AN UNOFFICIAL GUIDE TO AGRICULTURAL SAFEGUARDS

GATT, OLD AGRICULTURAL (SSG) AND NEW MECHANISM (SSM)

(Please check against texts, particularly the 10 July draft agriculture “modalities” available here: http://www.wto.org/english/tratop_e/agric_e/chair_texts08_e.htm)

The talks among ministers meeting in Geneva from 21 July 2008 broke down on 29 July over the special safeguard mechanism (SSM). What exactly is the problem?

The problem is not about protecting poor farmers in general — that is already covered by what has been agreed on the formula for developing countries to cut tariffs; smaller or no cuts for “special products”; different treatment for small and vulnerable economies, recent new members and special cases such as Bolivia; and exemptions for least-developed countries. It is not even about the SSM itself. **This is about one particular circumstance**.

THE ‘SSM’ PROBLEM: BLOCKED OVER A DISPUTED ZONE

Much of the special safeguard mechanism has already been agreed. The SSM would allow developing countries to raise tariffs temporarily to deal with import surges and price falls. The blockage in the July 2008 talks was only about import surges, and a particular instance of that.

Agreed already: that developing countries will have an SSM; more or less how big the import increase would be to trigger the temporary tariff rise, and how high the rise should be in general.

The blockage: the situation where the SSM raises tariffs above commitments countries made in the 1986–94 Uruguay Round — the “pre-Doha Round bound rates”. In the case of new members, that means commitments made in their membership agreements.

So, essentially, the blockage was about the SSM reaching into a disputed zone: above pre-Doha bound rates.

Who blocked? The blockage is often described as one between the US versus India and China. This is only partly true. All three are major trading countries with importing and exporting concerns. But they were also among the small group of seven delegations trying to reach an initial settlement — Australia, Brazil, China, the EU, India, Japan, the US — before taking the issue to larger groups and eventually the full membership. The blockage was within that group of seven. Other countries outside were also concerned, including other members of the G-33, and some exporting developing countries.

Two philosophies: A number of countries have opposed breaching the pre-Doha Round commitments, while others insist it has to be allowed. In the 10 July draft agriculture text, the possibility of breaching these commitments is in square brackets (ie, indicating no agreement), except for least-developed countries. This reflects two different and unresolved views about what the SSM is for:

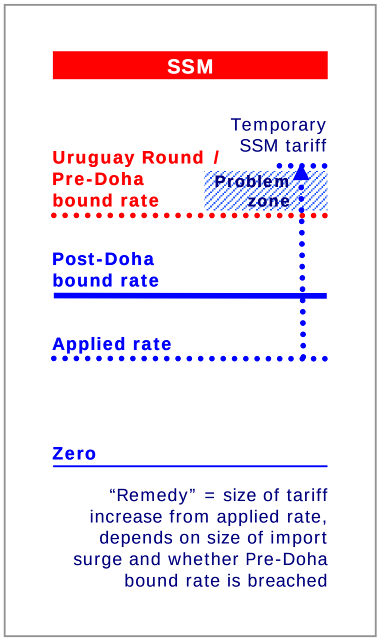
- **The SSM as protection for poor and very vulnerable farmers**: according to this view, the SSM should be freer and easier to use, with smaller triggers and bigger tariff increases. This is related to the argument that prices are depressed because of large subsidies in rich countries. Advocates: G-33 and its allies.
- **The SSM as a time-bound means to help liberalization** (used only within liberalization): according to this view, the SSM’s use should be more restricted, and related to cutting tariffs from pre-Doha Round levels. That would mean no tariff increase above those levels, the SSM must not be triggered by normal fluctuations in price or normal trade expansion, and it should be limited to the period of liberalization. This is related to the arguments that poor farmers need to export in order to escape poverty, and that the pre-Doha Round commitments were a negotiated compromise balance of rights and obligations, which should not be touched. Advocates: Latin American, Southeast Asian and other countries in the Cairns Group but not in the G-33; US. Developing countries among these say it is not a “North-South” issue but has an impact on South-South trade.

Compromise? Draft texts and numbers that were discussed (principally the 10 July draft agricultural modalities and changes to it) attempted a compromise between two opposing positions. The numbers most discussed would apply to developing countries — not to small and vulnerable economies or least-developed countries, which have their own more liberal treatment. The SSM would allow the tariff to go above the pre-Doha Round commitments but it would be constrained by setting additional criteria:

- a minimum increase in imports before this could happen (the additional “triggers” of 15%, 40% etc, which are not in the 10 July draft)
- limiting how high the tariff could rise above the Pre-Doha rate (15% of the post-Doha bound rate or 15 percentage points, whichever is higher, in the 10 July draft)
- how many products could breach the pre-Doha tariff levels in a year (eg, 2.5% of products)

The blockage was about how large the numbers should be.

Flexibility versus normal trade growth: The question underlying the blockage was whether an additional trigger is needed to constrain the instances when the SSM would raise the tariff above the pre-Doha rate and if so how large it should be. One view was that at most it should be low. The opposing view was that normal trade growth, and not a genuine surge, could trigger the tariff increase.



In practice: In terms of tariffs, the exact significance of this depends on the situation of a particular product in a particular country — whether the bound tariff is high or low; and whether the actual duty charged (the applied rate) is close to the bound tariff or much lower. Examples below illustrate this with numbers.

In some cases the pre-Doha legally bound maximum could be 100% but the actual tariff charged could be, eg, 20%. In order to be raised into the disputed zone (to go above the pre-Doha rate), the applied tariff would have to be multiplied by five or rise 80 percentage points, and to hit a proposed ceiling of about 15% above the pre-Doha bound rate it would have to rise even more. If on the other hand both the pre-Doha bound rate and the applied rate are 20%, any increase in the tariff would immediately take the tariff into the disputed zone.

Many developing countries have large gaps between their bound maximum tariffs on agricultural products and the tariffs they apply. Some do not. Countries that recently joined the WTO tend to have small or no gaps. Tariff data and tariff profiles can be found here: http://www.wto.org/english/res_e/statis_e/statis_e.htm

Groups

The G-33, Cairns Group and others are listed here:
http://www.wto.org/english/tratop_e/agric_e/negs_bkgrnd04_groups_e.htm#key

DETAILS

THREE TYPES OF SAFEGUARD

Safeguards are contingency restrictions on imports taken temporarily to deal with special circumstances such as a surge in imports. They normally come under the Safeguards Agreement, but the present Agriculture Agreement has a special provision (Article 5), the Special Agricultural Safeguard (SSG). The Doha Round will create a third type, the Special Safeguard Mechanism or SSM.

	GATT safeguard	**Special Agricultural Safeguard SSG**	**Special Safeguard Mechanism SSM** (details still being negotiated)
Which products?	All, including agricultural	Agricultural, if "tariffied"	Agricultural
Which countries?	All	Developed and developing, but only if "tariffied"	Only developing
Trigger	Import surge with price fall	Import surge or price fall	Import surge or price fall
Remedy	Quantity restriction, tariff increase	Tariff increase	Tariff increase
Constraint / condition	Show injury or threat of injury, negotiate compensation	Only products "tariffied" in Uruguay Round (where comfort needed for liberalization)	For import surge: • limit on % of products in a year • ceiling on tariff at or above pre-Doha rate • minimum surge for tariff exceeding pre-Doha rate?
Expiry of mechanism?	Permanent	Expires or reduced post-Doha	Different views

1. **GATT Art.19 and the Uruguay Round Safeguards Agreement** (all products): Temporary action to restrict imports of a product if the country's domestic industry is injured or threatened with injury caused by a surge in imports (accompanied by a price fall, but not a price fall on its own). The restriction can be quantitative (such as a quota) or an increase in tariffs above the bound rate. Requires test of injury, and negotiations for compensation. Can be used on agricultural products.

2. "**SSG" Special (Agricultural) Safeguard** (present Agriculture Agreement). The safeguard raises tariffs. It can be triggered by import surges or price falls, virtually automatically, ie, without any need to test injury or to negotiate compensation.

   The SSG safeguard can only be used on products that were "tariffied" (eg, quantitative restrictions converted to equivalent tariffs, and then cut). They cannot be used on imports within tariff quotas. They can only be used if the government reserved the right to do so in its lists or "schedules" of commitments on agriculture.

   Many developing countries chose not to "tariffy". They preferred to set "ceiling bindings" (eg, 100% tariffs over a wide range of products) that were not cut. By making that choice they opted not to have the right to use the SSG safeguard.

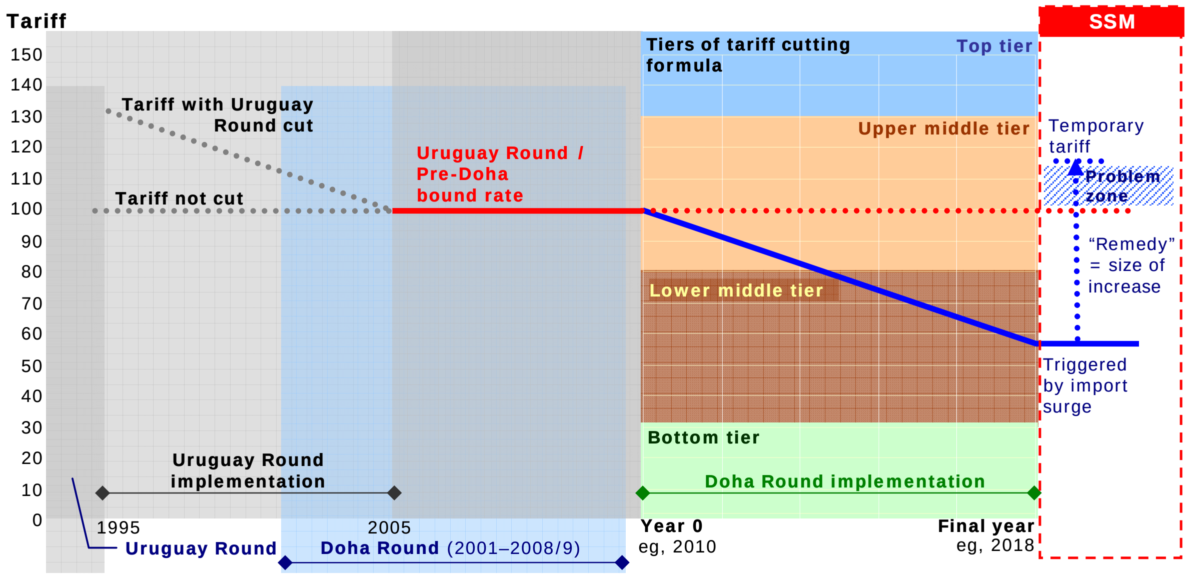
   Countries able to use the SSG and the number of products ("tariff lines", which are not defined in the same way in all countries): Australia (10), Barbados (37), Botswana (161), Bulgaria (21), Canada (150), Colombia (56), Costa Rica (87), Czech Republic (236), Ecuador (7), El Salvador (84), EU (539), Guatemala (107), Hungary (117), Iceland (462), Indonesia (13), Israel (41), Japan (121), Korea (111), Malaysia (72), Mexico (293), Morocco (374), Namibia (166), New Zealand (4), Nicaragua (21), Norway (581), Panama (6), Philippines (118), Poland (144), Romania (175), Slovak Republic (114), South Africa (166), Swaziland (166), Switzerland-Liechtenstein (961), Chinese Taipei (84), Thailand (52), Tunisia (32), United States (189), Uruguay (2), Venezuela (76)

   In the Doha Round: the debate has been about whether to eliminate the SSG, or reduce and constrain it

3. "**SSM" Special Safeguard Mechanism** (new for developing countries only).

   - Objective: to have something like the SSG, for developing countries, particularly those who do not have the SSG (see above for why they don't).

- Like the SSG, it could be triggered simply if the import surge or price fall is big enough, without any need to test injury or to negotiate.
- But each developing country could use it on any product (Par.123 of the 10 July draft). There is no equivalent to the SSG's tariffication condition.
- It cannot be used on a product if one of the other types of safeguard is being used on that product. (Par.123)



VOLUME-BASED SSM — THE 10 JULY DRAFT MODALITIES

For import surges ("volume based"), the starting point is the average annual size of imports over the preceding three years (Par.124). (If the current year is 2023, the safeguard would be triggered if imports increased by a certain amount compared to the average for 2020–22.)

The **triggers** are described as percentages of the base, so a trigger of 115% is a rise of 15%. The size of the safeguard tariff increase is the "**remedy**" and depends on the trigger (Par.124 a, b, c).

A. Example 1, high bound rate: arbitrarily using a pre-Doha Round bound rate of 80%, post-Doha bound rate of 60%, and applied rates — the tariff actually charged as distinct from the legally bound maximum — of 30% and 50%

Trigger Import rise	**Remedy (tariff increase)** ("%" of current bound rate added to current applied rate, "percentage points" from current applied rate)	**Eg, 60% bound, 30% applied. Tariff raised to ...**	**Eg, 60% bound, 50% applied**
10–15%	25% or 25 percentage points, whichever is greater	45% or 55% —> **55**%.	—> **75**%
15–35%	40% or 40 percentage points, whichever is greater	54% or 70% —> **70**%.	—> **90**% > 80%
>35%	50% or 50 percentage points, whichever is greater	60% or 80% —> **80**%.	—> **100**% > 80%

(**Note**: With the 50% applied rate (last column), the two larger triggers would increase the tariff above the 80% pre-Doha bound rate. The tariff would be forced down to 80% if the pre-Doha bound rate were the maximum, see page 5)

B. Example 2, low bound rate: with bound and applied rates of 3%, for simplicity assuming the bound tariff is not cut (possible with "special products")

Trigger Import rise	**Remedy (tariff increase)** ("%" of current bound rate added to current applied rate, "percentage points" from current applied rate)	**Eg, 3% bound, 3% applied. Tariff raised to …**
10–15%	25% or 25 percentage points, whichever is greater	3.75% or 28% —> **28**%.
15–35%	40% or 40 percentage points, whichever is greater	4.2% or 43% —> **43**%.
>35%	50% or 50 percentage points, whichever is greater	4.5% or 53% —> **53**%.

(**Note**: With a low bound and applied rate — and here it makes little difference whether the bound rate is cut —the tariff increase is large. The impact on trade could be significant particularly on commodities sold in large amounts with low margins)

- The SSM cannot be used if import volumes are "manifestly negligible" compared to domestic production and consumption (Par.124 d).
- The volume-based safeguard would apply for up to 12 months (sometimes 6 months) and could be repeated a second period (Par.131).
- The base for the second period would include imports with the safeguard in place, unless this lowers the based below the original one (Par.131).
- After use for two periods (of 12 or 6 months), the SSM could not be used on that product for another two periods (Par.131).
- Other details, eg, with tariff quotas, transparency, shipments en route, etc

G-33 & CO, 27 JULY STATEMENT

- No limitation on use when the import volume is "manifestly negligible" compared to domestic production and consumption

PRICE-BASED SSM — THE 10 JULY DRAFT MODALITIES

For price falls ("price based"), the starting point is the average monthly import price over the previous three years — ie, before the current year. (Par.126)

- **Trigger**: If the price of a shipment is **15% or more below** that reference (**85% of the reference** average), then the tariff can be imposed on that shipment — shipment by shipment. (Par.126–7) Prices for preferential trade cannot be used. (Par.129)
- **Remedy**: The tariff increase cannot be more than **85% of the gap** between the price of the shipment and the trigger price. (Par.127)
- SSM "normally" cannot be used if the import volume is "manifestly declining" or is a "manifestly negligible" amount that cannot undermine the domestic price (Par.128).
- A number of other details deal with currency fluctuations, transparency, etc

G-33 & CO, 27 JULY STATEMENT

- **Trigger**: If the price of a shipment is **10% or more below** that reference (**90% of the reference** average), then the tariff can be imposed on that shipment (shipment by shipment)
- **Remedy**: The tariff increase cannot be more than **100% of the gap** between the price of the shipment and the trigger price

EXCEEDING THE PRE-DOHA BINDING
(PRICE AND VOLUME TRIGGERED SSM)

THE 10 JULY DRAFT MODALITIES

Normally, the raised tariff could not exceed the Uruguay Round or pre-Doha Round bound rate (Par.133) But the text also offers the possibility that it might. For this to happen, an additional limit would be imposed on the remedy (Pars.134–6, some in square brackets).

C. Example 1, high bound rate, with 80% pre-Doha and 60% current bound rates

Country	**Trigger** Import rise / price fall	**Remedy (tariff increase)** ("%" of current bound rate added to pre-Doha bound rate, "percentage points" above the pre-Doha bound rate)	**Eg, 80% pre-Doha, 60% current bound. Tariff limited to ...**	**Limit** in each period
Developing	as above for both types	15% or 15 percentage points, whichever is greater	89% or 95% —> **95**%	2–6 "products" (6-digit), not in 2 successive periods
Small and vulnerable	as above for both types	20% or 20 percentage points, whichever is greater	92% or 100% —> **100**%	10–15% of tariff lines (detailed products)
Least-developed	as above for both types	40% or 40 percentage points, whichever is greater	104% or 120% —> **120**%	No specific limit

(**Note**: for ordinary developing countries, the example calculation A on page 4 with a 50% applied rate, gives raised tariffs of 75%, 90% and 100%. Here, the 100% duty of the over 35% trigger of calculation A on page 4, would be knocked back to 95%. For smaller triggers, the SSM would not reach the 95% limit for exceeding the pre-Doha bound rate.)

D. Example 2, low bound rate, with 3% pre-Doha and current bound rates

Country	**Trigger** Import rise / price fall	**Remedy (tariff increase)** ("%" of current bound rate added to pre-Doha bound rate, "percentage points" above the pre-Doha bound rate)	**Eg, 3% pre-Doha and current bound. Tariff with SSM limited to ...**	**Limit** in each period
Developing	as above for both types	15% or 15 percentage points, whichever is greater	3.45% or 18% —> **18**%	2–6 "products" (6-digit), not in 2 successive periods
Small and vulnerable	as above for both types	20% or 20 percentage points, whichever is greater	3.6% or 23% —> **23**%	10–15% of tariff lines (detailed products)
Least-developed	as above for both types	40% or 40 percentage points, whichever is greater	4.2% or 43% —> **43**%	No specific limit

(**Note**: for ordinary developing countries, the impact of the additional 15%/percentage points limit is to reduce the raised tariff to the single possibility of 18% instead of the 28%, 43% and 53% possibilities of the table for calculation B on page 5.)

"PACKAGE" PROPOSAL, 25 JULY 2008

These new proposals for the SSM were part of a compromise package discussed initially among seven ministers from Australia, Brazil, China, the EU, India, Japan, and the US.

E. Example 1, high bound rate, with 80% pre-Doha and 60% post-Doha bound rates

Country	**Trigger** Additional, for import rise	**Remedy (tariff increase)** ("%" of current bound rate added to pre-Doha bound rate, "percentage points" above the pre-Doha bound rate)	**Eg, 80% pre-Doha, 60% current bound. Tariff limited to ...**	**Limit** in each period
Developing	40%	15% or 15 percentage points, whichever is greater	89% or 95% —> **95**%	2.5% of tariff lines (detailed products)

(**Note**: here, with a 50% applied rate and a 40% trigger, the only instance when the Pre-Doha bound rate could be exceeded would be with the over 35% trigger in calculation A on page 4, now increased to over-40%, and the 100% tariff would be forced down to 95%.)

F. Example 2, low bound rate, with 3% bound and applied rates

Country	**Trigger** Additional, for import rise	**Remedy (tariff increase)** ("%" of current bound rate added to pre-Doha bound rate, "percentage points" above the pre-Doha bound rate)	**Eg, 3% pre-Doha, and current bound. Tariff limited to …**	**Limit** in each period
Developing	40%	15% or 15 percentage points, whichever is greater	3.45% or 18% —> **18**%	2.5% of tariff lines (detailed products)

(**Note**: here, the impact of the minimum 40% import surge and the 15% or 15 percentage points limit is to reduce the raised tariff to the single possibility of 18% instead of the 53% of the table for calculation B on page 5.)

G-33 & CO, 27 JULY

G. Example 1, high bound rate, with 60% post-Doha bound rate and 50% applied tariff

Country	**Trigger** Import rise	**Remedy (tariff increase)** ("%" of current bound rate added to current applied rate, "percentage points" from current applied rate)	**Eg, 60% bound, 50% applied. Tariff raised to …**	**Limit** in each period
Developing	three levels, as above	30% or 30 percentage points, whichever is greater	68% or 80% —> **80**%	7% of tariff lines (detailed products)
Small and vulnerable	three levels, as above	75% or 75 percentage points, whichever is greater	95% or 125% —> **125**%	30% of tariff lines (detailed products)
Least-developed	three levels, as above	100% or 100 percentage points, whichever is greater	110% or 150% —> **150**%	No specific limit

H. Example 2, low bound rate, with 3% post-Doha bound rate and applied tariff

Country	**Trigger** Import rise	**Remedy (tariff increase)** ("%" of current bound rate added to current applied rate, "percentage points" from current applied rate)	**Eg, 3% bound and applied. Tariff raised to …**	**Limit** in each period
Developing	three levels, as above	30% or 30 percentage points, whichever is greater	3.9% or 33% —> **33**%	7% of tariff lines (detailed products)
Small and vulnerable	three levels, as above	75% or 75 percentage points, whichever is greater	5.25% or 78% —> **78**%	30% of tariff lines (detailed products)
Least-developed	three levels, as above	100% or 100 percentage points, whichever is greater	6% or 103% —> **103**%	No specific limit