WORLD TRADE ORGANIZATION

TN/AG/GEN/30
28 January 2010

(10-0443)

Committee on Agriculture
Special Session

Original: English

REFOCUSING DISCUSSIONS ON THE SPECIAL SAFEGUARD MECHANISM (SSM): OUTSTANDING ISSUES AND CONCERNS ON ITS DESIGN AND STRUCTURE
SUBMISSION BY THE G-33

The following communication, dated 27 January 2010, is being circulated at the request of the G-33.

I. INTRODUCTION

1. Paragraph 13 of the Doha Ministerial Declaration (DMD) requires that Special and Differential (S&D) provisions in the agriculture negotiations must be "operationally effective to enable developing countries to effectively take account of their development needs, including food security, livelihood security and rural development". It is also imperative to recall the Mandate agreed in Hong Kong that developing countries shall have recourse to both volume and price-based Special Safeguard Mechanism (SSM).[1] This is a fundamental S&D instrument for developing countries.

2. Recent discussions on the SSM have highlighted the gulf that persists in perceptions on the rationale, structure and the design of the instrument. The proponents of the SSM have highlighted the need for an effective, easy to operate instrument which addresses their development needs, in line with the mandate in paragraph 13 of the Doha Ministerial Declaration. However, some members have focused on its possible disruptive impact on trade flows. Based on this, they have sought to circumscribe the functioning of the SSM by proposing disciplines which would prevent it from disrupting "normal trade". The concept of normal trade has never been defined in the debate.

3. As a part of its constructive engagement, the G-33 considers it necessary at this stage to recall the rationale for the SSM as originally mandated and from this, derive some conclusions regarding its structure and design. This submission discusses some of the key concepts that have been raised over time, in the discussions on SSM, including "normal trade", prorating, seasonality, crosscheck, duration and spillover. This submission relies primarily on technical analysis conducted by the G-33 itself, and references some technical work already published by various agencies like the FAO, ICTSD, WTO, South Centre, and Carnegie Endowment for International Peace. The experience of SSG usage by developing countries is also drawn upon.

II. RATIONALE

4. Two factors are central to the rationale of the SSM. The first concerns the objective reality of agriculture in most parts of the developing world where the central preoccupation of the hundreds of

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[1] Hong Kong Ministerial Declaration contained in WT/MIN(05)/DEC dated 22 December 2005.

millions of people engaged in agriculture is that of survival, not trade. There are an estimated 1.1 billion agricultural workers and about 1.5 billion food-insecure people living on approximately 500 million agricultural holdings of less than 2 hectares worldwide. This accounts for 85% of the total world agricultural holders.[2] The second factor has to do with the distortions that characterize agriculture in most developed countries and which constitute the principal subject matter of the negotiations mandated in Article 20 of the Agreement on Agriculture and Paragraph 13 of the Doha Ministerial Declaration.

5. It is important that the SSM is not viewed primarily through the prism of commerce. The correct perspective is to view it as an instrument which allows developing countries to address their central concerns of food and livelihood security and rural development while undertaking liberalization commitments. It needs to be emphasized that in most developing countries, agriculture which provides the bulk of employment, is not a commercial activity per se, but a way of life. Most agriculture production in such countries involves small land holdings mainly producing for self consumption. Subsistence agriculture is deeply mired in the vicious cycle of low investment and growth. Such agriculture is also deeply connected with issues of poverty alleviation as about 75 per cent of the world's poor live in rural areas where agriculture is the main economic activity. The last decade has witnessed many disquieting developments in developing country agriculture which reflect the interplay between economic liberalization and the crisis of subsistence agriculture. Greater openness to international markets has brought incessant price fluctuations which adversely impact on the food security of the poorest sections of the population. The World Bank has estimated that due to high food and oil prices in 2007 and 2008, the number of people living in extreme poverty may have increased by 130-150 million.[3] Frequent food riots and farmer suicides have reflected the violent face of this crisis. Greater reliance on imports has also led to large scale displacement of local crops in several countries with the attendant impact on rural employment and food security. Several crops which are environmentally well-suited to particular agro-climatic zones have also been displaced by cheaper imports.

6. It is important to recall that trade in agriculture was kept out of the ambit of disciplines in the GATT for seven Rounds preceding the Uruguay Round. The Uruguay Round made a modest beginning to introduce disciplines and recognized that "the long term objective of substantial progressive reductions in support and protection resulting in fundamental reform is an ongoing process".[4] Despite attempts at reducing Trade Distorting Support in the context of the Doha Round of negotiations, these have yielded minimal results. For example, loosely defined Green Box disciplines have created the possibility of box shifting. Further, in market access, developed countries have been able to secure carve outs through Sensitive Products, the retention and creation of TRQs, and non-application of a Swiss formula to tariff reductions. Key issues such as tariff capping and tariff simplification remain to be negotiated. Based on the current draft modalities, it is realistic to assume that the Doha Round will not make a serious dent into the removal of distortions in agricultural trade.

7. It is essential for the sustainability of the global trading system that the agricultural crisis in developing countries is addressed urgently. The central policy intervention in this connection has to be to remedy the huge investment deficit in developing country agriculture through national efforts as well as multilateral interventions.[5] While massive investments in physical infrastructure, appropriate agricultural technologies, training, and the like are some of the major elements to address this crisis, it is important that agricultural markets are not de-stabilized during this process and farmers are given

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[2] Document Number A/HRC/9/23 dated 8 September 2008 of UN General Assembly.

[3] World Bank, Global Economic Prospects-Commodities at the Crossroads, 2009, page 96.

[4] Article 20, Agreement on Agriculture.

[5] The Independent Evaluation Group of the World Bank in its report in 2007 indicated that the World Bank's support for agriculture dropped from 33 per cent of its development aid in 1981 to only 8 per cent in 2001.

the right incentives through well functioning markets. Developing country governments need a robust SSM that would permit them to address the volatility in global markets leading to import surges or price declines. In fact, drawing from the lessons of the food and financial crises – the impacts of which are still ongoing - the architecture and modalities for the SSM need to be further strengthened.

8. The crisis in developing country agriculture is exacerbated by the severe distortions that persist in global agriculture trade. Most of these distortions are related to the huge support given to agriculture in developed countries. The OECD estimates that its members spend more than US$375 billion every year on agricultural support.[6] On average, more than a third of farm receipts in developed members of OECD countries come from government programmes. The value of support is more than five times higher than official spending on ODA and twice the value of agricultural exports from all developing countries.

III. "NORMAL TRADE"

9. Opponents of an operationally effective SSM have sought to introduce more and more conditions, including for example, higher volume triggers, which are intended to prevent the disruption of "normal trade". It is important to note that the issue of "normal trade" does not figure in the mandate for the SSM. Neither is there any reference to "normal trade" in other Agreements such as the Agreement on Safeguards, Agreement on Subsidies and Countervailing Measures and the SSG in the Agreement on Agriculture. These Agreements seek to offset the harm to local producers from import surges, price declines and subsidies. Thus, the principle on which they are based is to minimize the damage by restricting imports on a temporary basis. Such measures imply that business cannot continue as usual. The fact that some disruption to trade would occur due to application of these measures is inbuilt in these Agreements. That the concept of "normal trade" is being raised in the context of the SSM, which is meant only for developing countries, is therefore, a matter of concern to the G-33.

10. There is a significant variance in import growth rates amongst countries, and amongst products, making it difficult to arrive at a single average figure that would adequately represent the current and future trading realities of all countries and all products.

11. An examination of the top ten globally traded products by quantity for the year 2007 has been carried out (Annex 1). For these products, for the period 1987 to 2007, data is available only for six products.[7] The examination reveals that the annual compounded import growth rates for these six products during the period are in single digits. In fact for the staple products which are the main requirements of developing countries, the growth is 0.8% for barley; 0.9% for wheat; 1.8% for milled rice; 2.6% for maize and 4.8% for soybeans.

12. Annual compounded import growth rate for the same period for the LIFDCs (Low Income Food Deficit Countries)[8] which consist of 77 developing countries, has also been examined. The import growth of these six products for the LIFDC's also shows similar trends of single digit growth (except soybeans). The growth is 5.3% for barley; 1.0 % for wheat; 4.8% for milled rice; 3.6% for maize and 21.2% for soybeans.

13. The annual compounded production growth rates for these six products for the period 1987 to 2007 are also in single digits. The data reveals growth of –1.4% for barley; 1.0% for wheat; 2.8% for maize and 4.0% for soybeans. The data highlights that there is some correlation between growth in agricultural trade and growth in agriculture production.

[6] OECD Report, "Agricultural Policies in OECD Countries: Monitoring and Evaluation 2009".
[7] FAOSTAT, http://faostat.fao.org/site/342/default.aspx
[8] LIFDCs: FAO definition. See http://www.fao.org/countryprofiles/lifdc.asp

14. Thus, the arguments for tighter disciplines on the SSM on the basis of products which have short term high growth which cannot be sustained over a period of time, are therefore faulty as they overlook the global trends in agriculture production and trade growth over a reasonable period of time. Country and product variations are also not considered while seeking for tighter disciplines. Further, the arguments rely on value of agriculture products to project the growth rather than the quantity of products exported. The value of an agricultural product depends on a number of factors including currency fluctuations, demand and supply and opportunity cost while agriculture production is based on what is possible and can be grown and sustained over a period.

15. The G-33 believes that the discourse around "normal trade" is therefore a distraction from a SSM that supports food security, livelihood security and rural development.

IV. SSG & SSM

16. Since the SSM is not yet operational, the concerns regarding its frequent can only be assessed by examining a similar instrument. In this regard, an examination of the functioning of the SSG, on whose provisions the SSM is broadly structured, is relevant and instructive.

17. Out of the 39 countries that have access to the SSG, 22 were developing countries. A WTO compilation shows that the SSG could be invoked on a total of 6,156 tariff lines.[9] During the period 1995-2008, a total of 2433 SSG measures were notified.[10] Out of this, developed countries accounted for 1906 SSG measures (around 78%) as compared to 527 applications by developing countries (22%). Between 2001 and 2008, developing countries used it only 465 times. The SSG measures were invoked during 1995-2008 only by six out of the 22 participant developing Members. Out of these six, if Chinese Taipei is excluded, the remaining five Members used the SSG only 171 times. An examination of the SSG usage by four developing Members (Barbados, Costa Rica, Nicaragua and the Philippines) shows that while they could have used the volume based SSG 29 times during the period 2000-2004, they actually invoked it only on one occasion. The above facts make it abundantly clear that most developing countries, for various reasons, are not in a position to frequently use the SSG even though the necessary technical conditions may be met.

18. Based on the above empirical behavior trends of developing countries in the usage of the SSG, it can be safely predicted that developing countries will not be "trigger happy" while using the SSM as a mere breach of the trigger cannot be presumed to mean invocation of the measure.

19. The above analysis raises a number of issues regarding the structure and design of the SSM. While over the last 15 years the SSG has been an instrument regularly used by a number of developed countries to protect the commercial interests of their agriculture sectors, the SSM has to perform a qualitatively different function of protecting the livelihoods and food security interests of developing countries by preventing damaging import surges and price declines. Therefore, its design has to be much simpler than that of the SSG.

20. A comparison of the SSG and the SSM on the basis of the proposals in the Chair's text (Rev.4 and W/7) clearly illustrates how the SSM provisions proposed are far more stringent than those of the SSG (Annex-2). The major concerns include, *inter alia*, the following:

- *Limit on products and tariff lines on which the SSM can be triggered for above the pre-Doha bound rates. In the SSG, there is no such limitation.*

[9] WTO document TN/AG/S/12 dated 24 December 2004.
[10] Compiled from WTO website:
http://members.wto.org/ddf/agriculture/Regular_session_datasets_e.htm

- *Data requirement of imports of preceding three years for the volume based SSM. In the SSG, the data requirement is much more flexible.*
- *Capping of remedies relative to pre-Doha bound levels and rates bound at the Doha Round.*
- *The application of the concept of Pro-rating. Pro-rating does not exist in the SSG.*
- *The cross-check mechanism for the volume-based SSM, which does not exist for the volume-based SSG. There is also a cross-check for the price-based SSM, which is more stringent than that for the price-based SSG.*
- *Exclusion of Preferential Trade. The SSG is silent on preferential trade, meaning that it can also be applied to preferential trade.*
- *More constraints on duration of use of the SSM than the SSG.*
- *Restrictive provisions for seasonal products in terms of duration and review mechanism. In the SSG such conditions do not exist.*
- *En route shipments which had completed customs clearance at exporting country are exempt from the SSM. This is not the case for the price-based SSG.*
- *Trigger price, remedy available and remedy ceiling for the price based SSM are much more stringent*.

21. It is remarkable that an instrument meant to address the development concerns of most developing country members is sought to be burdened with conditions far more restrictive than those on the SSG which is mainly being used by developed countries. The G-33 has always advocated for the SSM to be more flexible than the SSG.

V. ADDITIONAL CONDITIONS IN CHAIR'S TEXTS WHICH WEAKEN THE SSM

22. The dynamic nature of agricultural production and trade makes it necessary for developing countries to have access to a measure that is easy to implement and is responsive to the heterogeneous situations of different crops across different countries.[11] The SSM remedies need to be timely and sufficient to stop the import surge that is taking place. Apart from the issues of triggers and remedies (which the G-33 will address separately), a number of proposals in the Chair's texts will require developing countries to fulfill certain conditions before they can apply these remedies. These conditions like prorating, seasonality, crosscheck, duration and spillover will obviously have an impact on the ease with which the measure can be invoked. The G-33 has undertaken technical analyses of the justification and impact of these conditions and will be making separate submissions to share its findings with Members. The summary of the findings is however provided below.

A. PRO-RATING

23. Pro-rating has been proposed for the SSM even though it does not exist for SSG. Two concepts of pro-rating have been introduced in the Chair's texts (TN/AG/W/4/Rev.4 and TN/AG/W/7), both of which ensure the use of triggers which are always higher than would otherwise have obtained. Either of the two proposed concepts can facilitate the continued increase in the triggers to very high levels over a short period of time. Therefore, prorating substantially inhibits any subsequent use of SSM.

24. The G-33 reiterates that pro-rating is an additional layer of restriction for the SSM and therefore, rejects the concept.

[11] Actionaid Policy brief, "Structure, application and Scope of SSM for Developing Countries".

B. SEASONALITY

25. The request of the G-33 on "Seasonal and Perishable Products" was for treatment identical to that which obtains in the SSG. It must be noted that in the SSG the seasonal product provision relate to seasonal products from the perspective of importers. It is the importing member that is entitled to use a "shorter time period" in calculating the base period for volume based SSG, and "different reference prices for different periods" for price based SSG. There are no separate shorter duration periods for seasonal products. On the other hand, the Chair's text (TN/AG/W/7) looks at seasonality from the perspective of exporters and stipulates a shorter duration of application.

26. The G-33's examination of export figures from several exporters found that while seasonality in production may be the norm for certain products, it is not the norm for all products from all countries. Thus, "seasonality in production" does not necessarily translate into "seasonality in trade". Furthermore, amongst products that exhibited overall "seasonality in trade" patterns, examples were found where the "seasonality in trade" did not necessarily translate into individual bilateral trade relations.

27. The G-33 is of the view that the current seasonality language for the SSM must be re-examined. Retaining the language as it is in the Chair's texts not only fails to accurately reflect the current trading patterns, but would unnecessarily complicate the use of the SSM.

C. CROSS CHECK

28. The proposed modalities in the Chair's texts provide that the SSM cannot be invoked unless the following cross check provisions are applied:

(a) For the volume-based SSM, Members should not have recourse to exceeding pre-Doha bound rates in cases where import surges are not accompanied by price declines.
(b) For the volume-based SSM, imports are at a negligible level in relation to domestic production and consumption.
(c) For the price based SSM, when import volumes are declining.
(d) For the price based SSM, if the volume of imports is manifestly declining or a negligible level incapable of undermining the domestic price level.

29. A recent study by South Center[12] indicates that in 85% of cases of import surges were not accompanied by price declines. In addition an ICTSD[13] study points out that the availability of the SSM will be more than halved if so called market tests with price depressions are imposed. It must also be emphasized that there can be several reasons for domestic prices not declining with import surges, including possible displacement of local production.

30. The introduction of a mandatory cross-check would make it difficult for developing countries to apply the SSM as they would need to first establish the "proof" of domestic price or volume changes. There may be considerable time lags between import surges and its impact on domestic markets. Further, most developing countries have difficulty in capturing real time price data. Moreover, establishing the domestic prices for each corresponding tariff line is very difficult. As a result, the SSM would be unworkable for many developing countries.

[12] South Centre, "The Volume Based SSM: Analysis of the Conditionalities in the December 2008 WTO Agriculture Chair's Texts" October 2009, SC/TDP/AN/AG/9.

[13] ICTSD, "Implications of Proposed Modalities for the Special Safeguard Mechanism: A Simulation Exercise" Issue Paper No.10

31. The G-33's view is that a mandatory cross-check will seriously hamper the use of the SSM and limit its effectiveness and timeliness of application in addressing a temporary import surge.

D. DURATION AND SPILL OVER

32. The Chair's text imposes conditions on the duration of remedies and how soon the SSM can be re-invoked after its termination. In the context of duration, certain restrictive elements have been proposed, in the event of the need for remedies to "spillover" beyond the end of the year in question.

33. The G-33 believes that the duration of remedies should be sufficient to ensure that the import surge or price decline has been addressed. The duration should not be constrained to a calendar, financial or market year.

VI. OTHER ISSUES

34. There are a number of other conditionalities in the Chair's texts which have implications for the effectiveness and timeliness of the SSM. Some of these include:

- The Price-based and volume-based triggers shall be on the basis of MFN trade only;
- The Volume-based SSM cannot be applied if rolling average of imports in the preceding three-year period is not available;
- The level of triggers and remedies;
- The exclusion of negligible trade from SSM coverage;
- Limiting the SSM remedies to two consecutive periods; and
- The SSM application limited by an "off" period.

A. PRICE-BASED SSM

35. As agreed in the Hong Kong Ministerial Declaration developing countries shall have recourse to both volume-based and price-based SSM. However, since the issuance of the Chair's second draft modalities in May 2008, discussions on the SSM have mainly centered on the volume-based SSM. Though the G-33 has submitted its concerns on the price-based SSM[14], there has been little or no discussion on this issue. Further, several additional burdensome requirements and restrictions were included in the third and fourth drafts of the Chair's modalities text which would render the SSM an ineffective mechanism.

36. WTO data reveals that the price-based SSG has been used much more frequently (74%) than the volume-based SSG (26%), by both developed countries and developing countries.

37. The G-33 is of the view that the price-based SSM is an essential measure for developing countries. It will be submitting a separate and more comprehensive technical paper on the elements of the price-based SSM including the triggers, the reference price, remedies, pre-Doha cap, *ad valorem* duties and preferential trade. There is a need for a comprehensive discussion on this measure.

VII. SMALL AND VULNERABLE ECONOMIES (SVES) AND LEAST DEVELOPED COUNTRIES (LDCS)

38. The G-33 would also like to reiterate that while a majority of developing countries face development challenges due to their under-developed agriculture sectors, these challenges are even more acute for the smallest developing countries. Additional constraints that the Small and Vulnerable Economies **(**SVEs) face include limited resources, higher transaction costs due to poor

[14] G-33 Job document (08)/47 dated 3 June 2008.

infrastructure, limitations in crop diversification, etc. These constraints make it even more difficult for SVEs to address the challenges of food and livelihood security and make them more vulnerable to the adverse effects of import surges and price declines. It is in this context that the G-33 had submitted a separate proposal (TN/AG/GEN/29) on 10 February 2009, seeking enhanced flexibilities in the SSM for SVEs. The G-33 expects these proposals to receive due consideration.

39. The G-33 wishes to emphasize that the Least Developed Countries (LDCs) in the WTO are the poorest and most vulnerable amongst us. As such, these economies deserve the most flexible treatment on all elements of the SSM, including unlimited product coverage, and unlimited remedies beyond the pre-Doha bound rate. The G-33 fully supports LDCs' access to a simple, effective and operational mechanism that takes into account the challenges faced by these countries.

VIII. CONCLUSION

40. The basic objective of this submission is to shift the focus of the SSM debate to the development dimension of the Round. Recent global developments have highlighted the need for policy reform in developing countries to strengthen food security and to address livelihood concerns of the poor, the bulk of whom depend on agriculture for sustenance. For these reform initiatives to be successful, it is necessary to ensure a stable policy environment. The SSM is an essential element for this purpose.

41. For the SSM to be successful in providing the required stability, it has to be simple, non-burdensome. The analysis of the SSG usage clearly establishes that developing countries (unlike developed countries) have been extremely restrained in their use of the instrument. There are various reasons why such restraint can also be expected in the case of the SSM. Apart from the difficulties that most developing countries have in generating on-time data, many developing countries import agricultural products to manage critical shortages.

42. It is clear from this analysis that much of the architecture proposed for the SSM in Chair' text and W/7 needs to be revisited. It is necessary to recall the mandate for the SSM, and to note that this instrument was intended to be one tangible way of operationalizing S&D. The SSM must be easy to use and allow developing countries to respond swiftly to market disruption. A strong, effective SSM is essential to the achievement of a balanced outcome for many developing countries.

ANNEX 1

Table 1:

Top 10 globally traded agricultural products by quantity (Source: FAOSTAT)

Commodity	Quantity (tonnes)
Wheat	132832103
Maize	109684205
Soybeans	74402997
Cake of Soybeans	61365251
Pigs	30799813
Sugar Raw Centrifugal	28698463
Rice Milled	27433888
Palm oil	26043146
Barley	23611187
Sugar Refined	23091993

Table 1a: Annual compounded global import growth over 20 years

	Quantity
	1987-2007
Barley	0.8%
Maize	2.6%
Soybeans	4.8%
Wheat	0.9%
Palm oil	8.3%
Rice Milled	1.8%

Table 1b: Annual compounded import growth over 20 years (LIFDCs)

	Quantity
	1987-2007
Barley	5.3%
Maize	3.6%
Soybeans	21.2%
Wheat	1.0%
Wine	8.9%
Palm oil	9.1%
Rice Milled	4.8%

Table 2:

Annual compounded production growth rates over 20 years

	1987-2007	1997-2007
Barley	-1.4%	-1.5%
Maize	2.8%	3.0%
Soybeans	4.0%	4.3%
Wheat	1.0%	0.0%
Palm oil	7.9%	7.8%
Paddy rice	1.8%	1.3%

ANNEX 2

Comparison of SSG and SSM

S. No.	Concept being compared	Article 5, AoA: SSG	Doha Round Modalities on SSM (Chair's texts (TN/AG/W/4/Rev.4 and TN/AG/W/7 hereinafter refered to as Rev.4 and W/7)
1.	**Data requirements in volume-based triggers**	Data relating to volume triggers to implement SSG is expressed for the "*three preceding years for which data is available*." Calculation of additional duty also takes into account the volume change in "domestic consumption of the product concerned in the most recent year for which data are available."	The language used in Para 133 of Dec. 08 Main Text for the volume triggers does not qualify the use the phrase "*preceding years* with "*for which data is available"*.
2.	**Cross-checks on Volume-based triggers**	No cross-checks exist.	Cross-check mechanism prescribed.
3.	**Price-based triggers**	▪ Trigger price for SSG under Art. 5 were equal to the 1986-88 reference price. Since the reference period is "fixed", so is the "reference price", which Members were required to notify. ▪ The formula for calculation of remedy is based on 5 levels of fall of the cif price below the trigger price.	▪ The reference price is a "moving average" based on cif import price relative to data on "MFN-sourced price" for the most recent preceding three year period preceding year of importation, for which data is available. ▪ Trigger & Remedy: When CIF Import Price falls below 85% of "Reference Price", then remedy will be 85% of the difference between import price and trigger price.
4.	**Data requirements in price-based triggers**	This was not an issue since "trigger price" is a "fixed price".	Provision on price-based triggers refers to calculation of the reference price on the basis of the most recent three- year period preceding the year of importation "for which data is available."
5.	**Cross-checks on Price-based triggers**	Members shall not take action "as far as practicable", where the volume of imports of the concerned product are declining. - This is a soft non-binding obligation.	<u>Rev.4</u> There is stronger, more binding language for countries to not take action when the volume of imports is declining or is at "manifestly negligible level incapable of undermining the domestic price level". (Para 137)

S. No.	Concept being compared	Article 5, AoA: SSG	Doha Round Modalities on SSM (Chair's texts (TN/AG/W/4/Rev.4 and TN/AG/W/7 hereinafter refered to as Rev.4 and W/7)
			W/7 (i) Remedies not applicable unless domestic price is actually declining, unless "in exceptional circumstances", the authorities have "good reason to believe that there would be at least an imminent foreseeable decline". (ii) If action is taken in "such exceptional circumstances", then there will be an "expedited review by a standing panel of experts".
6.	**Capping of Remedies relative to: (a) pre-Doha bound levels; and (b) current bound rates (i.e., rates bound at the Doha round).**	▪ The additional duty for the volume-based SSG was capped at one-third of level of ordinary custom duty (applied tariff) in effect in the year in which action is taken. ▪ No cap for price-based SSG. ▪ Article 5 is silent on whether remedies should be imposed on bound or applied tariffs. ▪ In practice, importing countries were allowed to increase tariffs above their bound rates. ▪ Doha Modalities: Proposal that Article 5 would need to be amended to reflect that developed countries using the SSG will not breach the pre-Doha bound tariff rates. ▪ However, it is silent on breaching by developed countries of the "current bound tariffs" arrived at under the Doha Round. ▪ No limits on tariff lines or number of products under Art. 5; although under December Modalities changes to Art. 5 pertain to commitment to reduce no. of tariff lines on which SSG can be applied.	**Rev.4** ▪ Principle that "pre-Doha bound tariffs" cannot be exceeded. The language used suggests that the level cannot be breached for both volume and price- based triggers *(Para 142).* ▪ However, the text also provides that Maximum Additional Duty could breach the pre-Doha bound tariffs provided certain conditions were met. These conditions are defined as a certain percentage of "current bound tariff". ▪ Differential rates were specified for LDCs, SVEs and other developing countries (*Paras 143-145.)* ▪ Limits were placed on no. of products/ tariff lines: (*Paras 143-145.)* ▪ Further limitation on other developing countries: cannot use SSM "for two consecutive periods". **W/7** ▪ This text does not cross-refer to the Main Text; instead the proposal here is in relation to SSM triggers "above bound rate". ▪ Proposal for a flat rate for all developing countries in respect of circumstances when the maximum remedy can exceed the "current bound tariff". The thresholds for determining the maximum additional duty are defined as volume of imports *in any period*.

S. No.	Concept being compared	Article 5, AoA: SSG	Doha Round Modalities on SSM (Chair's texts (TN/AG/W/4/Rev.4 and TN/AG/W/7 hereinafter refered to as Rev.4 and W/7)
7.	**Limits on Products & Tariff Lines on which SSG/SSM can be triggered.**	▪ All lines specified under Article 5 can avail of the SSG.	**Rev.4** ▪ Limits have been suggested for the number of products on which SSM can be invoked in any given period above the pre-Doha bound tariff rates: 40% of lines for LDC's;10-15% of tariff lines for SVEs in any given period; and only 2-6 products in any given period for "other developing countries". *(Paras 143-145)* **W/7** ▪ The Suppl. Text states that a country cannot invoke SSM on more than 2.5% of tariff lines in any 12-month period.
8.	**Exclusion of Preferential Trade**	SSG does not differentiate between MFN trade and "preferential" trade.	Preferential trade excluded from calculation of triggers and application of safeguard measures
9.	**Duration of Safeguards** *(Products other than Seasonal ones)*; **Review Mechanism**	▪ For volume-based triggers, additional duty can be maintained until the end of the year in which it has been imposed. ▪ There is no limitation of number of consecutive periods for which SSM may be imposed. ▪ There is no "review mechanism".	**Rev.4** ▪ The maximum period for use of SSM is 12 months, from the initial invocation of the measure. *(Para 140)* ▪ SSM can be imposed only in 2 consecutive periods; and where this has occurred, consecutive application can be resorted to only after a further 2 consecutive periods. **W/7** For SSM application "above bound rate", the following has been proposed: ▪ Length of remedy should be "4/8 months". ▪ It may be re-imposed after "4/8 months" (after lapse of equal period of time). ▪ Review mechanism proposed by "standing group of experts" to review application of SSM for 3 consecutive 12 month periods: Ambit of review would be: effective functioning of the SSM, whether it is affecting "normal trade", or whether it is a response to an "underlying more structural problem".

S. No.	Concept being compared	Article 5, AoA: SSG	Doha Round Modalities on SSM (Chair's texts (TN/AG/W/4/Rev.4 and TN/AG/W/7 hereinafter refered to as Rev.4 and W/7)
10.	**Seasonal Products: Duration of SSM and Review Mechanism**	▪ There is no separate period specified for seasonal products. ▪ Duration would be applicable as highlighted for all products in point 9 above.	**Rev.4** ▪ The maximum period for use of SSM is 6 months in the case of seasonal products, or period to cover seasonality- whichever is longer. *(Para 140)* ▪ SSM can be imposed only in 2 consecutive periods; and where this has occurred, consecutive application can be resorted to only after a further 2 consecutive periods. **W/7** For SSM application "above bound rate", the following has been proposed: ▪ Length of remedy should be "4/8 months". ▪ It may be re-imposed after "4/8 months" (after lapse of equal period of time). ▪ But if maintained in 2 consecutive 12 month periods for total period of 12 or more months, then cannot spill to next period. ▪ Review mechanism proposed by "standing group of experts" for SSM for seasonal products.
11.	**Shipments en route**	Art. 5 states that exemption for en route shipments from SSM duty is applicable only to volume-based SSM.	En route shipments (which had completed customs clearance at exporting country) are required to be exempt from SSM, both under price and volume based SSM.
