Committee on Agriculture
Special Session

ISSUES AND CONCERNS ON THE PRICE-BASED SPECIAL SAFEGUARD MECHANISM: SOME ANALYSIS AND TECHNICAL CONTRIBUTIONS FOR THE DESIGN AND STRUCTURE

Communication by the G-33

The following communication, dated 11 February 2010, is being circulated at the request of the G-33.

I. INTRODUCTION

1. The G-33 have expressed its concerns on the price-based Special Safeguard Mechanism (SSM) on a number of occasions. However, these have remained unaddressed as the focus of discussion has mainly been on the volume-based SSM.[1]

2. The Hong Kong Ministerial Declaration stipulates that developing countries shall have recourse to both "volume-based and price-based SSM".[2] These are necessary Special and Differential Treatment (S&DT) instruments, along with the Special Products (SP), for ensuring food security, livelihood security, and rural development of the millions of farmers, mostly small and marginal, in the developing world. The Doha Round must deliver on this basic S&DT requirement in order to fulfill its development mandate.[3]

3. The price-based SSM is an indispensable trade remedy instrument for most developing countries. It is not surprising that all the developing countries that opted to use their entitlement to the Special Safeguard Provisions (SSG), over the period 1995 – 2004, invoked the price based SSG. The price-based measure is better suited to address the price sensitivities of domestic producers to low-priced and/or subsidized exports which contribute to the volatility in the world agricultural markets.[4] Developing countries will also be more susceptible to external shocks as trade liberalization deepens.

4. In light of the above, the price-SSM must be simple to use and effective. However, the present modalities include several restrictive conditionalities that would make the instrument not only

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[1] During the informal open-ended CoA SS meeting on 15 October 2008, the Chairman mentioned that…*there are plenty of things in [TN/AG/W/4]Rev.3 that are not in square brackets which are certainly not agreed. And so, therefore, I thought that our discussions should focus on the question of being above the bound rate that was the first thing that I thought was clear.* This transcription is based on the audio-visual record of the WTO contained in the WTO website: http://www.wto.org. The G-33 strongly believes that this was one of the reasons why the SSM text contained in TN/AG/W/4/Rev.4 dated 6 December 2008 is a verbatim replica of the Rev.3 text except for the renumbering. The Chairman had to table a separate working document (TN/AG/W/7 of 6 December 2008) due to lack of convergence on the many elements of the SSM that can go above the bound rates. In the introduction of the …W/7 document, the Chairman explained that …*we are still short of a clean text…so I could hardly pretend that there was something cooked or ready…that could be inserted in the revised […Rev.4] draft text.*

[2] WTO document WT/MIN(05)/DEC dated 22 December 2005.

[3] WTO document WT/MIN/(01)/DEC/1 dated 20 November 2001.

[4] FAO *Trade Policy Technical Notes on Issues Related to the WTO Negotiations on Agriculture No. 9, A Special Safeguard Mechanism for Developing Countries,* Food and Agriculture Organization, 2005.

ineffective but also inoperable. In this paper, five major areas in the Chairman's revised draft modalities text (TN/AG/W/4/Rev.4) that require immediate attention and resolution are: (a) access to and application of the SSM (triggers and cross-check); (b) remedies and pre-Doha cap; (c) "MFN-trade only"; (d) *en route* shipment; and (e) *ad valorem* price-based SSM option. These have been examined in Section II.

5. These areas need to be addressed with a view to ensuring that the SSM is operational, accessible, and effective for all developing countries.

II. FIVE MAJOR AREAS

A. ACCESS TO AND APPLICATION OF THE SSM

6. Access to SSM is the first major step in addressing import price volatility. The reference price and trigger threshold, among other operational elements, play the critical role in determining access to the SSM, the frequency of access to the SSM, as well as the remedy.[5]

7. The G-33's view is that the 85% trigger in paragraph 135 of the Chairman's text is very low as this can adversely affect access to and effectiveness of the SSM. A number of studies support this view. These are discussed below.

2. Trigger level effectively restricts product coverage and triggering

8. A South Centre simulation[6] of import data from 56 developing countries for the period 2004-2007 demonstrates that even using the 100% trigger (the reference price) could effectively restrict access to the SSM to about 20% of all agriculture tariff lines. If the trigger is brought down to 85%, access is further reduced to 12% of agriculture tariff lines of these countries.

9. Based on the above study, the principle of "universal access" of all agricultural tariff lines to the SSM ("no a priori exclusion") in paragraph 132 of the Chairman's text will be restricted by: (i) the reference price; and (íi) further by the trigger threshold.

10. Looking at the incidence of triggering, an International Centre for Trade and Sustainable Development (ICTSD) study[7] covering 27 agricultural products for 6 developing countries[8] during the period 2000-2005 found that at a 100% trigger the SSM was triggered in 17%[9] of the 72 months. At 90% of the reference price, access was reduced to 13% of the 72 months. Further, if the trigger was set to 80%, access to the SSM was brought down to 9% of the 72 months.

11. Similarly, a study by the UN Food and Agriculture Organization (FAO) in 2006[10] covering 10 commodities in "which import surges are reported to be widespread in recent years" during the period 1986-2004 found that "any level beyond 10% or so will compromise the effectiveness of the

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[5] Sharma, R. (2006), *Triggers and Remedy for Special Safeguard Mechanism*, FAO Commodities and Trade Division, Food and Agriculture Organization, Rome, Italy.

[6] South Centre (2009), 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, South Centre Analytical Note SC/TPD/AN/AG/10, November 2009. Geneva, Switzerland.

[7] Montemayor, R., (2008) How Will the May 2008 *"Modalities Text Affect Access to the Special Safeguard Mechanism, and the Effectiveness of Additional Safeguard Duties?*" ICTSD Project on Special Products and the Special Safeguard Mechanism, International Centre for Trade and Sustainable Development, Geneva, Switzerland.

[8] China, Indonesia, Ecuador, Fiji, the Philippines and Senegal.

[9] If the volume cross-check constraint was removed, access rates improved to 30% of the 72 months.

[10] Sharma, R. (2006), *Triggers and Remedy for Special Safeguard Mechanism*, FAO Commodities and Trade Division, Food and Agriculture Organization, Rome, Italy.

reference price, for both triggers and remedies" and that a "5% threshold appears reasonable for maintaining the effectiveness of the trigger." Table No. 1 below demonstrates how the extent of access is greatly restricted by lowering the trigger threshold level (e.g. from 100% to 75%).

Table No. 1 Total number of triggers during 1986-2004 period for various *threshold levels*
(all results for MA-3 reference price)

	Number of triggers by threshold level			
Commodities	100%	90%	85%	75%
Chicken meat	13	4	4	1
Beef	11	6	2	0
Dairy, SMP	8	4	3	1
Dairy, WMP	9	6	5	2
Sugar, raw	10	6	4	2
Sugar, refined	9	7	3	2
Palm oil	8	6	6	5
Soya oil	8	5	5	4
Rice	9	5	3	2
Wheat	8	6	4	2
Total	**93**	**74**	**55**	**21**
% Triggers	**49**	**39**	**29**	**11**

Source: R. Sharma, FAO 2006, excerpt
Note: The total number of potential triggers for each product is 19. The last row, % triggers, is a percentage of the total number of triggers which is 190 (10 commodities times 19 years)

3. Volume "cross-check" further hinders access to the SSM

12. The volume "cross-check" outlined in Paragraph 137 of Rev. 4 adds another layer of restriction before the price-based SSM can be invoked. The effects of a very low trigger threshold (e.g. 85% and below) when combined with the mandatory cross-check further constraint access to the SSM.

13. According to the FAO study[11], the maximum 47% of the 190 potential triggering of SSM (at 100% trigger threshold) of the 10 highly traded commodities in developing countries during 1986-2004 was substantially reduced to below 7% (while chicken, beef, dairy, and sugar were not triggered) if the threshold was set to 70%. If this very limited triggering is also subjected to the volume cross-check, the SSM will be inaccessible and therefore meaningless.

14. Moreover, as demonstrated in the *G-33 submission on SSM: Price and Volume Cross-check Conditionalities* contained in JOB/AG/3 dated 5 February 2010, import prices and import volumes do not always move in symmetry as abrupt movements in imports and prices do not necessarily coincide. Further, the proponents of the cross-check failed to recognize the transaction lag effects[12] in normal business transactions since changes in demand and supply are not instantaneously translated to changes in domestic prices. These lag effects tend to be more acute in developing countries because of the very inefficient distribution system and poor and inadequate infrastructure. Therefore, the

[11] *ibid*.
[12] Rapsonmanikis, G., Hallam, D., and P. Conforti (2003), *Market Integration and Price Transmission in Selected Food and Cash Crop Markets of Developing Countries: Review and Applications,* Commodity Market Review 2003-2004, Food and Agriculture Organization, Rome, Italy.

proposed cross-check mechanisms will render the SSM unresponsive to the practical needs of developing countries.

15. In view of the foregoing, the G-33 believes that requiring a mandatory cross-check to accompany price declines prior to invocation of price SSM would make this instrument inaccessible and inoperable.

4. Triggering may not necessarily lead to SSM application; application does not restrict trade

16. As shown above, the availability of and access to the price-based SSM can be adversely restricted by the parameters set out in the Chairman's text (the 85% trigger and the volume cross-check). However, other Members claim that "developing countries will indiscriminately use the SSM to the fullest to protect their domestic producers by applying the SSM in every incidence of triggering". These Members also posit that "the SSM will restrict normal trade" and also "drag import levels to zero".

17. The G-33 is of the view that in the event of import surges or price declines, business cannot continue as usual. This is the principle on which other Agreements such as the Agreement on Safeguards, Agreement on Subsidies and Countervailing Measures and the SSG in the Agreement on Agriculture are based i.e to minimize the damage by restricting imports. However, the fears and doubts of Members are disproportionate since these are not supported by empirical evidence on the implementation of the SSG, a similar trade remedy measure. A WTO report[13] reveals that developing countries hardly used the SSG despite frequent triggering and only 6 out of 22 developing countries entitled to the SSG applied the mechanism. It is also important to emphasize that the rest of these 22 developing countries (the majority) abstained from using the safeguard despite experiencing import surges and import price declines in the period 1984-2000.[14] Moreover, the utilization of SSG by developing countries remained very limited despite the continuation of import surges and price declines thereafter.

18. Looking at the applications of the price-based SSG by the 5 developing country Members[15] in Figure Nos. 1(a) to 1(g) show that the safeguard: (i) did not result in the reduction of trade; (ii) did not alter the general trends/patterns of trade; and/or (iii) did not prevent the imports to grow. The figures also demonstrate that trade is not always affected by the invocation of the price-based SSG, but by other factors; in fact, the imports in a number of years in which the SSG was invoked, were generally higher than the levels during the years without SSG application.

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[13] WTO website: http://members.wto/org/ddf/agriculture/Regular_session_datasets_e.htm

[14] FAO *Trade Policy Technical Notes on Issues Related to the WTO Negotiations on Agriculture No. 9, A Special Safeguard Mechanism for Developing Countries*, Food and Agriculture Organization, 2005.

[15] The 5 out of the 6 countries that invoked the SSG: Barbados, Costa Rica, Korea, the Philippines, and Nicaragua.

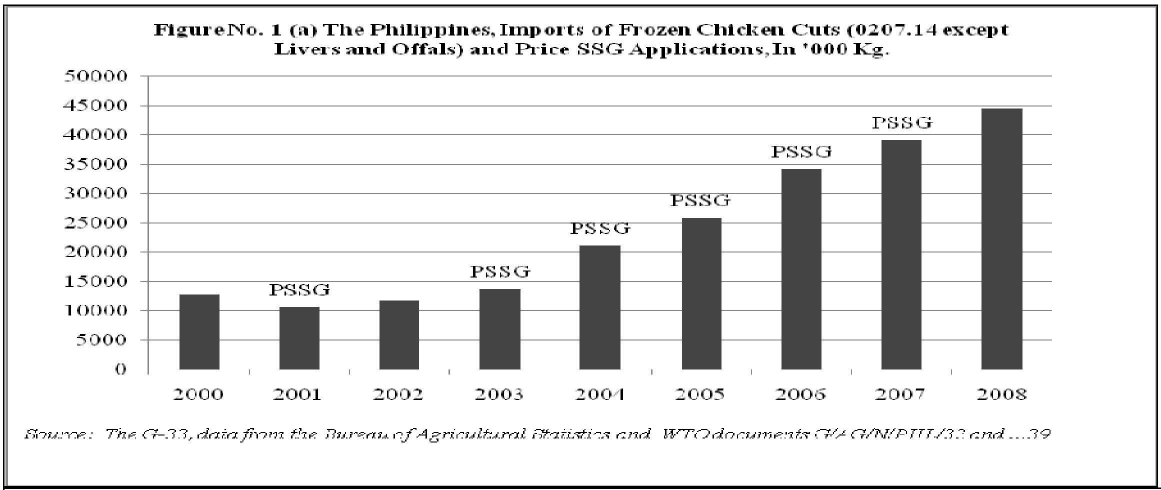


Figure No. 1 (a) The Philippines, Imports of Frozen Chicken Cuts (0207.14 except Livers and Offals) and Price SSG Applications, In '000 Kg.
50000
45000
40000
35000
30000
25000
20000
15000
10000
5000
0
PSSG
PSSG
PSSG
PSSG
PSSG
PSSG
2000
2001
2002
2003
2004
2005
2006
2007
2008
Source: The G-33, data from the Bureau of Agricultural Statistics and WTO documents G/AG/N/PHL/32 and ...39

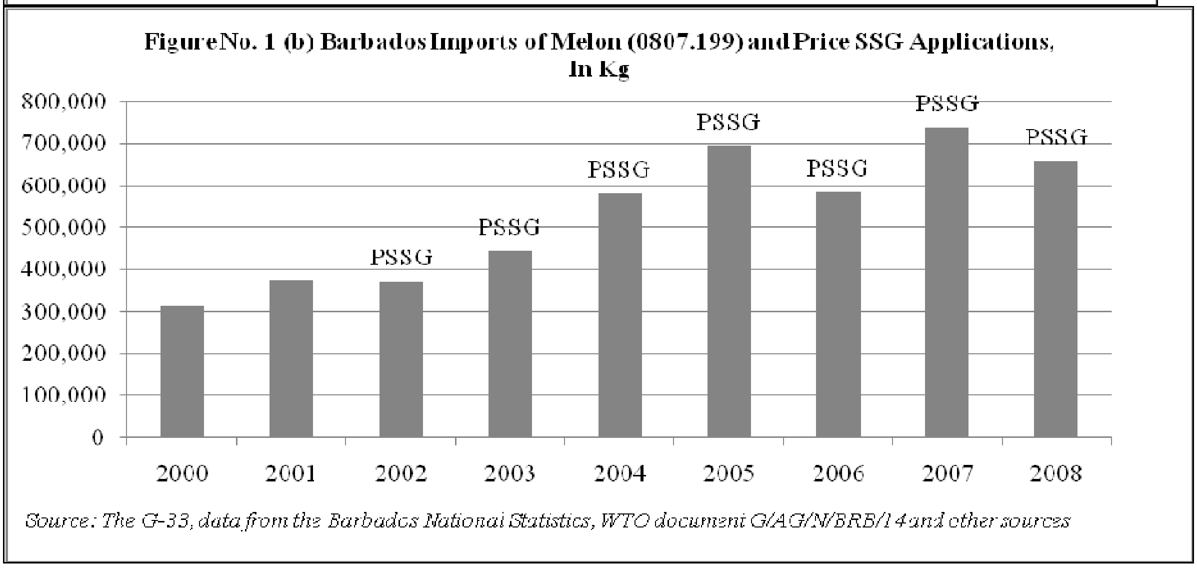


Figure No. 1 (b) Barbados Imports of Melon (0807.199) and Price SSG Applications, In Kg
800,000
700,000
600,000
500,000
400,000
300,000
200,000
100,000
0
PSSG
PSSG
PSSG
PSSG
PSSG
PSSG
PSSG
2000
2001
2002
2003
2004
2005
2006
2007
2008
Source: The G-33, data from the Barbados National Statistics, WTO document G/AG/N/BRB/14 and other sources

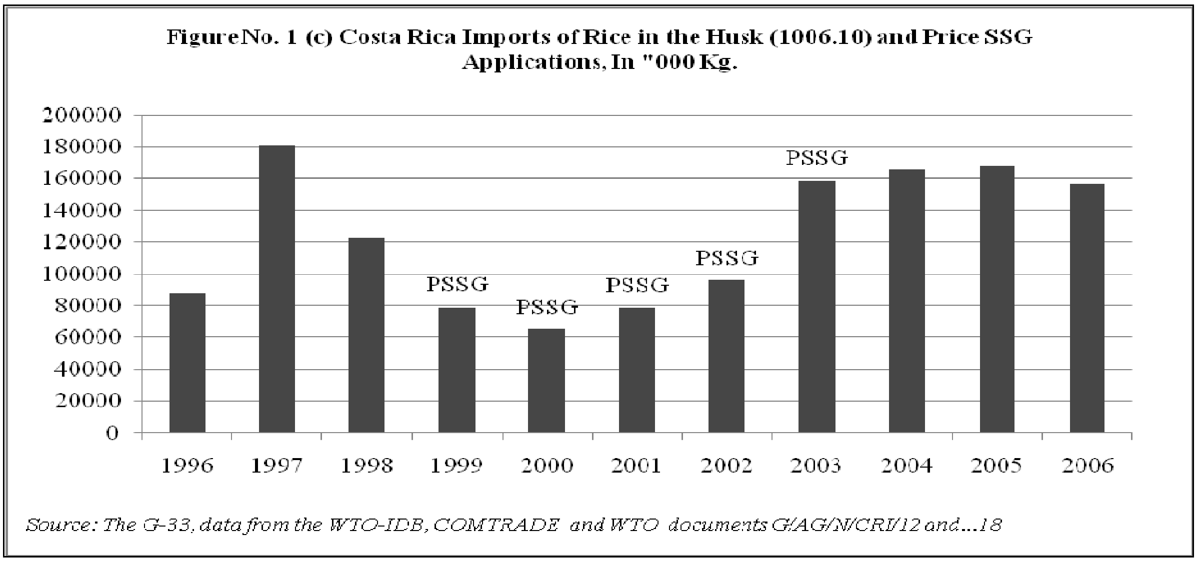
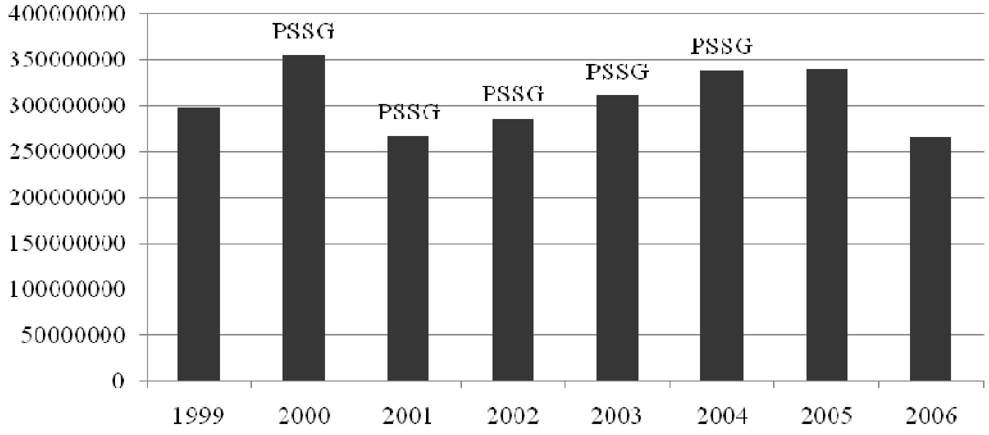


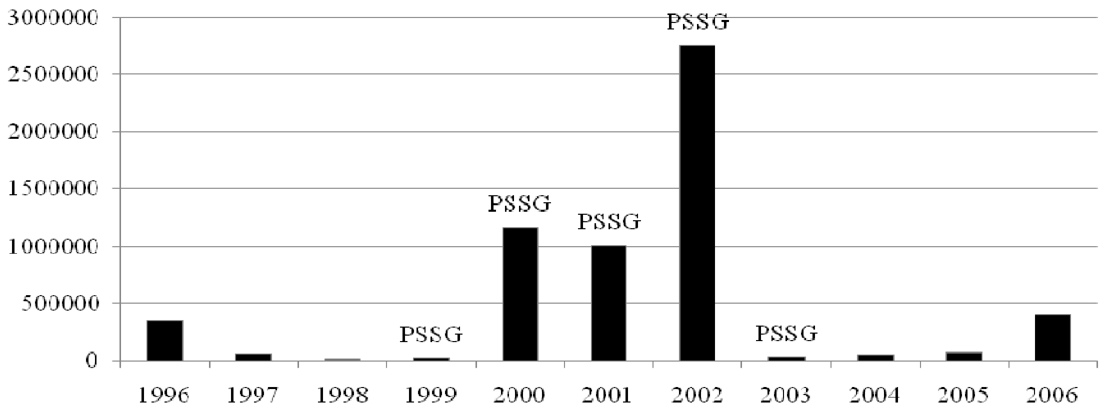
Figure No. 1 (c) Costa Rica Imports of Rice in the Husk (1006.10) and Price SSG Applications, In "000 Kg.
200000
180000
160000
140000
120000
100000
80000
60000
40000
20000
0
PSSG
PSSG
PSSG
PSSG
PSSG
1996
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
Source: The G-33, data from the WTO-IDB, COMTRADE and WTO documents G/AG/N/CRI/12 and...18

Figure No. 1 (d) Korea's Imports of Soybeans (1201.00.9000, excluding oil and oilcake) and Price SSG Applications, In Kg

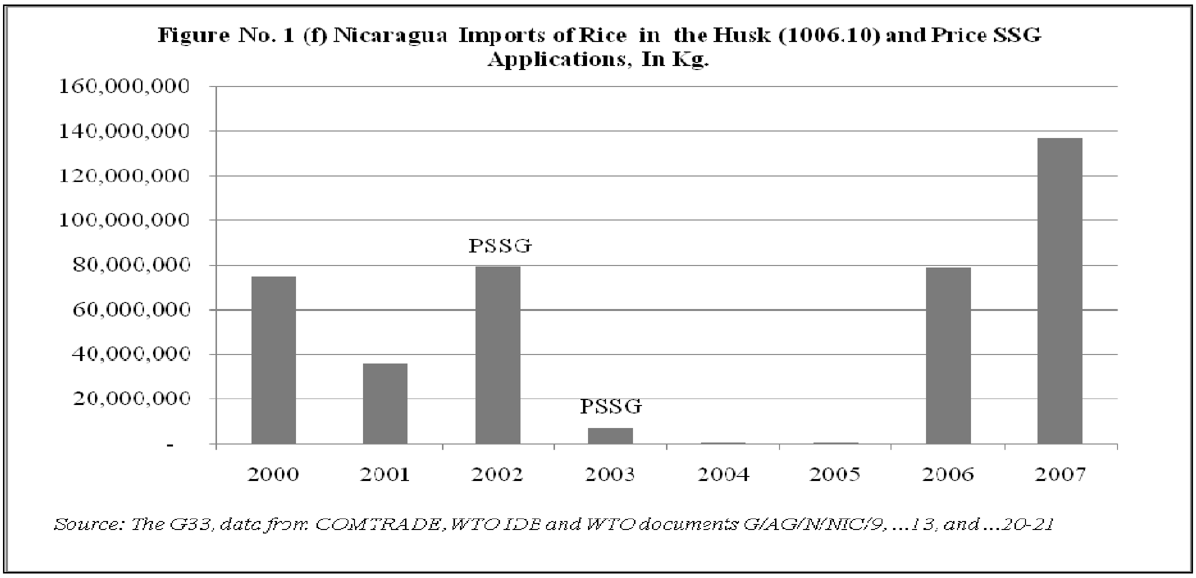


Source: The G-33, ddta from the WTO-IDB and WTO documents G/AG/N/KOR/33 and ...39

Figure No. 1 (e) Costa Rica Imports of Milled Rice (1006.30) and Price SSG Applications, In Kg.



Source: The G-33, data from the WTO-IDB, COMTRADE and WTO documents G/AG/N/CRI/12 and ...18



19. Thus, the above experience in the use of SSG by developing countries establishes no clear basis for a very restrictive level of trigger and the introduction of the volume cross-check.

B. REMEDIES & PRE-DOHA CAP

20. If the availability and access to SSM is the first major step in addressing import price declines as discussed in Section II.a above, the remedy is the major element that determines the usefulness and effectiveness of the measure.

21. Unlike the level of remedy in the volume-based SSM, the determination of appropriate level of remedy for the price-based measure is more straightforward, which is the price gap. The price gap has two elements: (a) the difference between the reference price and import price; and (b) the difference between the *ad valorem* duty when applied to the reference price and the *ad valorem* duty when applied to the import price.[16] An ideal remedy would contain both these elements.

1. "Full-offset" vs. 100% price gap remedy

22. The ability to fully offset the price gap guarantees that depressed import prices cannot dampen domestic prices to levels that can destabilize and/or obliterate domestic production. The Chairman's texts[17] have only dealt with the difference between the import price and the reference price without capturing the second element of the price gap, i.e. the difference between the *ad valorem* duty when applied to the reference price and the *ad valorem* duty when applied to the import price.[18]

Table No. 2. Potential* maximum offset in the Chair's "architecture" vs. the "full-offset"

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[16] South Centre (2009), 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, South Centre Analytical Note SC/TPD/AN/AG/10, November 2009. Geneva, Switzerland.

[17] In TN/AG/W/4 and its revisions 1 to 4.

[18] For example, a CIF import price of $80 has a $20 price gap if the reference CIF price is $100. In this case, the maximum recovery is $20 if we were only to make up for the difference in the drop in CIF price. This offset however does not cover for the foregone tax revenue in the application of the applied *ad valorem* duty, unless of course the product is duty free or the duty is in specific form. If the product's applied *ad valorem* duty is 30%, then the import tax should be $30 at the reference price and $24 at the import price. So what is not accounted in the "full-offset" is the $6 less ($30 less $24).

(based on $100 reference price & *ad valorem* duty of 30%) all values in dollars

CIF Price Drop by	100%* remedy of the price gap in the CIF only	Collectible tax based on 30% *ad valorem* duty (before SSM)	Foregone tax collection due to price drop	"Full-offset"	Loss due to *ad valorem* tariff drop in monetary terms
0		30	0		
15	0**	26	4	0**	4
30	30	21	9	39	9
40	40	18	12	52	12
60	60	12	18	78	18
75	75	8	22	98	22
80	80	6	24	104	24

G-33 calculation
Note 100% price gap remedy based on the Chairman's architecture*
*** No compensation for the price drop within the 85% trigger based on para 136 of the text.*

23. Table No. 2 above shows a range of $4 to $24 (4% to 24% of the CIF reference price) unaccounted loss arising from the CIF price drops of $15 and $80, respectively. This shortfall arises because of the incomplete recovery of the "full-offset" remedy. An understanding of the "full-offset" remedy as explained above is a must to reasonably appreciate and assess the impact of the Chairman's text on importing developing countries.

24. Compared to the full-offset scenario above, it is clear that the 85% remedy in paragraph 136 of the Chairman's text can hardly guarantee that import price volatility will not harm the domestic industry.

25. In addition, assuming that the product is duty free, the 85% remedy is effectively further reduced to 72% offset since the trigger price is 85% of the reference price, instead of 100%.[19] This is explained in Table No. 3 below.

Table No. 3. Impact of using the trigger price (threshold) instead of the reference price as the base figure for establishing the price gap (reference price = $100, all values in dollars, product is duty free)

Price drop by	100% remedy of the price gap in the CIF only*	85% offset based on the reference price*	Para 136, 85% offset of the 85% of trigger price** (effectively 72% offset)	Reduction in compensation by
15	15	0	0	0
30	30	26	13	13
40	40	34	21	13
60	60	51	38	13

[19] As per G-33's proposal in JOB (06)/64 dated 23 March 2006

75 75 64 51 13

CIF Price drop by	*Ad valorem* tariff drop in monetary terms	"Full-offset"*	100% remedy of the price gap in the CIF only	85% offset based on the ref. price**	Effect of Para 136 , 72% effective offset	Effect of pre-Doha cap on 10%*** overhang	Effect of pre-Doha cap on zero tariff overhang
15	0	0	0	0	0	0	0
30	9	39	30	26	13	7	0
40	12	52	40	34	21	6	0
60	18	78	60	51	38	4	0
75	23	98	75	64	51	3	0
80	24	104	80	68	55	2	0

80 80 68 55 13

G-33 calculation
Note:
** Reference price is the average 3-year c.i.f. price*

*** Trigger price in paragraph 136 is 85% of the reference price*

2. Pre-Doha cap denies access to and effectiveness of the SSM

26. In addition to the limitations of the Chairman's proposed remedy as described above the pre-Doha cap in paragraph 142 of the Chairman's text will further deny access to the remedy for products with zero tariff overhangs since the level of actual remedy that can be imposed mainly depends on the level of the difference between the applied and bound tariffs. Hence, for products with low or no tariff overhang[20] there will be hardly any option to address price declines.

3. Overall impact of restrictions on trigger and remedy

27. Table No. 4 below and Figure No. 2 (Annex A) illustrate how the "full-offset", 72% effective compensation, and the pre-Doha cap work.

Table No. 4 Comparative results: price-based SSM remedy under various scenarios (reference price = \$100, all values in \$, applied *ad valorem* duty is 30%)

G-33 calculation

[20] Bernabe, M.D. (2008)*Implications of the Agriculture Chair's Draft Modalities for the Treatment of Special Products*, ICTSD Issue Paper June 2008, International Centre for Trade and Sustainable Development, Geneva, Switzerland.

**Both elements of the price gap: (a) difference between the import price and the reference price; and (b) difference between the ad valorem applied to the reference price and the ad valorem applied to the import price*
*** Reference price is the 3-year average c.i.f. import price*
**** The 10% max. duty that can be imposed (overhang)due to the pre-Doha cap was applied to the CIF import price.*

28. Table No. 5 below summarizes how much the full offset is restricted by the limitations set in paragraphs 136 and 142 of the Chairman's text: (a) price drops within the 85% of the reference price are exempted from the remedy; (b) the 85% compensation is effectively a 72% offset; (c) the 72% offset is 33% to 53% less than the "full-offset" for the price drops of $15 to $80, respectively; and (d) the 72% offset is not applicable/available if the product has no tariff overhang, or is limited by the level of overhang. In addition, it should be emphasized that in column (e) one of the effects of the pre-Doha bound tariff cap as the remedy ceiling is that the available remedy available declines as prices drop (instead of increasing to make up for the increasingly large price gap). In view of these limitations, the G-33 believes that SSM remedy under the Chairman's text is ineffective, inapplicable, and therefore, meaningless.

Table No. 5. How far is the 72% effective compensation in paragraph 136 of the Chairman's Text from the "full-offset"? ($100 is the reference price) values in dollars

Shipment	Price Drop by	"Full-offset"	Effect of Para 136 , 72% effective compensation	Shortfall from full offset (dollars)	Shortfall from full-offset (%)	Effect of pre-Doha cap on products with no tariff overhang
A	15	n.a.	n.a.	n.a.	n.a.	remedy n.a.*
B	30	39	13	26	33	remedy n.a.
C	40	52	21	31	41	remedy n.a.
D	60	78	38	40	49	remedy n.a.
E	75	98	51	47	52	remedy n.a.
F	80	104	55	49	53	remedy n.a.

G-33 calculation

*Note: * Not available (n.a.) due to the absence of overhang*

C. "MFN TRADE ONLY"

1. Not compatible with the principle of self determination

29. The G-33 maintains that whether to include "preference trade"[21] in the SSM should be best left to the parties in a preference agreement themselves, and if the importing Member includes preference trade in its calculation of price triggers (reference price), then the preference trade should be subject to the remedy. However, paragraphs 135 and 138 of the Chairman's text preclude a Member from taking safeguard action against other Members which are parties to a preference trade agreement. Hence, this exclusion is a further restriction to the already constrained SSM in terms of its availability, accessibility and effectiveness as discussed earlier.

30. Whatever the merit, if there is at all, for excluding the preference trade from the SSM, nothing precludes preference trade from recourse to similar safeguard measures particularly the WTO Agreement on Safeguards and the Special Safeguard Provisions (SSG) under the Agreement on Agriculture (AoA) as the rules apply on MFN basis.

[21] The term "preference trade" or agreement is used here to represent all non-MFN agreements such as bilateral and regional free trade agreements, and the like.

31. According to an ICTSD paper in 2009[22] which examined 42 bilateral and regional agreements, most of these agreements have provisions for the use of "global"[23] safeguards except MERSOCUR. Similarly, the ICTSD examined 12 agreements[24] concerning also agricultural products contain specific "agricultural safeguard measures".[25] The rationale for precluding preference trade from the SSM is not justified when numerous bilateral and regional free trade agreements contain provisions to invoke agricultural safeguard measures.

2. Not compatible with addressing import price declines

32. Moreover, the primary concern here is that the preclusion neglects the fact that "any import [regardless of origin] can contribute to damage to local production…Thus, so long as a country is a separate trade and production unit of agriculture; the damage to the country's agriculture in the context of the SSM should be considered with respect to imports of all sources…irrespective of whether the country has a special bilateral or plurilateral agreement of any type…".[26]

D. NON-APPLICATION OF *EN ROUTE* SHIPMENTS

1. Transparency and notification are sufficient

33. The proposal under paragraph 139 of the Chairman's text that the SSM – whether price-based or volume-based – cannot be applied to *en route* shipments is technically infeasible for the price-based SSM as it is to be imposed on a shipment-by-shipment basis in which the level of remedy for each shipment may vary depending on the level of the price gap, and by the fact that by the time the calculation of remedy is being made, the shipment has already arrived and by definition is de facto *en route*.

34. In addition, the non-application of SSM to *en route* shipments is premised on the absence of information available to exporters regarding price triggers since they can hardly make informed business decisions without the information whether the landed cost of their shipments will breach the price trigger, and by how much the remedy will be applied.

35. Moreover, the G-33 greatly values transparency as a critical element for the effective operationalization of the SSM. The G-33 in its submission[27] has proposed a well defined transparency and notification mechanism which is based on the SSG. The proposal contains two elements to be notified "in advance as far as practicable": (i) the price-triggers; and (ii) the "implementation of the first action". Since the information on price triggers will be readily available through advance notification and other transparency mechanisms, the premise for justifying the *en route* issue no longer exists. Therefore, the *en route* shipment prohibition must be dropped from the Chairman's text on the price-based SSM.

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[22] Kruger, P., Denner., W., and Cronje, J.B. (2009*), Comparing safeguard measures in regional and bilateral agreements,* ICTSD Programme on Agricultural Trade and Sustainable Development, International Centre for Trade and Sustainable Development, Geneva, Switzerland.

[23] The term "global" refers to the WTO Agreement on Safeguards-type measures, with or without deviation from it.

[24] Based on the ICTSD study referred in Footnote 21 above: ASEAN-FTA, Australia-Thailand FTA, Canada-Costa Rica FTA, Chile-USA FTA, EFTA-SACU, NAFTA, Croatia-Turkey FTA, Romania-Turkey FTA, Thailand-New Zealand FTA, USA-Israel FTA, and US-Morocco FTA.

[25] WTO SSG or SSG-type of measures.

[26] Bhagirath Lal Das, September 2007, in Third World Network (TWN) *Briefing Paper No. 48: Analysis of the SSM text of the Chair's agriculture modalities paper (19 May 2008).*

[27] JOB(06)/64 dated 23 March 2006 and JOB(08)/47 dated 3 June 2008.

E. *AD VALOREM* PRICE SSM OPTION

36. The G-33 proposal of an *ad valorem* price-based SSM, an alternative to the shipment-by-shipment basis, is contained in its submission of 2006 and 2008.[28] Unlike the shipment-by-shipment method, this option operates like the volume-based SSM where a uniform *ad valorem* SSM duty is to be applied to every price of shipment that falls below the trigger within the duration of the SSM. In addition, this method requires notification of the: (i) date of invocation; (ii) level of remedy; and (iii) period of application. Therefore, this method offers a predictable price-based SSM option since once invoked, the exporters and importers would know that for a definitive period of application, any price of shipment that is below the trigger shall be remedied with the uniform level of *ad valorem* duty.

III. CONCLUSION

37. In accordance with the S&DT mandate of Hong Kong and Doha, the price-based SSM must be operable, accessible and effective in addressing temporary price declines for ensuring food security, livelihood security and rural development in developing countries.

38. First, as regards the trigger, a calibration of the threshold is a must so as not to unduly restrict access. The Chairman's 85% trigger provides access to the SSM at a very limited level of incidence and coverage of products and must be raised. In addition, the mandatory volume cross-check can unnecessarily restrict access to the safeguard and must be deleted from the Chairman's text.

39. A second concern is the structure and ineffectiveness of the remedy. These are further compounded by the introduction of the pre-Doha cap as this will penalize products that undertook early liberalization (already low tariff regime). Thus, the G-33 strongly believes that for the SSM to be truly effective and meaningful, the remedy must be 100% and the pre-Doha cap must be removed.

40. Third, the MFN-trade only limitation is a serious cause of concern especially with the proliferation of regional and bilateral free trade agreements. In addition, most, if not all, of the existing bilateral and regional agreements have safeguard provisions. Thus, the G-33 is of the view that it is best left to the parties in a regional or bilateral agreement to decide for themselves whether recourse to SSM is necessary.

41. Fourth, the non-application of SSM to *en route* shipment is inoperable in a shipment-by-shipment case and provides further operational difficulties amid the lack of reliable and real time data and institutional mechanisms in most developing countries. It is also technically infeasible for the shipment-by-shipment price-based SSM since the level of remedy every shipment may vary depending on the price gap. The G-33 views that advance information through notification of price triggers is already sufficient for the exporters to execute informed business decisions; and thus the *en route* shipment prohibition should not apply to the price-based SSM.

42. Fifth, the *ad valorem* price SSM method offers an option to institute a predictable price safeguard since a uniform duty is to be applied over a definitive period of application.

43. Finally, in order for us to move forward on the above issues on the price-based SSM, the G-33 urges the Members to address these issues as soon as possible in the interest of delivering a truly developmental outcome consistent with the Doha and Hong Kong mandates.

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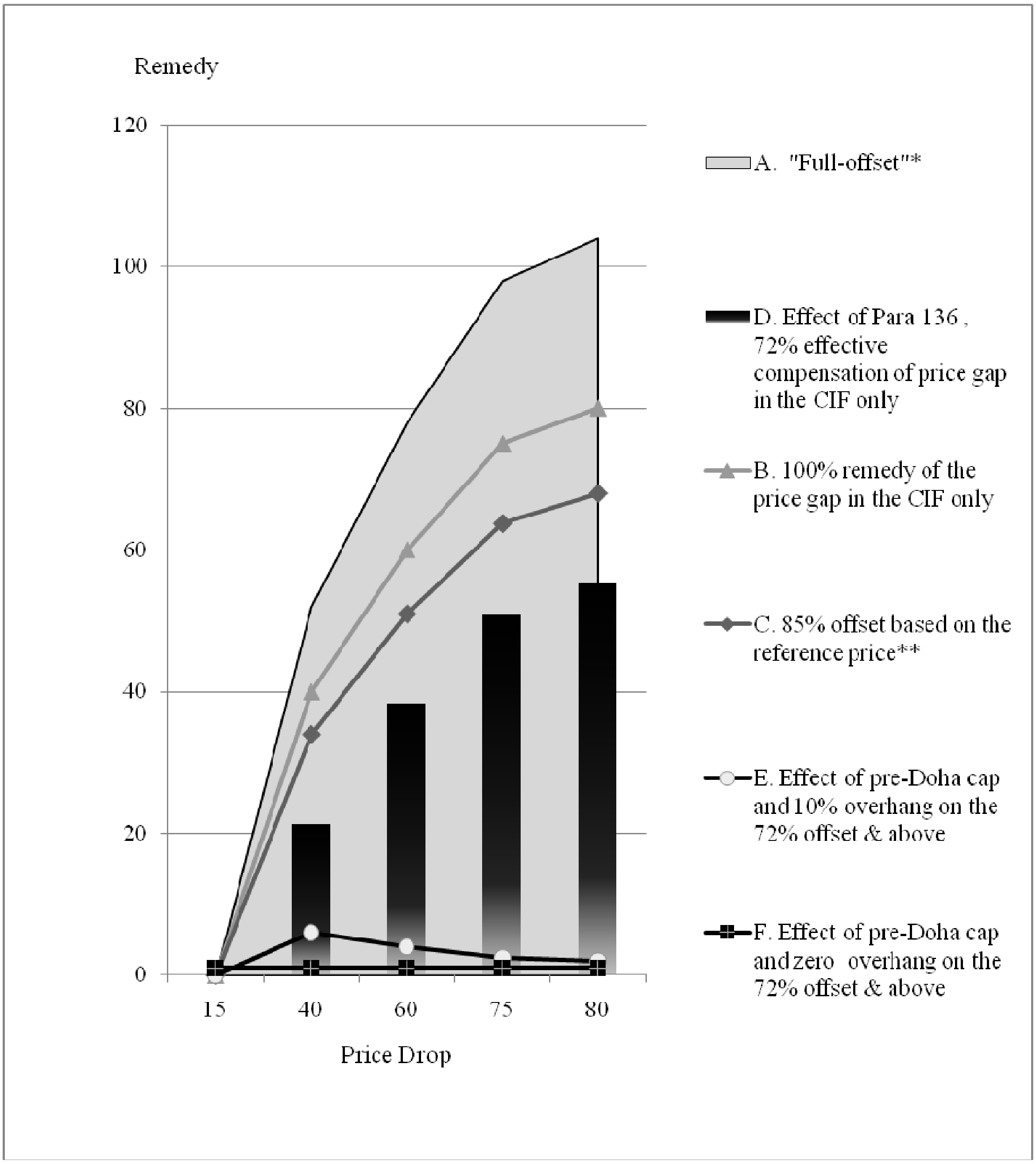
[28] *ibid.*

ANNEX

Figure No. 2 Price-based SSM under various remedy scenarios (reference price = \$100, applied *ad valorem* duty = 30%, and all values in dollars)



Source: G-33 which is based on the calculations contained in Table No. 4 herein

Note:
No remedy for any price drop within $15 (the 85% trigger is respected).
** Both elements of the price gap as described in Section II.B herein: (i) the price gap between the reference price and the import CIF price; and (ii) the gap between the applied ad valorem duty when applied to the reference price and the ad valorem duty when applied to the import CIF price.*
*** The reference price is the 3-year moving average import CIF price.*

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