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Special Safeguard Mechanism for Agriculture: Implications for Developing Members at the WTO

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ABHIJIT DAS, SACHIN KUMAR SHARMA, RAIHAN AKHTER, TEESTA LAHIRI.

ABSTRACT[1]

With rising levels of food and livelihood insecurity among poor farmers, many developing members at the WTO are demanding special safeguard mechanism (SSM) for shielding their agriculture from import surges and price declines. Most of developing members do not have any trade instrument under the WTO to address it except by increasing the applied tariff to bound level. Similar to special agricultural safeguards (SSGs) which is available only to few members, SSM seeks to provide flexibility to developing members to breach the bound tariff in special cases of import surges and price dips in order to minimize its adverse impact. In this context, this study identifies the agricultural products facing import surges in selected developing members namely Ghana, India, Indonesia, Namibia, Philippines, Senegal, Sri Lanka, and Turkey. The uniqueness of this study is derived from the fact that it also evaluates the policy space available to selected members on these tariff lines in terms of tariff overhang under their existing schedules as well as proposed tariff reductions under agriculture negotiations. Beside this, it critically scrutinizes various issues such as cross-check conditions, triggers and remedies in order to highlight the sensitivities of developing members in accessibility, effectiveness, and other technical aspects of this mechanism. The study identifies some of the provisions contained in the most recent version of the negotiating texts which could render the SSM an ineffective policy instrument and difficult to operationalise.

Keywords: Agreement on Agriculture, Special Safeguard, Special Safeguard, Negotiations, WTO, Doha Round, Import Surge

JEL Classification: F13, F14, F17, Q17

[1]Views are personal.

EXECUTIVE SUMMARY

Background:

- The agriculture sector has an important role to play in the endeavour of WTO members in achieving the Sustainable Development Goals (SDGs) by 2030. However, most of the farmers in developing members are low-income or resource-poor and face unfair import competition from highly subsidised production in developed countries.
- Under the WTO agreements, apart from raising applied tariff on a concerned agricultural product to the bound level, most developing members do not have any other practical policy instrument to minimise the harmful impacts of import surges and price dips. In case a developing member has a low tariff overhang, that is, the difference between bound and applied tariffs is low, it becomes difficult for the member to address adverse impacts of import surges and price declines of a concerned product.
- To address this problem, many developing members are demanding a Special Safeguard Mechanism (SSM), similar to Special Agricultural Safeguards (SSGs) under the Agreement on Agriculture (AoA), to counter the import surges and price dips and its resultant adverse impact on domestic producers of agricultural products.
- It is to be noted that the AoA allows only 39 WTO members the right to increase the tariff above the bound level on certain agricultural products which experience import surges or price depressions by using SSG.
- Almost all developed members have the flexibility to protect their farmers through SSG, while most developing members do not have this right. For developing members, limiting the negative impact of import surges on domestic price, livelihood and farm income is of paramount importance. This is the central reason for developing members, especially the G33, seeking Price-based (P-SSM) and Volume-based (V-SSM) SSM as a part of special and differential treatment in the Doha Round.
- Over the years, various proposals and draft modalities especially the Revised Draft Modalities text of December 2008 (Rev.4 Text) and the Supplementary Text in 2008, highlighting the need, importance and technical aspects of the SSM have been intensely discussed by the members. However, this issue has proved to be extremely fractious. While some members have argued that SSM can be used as a protectionist measure, the G33 advocates the SSM on the ground of ensuring food and livelihood security.

- In this context, the overall objective of this study is to critically examine the need for SSM in the developing members by assessing the import surges in Ghana, India, Indonesia, Namibia, Philippines, Senegal, Sri Lanka, and Turkey.
- This paper seeks to address the following key questions: (i) whether selected developing members have faced import surges in agriculture products; (ii) did these members have adequate tariff policy space to minimise the adverse effects of import surges; (iii) how would tariff reductions under agricultural negotiations for market access affect the ability of developing members to address surge in imports of agricultural products; (iv) how do some of the conditions proposed for SSM compare with corresponding provisions in SSG, and affect the ability of developing countries to address import surges and price dips effectively through recourse to SSM.

Methodology

- This study adopts economic-legal tools to assess the need for SSM and to analyse the provisions on it, as contained in the Rev.4 Text and the Supplementary Text. Given the similarities between the nature of SSG and SSM, this paper also highlights the various operational difficulties faced by entitled developing members in using SSG. This draws lessons for making the V-SSM and P-SSM more accessible, effective and operational to deal with import surges.
- On the question of the need for the SSM for the developing members, this study has analyzed the import volume of agricultural goods in selected members. It identifies import surge if current import is more than 110 percent of the base import. After identifying the products showing an import surge, this study mapped the policy space to tackle import surges both under the existing tariff schedule, and the tariff-reductions proposed in the Doha negotiations.
- This paper further analyses the Rev.4 Text and the Supplementary Text, to identify provisions, if any, that might adversely affect the ability of developing countries to effectively use this policy instrument, and helps highlight the economic implications of various conditionalities of the SSM proposed in several modalities.

Experience of Developing Members in using SSGs

- Some members, such as Switzerland, Norway, Botswana, Namibia, Mexico, Venezuela and EU can invoke SSGs on more than 30 percent of tariff lines.

- P-SSG can be applied any time during the year on specific import consignments in which the import price is below the target price. There is a graduated increasing scale of the additional duty as the import price declines. On the other hand, V-SSG is applicable in respect of all imports of the product after the relevant volume threshold has been reached.
- Developing members face problems operationalizing V-SSG because they have a limited capacity to monitor and collect contemporary import data across all ports in a timely manner, which is a condition necessary for invoking the measures. Moreover, since developing members often do not have timely data on domestic consumption, for them the V-SSG trigger is set very high.
- P-SSG can be invoked by an entitled member on any shipment of a designated product when its current import price expressed in domestic currency falls by 10 percent or more below the trigger price. The trigger price is set as the average 1986-88 import price of the concerned product. While easier to invoke than the V-SSG, entitled developing members often find it difficult to use, as the trigger price for invoking P-SSG is based on the average import price during 1986-1988, which makes even the P-SSG trigger inaccessible to members who have faced inflation and depreciating currencies. The Philippines is a prime example of this phenomena.
- Despite having the right to use the SSG, entitled developing members find themselves unable to use them. Thus, even SSG-entitled developing members like Indonesia, Namibia and Philippines, are also strong supporters of the demand for SSM.

The Need for Volume-Based SSM

- The results of this study show that all the eight select members have experienced import surges on more than 200 agricultural tariff lines in at least one year during the period.
- Import surges may not necessitate a member to invoke V-SSM on the concerned product if the member has adequate policy space under the existing tariff commitments to increase the applied tariff up to the bound rate to protect its domestic producers.
- It is found that selected members have faced import surges in a large number of tariff lines. However, when policy space in terms of the tariff overhang at less than 20 percent is considered, Sri Lanka, Turkey and Namibia lack necessary policy space for a significant number of tariff lines experiencing import surge.
- On the other hand, when the impact of the proposed tariff-reduction disciplines under Doha round is taken into account, most of the select members, except Ghana, face a substantial

increase in the number of tariff lines that would face inadequate policy space to address import surges, making the need for SSM even more relevant. It may be noted that the G-33 has stated that SSM is a critical instrument for developing members and hence, it should not be linked with any of Doha round tariff reduction disciplines.

- The analysis clearly highlights that developing members have been experiencing import surges in agricultural products and do not have adequate policy space under their existing tariff schedule to address the adverse impact. The policy space would be further constrained in case the SSM is linked with tariff-reduction commitments in market access negotiations.

Analysis of the Proposed Modalities:

- The Rev. 4 Text states that the application of measures of both P-SSM and V-SSM shall be on the basis of MFN trade only. Since most developing countries do not capture trade data separately for MFN trade and preferential trade, they shall face problems in invoking both the types of measures.
- For V-SSM, the Rev. 4 Text states that before imposing a V-SSM, the importing country would have an obligation to check whether imports are negligible when compared with domestic production and consumption, which further limits its application. Moreover, a restriction on the number of products on which V-SSG can be simultaneously applied, and the bar on unlimited consecutive applications of the V-SSM in the Rev. 4 Text makes the provisions on V-SSM more restrictive than the provisions in V-SSG.
- Moreover, there are severe conditions on the application of V-SSM in case tariffs, including the additional duty on account of the SSM, breach the pre-Doha bound rate. For instance, as per the Rev.4 Text, a developing member cannot breach the pre-Doha bound rate in more than 2-6 tariff lines. Additionally, the maximum increase over the pre-Doha bound rate cannot be more than 15 percentage points.
- Another restrictive condition in the SSM modalities is that of pro-rating, which increases the trigger levels to invoke V-SSM while lowering the level of remedy applicable.
- Compared to P-SSG, which can be triggered if the price of a consignment falls below the base price, the P-SSM would be invoked if the price dips below 85 per cent of the average monthly MFN-sourced price for that product for the most recent three-year period preceding the year of importation for which data are available. Moreover, the P-SSM cannot be imposed even if the price of an import consignment is below the trigger price, if the volume of imports of the product is declining. The requirement to calculate the price-

trigger based on MFN-sourced price and the low trigger level of a price dip to 85 per-cent, along with the condition of a volume cross-check makes the P-SSM more onerous than the existing P-SSG.

- From the above analysis of the proposed modalities, the paper concludes that additional conditions under the Rev.4 Text and the Supplementary Text will curtail the utility and effectiveness of SSM for developing members in dealing import surges.

Concluding Words

- Farmers in developing members are adversely affected by high price fluctuations in the international market, which is transmitted to domestic prices through international trade. The sharp, excessive and sudden volatilities threaten the livelihood of millions of farmers and make farming unviable and unprofitable, which results in farmers' distress. It is in this context that developing members are seeking the SSM for shielding their farmers from import surges and price depression.
- However, as brought out clearly in this study, SSM as a policy instrument would be almost inoperative, if it is based on the conditions specified in the documents that were the basis of negotiations during the Doha Round of multilateral trade negotiations.
- Overall, it would not be unfair to state that conditions sought to be imposed on access to SSM and the remedy, as contained in the negotiating texts at the WTO, is not aligned with the policy instrument envisaged by the developing members for countering import surges and price dips.
- Thus, it is essential that the issue of SSM should not be seen from the angle of naked commercial interest, but as a crucial tool in achieving various SDGs including eradication of hunger and poverty, as well as doubling agricultural productivity. Therefore, it is imperative that all members engage constructively for reconciling their differences on various aspects of SSM to make the instrument accessible, effective and non-burdensome.

SPECIAL SAFEGUARD MECHANISM FOR AGRICULTURE: IMPLICATIONS FOR DEVELOPING MEMBERS AT THE WTO:

SECTION 1: INTRODUCTION

The agriculture sector has an important role to play in the endeavour of WTO members in achieving the Sustainable Development Goals (SDGs) by 2030. Within the SDGs, eradicating poverty and hunger, along with increasing agricultural productivity and incomes of small-scale farmers are some of the daunting challenges confronting the developing members. As the number of people suffering from hunger increased from 784 million to 821 million during 2015-2017 (FAO, 2019), the challenge for developing members to address food security has become more overwhelming. Another facet of the challenge related to achieving the SDGs is that most of the farmers in developing members are low-income or resource-poor with an average landholding size of less than two hectares (UNGA, 2008; WTO, 2020). What tilts the playing field further against the farmers in most developing countries is that they have to face unfair import competition from highly subsidised production in developed countries (Sharma, 2018; Bernhardt, 2014). To address this crucial concern, many developing members, particularly those who are part of a coalition called G33[2], have been seeking a policy instrument called Special Safeguard Mechanism (SSM) to counter the adverse impact on domestic agriculture of import surges and price dips. (Rosset, 2006). Despite repeated pronouncement of WTO members to establish an SSM, progress on this issue in the multilateral trade negotiations has, at best, been tardy. Why is the issue of SSM still relevant for developing members, and the reasons for divergent positions of members, need a careful examination.

Most of the developing members have no practical policy instrument to minimise the harmful impacts caused by influx of imports and decline in prices of imported agricultural products except by raising their applied tariff on the concerned product to the bound level, which is the maximum tariff a member can impose (Stevens, 2004; Sharma, 2007). In case a developing member has a low tariff overhang, that is, the difference between bound and applied tariffs is low, it would be difficult for the member to tackle import surges and price dips of a concerned product. In that situation, flooding of highly subsidised agricultural imports can displace local products from the domestic market of the member, thus adversely affecting the livelihood and

[2]The G33 is a coalition of 47 developing countries at the WTO which has been raising issue related to food security, SSM, Special products and, special and differential treatment for the developing countries in agriculture negotiations.

farm income of farmers (Bernal, 2005; Tongeren, 2004). No doubt, trade remedial instruments in the form of anti-dumping duties, countervailing duties and safeguards duties are available to an importing country to counter dumping, subsides and import surges respectively. However, seeking recourse to these trade remedial duties requires "injury" to be established in respect of the domestic producers of the concerned product. In order to prove injury due to dumping, subsidisation or import surges, detailed and timely data on profit, market share, output, return on investment, among others, are required. Given the large number of poor farmers in developing countries, it is extremely difficult to collect timely data; thereby rendering these policy options ineffective in dealing with the import surges and price dips of agricultural goods.

In addition to the three trade remedial instruments mentioned above, the Agreement on Agriculture (AoA) allows 39 WTO members to impose tariffs in the form of Special Safeguards (SSGs) to increase the tariff above the bound level on certain agricultural products which experience import surges or price depressions. To impose SSGs, these selected members need not prove injury to their producers. It is to be noted that before and during the Uruguay Round (UR), many countries used to impose various forms of import measures such as quantitative import restrictions, variable import levies, minimum import prices etc., to accord additional protection to their agriculture sector (Avery,1992; Gifford,1990). Those countries, which were not resorting to such measures, did not acquire the right to impose SSG.

The WTO members who are entitled members to use SSG, can impose volume-based SSG (V-SSG) or price-based SSG (P-SSG) to mitigate the adverse impact of import surges or price declines respectively. Further, the percentage of tariff lines on which SSG can be invoked is different for each member. To illustrate, Switzerland (53%), Norway (49%), Botswana (40%), EU (31%), among others, can impose SSG duty on a significant percentage of agricultural tariff lines. Almost all developed members have the flexibility to protect their farmers through SSG. On the other hand, majority of developing members do not have the right to invoke SSG. Apart from facing unfair competition from highly subsidised imports from the developed members, this is yet another way in which these developing countries have been disadvantaged in agricultural trade and multilateral trade rules.

Over the past decades price fluctuations in agriculture products due to import surges has been a matter of concern for the developing countries. At the micro level, price fluctuations impact incomes and livelihood of farmers resulting in adverse macro-level impacts on rural

development, employment and economic growth. (Maclaren, 2011; WTO, 2020**).** Therefore, limiting the negative impact of import surges on domestic price, livelihood and farm income is of paramount importance for the developing countries. This provides support for the demand of developing countries, especially by the G33, for SSM as a Special and Differential Treatment in agriculture negotiations under the Doha Round. The G33 is seeking both volume-based SSM (V-SSM) and price-based SSM (P-SSM) to tackle import surges and price dips respectively. This demand was recognized in 'July Framework' in 2004 and the Hong-Kong Ministerial Declaration in 2005 respectively (WTO, 2014). Over the years, various proposals and draft modalities especially the Revised Draft Modalities text in 2008[3] (referred to as the Rev.4 Text) (WTO, 2008a) and the Supplementary Text (WTO, 2008b), highlighting the need, importance and technical aspects of the SSM have been intensely discussed by the WTO members. Presently, members are negotiating SSM in dedicated sessions of the Committee on Agriculture as per mandate of Nairobi Ministerial Decision in 2015 (WTO, 2015).

The issue of SSM has proved to be extremely fractious and divisive during the Doha Round of trade negotiations. From the developing members' perspective, SSM should be simple, accessible, operable, and effective in order to address their multifarious socio-economic needs (WTO, 2016; WTO, 2020). Some members have argued that SSM can be used as a protectionist measure to reverse the process of trade liberalisation and will have detrimental effects on normal trade (WTO, 2006; Ivanic, 2014). On the other hand, the G33 has advocated the SSM on the ground of ensuring food and livelihood security (WTO, 2020). Further, it is of the view that this measure will be operationalized only in special cases of import surges or price decline. This group argues that it is wrong to evaluate this issue only from the prism of commercial interest. Instead, through this mechanism, they seek adequate operational flexibilities to respond instantaneously to import surges and price declines (WTO, 2010a; WTO 2010c).

In this background, the overall objective of this study is to critically examine the need for the SSM in context of agricultural products (commonly referred to as tariff lines) facing import surges in the following developing members: Ghana, India, Indonesia, Namibia, Philippines, Senegal, Sri Lanka, and Turkey. More specifically, this paper seeks to address the following

[3]The Revised Draft Modalities text is based on the negotiations and consultations in various formal and informal meetings as well as special sessions of Committee on Agriculture conducted as per the Doha mandate.

key questions: (i) whether selected developing members have faced import surges in agriculture products; (ii) did these members have adequate tariff policy space to minimise the adverse effects of import surges; (iii) how would tariff reductions under agricultural negotiations for market access affect the ability of developing members to address surge in imports of agricultural products; (iv) how do some of the conditions proposed for SSM compare with corresponding provisions in SSG, and affect the ability of developing countries to address import surges and price dips through recourse to SSM.

Notwithstanding the importance of this issue for many developing countries, there is little analysis in literature on the need for developing countries to have recourse to SSM. This study seeks to fill this gap, particularly in respect of import surges. Another contribution of this study is that it undertakes an economic-legal examination of the most recent version of the negotiating text on this issue and seeks to assess its implications for developing countries in effectively countering surges and price dips in agriculture imports.

This study is divided into six sections. Section 2 explains the methodology of the study, while Section 3 discusses the issues related to SSGs. Section 4 examines the need for volume-based SSM, and Section 5 discusses various issues related to the effectiveness of the volume-based and price-based SSM in the negotiations. The last section summarises the finding of the study.

SECTION 2: METHODOLOGY

This study adopts economic-legal tools to assess the need for the SSM and to analyse the provisions on it, as contained in the Rev.4 and the Supplementary Text. Given the similarity between the nature of SSG and SSM, this paper also highlights the various operational difficulties in using SSGs faced by entitled developing members, in order to make the V-SSM and P-SSM more accessible, effective and operational to deal with import surges and price declines.

On the question of the need for the SSM for the developing members, this study has analyzed the import volume of agricultural goods in selected members. To this end, in respect of each selected member, the most recent data at six digits based on HS-2007 classification has been extracted from the World Integrated Trade Solutions (WITS) database. It is to be noted that import data for Ghana and the Philippines are not available under WITS for a uniform base period. As a proxy, the world's exports to both countries have been used as mirror data for this exercise. The years for which import surges have been identified, along with basic tariff information on select members, have been given in column 2 of **Table 1**.

Table 1: Basic Tariff Information and years covered for selected members

Member	Years of import surge	Average bound tariff (%)	Average applied tariff in 2018 (%)
Ghana	2016-18	96.6	15.9
India	2016-18	113.1	38.8
Indonesia	2015-17	47.1	8.6
Namibia	2016-18	39.1	8.7
Philippines	2016-18	35.0	9.8
Senegal	2016-18	29.8	15.8
Sri Lanka	2015-17	50.1	27.2
Turkey	2015-16	61.8	41.8

Source: Authors' compilation based on 1. WITS, World Bank; 2. Tariff Download Facility, WTO.

An important aspect of identifying the import surge is the percentage increase of current import volume in comparison to base import volume. In this study, as well as in various proposals and draft modalities, the base import volume is determined based on moving average of imports in the preceding three years period (WTO, 2008a). Next, what percentage increase above the base import should be treated as an import surge for triggering V-SSM? This issue is important as

higher the volume trigger for imposing volume-based SSM (V-SSM), lower is the likelihood of the measure being invoked and vice-versa.

The Rev.4 Text permits V-SSM to be invoked if import of a product in the current year is at least 110 percent of base import (**Table 2**). In such a situation of import surge, additional duties as V-SSM can be imposed, going beyond the bound rate for the product. In line with the Rev. 4 Text, this study identifies an import surge if the volume of current import is more than 110 percent of base import. Furthermore, to highlight the implications of different trigger levels, this study has also analyzed the import surge of wheat in Senegal as a case study.

Table 2: Trigger and remedy for Volume-based SSM

Tiers	Volume of import as a % of base import volume	Maximum additional duty applicable on the bound rate (%)
A	110-115	25
B	115-135	40
C	>135	50

Source: Authors' compilation based on Para 133, the Rev. 4 Text (WTO, 2008a)

After identifying the products showing an import surge, the next question to be considered is whether the member has adequate policy space to impose tariffs to counter the import surge. For this study, policy space is considered to be adequate if the difference between bound rate and the applied customs duty on the product is more than twenty percentage points. For this exercise, tariff data was obtained from the tariff download facility of the WTO and mapped with the above-mentioned data on agriculture lines extracted from WITS. As bound and applied tariff data for many members are not available at HS 2007, therefore, it was mapped to import data based on concordance tables available in WITS. The end result of this exercise is to identify the specific products which meet the twin criteria of witnessing an import surge, as well as the gap between bound rate and applied customs duty being less than 20 percentage points. It is to be noted that for few selected members, import data as well as tariff information are not available for the same years. Hence, this analysis has been done based on the latest available data on import and tariff as given in **Table 1**.

It is relevant to observe that some of the negotiating proposals at the WTO have linked SSM with market access negotiations (WTO, 2008a). It is, therefore, relevant to undertake another simulation for identifying the number of tariff lines with import surges and inadequate tariff policy flexibility, but with bound tariffs reduced in accordance what was being discussed at the

negotiating table. Under the market access negotiations in the Doha Round, it was proposed to cut bound tariffs on agricultural lines based on a tiered approach (**Table 3**). In case such reductions were to become applicable, it will reduce bound rates on agriculture products, thereby shrinking the policy space available to countries to counter import surges. The Rev.4 Text prescribes a system of tiered tariff reduction formulas for members as given in **Table 3**. New bound rates are calculated by reducing the Uruguay Round bound rates in accordance with the tiered reduction formula under Rev.4. The new bound rates are used to assess the adequacy of tariff policy flexibility under the second simulation. Thereafter, the import surge is mapped with the gap between the new bound and applied duty to identify the number of agricultural products where tariff overhang is less than 20 percentage points. It is to be noted that in a few agricultural tariff lines for some selected members, bound and applied tariff is non *ad-valorem*. To examine the policy space under the existing tariff schedule and proposed reductions under Doha round, these tariff lines have not been considered due to difficulties in calculating policy gaps on such lines.

Table 3: Tariff reduction commitments for WTO members under the Rev. 4 Text

Developed members		**Developing members**	
Bound Duty	**Percentage Cut**	**Bound Duty**	**Percentage Cut**
0-20	50	0-30	33.3
20-50	57	30-80	38.0
50-75	64	80-130	42.7
>75	70	>130	46.7

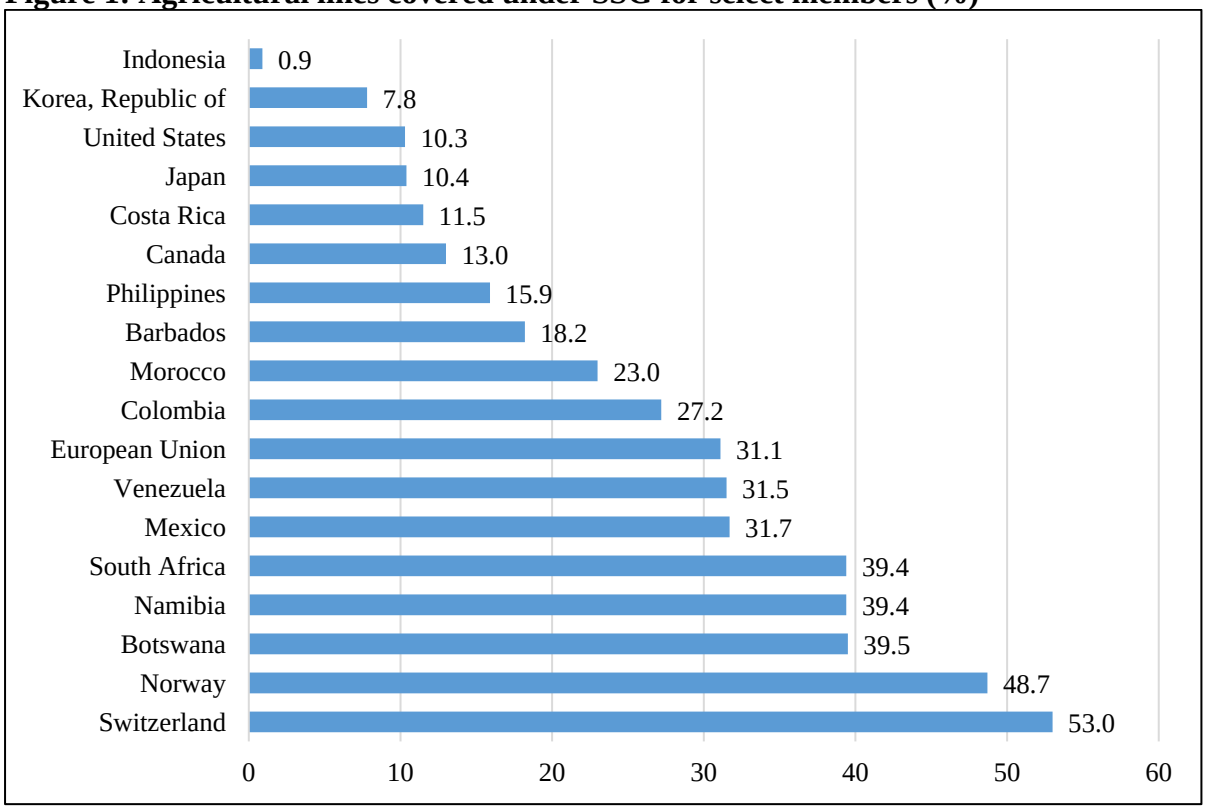
Source: Authors' compilation based on Para 61, 63 of the Rev. 4 Text (WTO, 2008a)

After assessing the need of developing countries for having recourse to SSM, the study undertakes an economic-legal analysis of Rev.4, and the Supplementary Text, to identify provisions, if any, that might adversely affect the ability of developing countries to effectively use this policy instrument. Relevant literature, proposals and descriptive statistics have been used at appropriate places to highlight the importance of SSM for developing members.

SECTION 3: SPECIAL SAFEGUARDS MEASURES - EXPERIENCE OF DEVELOPING MEMBERS

In this section we briefly discuss some of the key features and conditions for invoking SSG, and the remedy available for countering import surges and dip in prices. Thereafter, the trend in use of SSGs is discussed, particularly from the perspective of developing countries that have the entitlement to seek recourse to it. As the key features, precedent conditions and remedies are different for V-SSG and P-SSG, discussions are undertaken separately for the two categories of the measures.

Figure 1: Agricultural lines covered under SSG for select members (%)



Source: Authors' compilation based on WTO Doc number TN/AG/S/29/Rev.1 (WTO, 2017a)

As mentioned earlier, 39 WTO members have the right to seek recourse to P-SSG and V-SSG under the AoA (Appendix **Table A**). Figure1 provides details of the percentage of products on which SSG can be invoked by various countries. Some members, such as Switzerland, Norway, Botswana, Namibia, Mexico, Venezuela and EU can invoke SSGs on more than 30 percent of tariff lines. P-SSGs can be applied any time during the year on specific import consignments in which the import price is below the target price. There is a graduated increasing scale of the

additional duty as the import price declines. On the other hand, V-SSGs are applicable in respect of all imports of the product after the relevant volume threshold has been reached.

SECTION 3.1: VOLUME-BASED SSG (V-SSG)

To invoke V-SSG, a member needs to consider (a) market access opportunities (MAO), and (b) trigger level. MAO is based on imports as a percentage of the corresponding domestic consumption in three preceding years for which data is available. Trigger level for import surge depends on the sum of two components: (a) average quantity of imports during the three preceding years (M), and (b) absolute volume change in domestic consumption in the most recent year compared to the preceding year (Δ C). In a scenario where data on domestic consumption is not available, the absolute trigger is fixed at 125 percent of average quantity of imports during the three preceding years. Further, the trigger level is categorized based on the MAO as given in **Table 4**. For instance, if MAO for a member is greater than 30 percent, trigger level is equal to 105 percent of M plus Δ C. In case MAO is less than 30 percent, a high trigger level is used which would make it relatively difficult to invoke SSG. Once V-SSG is invoked, maximum duty that can be imposed by a member cannot exceed one third of the level of the ordinary custom duties in that year. The measure can only be maintained until the end of the year in which it was imposed.

Table 4: Methodology to calculate Volume-based SSG trigger

Tiers	Market Access Opportunities	X	Y	Trigger level = X+Y
	%	Absolute unit: Ton or Kg or litre as applicable		
A	< 10	125% of M	Δ C	X + Δ C
B	10-20	110% of M	Δ C	X + Δ C
C	>30	105% of M	Δ C	X + Δ C

Source: Authors' compilation based on Article 5.4 of the AoA

On the usage, it is found that incidence of V-SSG has increased from 43 in 2004 to 89 measures in 2015. Out of 528 V-SSG measures invoked during 2004-2015, Chinese Taipei accounted for three-quarters of them. Philippines invoked V-SSG on only one tariff line related to chicken. Most developing countries that otherwise have the right to invoke V-SSG, have been unable to take recourse to this measure. This is perhaps explained by the limited capacity available in most developing countries to monitor and collect contemporary import data across all ports in a timely manner, which is a condition necessary for invoking a V- SSG (Gifford and Montmayor, 2008). The administrative costs involved with the collection of this data are

also considerably high (Sharma, 2007). Developing members often find it difficult to gather data on domestic consumption and therefore, their volume trigger is automatically set at 125 percent which is more difficult to breach (Harris, 2008). Is it a mere conjecture that inadequate capacity to collect import data in a timely manner has hampered the ability of developing countries to impose V-SSG, or is there some empirical evidence in support of it? During 1995-2003, Barbados did not impose V-SSG on tomatoes (HS 70200), eggplant (HS 70930), pork sausage (HS 160100), preserved meat (HS 160249), although the condition for imposition of V-SSG was fulfilled. What lends further strength to the argument that developing countries in general do not have the capacity to impose volume-based measures, is the fact that Barbados imposed P-SSG on the same products. Similarly, Philippines had to resort to P-SSG on chicken livers (HS 02071430), preserved chicken meat (HS 16023290), even though the criteria for imposition of V-SSG were met and both products faced an import surge of more than 125% in 2016.

SECTION 3.2: PRICE-BASED SSG (P-SSG)

P-SSG can be invoked by an entitled member on any shipment of designated product when its current import price expressed in domestic currency falls by 10 percent or more below the trigger price. The trigger price is set as the average 1986-88 import price of the concerned product. The additional rate of duty to be imposed depends on the difference between the trigger price and the actual market price of the product (Article 5.5). The current import price should be exclusive of custom duty and taxes as clarified by the Panel in the EC-Poultry case (WTO, 1998). The experience of SSGs show that some members like Chinese Taipei first use P-SSG for a few months, and later use V-SSG when the actual import breaches the volume trigger (FAO, 2005; Halleart, 2005).

The usage of P-SSG has declined from 167 in 2004 to 82 measures in 2015. Out of the 1577 P-SSGs invoked by WTO members during 2004-2015, the US accounted for 654 (41%) of them. Other prominent users of P-SSG include the following: Chinese Taipei (379); EU (204); Barbados (160); and Japan (113). Korea (49) and Philippines (18) also invoked P-SSG. It is also relevant to note that during a single year, 2004, the US invoked P-SSG on 83 products.

Some developing countries, including Indonesia, Namibia and Philippines have the right to invoke SSG. However, these developing countries are also strong supporters of SSM. What

explains this situation? Indonesia's interest in SSM is easily understood as it can invoke SSG on less than 1 percent of agricultural products. The situation of Philippines is more complex and hence instructive. Despite having an entitlement to invoke SSG on 136 products, the maximum number of products on which Philippines invoked P-SSG during a single year in the entire period of 2004-2015 was five products (in 2015). One of the main reasons for this lies in the fact that the trigger price for invoking P-SSG is based on the average import price during 1986-1988. However, due to domestic inflation and depreciation of domestic currency, the import price in recent years has been significantly above the trigger price. For instance, the Philippines could not invoke the P-SSG on corn-seed and wheat in 2018 as the import prices of these products were much higher than the trigger prices. Consequently, Philippines is unable to use P-SSG, despite having the right to use it (**Table 5**).

Table 5: Comparison of import price (2018) with trigger and inflation adjusted trigger in Philippines

HS code	Description	Import price	Import price	Trigger price	Inflation index	Inflation adjusted trigger price
		US$/Kg	PHP/Kg	PHP/Kg	Base year 1986-88	PHP/Kg
10051000	Corn Seed	0.41	21.73	8.97	613.96	55.07
09012120	Coffee, roasted, not decaffeinated	3.27	172.35	134.11	613.96	823.38
11090000	Wheat Gluten	1.49	78.71	15.65	613.96	96.08

Source: Authors' calculation based on

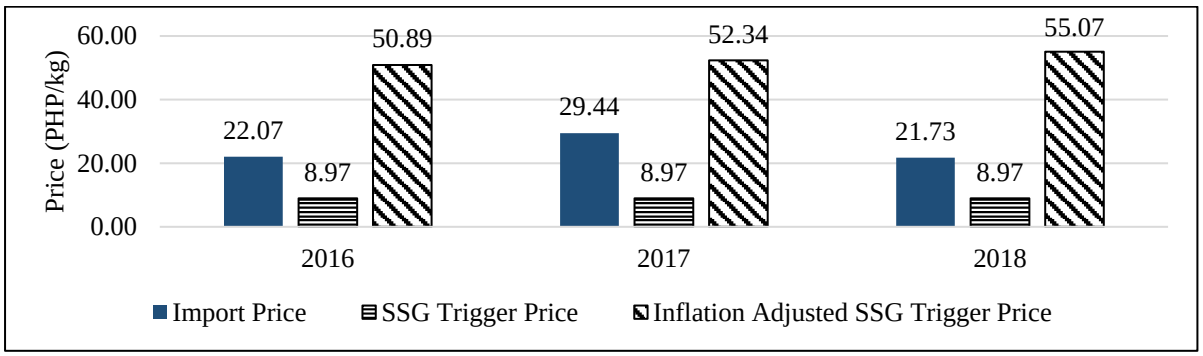
- Philippines' Schedule of Commitments on Market Access
- Tradeline Portal, Republic of Philippines
- Exchange rate for 2018 was PHP 52.66/US$
- Inflation index based on World Development Indicators, World Bank

In respect of corn-seed, the average import price of consignments during 2016-2018 was more than double the trigger price of PHP 8.97/kg. Hence Philippines could not have recourse to P-SSG for this product. However, if the trigger price is adjusted for inflation, then in each of these three years, the import price would have been 40%-50% below the inflation-adjusted trigger price (Figure 2). It is, therefore, not surprising that after 2015, Philippines has been seeking that P-SSG should cover 15 percent of agricultural tariff lines for the developing members and the trigger should be based on the average import price of the most recent three-year period for which data is available (WTO, 2017a).

Even though the members have divergent views on the continuation of the SSG in future, the experience of entitled developing members in using the SSG has a significant bearing on SSM

negotiations. In this context, it is to be noted that there is a uniform set of disciplines for seeking recourse to the SSG, irrespective of whether the additional duty breaches the bound rate existing prior to the Uruguay Round. The data for calculating import surge and price dips is based on total imports, and not confined to import data for non-preferential MFN trade. Beside this, there is no limit on the number of products on which the SSG can be simultaneously applied at any point in time in a year. In addition, an entitled member can apply SSG on the same product in successive years. Further, there is no requirement of any period of non-application, prior to the next application of the SSG measure on the same product. As we will discuss in Section 5, the above-mentioned flexibilities are sought to be curtailed in the SSM negotiations.

Figure 2: Import and trigger price of corn in Philippines



Source: Authors' calculation based on the following:

- Tradeline Philippines (http://www.tradelinephilippines.dti.gov.ph/web/tradeline-portal/trade-statistics.)
- FAO (Source: http://www.fao.org/faostat/en/#data/PE)
- WDI for Inflation
- WTO Doc No. TN/AG/S/29/Rev.1 (WTO, 2017a)

SECTION 4: EXAMINING IMPORT SURGES AND THE NEED FOR VOLUME-BASED SSM

In this section we seek to address the following crucial question: is there any evidence to suggest that some developing countries do not have adequate policy space to protect their agriculture from import surges? Linked with this, are two related definitional issues. First, when can it be said that an import surge has occurred; and second, how do we identify whether "adequate" policy space exists to counter import surges and depression in import prices of agricultural products? The first issue can be resolved by analysing the negotiating documents and identifying the threshold of imports above which a country can invoke V-SSM. As far as the second issue is concerned, for the purpose of this study, it has been assumed that adequate policy space exists if on a particular product the developing member can raise the applied customs duties by at least 20 percentage points.

In the remaining part of this section we first examine how the threshold of imports for determining whether V-SSM can be invoked matters. Thereafter, we undertake simulations to identify the number of products where imports surged in different years. Finally, we examine whether adequate policy space exists in the developing members to counter import surges under the existing tariff schedule as well as under tariff reduction as per the Rev.4.

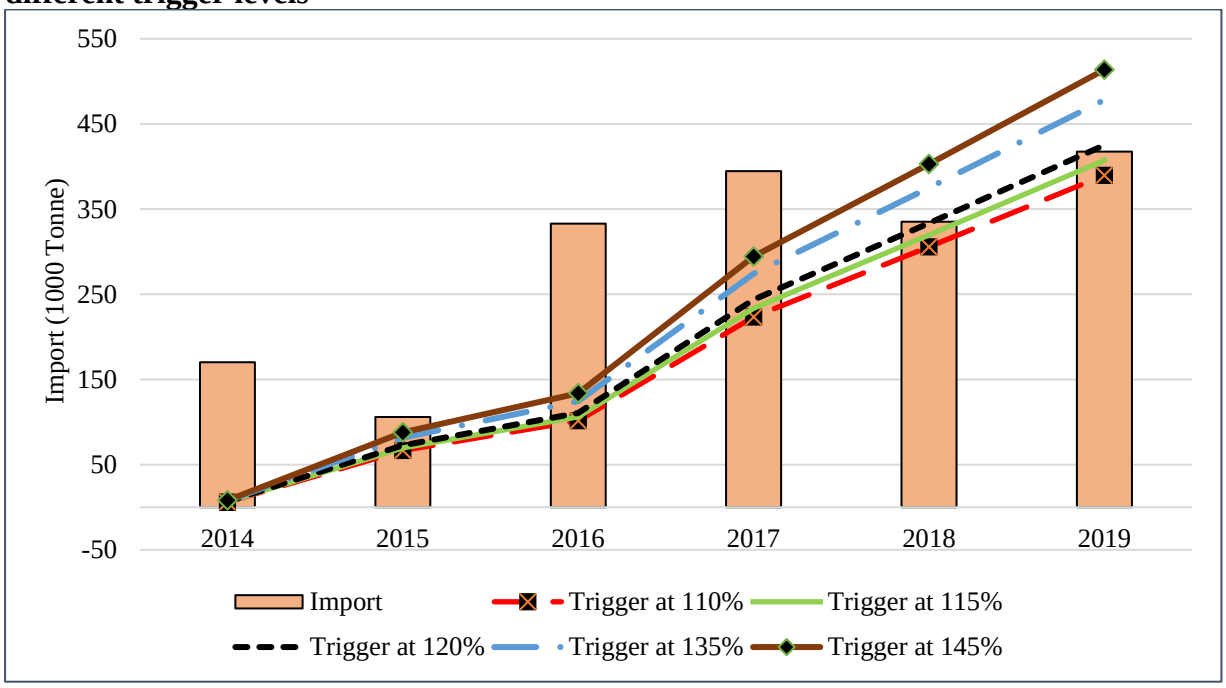
SECTION 4.1: HOW DOES THE LEVEL OF TRIGGER MATTER FOR ACCESS TO V-SSM?

Effectiveness of SSM in minimising the adverse impact of import surge depends on two factors: first, the import threshold (also called the trigger) which needs to be fulfilled in order to invoke SSM; and, second, the amount of SSM duty that can be imposed (also referred to as the available remedy). If the volume trigger for V-SSM is very high or the price trigger for P-SSM is very low, a developing country may not be able to have access to the SSM. There appears to be a consensus among WTO members that the trigger level for invoking V-SSM should be based on just one element - the average import volume in preceding three years (WTO, 2008a). This is also known as the ‘base imports". Higher the volume trigger, less likely is the possibility of invoking the V-SSM measure. It may be noted that unlike the V-SSG, V-SSM does not depend on MAO or any domestic consumption component.

The impact of trigger level on invoking V-SSM can be understood from an example - import of wheat in Senegal. Figure 3 shows that import in the current year (2019) was less than the

base volume if the trigger level is fixed at 120 percent and above. Therefore, in 2019, Senegal would be unable to use V-SSM if trigger level is set at 120 percent and above. However, if the import trigger were to be 110 percent, then on the basis of current import, Senegal could invoke V-SSM in 2019. Thus, a high level of trigger would make V-SSM inaccessible for developing countries. Under the provision contained in the Rev. 4 Text, a developing member can impose additional tariff above the applicable bound tariff, if the current import volume exceeds base volume by at least 110 percent of (**Table 2**).

Figure 3: Comparison of current import of wheat in Senegal with base level of import at different trigger levels



Source: Authors' calculation based on WITS data

SECTION 4.2- ANALYSIS OF IMPORT SURGE AND TARIFF POLICY SPACE

In order to determine whether a product has experienced an import surge in a particular year, the actual import volume in that year is compared with the base imports, which is the average volume of imports in the three preceding years. If the import in a particular year is 110 percent of the base import, then the product would be determined to have witnessed an import surge. After identifying products experiencing import surges, it is pertinent to examine whether the country has adequate policy space under its existing tariff commitments for raising the applied customs duty to counter the import surge. Adequate policy space would be deemed to exist if the gap between the bound rate for the product and the customs duty applicable on it exceeds twenty percentage points. This analysis is undertaken for the following eight countries:

Ghana, India, Indonesia, Namibia, Philippines, Senegal, Sri Lanka and Turkey. For India, Kenya, Namibia, Philippines and Senegal, the years 2016-2018 constituted the three-year period. For the other countries different years had to be taken, on account of either the trade data or applied customs duty not being available for 2016-2018.

Results show that all the eight select members experienced import surges on more than 200 agricultural tariff lines in at least one year during the period mentioned in **Table 6**. Some of these products are sensitive in developing members due to their role in livelihood, farm income and food security. For instance, Ghana, India, Senegal and Philippines experienced an import surge with more than 200 percent of base import for maize, cotton, wheat and corn respectively. Once a member invokes V-SSM on an agriculture product, if provisions of the Rev. 4 Text had been implemented, it could impose additional tariff according to trigger level given in **Table 3**.

Import surge *per* se may not necessitate a member to invoke V-SSM on the concerned product. It is possible that a member has adequate policy space under the existing tariff commitments to increase the applied tariff up to the bound rate to protect its domestic producers. Further, it may also happen that due to domestic demand and supply gap, a member may not raise tariffs up to the bound level to protect the consumers' interest. For example, India experienced 262 percent import surge on linseed oil in 2017, whereas the applied duty was 100 percent in comparison to bound duty at 300 percent. While data is readily available for assessing adequacy of policy space in respect of tariffs, it may not be possible to simulate the demand-supply gap for all the products. Thus, our analysis is confined to assessing how adequacy of policy space, or lack of it, has an impact on the number of surge products on which V-SSM might be required to be imposed. In our analysis, we do not take demand-supply gaps into consideration.

It is found that selected members have faced import surges in a large number of agricultural products, but the number of products declines sharply for some members such as Ghana, India, Indonesia, when policy space in terms of the tariff overhang at less than 20 percent is considered. For example, India experienced an import surge in 348 products in 2018, whereas it faced lack of policy space only in 60 products. On the other hand, Sri Lanka, Turkey and Namibia lack policy space for a significant number of products experiencing import surge (**Table 6**).

The first simulation discussed above has been undertaken on the basis of bound tariffs after complete implementation of the obligations under the Uruguay Round. It may be noted that G-33 has stated that SSM is a critical instrument for developing members and hence, it should not be linked with any of Doha round tariff reduction disciplines (WTO, 2014). However, the developed countries and some developing countries with strong export interest in agriculture have taken a stand that any further progress in negotiations on SSM can be undertaken only in the context of larger market access negotiations involving reduction in bound rates for agricultural products. Reduction in bound tariffs is likely to constrict the flexibility of developing countries to counter import surges. Thus, from an analytical perspective it becomes relevant to examine the extent to which the number of products with inadequate policy space would increase, if developing countries were to reduce their bound rates in accordance with the formula for tiered reduction of tariffs as contained in the Rev. 4 Text (**Table 3**). While this modalities text did not require the least developed countries to reduce tariffs, in our simulation the bound tariffs for Senegal, an LDC, has been reduced along the lines of the tiered reduction formula for developing members.

Table 6: Import surge on number of agricultural tariff lines along with policy space under existing tariff commitments (Total agriculture tariff lines =663 lines)

Member	Year	Tariff lines with import surge	Tariff lines with Policy Space < 20%	Year	Tariff lines with import surge	Tariff lines with Policy Space < 20%	Year	Tariff lines with import surge	Tariff lines with Policy Space < 20%
Ghana	2010	262	3	2012	285	5	2013	280	7
India	2016	243	42	2017	258	36	2018	348	60
Indonesia	2015	191	18	2016	263	22	2017	341	27
Namibia	2016	242	97	2017	245	103	2018	173	64
Philippines	2016	279	83	2017	275	77	2018	304	87
Senegal	2016	224	32	2017	234	40	2018	224	37
Sri Lanka	2015	292	4	2016	234	135	2017	264	149
Turkey	2015	277	209	2016	226	171	2017	259	N/A

Source: Authors' calculation based on WITS and Tariff Download facility, WTO.

After applying the reduction in bound rates in accordance with Rev.4 text, **Table 7** provides details of the number of products with import surge on which the policy space would be inadequate. In comparison with the previous simulation, except for Ghana, in respect of other countries there is a substantial increase in the number of products that would face inadequate policy space in order to address import surges. The need for these countries to have access to

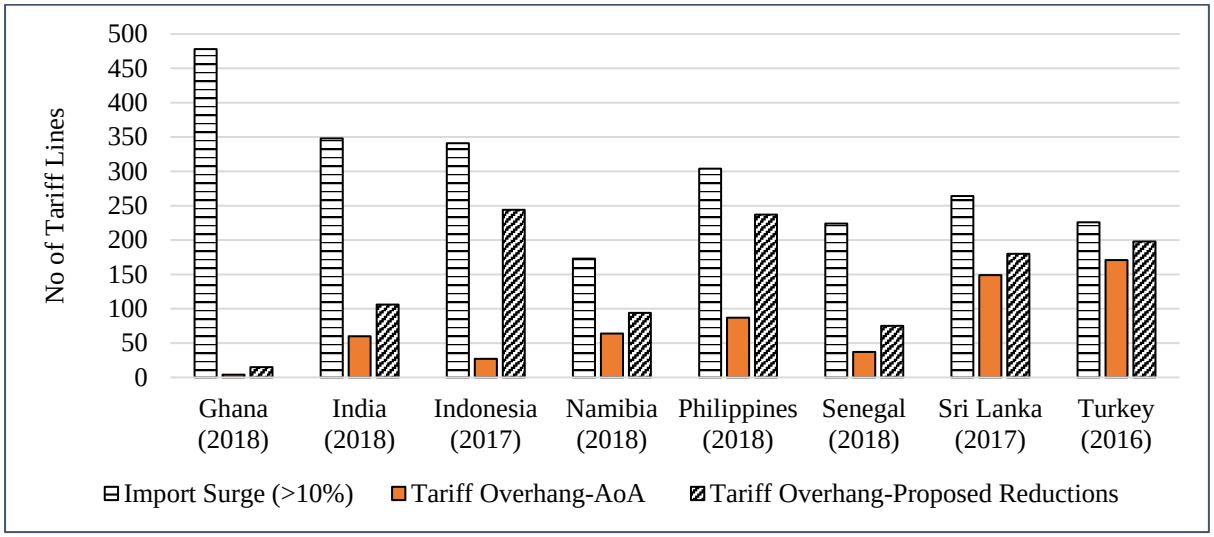
SSM was evident even in the first simulation. This need becomes more pressing in the context of market access negotiations under the second simulation.

Table 7: Number of tariff lines (TL) facing import surge with inadequate policy space after proposed tariff reductions in Rev.4 Text

Member	Year	TL with Policy Space < 20% after tariff cut	Year	TL with Policy Space < 20% after tariff cut	Year	TL with Policy Space < 20% after tariff cut
Ghana	2010	6	2012	10	2013	11
India	2016	66	2017	68	2018	106
Indonesia	2015	126	2016	187	2017	244
Namibia	2016	130	2017	142	2018	94
Philippines	2016	227	2017	221	2018	237
Senegal	2016	63	2017	75	2018	75
Sri Lanka	2015	188	2016	161	2017	180
Turkey	2015	247	2016	198	2017	N/A

Source: Authors' calculation based on WITS and Tariff Download facility, WTO.

Figure 4: Mapping import surge with tariff policy space under the AoA and proposed tariff reduction under Rev.4 Text



Source: Authors' calculation based on WITS and Tariff Download facility, WTO.

Figure 4 provides a snapshot of the three situations: number of products witnessing import surge without taking policy space into consideration; number of products with import surge and having inadequate policy space under existing bound rate commitments; and number of products with import surge and inadequate policy space if the provisions for reducing bound rate under the Rev. 4 Text are implemented. In India, Indonesia, Philippines and Senegal, the number of products with inadequate policy space to counter import surges increases quite significantly when reduction in bound rates in accordance with the Rev.4 Text are taken into

consideration. In respect of Sri Lanka and Turkey the number of products with inadequate policy space remains high with and without reduction in bound rates.

The analysis clearly highlights that developing members have been experiencing import surges in agricultural products and do not have adequate policy space under their existing tariff schedule. The policy space would be further constrained in case the SSM is linked with tariff-reduction commitments in market access negotiations. Given the fact that the majority of farmers in developing members are low-income or resource-poor without any robust safety nets, import surges can have extremely adverse effects on their welfare, livelihood and income. Without an effective SSM instrument, it would be extremely difficult for developing members to mitigate the disastrous effects of import surges. Thus, the demand for a simple, accessible and operable SSM appears justified in order to shield poor farmers' interest as well as to make trade rules less asymmetric.

SECTION 5: NEGOTIATIONS ON SSM - DELIVERING AN UNUSABLE AND INEFFECTIVE POLICY INSTRUMENT?

With the WTO members having engaged intensively during 2001-2008, what has been the outcome so far? How close are the members to concluding the negotiations and delivering an operationally effective SSM? While there appeared to be a broad consensus on the general architecture of the SSM, when it comes to technical details, convergence has eluded the members on many issues. With very little progress to show after 2008, it would not have been inaccurate to conclude that the main demanders of SSM, seem to have lost steam. However, a recent submission by G33 appears to suggest that this issue continues to remain important for this coalition (WTO, 2020). If negotiations do commence from the point when there was some serious engagement between the WTO members, then it would be relevant to analyse the most recent version of the modalities text, in order to assess whether the developing countries would secure the policy instruments that they have been aspired for. The Rev.4 Text provides for use of the SSM based on volume and price triggers. The December 2008 Supplementary Text (WTO, 2008b) suggests further disciplines on the applicability of the V-SSM when the resultant duty would exceed pre-Doha bound rates. In this section we examine the triggers for invoking SSM and remedies for countering import surges and price dips. In addition, we also identify some conditions for calculating the triggers and imposing the remedies, which might restrict the practical utility and effectiveness of this policy instrument.

SECTION 5.1: MODALITIES FOR VOLUME BASED SSM BELOW PRE-DOHA BOUND RATE IN THE REV.4 TEXT

The Rev. 4 Text provides detailed provisions on the application of V-SSM. In case after using the V-SSM, the pre-Doha bound tariff is not exceeded, then the following relevant provisions would apply (paragraph 142):

1. Calculation of volume triggers, and the application of measures, shall be on the basis of MFN trade only (paragraph 138) and base imports to be calculated on the basis of rolling average of imports in the preceding three-year period (paragraph 133).
2. In case of SSM, a member can impose additional duty as per the tier system given in **Table 2**. Furthermore, If the absolute level of imports is manifestly negligible in relation to domestic production and consumption, remedies would not be applied (paragraph 133d).

3. V-SSM may be maintained for a maximum period of 12 months from the initial invocation of the measure. However, if a seasonal product is involved, then SSM shall apply for a maximum of six months or to cover the period of actual seasonality, whichever is the longer (paragraph 140).
4. For successive application of V-SSM, if the rolling average of imports in the successive year is below the level of the initial period, then the trigger level for the initial period shall apply (paragraph 140). On the same product V-SSM cannot be applied consecutively for more than two periods (paragraph 140). After consecutive application of V-SSM on a product, V-SSM may not be invoked for the product before the elapse of further two consecutive periods.
5. LDCs can apply the maximum remedy provided for, even if this breaches pre-Doha bound tariff, provided that the maximum increase over a pre-Doha bound tariff does not exceed 40 *ad-valorem* percentage points or 40 per cent of the current bound tariff, whichever is higher (paragraph 143).

It appears that there was a general convergence among WTO members regarding the triggers and remedies in respect of V-SSM as mentioned above. However, in respect of the following two issues, convergence appears to have eluded the members:

- Small Vulnerable Economies (SVEs)[4] may apply the maximum remedy even if this would entail breach of a pre-Doha bound tariff, provided that the maximum increase over a pre-Doha bound tariff does not exceed 20 *ad-valorem* percentage points or 20 percent of the current bound tariff, whichever is higher, for up to a maximum of (10-15) percent of tariff lines in any given period (paragraph 144); and
- For other developing countries, pre-Doha bound tariffs can be breached if following are complied with: (a) the maximum increase over the pre-Doha bound tariffs would be no more than 15 *ad-valorem* percentage points or 15 percent of the current bound tariff, whichever is the higher; (b) the maximum number of products for which this provision would be invoked would be no more than 2-6 in any given period; and (c) this would not be permissible for two consecutive periods (paragraph 144).

[4] The Rev. 4 Text, in Annex I, Para 2 defines SVEs as a member 'whose average share for the period 1999-2004 a) of world merchandise trade does not exceed 0.16 percent and b) of world NAMA trade does not exceed 0.10 percent and c) of world trade does not exceed 0.40 percent." LDCs and members for which no data is available is excluded from the SVE category.

Section 5.1.1: Implications of modalities for Volume-based SSM below Pre-Doha bound rate

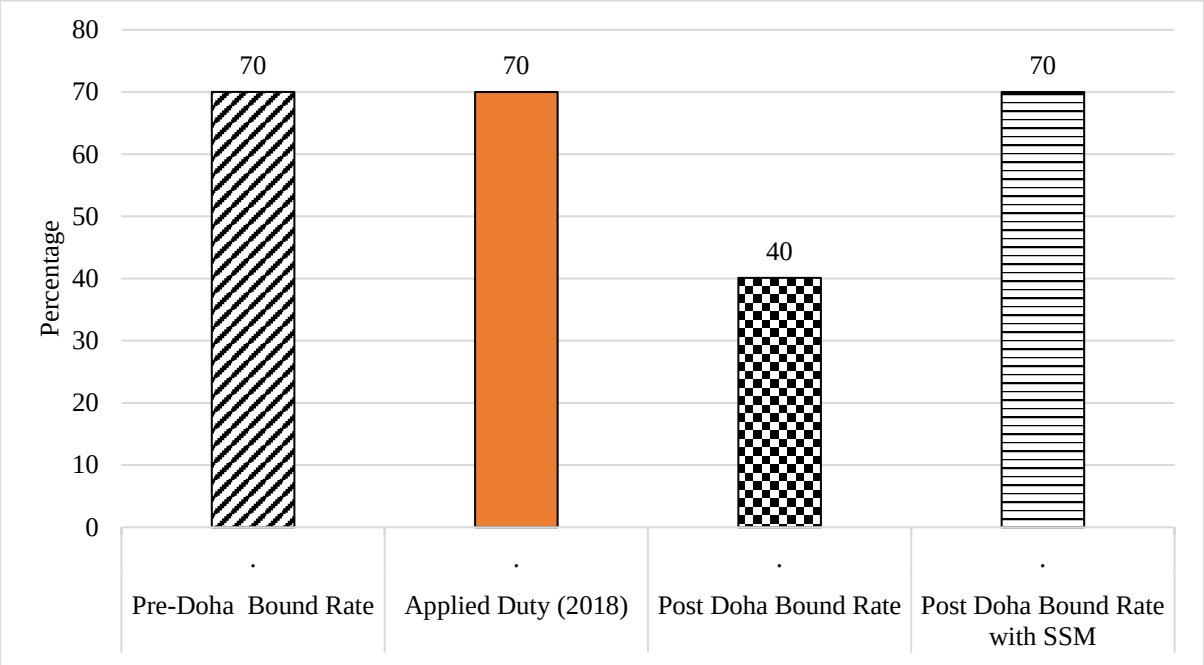
Two of the provisions on V-SSM below pre-Doha bound rate, as contained in the Rev.4 Text, would make this policy instrument extremely difficult to use, or even rendered inoperative and ineffective. First, most developing countries do not capture trade data separately for MFN trade and preferential trade. In the absence of MFN trade data, these countries would not be able to undertake the calculation for the volume trigger. Second, before seeking recourse to V-SSM, the importing country would have an obligation to check whether imports are manifestly declining in comparison with domestic production and consumption. If this obligation cannot be complied with, then developing countries would not be able to seek recourse to SSM. Complying with this obligation would be extremely onerous, as most developing countries might not have statistics on consumption of agricultural products. Thus, if a developing country does not have data on MFN trade and domestic consumption, it would not be able to seek recourse to SSM. This is likely to be the situation in most developing countries.

It is relevant to note that some of the provisions on V-SSM are more restrictive than the provisions in V-SSG. To illustrate, under the V-SSG, there is no restriction on how many products can this measure be invoked simultaneously even if the total duty exceeds the pre-Uruguay Round bound rate. In respect of V-SSM, it has been specified that the maximum number of products for which this provision would be invoked would be no more than 2-6 in any given period. Further, there is no prohibition on successive application of V-SSG on the same product. However, provisions in the Rev.4 Text specify that after consecutive application of V-SSM on a product for two periods, there must be no application of this measure on it for another two years.

The constraining provisions of the Rev.4 Text can be illustrated with the example in India for maize seed. The pre-Doha bound rate for this product is 70%. In case India was to reduce the bound rate on maize seed in accordance with the provisions in the Rev.4 Text, the new bound rate on it would be 40 percent (figure 5). In 2018, India experienced an import surge of 293 percent over the average imports during the preceding three-year period. As the import surge exceeds 135 percent, India can impose V-SSM to the extent of 50 percent of the current bound tariff or 50 percentage points, whichever is higher. In the normal course, it is likely that India would choose the latter option and impose V-SSM of up to 50 percentage points. However, if the applied duty on the product is 40 percent (up to the existing bound rate), then the total duty,

inclusive of V-SSM would be 90 percent. However, if the pre-Doha bound rate is exceeded by application of V-SSM, then the maximum increase over the pre-Doha bound tariffs would be no more than 15 *ad-valorem* percentage points. Thus, the total duty would be restricted to 85 percent. Further, this would be subject to the limitation of "no more than 2-6 products" exceeding pre-Doha bound rate. If there are already six products with V-SSM exceeding pre-Doha bound rate being applied during the year, then India would be compelled to choose the option of V-SSM to be up to additional 50 percent , but limiting the additional duty to 30 percent (so as not to exceed the Pre-Doha bound rate). With this option, the total duty, inclusive of V-SSM would be 70% (40% customs duty and 30% V-SSM). While this would keep the total duty within the pre-Doha bound rate, the extent of protection against import surge may not be adequate.

Figure 5: Tariff implication and SSM remedy for maize seed under the Rev.4 Text



Source: Authors' compilation based on tariff download facility, WTO and the Rev.4

The analysis highlights the constraining provisions in the negotiations which will make the proposed V-SSM ineffective, inoperable and inaccessible for most developing members.

SECTION 5.2: MODALITIES FOR PRICE-BASED SSM IN THE REV.4 TEXT

In case of P-SSM, the relevant provisions under the Rev.4 Text are as follows:

1. Price trigger to be calculated based on MFN[5] trade data (paragraphs 135 and 138), and it can be triggered when the import price of the shipment falls below a trigger price (paragraph 135). Furthermore, trigger price is equal to 85 percent of the average monthly MFN-sourced price for that product for the most recent three-year period preceding the year of importation for which data are available (paragraph 135).
2. Additional duty shall not exceed 85 per cent of the difference between the import price of the shipment concerned and the trigger price (paragraph 136) and remedy shall apply on a shipment-by-shipment basis (paragraph 136). Rev.4 Text also specifies that no recourse to P-SSM if volume of imports of the product concerned in the current year is manifestly declining (paragraph 137).

Section 5.2.1: Implications of modalities for Price- Based SSM

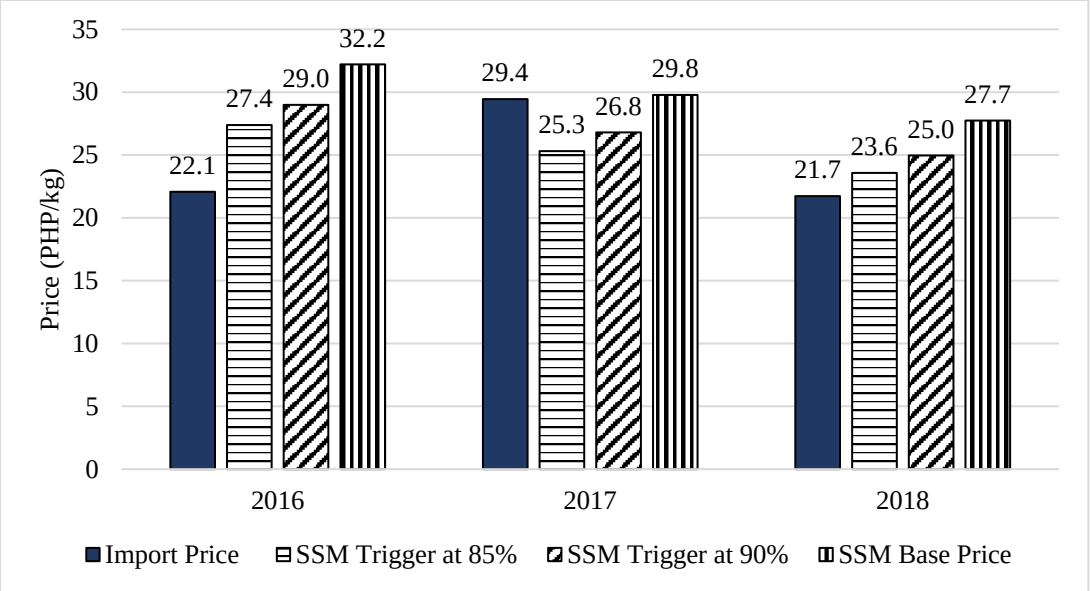
As in the case of V-SSM, on account of the requirement to calculate the price trigger based on MFN trade data, P-SSM would be extremely difficult to invoke. Further, if there has not been any shipment of an agricultural product in the past few years, the modalities do not provide any guidance on how to calculate the trigger price. Compared to P-SSG, which can be triggered if the price of a consignment falls below the base price, the P-SSM would be invoked if the price dips below 85 per cent of the average monthly MFN-sourced price for that product for the most recent three-year period preceding the year of importation for which data are available. Thus, invoking P-SSM would be more onerous than taking recourse to P-SSG. The G33 has argued that the trigger at 85 percent of the base-price is still too low to be breached and might severely restrict the access of developing countries to P-SSM measures (South Center, 2009, WTO 2010a).

How access to P-SSM is determined by the trigger level, whether it is set at 85 percent as in Rev.4 Text , or it should be 90 percent as demanded by G33, or it should be the base price as in SSG, can be illustrated by the example of import price of corn in the Philippines as shown in Figure 6. During 2016 and 2018, the average import price was PHP 22.07/kg and PHP 21.73/kg. The average prices for the two respective years were less than 85 percent of the three-year average base price (PHP 27.38/kg and PHP23.58/kg). Thus, P-SSM could have been imposed on most import consignments during these two years. Of course, whether P-SSM

[5] The calculation of triggers using only 'MFN Trade data' precludes the inclusion of all shipments arriving as a part of a preferential trade agreement.

could have been imposed on a particular import consignment would have depended on the price of the consignment. However, during 2017, the average import price was PHP29.44/kg, which was below the three-year average base price of PHP 29.78/kg, but above even 90% of the base price. Hence, it would have been difficult to impose P-SSM on most import consignments during 2017. If the trigger price had been the base price, as is the case with P-SSG, then it would have been possible to impose P-SSM on import consignments even during 2017.

Figure 6: Import and trigger price of corn in Philippines



Source: Authors' calculation based on:

1. Tradeline Philippines (http://www.tradelinephilippines.dti.gov.ph/web/tradeline-portal/trade-statistics.)
2. FAO (Source: http://www.fao.org/faostat/en/#data/PE)
3. WDI for Inflation
4. WTO Doc no. TN/AG/S/29/Rev.1 (WTO, 2017) for trigger price

Another onerous condition for invoking P-SSM relates to "volume cross-check". Under paragraph 137 of Rev.4, if the volume of imports of the product is declining, then P-SSM cannot be imposed even if the price of an import consignment is below the trigger price. P-SSG is not constrained by such a requirement. From the perspective of developing countries there are two problems in volume cross-check - one operational and the other economic.

From an operational perspective, in order to compare the import volume in the current year with the past trend, the importing country would need to have data on cumulative imports during the current year. However, in most developing countries it is reasonable to assume that there would be a lag of a few months in reporting of trade data at the product level. This would make it almost impossible to invoke P-SSM during the initial months of the year, thereby making the farmers vulnerable to low-priced imports during these months. From the economic

perspective, the adverse impact of volume cross-check would be evident when there is a surge in imports in one year, followed by import reverting to normal level in a subsequent year. On account of the surge in imports in the preceding year, the volume of imports in the current year is likely to decline. This would prevent resort to P-SSM, even if the price of import consignments is below the trigger price. This is likely to have adverse consequences, particularly if during the preceding year the import surge was on account of meeting the demand supply gap triggered due to poor harvest in the importing country. This would require the country to protect the farmers of the concerned product in the subsequent year from low priced imports, through different policy instruments including P-SSM. However, due to the requirement of volume cross-check, the country may not be able to use it, during the period when it might be most required.

SECTION 5.3: IMPLICATIONS OF MODALITIES FOR ABOVE PRE-DOHA BOUND RATE VOLUME-BASED SSM

In a move that became extremely controversial, the chairman of the Committee on Agriculture, Special Sessions, the formal body in the WTO where negotiations on the AoA are being held, issued supplementary modalities for situations in which the SSM would result in the total duty exceeding the pre-Doha bound rate (WTO 2008b). G33 strongly contested the approach of the chairman that the Supplementary Modalities are "an effort to represent the elements of convergence that are emerging". G33 was of the view that there should be a common set of modalities for SSM, without having a separate modality for "above pre-Doha bound rate". Further, there should be no limit on the number of products for which SSM can be simultaneously invoked, even if the pre-Doha bound rate is exceeded.

Section 5.3.1: Main feature of SSM under the Supplementary Text

Following are some of the key features of SSM when the pre-Doha bound rate is exceeded:

- The SSM shall become applicable when, within that twelve-month period, the trigger levels, calculated in respect of the average of the preceding three years' imports, have been met.
- However, if an SSM was in force during that three-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. This is commonly referred to as pro-rating of the base period.

- The remedies mentioned in the text as given in **Table 8** shall not normally be applicable unless the domestic price is actually declining. Moreover, the maximum duration of application of these remedies shall be limited to 4-8 months.
- For successive application, a cooling off period of equivalent duration for which the previous measure was applied. Additionally, the remedies shall not be applied to more than 2.5% of tariff lines in any 12-month period.

Table 8: Tiers of import surge and maximum applicable additional duty in the Supplementary Text

Tiers	Volume of import as % of base import volume	Max. additional duty applicable on bound rate
A	120-140	33% of the current bound tariff or 8 percentage points, whichever is the higher
B	> 140	50% of the current bound tariff or 12 percentage points, whichever is higher

Source: WTO Doc No TN/AG/W/7 (WTO, 2008b)

Section 5.3.2: Implications of modalities for above Pre-Doha bound rate Volume- Based SSM

As the triggers are higher, it will be more difficult to take recourse to V-SSM if the total duty exceeds the pre-Doha bound rate (**Table 8**). Further, the V-SSM will be less effective as the amount of duty that can be applied would be lower, as compared to the situation when pre-Doha bound rate is not breached. However, the most problematic element in the Supplementary Text is the requirement of pro-rating. The main argument of the countries demanding pro-rating of trigger thresholds is that repeated application of SSM is likely to lower imports. This would lower the trigger thresholds in future years, making it relatively easy to impose SSM on normal trade flows. In order to overcome the problem of declining imports and trigger thresholds, pro-rating of triggers is sought to be introduced as an overarching requirement. It is relevant to go into some detail about what is pro-rating and how would it impact access to V-SSM.

For V-SSM not exceeding pre-Doha bound rate, according to the Rev.4 Text, the volume trigger is calculated on the basis of the average imports during the preceding three years (Y1, Y2 and Y3). However, if on account of application of V-SSM during the fourth year (Y4), the volume trigger gets lowered in the fifth year (Y5), then the volume trigger for the fourth year also will be used for calculating the trigger for the fifth year. However, in this situation the

basis for calculating the volume trigger for the fifth year is considerably different under the Supplementary Text. According to this text, for the 36-month period during Y2 to Y4 year, the total imports will first be calculated for those months when SSM was not in place. This will form the basis for calculating the average monthly import when SSM was not in place during the 3-year period. This is referred to as proxy monthly import. Next, imports during the months when SSM was in place will be replaced by average proxy monthly import. Thus, the V-SSM trigger for the fifth year would be calculated after replacing the actual imports during the months when SSM was in place with proxy monthly imports. (Appendix **Table B.1**)

The overall impact of the pro-rating methodology is that it raises the three-year average imports for calculating the volume trigger. Consequently, a surge in imports greater than 20% would be required in order to invoke V-SSM. The extent of increase in trigger thresholds depends on three variables – (i) number of months during which SSM was applied in the base period; (ii) total imports during months in which SSM was not applied in the base period; and (iii) total imports during months in which SSM was applied in the base period. However, the second and third variable can be combined into one variable representing the ratio between imports during SSM months and imports during non-SSM months of the 3-year base period.

Appendix B.2 and B.3 provide the mathematical calculation for the extent to which the volume trigger threshold increases on account of the pro-rating methodology. If the SSM is fully effective by reducing imports during the months of application to zero, then two related consequences arise. First, it is interesting to note that the percentage increase in trigger threshold depends on the number of months in which SSM was applied in the base period. It does not depend on the level of imports during the base period. Further, repeated application of SSM on a product will increase the trigger threshold in future periods. It is relevant to point out that on account of pro-rating, the surge in imports would need to be significantly higher for SSM to be triggered, than would be the case in absence of pro-rating.

Table 9 provides details of how, on account of pro-rating, the number of months during which SSM was applied in the base period increases the trigger threshold and the requirement for surge in imports. This is best understood with an illustration. Assume that the average volume of annual imports in the three years preceding the current year was 1200 units. Further, assume that V-SSM had been applied in 5 out of the 36 months in this base period and there were no imports during these 5 months. If pro-rating is not taken into consideration, then the importing

country would be in a position to impose V-SSM exceeding the pre-Doha bound rate, after the import quantity exceeds 1440 units. However, on account of pro-rating, average annual imports of 1394 units (instead of 1200 units) would need to be used for calculating the base imports. Using 20 percent as the surge in imports for triggering V-SSM, imports of 1672 units would be required before V-SSM can be invoked. Thus, the requirement of pro-rating has raised the quantity of imports from 1440 units to 1672 units for resorting to V-SSM. This represents a 16 percent increase in trigger threshold and corresponds to 39 percent import surge.

Table 9: Impact of pro-rating on the trigger level

S. N.	Description	Tons
A.	**Basic information:**	
A.1	Average annual import in the preceding three years	1200
A.2	Average monthly imports in preceding three years (A.1/12)	100
A.2	Let assume SSM was applied in last year for five months with zero imports occurring	0
B	**In case no pro-rating is considered:**	
B.1	Trigger level: 120 % of A.1	1440
C	**In case pro-rating is considered:**	
C.1*	Average monthly imports in preceding three years excluding number of months SSM applied = (1200*3)/31	116
C.2	Average annual imports in preceding three years excluding number of months SSM applied = C.1*12	1394
C.3	Trigger level: 120 % of A.1	1672
D	**Increase in trigger level (C.2 - B.1)**	232

Note: * As the number of months in which SSM is applied are not considered under prorating, the total number of months for calculation purposes is 31 instead of 36 in preceding three years.
Source: Authors' calculation

Overall, it can be concluded that pro-rating will increase the threshold above which SSM can be triggered. Higher the number of months of SSM in the base period, higher will be the increase in the trigger threshold. Increase in trigger threshold will require import surges well above the otherwise applicable 20% for the SSM to be triggered. The exact surge in imports would depend on the number of months in which SSM was applied in the base period. Pro-rating obligation will, therefore, severely curtail the ability of developing countries to use SSM for protecting their farmers from import surges.

From the above discussion, it is clear that the additional conditions under the Rev.4 Text and Supplementary Text will curtail the utility and effectiveness of SSM for developing members in dealing import surges. In the negotiations, developing members are expecting that the SSM should be simple, operational, accessible, effective and non-burdensome (WTO, 2020). If

negotiations on this issue do move forward, then it would provide an opportunity to developing countries to seek changes in the proposed disciplines on SSM.

SECTION 6: CONCLUSION

In developing members, majority of farmers are low-income or resource-poor and face multiple challenges in the form of lack of infrastructure facilities, fragmented landholding, rain-fed agriculture, market related problems and price volatilities, among others. Unlike developed members, farmers in most developing countries live in extreme poverty and food insecurity and receive low levels of domestic support from their respective governments (World Bank 2009). On the other hand, developed members have enough policy instruments and financial resources to support their farmers, who are predominantly well off with large farm sizes, and engaged in commercial farming.

Farmers in developing members are further adversely affected by high level of price fluctuations in the international market, which is transmitted to domestic prices through international trade (Thennakoon and Anderson, 2015). The sharp, excessive and sudden volatilities threaten the livelihood of millions of farmers and make farming unviable and unprofitable, which often results in farmers' distress. In addition, high levels of trade distorting support in developed members lead to import surges and displacement of farmers in developing members as, unlike farmers in developed members, they lack safety nets to withstand the sharp decline in domestic prices. It is in this context that developing members are seeking SSM for shielding their farmers from import surges and price depression.

One of the key questions addressed by this study is whether some developing countries have faced surges in imports of agricultural products that can justify their need for SSM. The result of this study shows that developing members such as Ghana, India, Indonesia, Namibia, Philippines, Senegal, Sri Lanka and Turkey have experienced import surges in agricultural products. Further, it was also observed that some of these members such Sri Lanka, Turkey, Philippines and Namibia do not have adequate policy space to raise tariffs to counter import surges on many agricultural products. As shown by this study, the flexibility of these countries to use tariffs as a policy instrument to protect their farmers will shrink if they have to reduce their bound tariffs as part of market access negotiations at the WTO.

Access to SSM, and its effectiveness in dealing import surges, depends on the trigger, remedy and other attached conditions. As brought out clearly in this study, SSM as a policy instrument would be almost inoperative, if it is based on the conditions specified in the documents that have been the basis of negotiations during the Doha Round of multilateral trade negotiations.

In particular, the requirement to calculate the trigger for Volume-Based SSM and Price-Based SSM on the basis of MFN trade would prevent most developing members from having recourse to it, as most of them do not collect trade data separately for MFN trade and preferential trade. Similar difficulties could also be encountered in complying with legal obligations based on domestic production and consumption data. Developing members may also be hard put to comply with many of the other obligations, particularly volume cross-check for Price-Based SSM. As shown by the case of wheat import in Senegal, higher the level of trigger for V-SSM, more difficult it would be to invoke it. Similarly, low price triggers would impede access to Price-Based SSM, as was the case of import prices of corn seed in Philippines.

Overall, it would not be unfair to state that conditions sought to be imposed on access to SSM and the remedy, as contained in the negotiating texts at the WTO, is not aligned with the policy instrument envisaged by the developing members for countering import surges and price dips. In particular, the move to impose onerous conditions on the trigger for "above bound rate SSM" and making the remedy less effective and seeking to extend the obligations relating to "above bound rate SSM" to "below bound rate SSM" situations, would completely erode the utility of this policy instrument.

Given the socio-economic situation of developing members, price depression and import surges of agricultural products can endanger the food security and livelihood of millions of low income or resource poor farmers. The issue of SSM should not be seen from the angle of naked commercial interest, but as a crucial tool in achieving various SDGs including zero hunger goal, eradication of poverty and doubling agricultural productivity. Therefore, it is imperative that all members engage constructively for reconciling their differences on various aspects of SSM. One possible way forward could be to modify the existing provisions of SSGs in the AoA and suitably tailor it to the needs of the developing members.

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APPENDIX

Appendix Table A: Members entitled to SSG

S. No.	Member	Percentage of agricultural tariff lines covered by SSG (%)	S. No.	Member	Percentage of agricultural tariff lines covered by SSG (%)
1	Switzerland	53.0	18	El Salvador	11.4
2	Norway	48.7	19	Japan	10.4
3	Botswana	39.5	20	United States	10.3
4	Namibia	39.4	21	Korea, Republic of	7.8
5	South Africa	39.4	22	Chinese Taipei	7.5
6	Swaziland	39.4	23	Thailand	6.9
7	Iceland	36.7	24	Nicaragua	6.4
8	Mexico	31.7	25	Tunisia	6.4
9	Venezuela	31.5	26	Israel	4.5
10	European Union	31.1	27	Malaysia	4.2
11	Colombia	27.2	28	Australia	1.3
12	Morocco	23.0	29	Ecuador	1.1
13	Barbados	18.2	30	Indonesia	0.9
14	Philippines	15.9	31	Panama	0.6
15	Guatemala	14.3	32	New Zealand	0.4
16	Canada	13.0	33	Uruguay	0.1
17	Costa Rica	11.5	--	--	--

Source: WTO Doc No. TN/AG/S/29/Rev.1 (WTO, 2017)

Appendix B.1: Prorating: Effectiveness of SSM and increase in trigger threshold

An important consequence of the pro-rating methodology for calculating trigger threshold for applying volume based SSM is that it inflates trigger thresholds. The extent of increase in trigger thresholds depends on three variables – (i) number of months during which SSM was applied in the base period; (ii) total imports during months in which SSM was not applied in the base period; and (iii) total imports during months in which SSM was applied in the base period. However, the second and third variables can be combined into one variable representing the ratio between imports during SSM months and imports during non-SSM months of the 3-year base period.

Assume the following data regarding imports and number of months in which SSM was applied in different years

No. of months in which SSM was applied in the 3-year base period – M

Imports during SSM months of the base period – X

Imports during non- SSM months of the base period - Y

(Imports during SSM months of the base period)/ (Imports during non- SSM months of the base period) = X/Y = R

Imports during the base period = X+Y = Y+ RY = Y (1+R)

Average annual imports during the base period = (X+Y)/3 = (Y+ RY)/3 = Y (1+R)/3

Import surge for applying above bound rate SSM = 20% surge

Normal trigger threshold for the 4th year = Average Imports during the base period + 20% of average imports in the base period = 1.2 * Imports during the base period/3

Normal trigger threshold for the 4th year = 1.2 * Y * (1+R) / 3

Proxy monthly imports = (Y)/ (36-M)

Total imports after pro-rating =

Pro-rated trigger threshold for the 4th year = $\frac{1.2 * 36 * (Y)}{3* (36-M)}$

Increase in trigger threshold for the 4th year due to prorating = Pro-rated trigger threshold - Normal trigger threshold

Increase in trigger threshold due to prorating = $\frac{1.2 * 36 * Y}{3*(36-M)} - \frac{1.2* Y * (1+ R)}{3}$

Increase in trigger threshold = $\frac{1.2 * Y}{3} \frac{[M(1+R) – 36R]}{* [36- M]}$

% increase in trigger threshold due to pro-rating = $\frac{\text{Increase in trigger threshold} *100}{\text{Normal trigger threshold}}$

% Increase in trigger threshold due to pro-rating = 100 $\frac{[M (1+R) – 36 R]}{(1+R) [36-M]}$

Thus, the % increase in trigger threshold on account of pro-rating depends on the following two factors:

(i) Number of months during which SSM was imposed in the base period (**M**); and

(ii) Ratio between imports during SSM months and imports during non-SSM months (**R)**

Implications of the mathematical relationship

The implications of the above mathematical relationship can be best understood by keeping one of the two variables as constant and changing the other variable. It has the following implications:

(i) For the same ratio between imports during SSM months and imports during non-SSM months, higher the number of months during which SSM was imposed in the base period, higher would be the inflation in trigger thresholds. To illustrate if R = 0.04, percentage increase in trigger threshold is 4.90% if number of SSM months is 3. % increase in trigger threshold rises to 11.665, if number of months of SSM is 5 months. It increases further to 19.63% if the number of SSM months increases to 7.

(ii) If SSM is completely effective and imports stop during the months of imposition (corresponding to R= 0), inflation in trigger thresholds increases with increase in the number of months for which SSM is imposed in the base period. Inflation in trigger thresholds would be 2.86 % if SSM is imposed for 1 month in the base

period. Percentage increase in trigger thresholds corresponding to different months of imposition of SSM – 5.88% (2 months); 9.09% (3 months) ; 12.50% (4 months); 16.13% (5 months); 20.00 % (6 months); 24.14% (7 months) ; 28.57% (8 months); 33.33 % (9 months); 38.46% (10 months); 44 % (11 months) ; and 50%(12 months).

(iii) Keeping the number of months during which SSM was imposed in the base period constant, more effective the SSM, more is the inflation in trigger thresholds. Conversely, percentage increase in trigger thresholds gets reduced with decline in effectiveness of the SSM. In other words, higher the imports during SSM months relative to imports during the non- SSM months, lower will be the inflation in the trigger threshold. To illustrate, take number of SSM months as 3. As the SSM imports relative to non-SSM imports increases from .01 to .05, percentage increase in trigger threshold declines from 8.01% to 3.90%. However, the trigger threshold due to pro-rating continues to be inflated compared to trigger thresholds without pro-rating.

(iv) Keeping the number of months during which SSM was imposed in the base period constant, the ceiling in % increase in trigger threshold is the % increase corresponding to completely effective SSM (R=0). For other values of R, % increase in the trigger threshold is less than the ceiling.

Appendix Table B.2: Implications of pro-rating on V-SSM trigger if imports during the months of SSM application decline to zero

No. of months during which SSM was applied in the base period	% increase in trigger threshold	% surge in imports required for triggering SSM
1	2.86	23.43
2	5.88	27.06
3	9.09	30.91
4	12.50	35.00
5	16.13	39.35
6	20.00	44.00.
7	24.14	48.97
8	28.57	54.29
9	33.33	60.00
10	38.46	66.15
11	44.00	72.80
12	50.00	80.00

Source: Authors' calculation

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