample[15] shows that for over 85% of volume import surge cases, no price decline (measured in terms of import prices falling below 85% from the preceding 3-year import price average) takes place. This is illustrated below. It should be noted that the Chair's text states that the 'domestic price' should be declining, whilst in the illustration below, we have taken the import price as the very rough proxy for the domestic price. This is because data on domestic prices are not as easily available.

Diagram 10 56 Developing Countries' Volume Import Surges and Import Price Declines



Source: Calculations by the South Centre using its Import Surge Database, 2009

62. The case of Cameroon and poultry is illustrative of the fact that damaging import surges do take place, but prices need not go down.

Box: The Case of Cameroon Poultry – Volume Surge but No Price Decline

During the import surges between 1999 and 2004, the price of local poultry in Cameroon did not decline but in fact even increased slightly. This is in part because the country needed imports to make up the shortfall in demand, and in part because of rising input costs (corn and fuel) so that domestic poultry prices were not decreasing. Even though prices may not be falling during an import surge, the surge may nevertheless be dampening domestic prices and making it unprofitable for domestic farmers to produce.

63. **RECOMMENDATION**:
A mandatory cross-check is likely to make it extremely difficult for countries to invoke the SSM for the majority of import surges. Using import prices as a very rough proxy for domestic prices, over 85% of import surge cases (using 110% as the volume trigger) would not meet this criteria. Even with a non-mandatory cross-check e.g. the 'not normally applicable' wording, which shifts the burden of proof

to developing countries, countries could likely be faulted for repeated use of the volume-based SSM in the future without the cross-check.

It is best to delete the cross-check clause to ensure that countries are not constrained in their use of the volume-SSM when import surges are taking place. A second best alternative is to considerably weaken the language.

III.7 On/Off Periods Constrain Use of SSM When Most Needed

64. The TN/AG/W/4/Rev.4 document notes that
'No product shall be subject to the volume-based SSM consecutively for more than two periods'. If this happens, there will be an 'off' period for 2 consecutive periods.

65. These on/off conditionalities are more stringent for seasonal products. For 'seasonal' products, the same document notes that the SSM is to apply for only a maximum of 6 months, or the actual period of seaonality, whichever is longer.

66. TN/AG/W/7 (for above-the-Uruguay Round bound rate SSM) is even more constraining. It suggests that the SSM should only be applied for a maximum of [4/8] months and shall not be re-applied thereafter until the same number of months have lapsed. (para 3).

67. Under paragraph 4, the text also suggests that for seasonal and perishable products, if the application of the SSM for 2 consecutive 12 month period equals 12 months or more, the SSM should no longer be used for another 12 months or spill over into the next 12 month timeframe.

68. The impact of these conditionalities on each individual import surge depends on the exact pattern of the import surge. In general, FAO has found that there are three main patterns of individual import surges:

1) Falling or flat trend with 1-2 spikes
2) Some spikes which fluctuate around some average level
3) Steady, strong, positive upward import trend. [16]

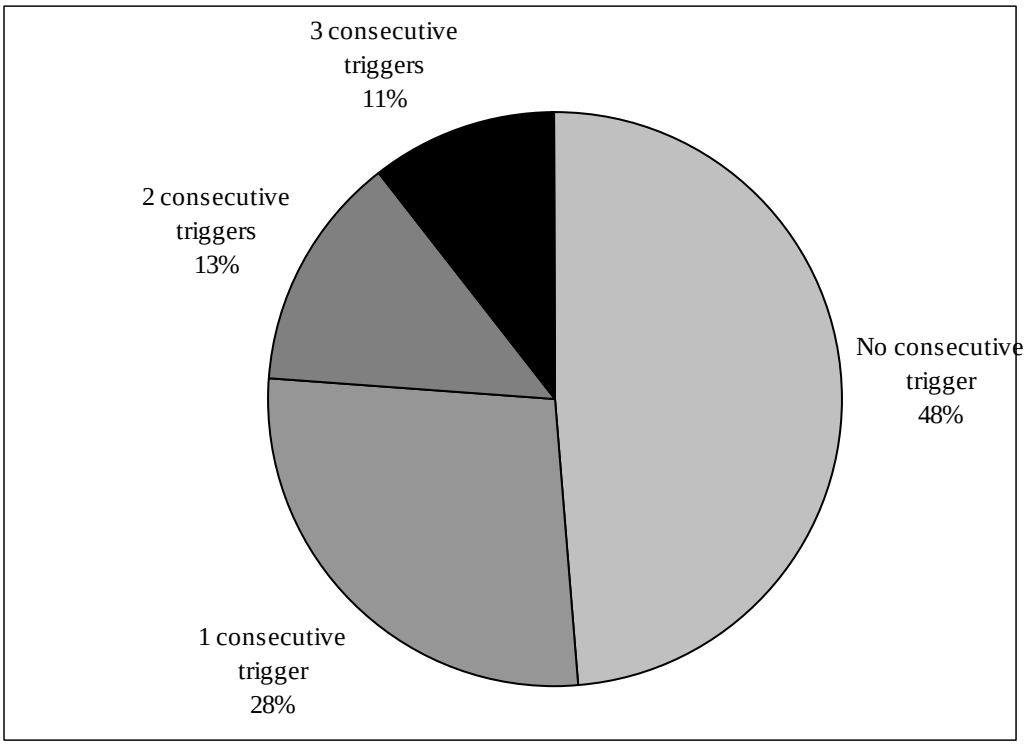
Clearly on/off conditionalities would limit countries' use of the SSM when they fall into the second two categories.

69. An overview of the 56 developing countries for which the South Centre has import surge data shows that all tariff lines where there is at least one import surge (based on the 110% trigger), experienced consecutive volume import surges (i.e. import surges year after year) about 52% of the time, in the period 2004-2007. See Diagram 11. Shockingly, many tariff lines (11%) experienced import surges in 2004, 2005, 2006 *and* 2007.

70. The on/off clauses would therefore prohibit countries from using the SSM when import surges do take place, and in situations where countries clearly need the instrument more than ever.

71. It would also have the impact of allowing the import volumes to increase, so that trigger levels would be much higher for the next period when the SSM can be used.

Diagram 11: Frequency of Consecutive Volume Import Surges



Source: South Centre Import Surge Database of 56 Developing Countries
NB: The diagram represents all 100% of tariff lines that have import surges over 110% in the years 2004 – 2007.
No consecutive trigger = only 1 import surge between 2004 – 2007, or more import surges but these did not take place in two consecutive years eg 2005 and 2007
1 consecutive trigger = import surges in 2004, 2005 or 2005, 2006 or 2006, 2007
2 consecutive triggers = import surges in 2004, 2005, 2006 or 2005, 2006, 2007
3 consecutive triggers = import surges in 2004, 2005, 2006, 2007

72. The case of Kenya's 10-year usage of the COMESA safeguard also shows the importance of allowing the SSM to be invoked for as long as import surges take place.

Box: Kenya's 10-year COMESA Safeguard

Kenya initially invoked the COMESA safeguard for 4 years, renewed for another 4 years and is currently implementing it for a further 2 years i.e. 10 years in all. Even with this, it is clear from Diagram 4 on Kenya's sugar imports that in spite of Kenya using its maximum duties under the WTO, sugar imports are raising steadily. Expiration of the safeguard next year could be problematic.

73. **RECOMMENDATION:**
The on/off clause will disallow developing countries the right to use an SSM when they have a legitimate volume import surge, and when they most need the instrument to respond to significant increases in imports year after year.

If the SSM is to be effective in times of import surges, the on/off clauses should be eliminated. The SSG does not have on/off clauses and the SSM should not be more limiting in this Development Round.

III.8 Seasonal and Perishable Products: Better Treatment in SSG

74. It has not been firmly established within the WTO what 'perishable and seasonal' products refers to. According to the OECD, these are Products that are either not available on the market during certain seasons or periods of the year or are available throughout the year but with regular fluctuations in their quantities and prices that are linked to the season or time of the year'.[17]

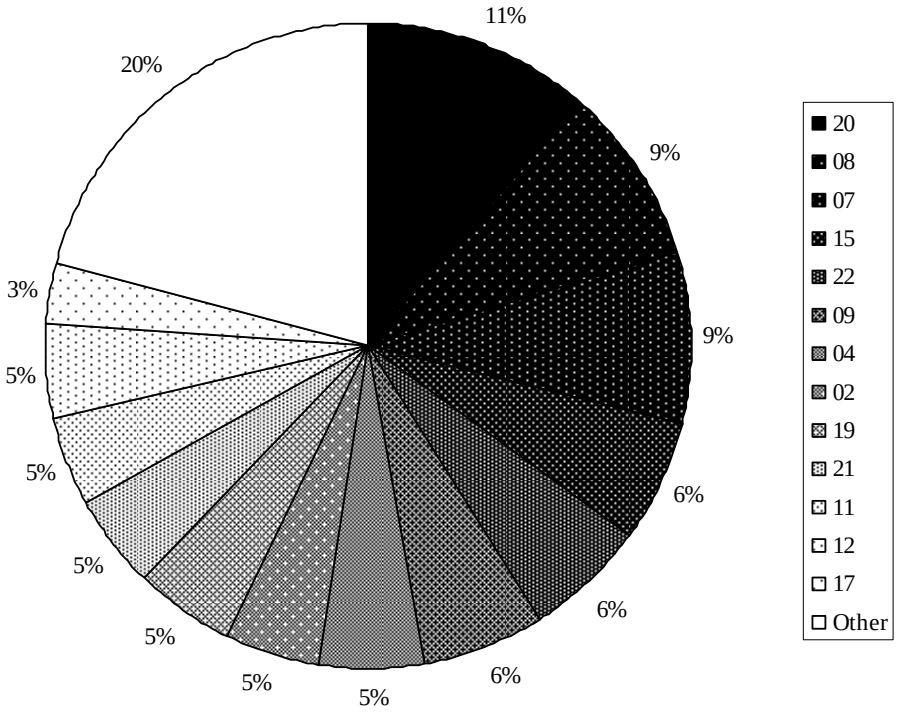
75. In a submission by the United States to the Negotiating Group on Rules, 'Definition of Domestic Industry for Perishable, Seasonal Agricultural Products' (TN/RL/GEN/129, 24 April 2006), the US notes that agricultural products that are both seasonal and perishable should be ones that meet the following conditions:

1)The products are fresh or chilled products falling under the following HS2002 tariff codes: 0701, 0702, 0703, 0704, 0705, 0706, 0707, 0708, 0709, 0803, 0804, 0805, 0806, 0807, 0808, 0809, 0810 (Chapter 07 covers edible Vegetables and 08 covers fruits).
2) the products are marketed in raw form for consumption without 'further processing' i.e. crushing, juicing, canning etc;
3) the products are normally marketed within eight weeks after harvesting.

76. More research, however, needs to be done to ascertain if this is the best definition from the point of view of developing countries' small farmers' interests.

77. Looking at HS codes 07 and 08, it is clear that these chapters have one of the highest numbers of volume import surges (measured by the 110% trigger) between 2004 – 2007 (see Diagram 12).

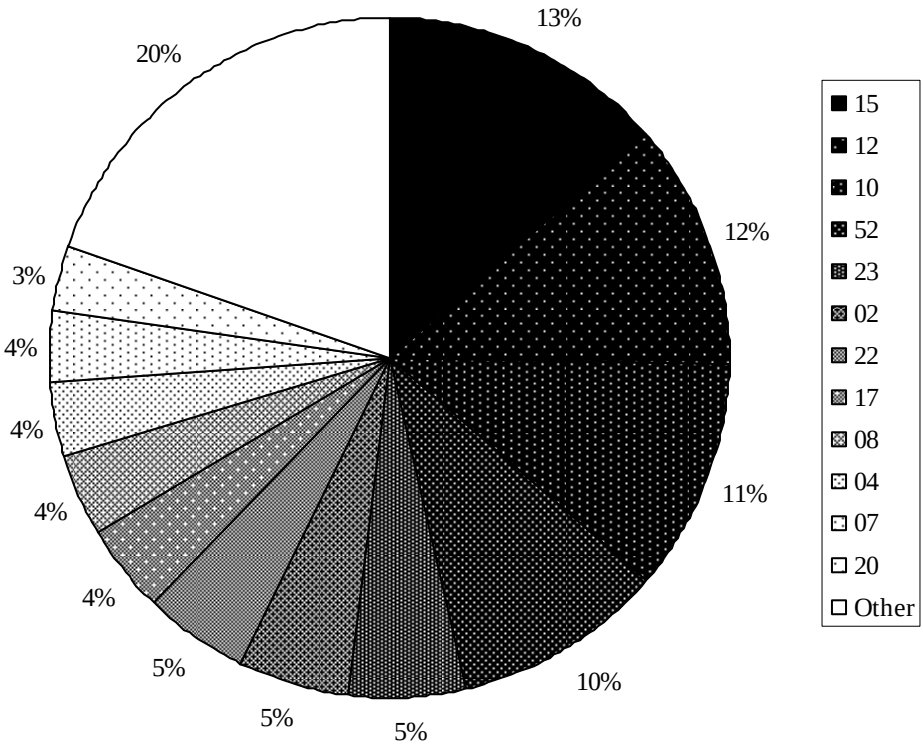
Diagram 12: Products which had the Highest Number of Volume Import Surges (2004 – 2007)



Source: South Centre Import Surge Database, 2009 for 56 Developing Countries
NB: The diagram represents all the volume import surges that took place for this sample of countries between 2004 – 2007.
Chapter 20, with the highest number of import surges is not perishable, but represents the preparation of seasonal vegetables and fruits (and it also includes nuts). Products include processed fruit, jams, fruit juices, tomato paste and other vegetables.
Legend (HS chapters): 20: preparations of vegetables, fruits, nuts, etc; 08: edible fruits and nuts, peel of citrus/melons; 07: edible vegetables; 15: animal or vegetable fats, oils or waxes; 22: beverages, spirits and vinegar; 09: coffee, tea, mate and spices; 04: dairy, eggs, honey and edible products etc.

78. However, in value terms, the imports of perishable seasonal products, whilst significant, are not as huge as imports in some other agricultural products, such as vegetables and animal oils, oilseeds and cereals. This is illustrated in Diagram 12b.

Diagram 12b – Distribution of Volume Triggers, by Value of Import Surges



Source: South Centre Import Surge Database, 2009 for 56 Developing Countries
NB: The diagram represents all the volume import surges that took place for this sample of countries between 2004 – 2007.
Legend (HS chapters): 15: animal or vegetable fats, oils or waxes; 12: oilseeds, grains, plants; 10: cereals; 52: cotton; 23: residues from food industries, animal feed; 02: meat and edible meat offal (eg. poultry); 22: beverages, spirits and vinegar; 17: sugars and sugar confectionery etc.

79. Nevertheless, as these import surges are still significant in number, it is worthwhile considering improving the text and making the SSM more readily available for 'perishable seasonal' products, rather than constraining the use of the SSM for these products, as the Chair has suggested. In fact, protecting small farmers in these products is important as rising imports in fruits and vegetables are pushing small farmers out of their own domestic markets.

80. Furthermore, there is a major discrepancy between the suggestion to put more conditionalities on the use of seasonal and perishable products in the SSM, and the better treatment these products receive in the SSG.

Box: The SSG's Better Treatment of Perishable and Seasonal Products

Article 5.6 (the Special Safeguard Provision) of the Agreement on Agriculture notes:

'For perishable and seasonal products, the conditions set out above shall be applied in such a manner as to take account of the specific characteristics of such products. In particular, shorter time periods under subparagraph 1(a) [which refers to the volume SSG trigger] and paragraph 4 [more information on the volume SSG trigger] may be used in reference to the corresponding periods in the base period and different reference prices for different periods may be used under subparagraph 1(b) [price SSG trigger].' (text in square brackets have been added).

That is, Article 5.6 allows for the users of the SSG to more easily invoke the SSG for seasonal and perishable products by choosing the most relevant parts of the SSG's fixed 3 year reference period. Hence, countries can lower the volume-based trigger and increase the price-based trigger for these products.

81. **RECOMMENDATION:**
Since the SSG is more lenient when it comes to perishable and seasonal products, it is inappropriate that for the SSM, limits are put in place to constrain the use of the SSM for these products.

82. How should 'seasonal' and 'seasonal perishable' products be treated in the SSM?

1) Along at least the same lines as the SSG, importing countries, if they choose to do so, should be able to use shorter time periods, or corresponding periods in the base timeframe, as well as different reference prices if these allow them to more easily trigger the SSM.

2) Since there are no on/off conditionalities in the SSG, and certainly not for seasonal products, such clauses should be eliminated in the SSM.

III.9 Preferential Trade to be Brought Back under SSM Coverage

83. In the light of an increasing number of bilateral and regional free trade agreements being signed, limiting the SSM instrument to only preferential trade is likely to render the instrument ineffective in times when it might be most needed. There are some countries that have supported exclusion of the use of the SSM for preferential trade on the basis that they do not want it to be applied to their regional neighbours. Yet, there are today an increasing number of North-South preferential trade agreements / free trade agreements (such as those being negotiated between the EU and the African, Caribbean and Pacific countries). In the very near future, it is not inconceivable that the majority of trade is carried out under preferential terms. (The EU for instance is negotiating bilateral free trade agreements with 123 developing countries).

84. The new generation of North-South bilateral /free trade agreements are also much more far-reaching in their liberalization schedules. The EC for example has been pushing countries to bring down to zero the tariffs on 80% of their total tariff lines. Developing countries are thus much more likely to experience import surges through such far-reaching preferential trade agreements.

85. It should be noted that the SSG was silent on this issue, hence making it possible for countries to choose on a case-by-case basis, whether to apply it to preferential trade or only to MFN trade.

86. **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 would be for the SSM to be silent on the issue of MFN or preferential trade, as with the SSG, so that countries can chose when and how to use the instrument on a case-by-case basis.

III.10 Remove Negligible Trade Exclusion

87. A further limitation on the use of the SSM has been to disallow the volume-based SSM to be used on negligible trade. Paragraph 133 d of TN/AG/W/4/Rev.4 reads

'where formally, these triggers could be met, but the absolute level of imports is manifestly negligible in relation to domestic production and consumption, remedies would not be applied'.

88. The term 'manifestly negligible' is not defined and developing countries will have the burden of proof to show a dispute panel that the level of imports is more than 'manifestly negligible'.

89. It is clear that this clause is designed to prevent the use of the SSM to block the imports of products which were previously not imported, or imported in small quantities. This has implications with regards to rural employment and livelihoods as the new imports may directly compete with what farmers locally produce.

90. The SSG is not limited by a similar clause. In fact, it is important to know that it is used by some developed countries (through the price-based SSG) to block negligible volumes of trade.

Diagram 13: US SSG Applications during 2001-2008, Bottom 10 Products (aggregated at a HS6 level)

HS Code	Description	kg	Average Ton per year (2001-2008)
170220	Maple sugar and maple syrup	14	0.00
170230	Glucose&glucose syrup nt cntg fruct/cntg in dry state <20% by wt fruct	40	0.01
020120	Bovine cuts bone in, fresh or chilled	101	0.01
210390	Sauces and preparations nes and mixed condiments and mixed seasonings	465	0.06
040620	Cheese, grated or powdered, of all kinds	492	0.06
180620	Chocolate&other food preparations containg cocoa weighg more than 2 kg	620	0.08
170112	Raw sugar, beet	894	0.11
40210	Milk powder not exceeding 1.5% fat	1213	0.15
170260	Fructose&fructose syrup nes,cntg in dry state >50% by wght of fructose	1680	0.21
040221	Milk and cream powder unsweetened exceeding 1.5% fat	1852	0.23

Source: Notifications by the US on its Use of the SSG to the WTO, 2001 – 2008
WTO documents: G/AG/N/USA/67 of 2 March 2009 (2007 and 2008), G/AG/N/USA/61 of 17 December 2007 (2003, 2004, 2005, 2006), G/AG/N/USA/49 of 23 January 2004 (2002), G/AG/N/USA/41 of 16 September 2002 (2001)

91. **RECOMMENDATION:**
It is in the best interest of developing countries to delete the paragraph 133 (d) of TN/AG/W/4/Rev.4 on 'manifestly negligible trade', preventing the use of the SSM when absolute levels of imports are small.

Such a clause does not exist in the SSG and the SSG remedies are used to block import volumes as small as 14 and 40 kgs.

III.11 Pro-Rating in the SSM Reference Period Effectively Increases Trigger Volumes

92. There are two different pro-rating proposals – one in TN/AG/W/4/Rev.4 (para 140) and the other in TN/AG/W/7 (para 3). Both have the effect of making the SSM more difficult to invoke. They essentially prevent the trigger volume from being lowered when applying the SSM, if a previous SSM application would have lowered this trigger volume.

93. The TN/AG/W/7 clause states that when calculating the SSM trigger level, should an SSM have been applied during the base period, the imports net of the SSM application period will be used as a proxy for the time when the SSM was used, unless actual imports were higher.

94. The effect of this pro-rating clause is nil if the SSM did not bring down imports on a monthly basis to a level lower than the period net of the SSM. If however, the SSM had had a dramatic effect on imports and imports fell below the average level of that period preceding the SSM, then the pro-rating clause would have the impact of increasing the volume trigger level for the next SSM application.

95. This is explained in Diagram 14 below. There are four different scenarios. All import volumes over the 3 years add up to 450 units. In Scenario 1, the SSM did not lower import volumes below the average of the preceding 2.5 years. Imports therefore illustrated a rising trend, even with the SSM.
In Scenario 2, a huge import surge (of 150 units in comparison to 50 units in the preceding 6 months) saw the SSM lowering import volumes to 100 units.

96. Scenario 3 sees imports amount to 200 units in the first six months of Year 3. The SSM has a major effect of lessening imports to 50 units. This is similar in Scenario 4, where the numbers are even more dramatic.

97. The last two columns in Diagram 14 show that with pro-rating, the import surge triggers for the last two scenarios (when the SSM was most effective in stemming the imports) are effectively increased. Whilst on paper, the volume trigger for the next SSM to be invoked would still be 110%, in effect, if compared to the calculations without pro-rating, the trigger is 117% and 129% respectively in Scenarios 3 and 4.

Diagram 14: Half-Year Import Volumes, with SSM applied in 2nd half of Year 3.

	Yr1 1st haf	**Yr1 2nd haf**	**Yr2 1st haf**	**Yr2 2nd haf**	**Yr 3 1st half**	**Yr 3 2nd half SSM application**	**Without pro-rating (3 year imports)**	**Pro rated (3 year imports)**	**110% volume trigger without pro-rating**	**110% volume trigger with pro rating**
Scenario1	50	50	50	50	115	**135**	450	378	165	138.6
Scenario2	50	50	50	50	150	**100**	450	420	165	154
Scenario3	50	50	50	50	200	**50**	450	480	165	**176 (or 117.33% import trigger)**
Scenario4	50	50	50	50	240	**10**	450	528	165	**193.6 (or 129% import trigger)**

It should be noted that pro-rating does not feature at all in the SSG.

98. **RECOMMENDATION:**
The pro-rating clause increases the volume trigger of an SSM should a previous SSM triggered in the preceding 3-year period have been effective in lowering import volumes. In general, pro-rating has the effect of ensuring that the trigger volumes are continuously rising and not declining.

For the SSM to be truly effective, the pro-rating clause should be deleted. In addition, no such limitation exists for the SSG.

Annex 1: Potential SSM application when import surge trigger is 105%

	No. of tariff lines					% of tariff lines					
Country	2004	2005	2006	2007	Average 2004-2007	2004	2005	2006	2007	Average 2004-2007	Unique 2004-2007
Maldives	203	151	228	234	204	48.2%	35.9%	54.2%	55.6%	48.5%	75.1%
South Africa	295	300	310	287	298	44.2%	45.0%	46.5%	43.0%	44.7%	73.2%
Thailand	277	310	286	279	288	42.5%	47.5%	43.9%	42.8%	44.2%	72.1%
Mexico	267	271	290	309	284	40.2%	40.8%	43.6%	46.5%	42.7%	74.7%
Ukraine	215	286	289	278	267	34.1%	45.4%	45.9%	44.1%	42.4%	63.8%
Turkey	242	260	253	249	251	39.9%	42.8%	41.7%	41.0%	41.4%	66.6%
Indonesia	268	261	259	264	263	42.0%	40.9%	40.6%	41.4%	41.2%	70.7%
China	267	252	279	278	269	39.7%	37.4%	41.5%	41.3%	40.0%	70.9%
Republic of Korea	256	269	271	276	268	38.0%	39.9%	40.2%	40.9%	39.8%	69.6%
Honduras	224	223	239	247	233	37.3%	37.1%	39.8%	41.1%	38.8%	67.9%
Brazil	164	218	275	280	234	26.3%	35.0%	44.1%	44.9%	37.6%	68.5%
Colombia	181	185	251	255	218	30.5%	31.2%	42.3%	43.0%	36.8%	61.6%
Jordan	192	200	201	212	201	35.0%	36.5%	36.7%	38.7%	36.7%	61.3%
Argentina	169	245	222	255	223	27.7%	40.1%	36.3%	41.7%	36.5%	64.2%
Guatemala	199	232	206	238	219	32.5%	37.9%	33.7%	38.9%	35.7%	66.0%
India	189	228	239	224	220	30.4%	36.7%	38.4%	36.0%	35.4%	61.6%
Cape Verde	168	159	183	184	174	34.0%	32.2%	37.0%	37.2%	35.1%	60.3%
Ecuador	180	201	202	207	198	31.9%	35.6%	35.8%	36.7%	35.0%	58.5%
Paraguay	197	199	157	158	178	38.6%	39.0%	30.8%	31.0%	34.9%	52.7%
El Salvador	198	197	207	249	213	32.4%	32.2%	33.9%	40.8%	34.8%	63.8%
Philippines	223	214	226	214	219	35.1%	33.7%	35.6%	33.7%	34.5%	64.3%
Trinidad and Tobago	199	208	175	196	195	34.6%	36.2%	30.4%	34.1%	33.8%	63.7%
Uruguay	146	182	194	204	182	26.7%	33.3%	35.5%	37.3%	33.2%	57.8%
Viet Nam	168	201	237	271	219	25.3%	30.2%	35.6%	40.8%	33.0%	55.2%
Peru	148	189	187	219	186	26.1%	33.3%	33.0%	38.6%	32.8%	59.4%
Mauritius	186	176	189	207	190	31.4%	29.7%	31.9%	34.9%	32.0%	62.9%
Barbados	157	218	182	167	181	27.3%	37.9%	31.7%	29.0%	31.5%	62.3%
Nicaragua	145	153	188	218	176	25.8%	27.2%	33.5%	38.8%	31.3%	58.2%
Georgia	168	161	185	199	178	29.4%	28.1%	32.3%	34.8%	31.2%	52.8%
Mozambique	142	176	185	203	177	25.0%	31.0%	32.6%	35.7%	31.1%	56.5%
Kenya	143	189	202	196	183	23.6%	31.1%	33.3%	32.3%	30.1%	55.4%
Jamaica	176	181	172	171	175	30.1%	31.0%	29.5%	29.3%	30.0%	58.7%
Armenia	151	134	145	171	150	29.9%	26.5%	28.7%	33.9%	29.8%	50.1%
Botswana	147	169	186	240	186	22.9%	26.3%	29.0%	37.4%	28.9%	65.4%
Senegal	179	161	150	167	164	31.4%	28.2%	26.3%	29.3%	28.8%	53.9%
Albania	171	159	168	163	165	28.1%	26.2%	27.6%	26.8%	27.2%	52.1%
Tunisia	145	145	148	161	150	25.8%	25.8%	26.4%	28.7%	26.7%	50.6%
St Vincent and the Grenadines	122	112	117	137	122	26.5%	24.3%	25.4%	29.7%	26.5%	54.0%
Saint Kitts	123	102	144	135	126	25.3%	21.0%	29.6%	27.8%	25.9%	53.5%

and Nevis											
Dominica	105	109	86	100	100	26.3%	27.3%	21.6%	25.1%	25.1%	52.1%
Kyrgyzstan	109	108	141	142	125	21.6%	21.4%	28.0%	28.2%	24.8%	40.1%
Swaziland	198	164	138	125	156	31.3%	25.9%	21.8%	19.8%	24.7%	61.2%
Tanzania	142	158	171	148	155	22.7%	25.2%	27.3%	23.6%	24.7%	49.0%
Zambia	98	143	169	151	140	17.0%	24.8%	29.3%	26.2%	24.3%	48.9%
Bolivia	111	114	120	150	124	21.1%	21.7%	22.8%	28.5%	23.5%	46.8%
Belize	174	82	51	116	106	38.6%	18.2%	11.3%	25.7%	23.4%	53.7%
Uganda	102	117	131	133	121	19.1%	21.9%	24.5%	24.9%	22.6%	43.0%
Madagascar	116	89	121	135	115	22.3%	17.1%	23.2%	25.9%	22.1%	44.3%
Guyana	94	103	103	125	106	18.9%	20.7%	20.7%	25.1%	21.3%	45.0%
Niger	94	103	101	94	98	20.3%	22.2%	21.8%	20.3%	21.2%	42.8%
Oman	207	51	44	201	126	32.9%	8.1%	7.0%	32.0%	20.0%	51.4%
Mali	64	80	102	95	85	13.6%	17.1%	21.7%	20.3%	18.2%	38.0%
Malawi	78	67	105	103	88	14.7%	12.6%	19.8%	19.4%	16.6%	39.7%
Grenada	37	44	58	170	77	7.7%	9.1%	12.0%	35.2%	16.0%	43.7%
Rwanda	15	51	58	57	45	3.6%	12.2%	13.8%	13.6%	10.8%	20.3%
Gambia	13	19	28	132	48	2.8%	4.1%	6.0%	28.2%	10.3%	31.6%
Total	9,147	9,479	9,954	10,779	9,840	28.9%	30.0%	31.5%	34.1%	31.1%	57.3%

Source: South Centre Import Surge Database, which draws on data from ITC TradeMap. ITC TradeMap uses the UN Comtrade which is based on trade statistics received from national authorities.

Annex 2: Potential SSM application when import surge trigger is 110%

	Nr of tariff lines					% of tariff lines					
Country	2004	2005	2006	2007	Average 2004-2007	2004	2005	2006	2007	Average 2004-2007	Unique 2004-2007
Maldives	192	136	215	224	192	45.6%	32.3%	51.1%	53.2%	45.5%	74.1%
South Africa	275	283	286	270	279	41.2%	42.4%	42.9%	40.5%	41.8%	71.7%
Thailand	262	286	271	265	271	40.2%	43.9%	41.6%	40.6%	41.6%	71.5%
Ukraine	210	275	278	265	257	33.3%	43.7%	44.1%	42.1%	40.8%	62.4%
Turkey	233	248	239	231	238	38.4%	40.9%	39.4%	38.1%	39.2%	65.7%
Indonesia	253	248	247	247	249	39.7%	38.9%	38.7%	38.7%	39.0%	69.3%
Mexico	235	240	260	277	253	35.3%	36.1%	39.1%	41.7%	38.0%	71.1%
China	257	243	260	262	256	38.2%	36.1%	38.6%	38.9%	38.0%	69.5%
Honduras	217	208	228	236	222	36.1%	34.6%	37.9%	39.3%	37.0%	67.2%
Republic of Korea	235	243	242	246	242	34.9%	36.1%	35.9%	36.5%	35.8%	65.7%
Jordan	185	190	187	199	190	33.8%	34.7%	34.1%	36.3%	34.7%	61.3%
Brazil	152	189	259	262	216	24.4%	30.3%	41.6%	42.1%	34.6%	67.1%
Colombia	165	171	237	240	203	27.8%	28.8%	40.0%	40.5%	34.3%	59.5%
Argentina	157	233	203	235	207	25.7%	38.1%	33.2%	38.5%	33.9%	62.4%
Guatemala	185	222	192	230	207	30.2%	36.3%	31.4%	37.6%	33.9%	65.4%
Paraguay	188	197	153	150	172	36.9%	38.6%	30.0%	29.4%	33.7%	52.5%
India	177	212	231	208	207	28.5%	34.1%	37.1%	33.4%	33.3%	60.5%
Ecuador	173	188	192	195	187	30.7%	33.3%	34.0%	34.6%	33.2%	57.4%
Cape Verde	157	142	173	176	162	31.8%	28.7%	35.0%	35.6%	32.8%	58.9%
El Salvador	187	187	191	235	200	30.6%	30.6%	31.3%	38.5%	32.7%	63.0%
Philippines	208	204	214	196	206	32.8%	32.1%	33.7%	30.9%	32.4%	63.1%
Viet Nam	162	193	226	264	211	24.4%	29.0%	34.0%	39.7%	31.8%	54.6%
Trinidad and Tobago	185	194	156	180	179	32.2%	33.7%	27.1%	31.3%	31.1%	61.2%
Uruguay	131	169	176	191	167	23.9%	30.9%	32.2%	34.9%	30.5%	55.9%
Peru	137	176	169	206	172	24.2%	31.0%	29.8%	36.3%	30.3%	57.8%
Mozambique	139	169	180	197	171	24.5%	29.8%	31.7%	34.7%	30.1%	55.6%
Georgia	161	155	181	190	172	28.1%	27.1%	31.6%	33.2%	30.0%	52.4%
Nicaragua	134	143	176	202	164	23.8%	25.4%	31.3%	35.9%	29.1%	57.5%
Mauritius	167	160	164	193	171	28.2%	27.0%	27.7%	32.5%	28.8%	59.7%
Barbados	145	204	161	152	166	25.2%	35.5%	28.0%	26.4%	28.8%	60.3%
Armenia	147	129	141	162	145	29.1%	25.5%	27.9%	32.1%	28.7%	50.1%
Kenya	137	177	193	186	173	22.6%	29.2%	31.8%	30.6%	28.5%	54.9%
Botswana	140	159	176	231	177	21.8%	24.8%	27.4%	36.0%	27.5%	64.8%
Senegal	172	151	142	160	156	30.2%	26.5%	24.9%	28.1%	27.4%	53.2%
Jamaica	155	162	158	157	158	26.5%	27.7%	27.1%	26.9%	27.1%	57.5%
Albania	165	151	160	152	157	27.1%	24.8%	26.3%	25.0%	25.8%	50.8%
St. Vincent and the Grenadines	111	110	106	129	114	24.1%	23.9%	23.0%	28.0%	24.7%	52.1%
Tunisia	131	131	134	145	135	23.4%	23.4%	23.9%	25.8%	24.1%	48.7%
Kyrgyzstan	105	105	135	139	121	20.8%	20.8%	26.8%	27.6%	24.0%	39.7%
Tanzania	137	151	165	140	148	21.9%	24.1%	26.4%	22.4%	23.7%	48.9%
Swaziland	186	154	133	122	149	29.4%	24.4%	21.0%	19.3%	23.5%	59.7%
Saint Kitts	111	96	135	115	114	22.8%	19.8%	27.8%	23.7%	23.5%	51.6%

and Nevis											
Zambia	94	135	165	146	135	16.3%	23.4%	28.6%	25.3%	23.4%	48.5%
Dominica	98	98	78	94	92	24.6%	24.6%	19.5%	23.6%	23.1%	50.6%
Uganda	98	114	126	129	117	18.3%	21.3%	23.6%	24.1%	21.8%	43.0%
Belize	167	72	49	105	98	37.0%	16.0%	10.9%	23.3%	21.8%	52.3%
Bolivia	106	99	111	140	114	20.2%	18.8%	21.1%	26.6%	21.7%	45.2%
Madagascar	110	79	111	130	108	21.1%	15.2%	21.3%	25.0%	20.6%	43.4%
Guyana	87	98	100	120	101	17.5%	19.7%	20.1%	24.1%	20.3%	44.2%
Niger	89	99	94	89	93	19.2%	21.4%	20.3%	19.2%	20.0%	41.5%
Oman	199	49	43	194	121	31.6%	7.8%	6.8%	30.8%	19.3%	50.2%
Mali	63	77	99	91	83	13.4%	16.4%	21.1%	19.4%	17.6%	37.7%
Malawi	73	62	103	99	84	13.7%	11.7%	19.4%	18.6%	15.9%	39.4%
Grenada	36	42	49	156	71	7.5%	8.7%	10.1%	32.3%	14.6%	40.8%
Rwanda	14	49	57	55	44	3.3%	11.7%	13.6%	13.1%	10.4%	20.0%
Gambia	13	17	23	132	46	2.8%	3.6%	4.9%	28.2%	9.9%	31.4%
Total	8,608	8,874	9,333	10,142	9,239	27.2%	28.1%	29.5%	32.1%	29.2%	56.1%

Source: South Centre Import Surge Database, which draws on data from ITC TradeMap. ITC TradeMap uses the UN Comtrade which is based on trade statistics received from national authorities.

Annex 3: Potential SSM application when import surge trigger is 200%

	Nr of tariff lines					% of tariff lines					
Country	**2004**	**2005**	**2006**	**2007**	**Average 2004-2007**	**2004**	**2005**	**2006**	**2007**	**Average 2004-2007**	**Unique 2004-2007**
Ukraine	99	150	149	113	128	15.7%	23.8%	23.7%	17.9%	20.3%	43.3%
Mozambique	89	110	108	126	108	15.7%	19.4%	19.0%	22.2%	19.1%	45.6%
Georgia	101	89	106	94	98	17.7%	15.6%	18.5%	16.4%	17.0%	42.7%
Thailand	103	114	108	97	106	15.8%	17.5%	16.6%	14.9%	16.2%	40.8%
Honduras	84	80	114	100	95	14.0%	13.3%	19.0%	16.6%	15.7%	43.6%
India	79	121	91	83	94	12.7%	19.5%	14.6%	13.3%	15.0%	37.3%
Kenya	70	101	94	88	88	11.5%	16.6%	15.5%	14.5%	14.5%	39.5%
Paraguay	88	112	47	39	72	17.3%	22.0%	9.2%	7.6%	14.0%	38.0%
Viet Nam	61	85	97	128	93	9.2%	12.8%	14.6%	19.2%	13.9%	35.9%
Turkey	89	83	93	73	85	14.7%	13.7%	15.3%	12.0%	13.9%	33.8%
South Africa	102	94	92	81	92	15.3%	14.1%	13.8%	12.1%	13.8%	36.3%
Indonesia	96	86	78	84	86	15.0%	13.5%	12.2%	13.2%	13.5%	37.0%
Kyrgyzstan	63	66	65	72	67	12.5%	13.1%	12.9%	14.3%	13.2%	31.3%
China	96	80	90	88	89	14.3%	11.9%	13.4%	13.1%	13.2%	36.0%
Botswana	75	83	64	107	82	11.7%	12.9%	10.0%	16.7%	12.8%	37.5%
Armenia	76	59	51	65	63	15.0%	11.7%	10.1%	12.9%	12.4%	31.5%
Swaziland	97	82	67	59	76	15.3%	13.0%	10.6%	9.3%	12.1%	37.8%
Tanzania	60	83	83	65	73	9.6%	13.3%	13.3%	10.4%	11.6%	34.0%
Guatemala	61	76	74	72	71	10.0%	12.4%	12.1%	11.8%	11.6%	33.2%
Uganda	48	59	66	74	62	9.0%	11.0%	12.3%	13.8%	11.5%	31.0%
Zambia	32	50	98	75	64	5.5%	8.7%	17.0%	13.0%	11.0%	33.3%
Jordan	67	58	55	57	59	12.2%	10.6%	10.0%	10.4%	10.8%	30.5%

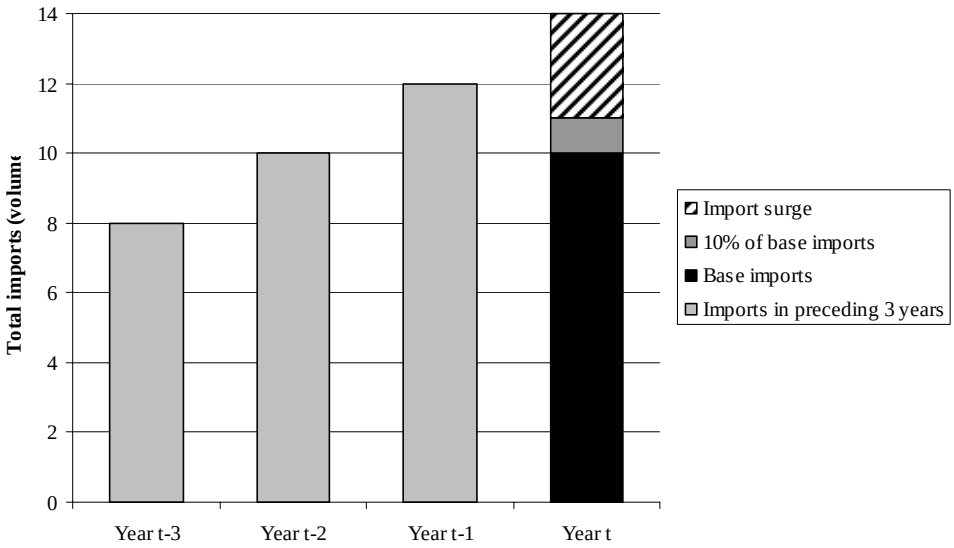
Argentina	60	66	61	77	66	9.8%	10.8%	10.0%	12.6%	10.8%	30.8%
Philippines	64	67	64	68	66	10.1%	10.6%	10.1%	10.7%	10.4%	28.8%
Republic of Korea	73	73	64	55	66	10.8%	10.8%	9.5%	8.2%	9.8%	24.8%
Senegal	66	56	46	54	56	11.6%	9.8%	8.1%	9.5%	9.7%	28.2%
Brazil	41	47	73	80	60	6.6%	7.5%	11.7%	12.8%	9.7%	28.3%
Cape Verde	57	31	57	46	48	11.5%	6.3%	11.5%	9.3%	9.7%	27.1%
Albania	66	54	53	56	57	10.9%	8.9%	8.7%	9.2%	9.4%	25.8%
Peru	38	60	45	68	53	6.7%	10.6%	7.9%	12.0%	9.3%	25.6%
Colombia	46	44	61	68	55	7.8%	7.4%	10.3%	11.5%	9.2%	24.8%
Nicaragua	47	38	54	65	51	8.4%	6.8%	9.6%	11.6%	9.1%	26.5%
Oman	108	21	19	79	57	17.2%	3.3%	3.0%	12.6%	9.0%	29.7%
Ecuador	56	55	39	51	50	9.9%	9.8%	6.9%	9.0%	8.9%	26.2%
Mexico	51	54	58	69	58	7.7%	8.1%	8.7%	10.4%	8.7%	25.6%
Guyana	31	45	40	56	43	6.2%	9.0%	8.0%	11.2%	8.6%	26.9%
El Salvador	47	53	54	55	52	7.7%	8.7%	8.8%	9.0%	8.6%	23.9%
Maldives	33	24	40	47	36	7.8%	5.7%	9.5%	11.2%	8.6%	25.4%
Niger	38	42	40	38	40	8.2%	9.1%	8.6%	8.2%	8.5%	24.8%
Jamaica	41	58	52	44	49	7.0%	9.9%	8.9%	7.5%	8.3%	25.9%
Trinidad and Tobago	49	57	46	39	48	8.5%	9.9%	8.0%	6.8%	8.3%	25.6%
Tunisia	42	46	45	52	46	7.5%	8.2%	8.0%	9.3%	8.2%	22.5%
Mali	26	36	53	39	39	5.5%	7.7%	11.3%	8.3%	8.2%	26.4%
Uruguay	38	39	53	46	44	6.9%	7.1%	9.7%	8.4%	8.0%	23.6%
Gambia	7	7	14	118	37	1.5%	1.5%	3.0%	25.2%	7.8%	28.0%
St Vincent and the Grenadines	44	36	29	33	36	9.5%	7.8%	6.3%	7.2%	7.7%	23.9%
Madagascar	50	30	36	42	40	9.6%	5.8%	6.9%	8.1%	7.6%	22.3%
Malawi	37	29	41	53	40	7.0%	5.5%	7.7%	10.0%	7.5%	24.1%
Dominica	34	29	24	31	30	8.5%	7.3%	6.0%	7.8%	7.4%	22.3%
Barbados	29	47	47	30	38	5.0%	8.2%	8.2%	5.2%	6.7%	20.5%
Mauritius	28	38	40	50	39	4.7%	6.4%	6.7%	8.4%	6.6%	20.1%
Bolivia	37	34	27	36	34	7.0%	6.5%	5.1%	6.8%	6.4%	19.8%
Rwanda	8	33	37	27	26	1.9%	7.9%	8.8%	6.4%	6.3%	16.7%
Saint Kitts and Nevis	33	32	40	16	30	6.8%	6.6%	8.2%	3.3%	6.2%	20.2%
Belize	46	17	27	22	28	10.2%	3.8%	6.0%	4.9%	6.2%	19.5%
Grenada	17	13	11	33	19	3.5%	2.7%	2.3%	6.8%	3.8%	12.8%
Total	3224	3332	3380	3583	3380	10.2%	10.5%	10.7%	11.3%	10.7%	29.7%

Source: South Centre Import Surge Database, which draws on data from ITC TradeMap. ITC TradeMap uses the UN Comtrade which is based on trade statistics received from national authorities.

Annex 4 – Calculating the size of volume import surges

The graph below illustrates the method for calculating the size of import surges. The base imports, calculated as the average yearly imports in the preceding 3 years, amount to 10 units. Imports in the current year (year t) amount to 14 units. In the current year, we therefore face an import surge of 140% (14/10).

What is the size of the volume import surge? If an import surge is defined as a situation in which imports are more than 110% of the base imports, the volume import surge amounts to 3 items: the imports in the current year minus the volume trigger, i.e. 14 – 11 (110% of 10).



It should be stressed that this is the absolute maximum volume quantity for which potentially additional duties could be levied. It does not reflect what countries would realistically invoke.

Similarly, the triggers calculated in Annexes 1-3 are the maximum quantity of times the SSM could be triggered if countries are in the ideal situation of having real time information.

The actual utilization of the SSM would be significantly less. The utilization rate of the SSG is around 1% for developing countries. It is each government's discretion to levy additional duties. There are many instances in which countries would not find it in their interest to apply SSM duties. For example, in the event of natural disasters, or when there is a preference to import cheap raw materials for the domestic food processing industry (e.g. soybeans for tofu, raw cotton and furkins for apparel)

Application of the SSM is also highly dependent on the availability of trade statistics, effective implementing procedures and distribution of imports during a year.

For instance, if the time lag of trade statistics is 3 months and the additional 3 units in the diagram above would have been imported at the end of the year, no import duties would have been applied in that year since the import surge would have been identified the next year only.

Furthermore, conditionalities such as pro-rating, cross-check, en-route shipment provisions, on/off periods, maximum number of tariff lines for which a SSM during a year may be invoked, all serve to further limit the usability of the SSM.

READERSHIP SURVEY QUESTIONNAIRE
South Centre Analytical Note

THE VOLUME-BASED SPECIAL SAFEGUARD MECHANISM (SSM):
ANALYSIS OF THE CONDITIONALITIES IN THE DECEMBER 2008 WTO AGRICULTURE CHAIR'S TEXTS

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