

Special Products and the Special Safeguard Mechanism



Strategic Options for Developing Countries



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FOREWORD

The world is producing more food than ever before. Yet, after decades of declining under-nourishment rates, the numbers of hungry people are on the increase again in several countries. In addition, environmental degradation associated with intensive agriculture production, such as soil erosion, water pollution and biodiversity loss remains at unacceptable levels. The major challenge today is therefore not so much to increase food production, but rather to ensure that agriculture production generates sufficient income for the poor, promotes equity, and contributes to the sustainable use of natural resources.

The reform of the global agriculture trading system currently being negotiated in the context of the Doha Round - with the objective of establishing a “fair and market-oriented trading system” - will play a major role in this process. Over the last 15 years, world agriculture trade has grown almost twice as fast as production. However, highly subsidised agricultural production and exports from OECD countries as well as the anti-competitive behaviour of trading firms are depressing world prices, thereby affecting development prospects in the South. Tariff peaks, tariff escalation and technical barriers to trade (such as sanitary and phyto-sanitary requirements) also limit market access and thus the potential gains from trade developing countries are expecting.

While it is widely recognised that developing countries as a whole would benefit from freer agricultural trade, some fear that most of the new opportunities the Doha Round is set to bring would be captured by a few middle-income countries and large food exporters. Lower income countries would gain only little and might even lose from further liberalisation. Many still have large rural populations composed of small and resource-poor farmers with limited access to infrastructure and few employment alternatives. Thus, these countries are concerned that domestic rural populations employed in import-competing sectors might be negatively affected by further trade liberalisation, becoming increasingly vulnerable to market instability and import surges as tariff barriers are removed.

A large number of countries still depend on the export of a few commodities, the prices of which show high volatility and long-term decline. Commodity dependence, the expected erosion of preferences that some countries depend on for their export earnings, as well as increased food import prices due to the elimination of export subsidies, will make it difficult for these countries to guarantee their growing populations the food they need. In this context, safeguarding domestic food production capacity has become an essential component of food security strategies in an increasing number of countries.

These concerns were first raised at the WTO in the context of the “Development Box” debate, in which developing countries tabled a set of proposals aimed at providing flexibility for countries to enhance domestic food production and adopt measures to protect the livelihoods of resource poor farmers. These proposals included concrete measures to address dumping and import surges. Some were eventually reflected in the so-called 2004 July package. The S&DT provisions under paragraphs 41 and 42 of this framework agreement are probably the most innovative from a sustainable development perspective. They specify that “developing country Members will have the flexibility to designate an appropriate number of products as Special Products, based on criteria of food security, livelihood security and rural development needs. These products will be eligible for more

flexible treatment". The Framework Agreement further states that a "Special Safeguard Mechanism (SSM) will be established for use by developing country Members."

However, key aspects of these instruments - such as the selection and treatment of SPs, or the specific modalities for a new SSM, including product coverage, possible trigger mechanisms and remedies - were left for future negotiations. As a contribution to this highly controversial debate, the ICTSD Project on Special Products and a Special Safeguard Mechanism aims to generate knowledge and options to better articulate and advance the concepts of SP and SSM from a sustainable development perspective.

In order to better articulate and advance the concepts of SP and SSM from a sustainable development perspective and facilitate better participation of developing countries in the WTO trade negotiations on agriculture, ICTSD undertook a series of six country case studies in Barbados, Honduras, Kenya, Pakistan, Peru and Sri Lanka. These country case studies are primarily intended as a contribution to the internal national discussion on the selection and designation of Special Products and to inform national policy makers and trade negotiators on their importance to national development and expected treatment in the WTO.

In keeping with ICTSD's strategic approach, the studies involved a wide range of stakeholders, ranging from government officials to farmers groups and academia, in an inclusive and participatory process at the national and international levels. This empirical work was supplemented by a series of targeted analytical pieces that address selected cross cutting issues such as tariff structures in developing countries or the articulation between bilateral and multilateral negotiations on SP- SSM. The country studies aim to ensure that the countries choice of special products is not an arbitrary one and that these products address the specific needs of the country and effectively contribute to promoting food and livelihood security and rural development.



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EXECUTIVE SUMMARY

It is widely recognised that developing countries as a whole will benefit from the removal of trade distortions in agricultural trade through the Doha Round negotiations currently underway in the World Trade Organization (WTO). Reforms to rich-country subsidies, tariff peaks and tariff escalation offer significant potential gains to many poor developing countries.

However, subsidy and tariff cuts under the Doha Round will not be uniformly good for all farmers in all developing countries. Opening markets to competition from cheap - often subsidised - foreign imports may devastate the livelihoods of small and resource-poor farming communities. Even import-competing sectors that would likely be competitive over the long term can be permanently damaged. Indeed, tariff liberalisation in recent years has coincided with increasing reports of food import surges in developing countries, which have, in some instances, disrupted local markets. In general, the majority of developing countries have seen agricultural trade imports increase faster than exports. The market-oriented economic reforms that often accompany trade liberalisation may also cause a shift towards large-scale, export-oriented agricultural production, leaving small rural farmers who are unable to take advantage of the new opportunities even more marginalised.

Yet, the livelihoods of these rural farmers are central to development and poverty alleviation. Agriculture still accounts for a large share of developing countries' GDP, as well as up to 70 percent of employment in low-income countries and 30 percent in middle-income countries. These figures reflect the importance of small-scale subsistence farming in developing countries. These farmers usually have very limited alternative employment opportunities, and are unlikely to become competitive in the short run. As such, they might be negatively affected by greater exposure to foreign competition.

In this context, a food security strategy based solely on imported food, whether through commercial imports or food aid, would entail significant risks. This is particularly so for poor countries which are highly dependent on a few export commodities whose prices show high volatility and a long-term decline. In spite of the progress seen in the diversification of production for export, these sectors still represent a small proportion of developing countries' production. This raises questions as to whether export earnings are sufficient and stable enough to pay for commercial imports of food.

Two key concepts to address these concerns have emerged in WTO negotiations: allowing developing countries special tariff treatment for 'Special Products' (SPs) that are important for food security, livelihood security, and rural development needs, and access to a Special Safeguard Mechanism (SSM) to afford themselves a measure of protection against import surges. The two instruments have distinct purposes: SPs should provide targeted protection for specific products which would not survive under competitive conditions but are crucial for food security, livelihood security and rural development; the SSM would allow countries to protect import-competing sectors (including well-established ones) against import surges and/or price depression. In both cases however, these flexibilities should help reduce the risks associated with agricultural production and create a more conducive environment for investment in productivity-enhancing technology.

Both concepts have been raised at the WTO since the outset of the agriculture negotiations in 2000. They became part of any eventual Doha Round package when Members included them in the

July 2004 'Framework' agreement, which set out the terms under which the final deal would be negotiated. This represented a rare instance in the multilateral trading system where public policy objectives, as opposed to purely commercial objectives, were the explicit rationale for specific multilateral disciplines.

Why this project?

With a view to exploiting this strategic opportunity to inject public policy concerns into the WTO negotiations, the International Centre for Trade and Sustainable Development (ICTSD), engaged with leading thinkers in this area to develop a conceptual framework for how developing country Members of the WTO could operationalise the SP-SSM concepts in order to promote sustainable development. This framework was subsequently applied and "tested" in the field through a series of six country studies on the identification of SPs and products eligible for an SSM, carried out in Barbados, Honduras, Kenya, Pakistan, Peru and Sri Lanka, in close collaboration with local researchers.

The peer-reviewed studies involved a wide range of stakeholders, ranging from government officials to farmers groups and academics, in an inclusive and participatory process at the national and international levels. They were supplemented by a series of analytical pieces that address issues that underlie the elaboration and functioning of the concepts, such as tariff structures in developing countries and the implications of bilateral and regional trade agreements for multilaterally-determined SP-SSM.

This paper aims to synthesise the knowledge generated through this fact-finding exercise and convey its main findings to policy makers, negotiators, civil society representatives, farmers groups, and academics. It does not intend to be prescriptive or to propose a particular approach to accommodate the disparate needs of different developing countries. Varying levels of development, economic structures, and geographical, social and environmental conditions mean there can be no "one size fits all" solution that could be applied by all developing countries.

Specifically, the document seeks to contribute to the ongoing negotiations by providing some empirically-based and scientific elaboration of the SP-SSM concepts from a sustainable development perspective, along with some strategic considerations for the current juncture in the talks. It proposes a possible methodology that governments could follow when developing their national lists of SPs. To achieve this, it connects local realities - such as food insecurity, the composition of traditional diet, rural employment structures, and market conditions - with disciplines under negotiation in the market access pillar of the WTO agricultural talks. It also examines how import surges over the last twenty years have contributed to the displacement of domestic production.

The paper ends with a set of options to design a fully operational SSM that would better equip developing countries to mitigate the sustainable development impacts of import surges.

Where are the negotiations now?

The July 2004 Framework specified that developing countries would be permitted to "designate an appropriate number of products as Special Products, based on criteria of food security, livelihood

security, and rural development needs” that would be eligible for “more flexible treatment” in the tariff reduction negotiations, which is generally seen as entailing lower reductions (or even exemptions from tariff cuts) over longer time periods than would be the case for other products.

The Hong Kong Ministerial Declaration adopted in December 2005 added that Members would be able to “self-designate” their to-be-negotiated number of SPs, “guided by indicators based on the criteria of food security, livelihood security and rural development.” Some countries would have preferred SP lists to be determined by a set of objective indicators.

The July Framework simply stated that an SSM would “be established for use by developing country Members.” The new SSM would be available to developing countries to protect their agricultural sectors against price fluctuations and sudden import surges by raising tariffs beyond bound levels. The Special Safeguard (SSG) that currently exists in the Agreement on Agriculture has been of limited value to developing countries: only a handful of them are eligible to use it, and even they have been able to do so only rarely. The Hong Kong Declaration specified that the SSM would be triggered by both surges in import volume and collapses in import price. The latter is of particular value, since it is generally far less demanding and time-consuming to prove that import prices are falling than to establish that volumes are increasing.

The additional flexibilities that developing countries seek by using SPs and the SSM will most probably not provide a direct solution to the structural problems that in many cases prevail in their agricultural sectors. However these flexibilities could contribute to reducing the risks associated with agriculture production, and provide them the space required to carry out reforms, to set up new policies and to prepare themselves for future trade negotiations on a more level playing field.

In the wake of Hong Kong, turning these agreements about the nature of SPs and the SSM into meaningful provisions will require leadership by developing countries in the modality stage of the negotiations. The members of the G-33 alliance, the diverse group of countries that have supported SPs and the SSM, will play an important role in these talks. In the negotiations thus far, the G-33 countries have stressed that food security, livelihood security, and rural development are closely interlinked, both with each other and with trade liberalisation.

How can imports hurt developing countries?

Agricultural markets are by nature cyclical and subject to wide fluctuations. Past protectionist policies - especially quantitative restrictions related to import licenses and quotas, variable levies, and state trading monopolies - insulated domestic markets from international price variability. For developing countries today, the set of policy instruments available to provide protection to farmers is essentially limited to tariffs and surcharges (such as safeguards). Those tariff levels are, of course, constrained, and now face further reduction.

For developing country farmers, the persistent low prices that characterise international agricultural commodity markets are perhaps even more significant than price fluctuation. It is difficult to design policies to respond to long stretches of low prices, interspersed with occasional spikes.

But are import surges - sharp temporary rises in import volumes above normal levels - necessarily caused by price fluctuations? And are increases in import volumes over historical levels necessarily a sign that domestic production is suffering? The evidence suggests that the picture is much more mixed. Import volumes might suddenly rise as a result of increasing incomes, urbanisation, population growth, foreign exchange rate fluctuations, or when domestic production falls due to unfavourable weather or natural disasters. For instance, Tanzania experienced 51 import surges across a wide range of products during the period 1984-2000, but only nine cases of production shortfall. Nevertheless, FAO research suggests that import surges, particularly in low-income food-deficit countries (LIFDCs), have been associated with negative effects on domestic production. Indeed, during the same period, Jamaica saw 28 cases of import surges accompanied by 26 cases of production shortfall.

Detailed studies are necessary at the national level to assess the effects of increased imports on domestic producers.

To take the example of Jamaica, dairy sector liberalisation in the early 1990s has often been blamed for the decimation of the country's milk industry. However, decreases in domestic production were not preceded by rising import volumes. Over the course of the decade, both imports and domestic production fell - indicating that national consumption of dairy products had simply decreased. In fact, per capita domestic consumption of dairy products fell even more than per capita domestic production - suggesting that factors other than import surges have driven down domestic production. In the case of chicken, domestic production rose hand in hand with imports. Other products, however, such as onions, potatoes, and vegetable oil, were almost entirely replaced by more competitive imports.

In the space of a few years, Honduras went from being self-reliant in rice to importing almost half of domestic consumption, since locally-produced rice was undercut by cheaper imports from Southeast Asia. In Senegal, tomato paste imports skyrocketed after liberalisation in 1994, while domestic production fell by half.

Thus, there is a clear role for more studies examining the potential correlation between import surges and production shortfalls.

How will further tariff liberalisation affect developing countries?

Doha Round tariff reductions will be made from bound levels. By comparing countries' bound rates to the tariffs that they actually apply, we can estimate how much any reduction will cut into the level of protection that they currently afford their farmers, or in other words, the 'effort' they will have to make.

Developing countries in the WTO have a wide range of different tariff structures. Those that were part of the GATT-WTO system during the Uruguay Round were able to set up high ceiling bindings during those negotiations (although a handful chose not to). This left them with a large 'overhang' between the maximum tariffs they were allowed to impose, and the rates that they actually applied.

The 60-odd developing countries that acceded to the WTO after the Uruguay Round, however, had to go through a series of bilateral market access negotiations with existing Members, and extend the lowest tariff level so obtained to the organisation's entire Membership. As a result, the overhang between their bound and applied rates was considerably diminished.

Thus, the tariff structures of G-33 developing countries vary enormously, from average bound rates of 15 percent in China and Côte d'Ivoire, to 116 percent in India and 150 percent in Nigeria. Unsurprisingly, the 'effort' each country would have to make cut bound tariffs by, for example, 40 percent also differs widely. Such a cut would have no effect whatsoever on the tariffs applied by three of the G-33 countries. In fact, Antigua & Barbuda could cut its bound tariffs by 60 percent without having to make any changes to the tariffs it applied in 2001. The same 40 percent cut would have a minor effect on those of 14 countries, a moderate effect on ten more, and be the most difficult for the six countries whose bound and applied tariffs are very similar.

The product groups likeliest to be the most 'problematic' in terms of tariff reduction are those for which applied rates closely approximate bound rates. Thus, knowledge of how high the tariff 'overhang' is for each particular product would be useful to national policymakers when determining their list of SPs.

How would bilateral and regional Free Trade Agreements affect SP-SSM?

Some countries have raised concerns that specific provisions in some bilateral and regional Free Trade Agreements (FTAs) might limit the ability of developing countries to benefit from flexibilities currently being negotiated at the WTO, particularly with respect to the new Special Safeguard Mechanism (SSM).

FTAs have proliferated in recent times. Agriculture chapters in those agreements tend to include a wide range of provisions defining tariff reductions, tariff rate quotas, transition periods, but also concerns regarding sensitive products and the need to safeguard them against possible import surges.

Sensitive products are often excluded altogether from FTAs, on political or technical grounds rather than on the basis of specific, agreed criteria. These tend to be the very products subject to the largest distortions in world markets. The number of sensitive products varies among FTAs, but in general, a significant number of products receive some sort of special treatment. In general, more products have been excluded from FTAs with the EU than in those of the US.

Another form of flexibility in FTAs has been to give countries longer time periods to implement their liberalisation commitments for certain products. This period can vary to account for differences in the trading capacity of the countries involved. Developing countries have often argued for longer adjustment periods for tariff cuts on products that are politically sensitive from a food security or rural development perspective - as well as those that are heavily subsidised in the partner country.

To take a recent example, the recent FTA between the US and five Central American countries plus the Dominican Republic (CAFTA-DR) provides for the developing countries to take as many as 20

years to phase in their commitments for certain products, with some of them assigned an additional 'grace period' before they are obliged to have done so. These products include rice, dairy products, some kinds of beef, pork, beans, potatoes, and yellow maize.

FTAs also contain a wide variety of special safeguard measures, which may interfere with some countries' ability to use a WTO SSM in order to protect themselves from import surges caused by tariff liberalisation.

FTA negotiations on safeguards basically deal with five elements: the number of tariff lines eligible for protection via the safeguards; the modality of activation (whether safeguards are triggered by price or volume); the extent to which tariffs might be increased as a remedy; whether safeguard rules under other agreements can be used (several US FTAs do not allow safeguards for products eligible for GATT safeguards); and the period during which the safeguard may be applied (it is commonly restricted to the transition period).

FTA safeguard mechanisms often allow parties to raise applied tariffs up to the most favoured nation (MFN) duty rate - in contrast, a WTO SSM would by definition allow them to do so beyond the MFN level. US FTAs place time limits on safeguards, restricting their application to a transition period defined under the agreement, The US-Chile FTA places a 12-year limit on safeguards; CAFTA-DR would not allow safeguards to be invoked once the implementation periods is over. This in effect means that developing countries would be left with no trade measures to protect themselves against import surges precisely when they become most vulnerable to them.

Some trade negotiators are concerned that FTA provisions for sensitive products and safeguard mechanisms could pre-empt the outcome of ongoing negotiations at the WTO.

Although US FTAs explicitly provide for consultations on whether to amend the bilateral deals in the event of changes to WTO rules, this could potentially mean that the right of FTA partner countries to apply the new SSM in their bilateral trade with the US would be subject to bilateral negotiation and approval by Washington. Given the likely outcome of such discussions, the effect of the Doha Round would be limited on bilateral trade covered by these FTAs - which could often cover the lion's share of trade for certain developing countries.

It must be noted that this is in keeping with the spirit of Article XXIV of the GATT, which allows for defensive or trade-restrictive measures under the WTO to superseded by FTA rules. Allowing their application *a posteriori* could be seen as a step backwards in terms of trade liberalization.

What about South-South trade?

Developing country exports of agricultural products rose by 77 percent between 1990 and 2003, from 83 billion to 147 billion dollars, higher than the 66 percent increase in world trade in farm products. While Western Europe remains the leading rich country market for developing country agricultural exports, its relative importance declined over the same period - as a result of strong growth in trade between developing countries. Such 'South-South' trade, as a share of developing countries' total agricultural export trade, increased from 32 to 46 percent. Accordingly, developing countries are considered to constitute the predominant source of consumption and trade of agricultural products in the future.

Given this situation, many WTO members are concerned that any measures that increase trade barriers to developing country markets could impede the dynamic potential of South-South trade. This argument has mostly been put forward by agricultural exporters in the negotiations. Recent research on this issue tends to show, however, that the so-called welfare impact of introducing the concepts of SP and SSM would be minimal to developed and developing countries alike. This is partly due to the fact that trade between developing countries in subsistence and staple products of importance to rural communities accounts for a small share of exports in most developing country regions.

Fully exempting SPs from tariff reduction might slow the expansion of South-South trade. On the other hand, it has been argued that these flexibilities would in fact contribute to increased South-South trade in the longer term, as they would allow developing countries to invest in their agricultural sectors and readjust their production structures in order to become more competitive, or give them the space to diversify into other sectors of the economy.

How might countries identify their SPs?

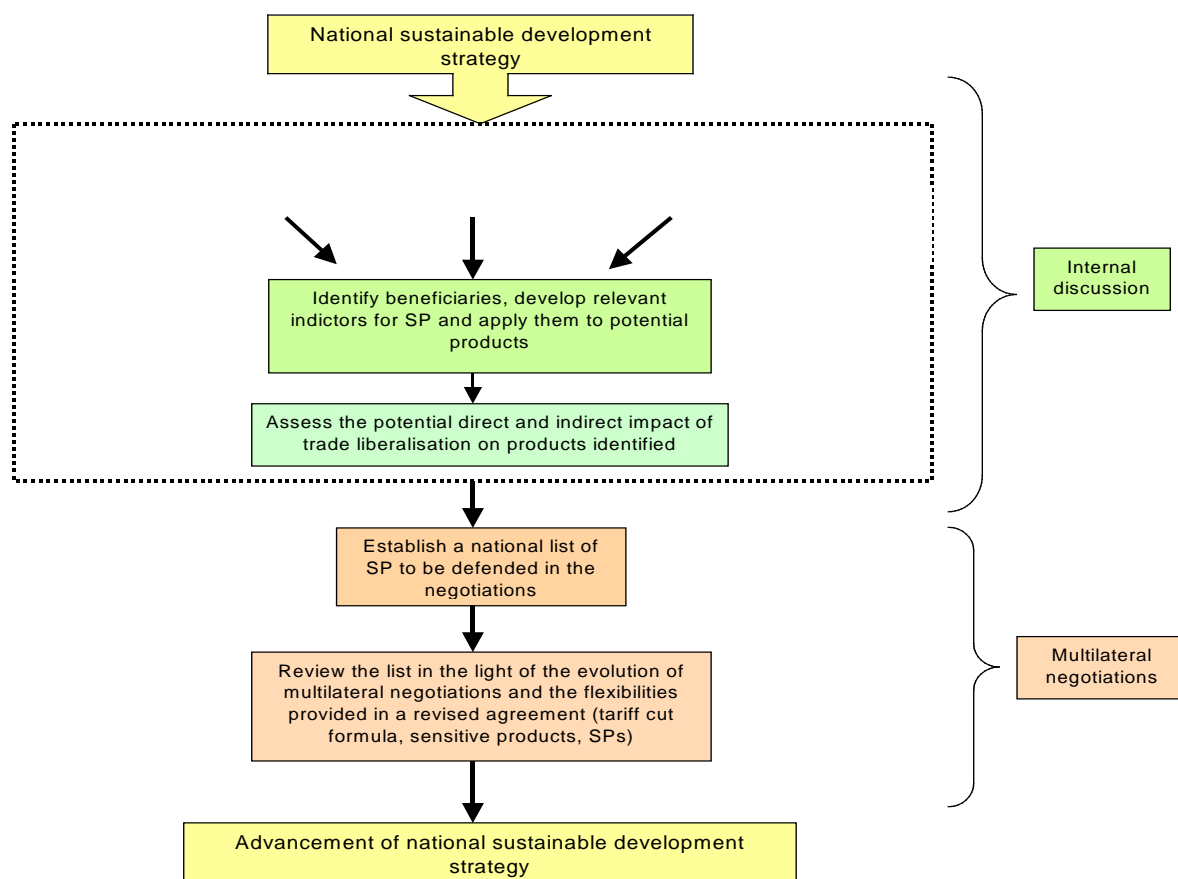
Each developing country will have to undertake internal discussion and consultations to identify its SPs and products eligible for the SSM. This is a pre-condition for an informed and effective participation in the negotiations. The main challenge for them will be to genuinely build on the three objectives when designating SPs, instead of being driven by narrowly defined commercial considerations.

ICTSD has developed a flexible, multi-stakeholder methodology for structuring this internal discussion (Figure 1). It aims to place the analysis for the identification of SPs within the broader national strategy for sustainable agricultural development and poverty alleviation. It also includes a range of stakeholder groups such as farmers' associations, consumers, industry representatives and civil society in the conversation about SPs, along with government officials and trade negotiators. These groups, which are directly affected by the decisions taken, bring new insights to the table with regard to criteria for selection of SPs that may well go overlooked during the standard research process.

The methodology also attempts to operationalise the three concepts entailed in the July Framework Agreement through an illustrative list of indicators, both quantitative and qualitative, applied at the national and sub-national levels. These indicators are designed both to identify the intended beneficiaries of the SP-SSM flexibilities, and to assess the importance of specific products from a food/livelihood security and rural development perspective.

The methodology then provides guidelines to assess the potential direct or indirect impact of further liberalization on the products identified. In particular, it highlights the need for policy makers to take into considerations issues such as substitute products, vulnerability to imports or current levels of protection when finalising lists and ranking the identified products.

Figure 1 A Conceptual Framework for the Identification of Special Products in Developing Countries



Source: Developed by ICTSD

The methodology was tested in the context of six G-33 countries, in case studies undertaken by ICTSD in cooperation with national governments and local researchers: Barbados, Honduras, Kenya, Pakistan, Peru, and Sri Lanka. They were selected on the basis of geographic distribution, the presence of domestic research capacity, governmental willingness to support the process, and their various statuses as Net Food-Importing Developing Countries (NFIDC), Low-Income Food-Deficit Countries (LIFDC), and Small Island Developing States (SIDS).

In order to assess the economic and social importance of particular products for specific high-poverty sub-regions within a country, the analysis should apply indicators that go beyond the national level, to understand circumstances at the sub-national or provincial level. Furthermore, in addition to the identification of products most relevant from the perspective of food security at the national and/or sub-national levels, there is a need to identify the vulnerable groups that are the intended beneficiaries of SP-SSM flexibilities - the rural poor and small farmers - and the specific products on which their livelihoods depend.

To identify the intended beneficiaries - subsistence and small-scale farmers but also small commercial farmers who might be affected by further liberalisation and become subsistence farmers - proposed indicators were based on income, or more precisely the lack thereof; the geographical distribution of poverty; and measures regarding production capacity, such as agricultural productivity and the size of landholdings.

Illustrative list of indicators to identify subsistence and small-scale farmers -- the intended beneficiaries of SP-SSM flexibilities:

Income

- The number of households/persons below the national poverty line;
- The number of people with incomes below the necessary to cover basic needs (i.e. food, shelter, health, clothes, education, etc);
- The measurement of household expenditures; or,
- The use international standards of poverty such as the World Bank's poverty line of US\$ 1 per person a day.

Geographical distribution of poverty

- The analysis of the geographical distribution of poverty on the basis of the administrative/political organization of each developing country;
- An assessment based on the agro-ecological conditions of various regions.

Production capacity

- Very country-specific, but could include size of landholding, number of head of livestock, productivity.

Identifying the products on which their livelihoods - and thus so much of rural development - depend requires a different set of indicators. These would assess the economic importance of a particular product, such as its share in national and regional GDP or the area dedicated to its production, as well as its contribution to employment generation.

Illustrative list of indicators to identify relevant products from the perspective of livelihood security and rural development needs

Economic importance

- The contribution of the product to the national agricultural GDP;
- The contribution of the product to a particular region's GDP;
- The area of land dedicated to the production of a particular product at the national or regional levels;
- The number of heads of livestock in the country or region;
- The share of per capita income derived from a particular sector in a specific region or at the national level.

Contribution to employment

- Total (absolute number of) labour engaged in the sector at the national level or in a region;
- The share of the national or regional agricultural population engaged in the production of a specific product;
- Other relevant special conditions of the specific products.

Identifying products central to food security should be done at the national, household and individual levels by analysing their importance to the consumption profile of vulnerable populations. Indicators could include nationally-identified staple foods, the share of particular products in national or regional consumption, or the share of income spent on a particular food.

Identifying products from the perspective of food security

- National statutes or regulations may already identify a number of key staple products and/or a basket of basic foods reflecting local preferences and circumstances;
- The share of a particular product in total national or regional consumption as reflected by its contribution to the caloric intake of the population;
- The share of income spent on a particular product at the national or regional levels;
- Self-sufficiency and import penetration, especially on products prominent in the consumption profile of the population;
- Overall capacity of the country to finance food security programs, including by importing food.

To assess how import liberalisation might affect domestic production, some additional factors need to be taken into consideration. In particular, countries may look to shield sectors from import penetration by directly-competing substitutes - imported wheat has, for instance, replaced consumption of the traditional (and domestically produced) cassava and millet in some parts of Africa. Direct substitutes could, for instance, also be designated as SPs. The vulnerability of products to displacement by foreign imports is another potential concern. They may also wish to bear in mind that several staple foods such as rice and corn face competition from heavily-subsidised exports from rich countries. Finally, from a strictly practical standpoint, governments could look at the tariff overhang for a particular product - if its applied tariffs are unlikely to be affected by the standard tariff reduction commitment, there may be little to gain by designating it as an SP, even if it meets several of the criteria.

It is worth mentioning that the data required for such analyses may, even if available, be dispersed across a wide range of institutions in a developing country, from government departments and university research institutes to international organisations working in the field, donors and NGOs involved in rural development. Targeted technical assistance from developed countries could help countries gather the information that they need.

Which SPs are the most 'special'?

The degree to which potential SPs are crucial to livelihood security, rural development, and food security concerns is likely to vary. Countries may, therefore, seek to try to measure the extent of 'special-ness' of potential SPs in order to optimise the use of the flexibilities accorded to them. One approach would be to assign relative weights to the three objectives and to the various indicators within them. This calculus - the relative importance of each objective and indicator - would, of course, vary from country to country, and would have to be determined nationally, in consultation with a wide range of stakeholders.

One of the studies performed this prioritisation exercise by setting up a matrix with different weights assigned to each indicator in proportion to its importance, so as to arrive at scores that indicate the significance of every potential SP concerned.

What did the case studies find?

The six case studies revealed significant differences with regard to the scope and coverage of potential SPs - one study designated as many as 145 tariff lines at the 6-digit HS level as special, while another found that 19 would be enough to safeguard that country's agricultural sector. The most common products identified as SPs were wheat, rice, maize, sugar, chicken and beef, milk and dairy products, tomatoes, onions and potatoes. Unsurprisingly, many of these products are also the ones where major trade distortions prevail in the world market. This is all the more true for products that are heavily subsidised by rich countries, such as beef, milk and dairy products, but also sugar, wheat and rice. Notably, many of these products are covered by longer transition periods and safeguard measures in EU and US FTAs.

In terms of the percentage of total tariff lines designated as SPs, the average percentage was 12.5 percent. The highest proportion of SPs was 20 percent of total tariff lines in one of the studies. This corresponds roughly to the 15-20 percent suggested by some G-33 countries in WTO negotiations.

What about product eligibility for the SSM?

There is no economic reason for excluding *a priori* any agricultural product from eligibility for the SSM, since it simply provides for allowing developing countries to apply a border measure, for a limited time period, against temporary international price declines or import surges that can harm their fragile agricultural sectors.

However, in case limits on the product coverage of the SSM emerge during the course of the negotiations, it may be useful for countries to consider which products would benefit especially from access to the SSM.

Most importantly, all SPs should be eligible - they are essential to the fragile livelihoods of the rural poor and small farmers whose capacity to withstand external shocks is minimal.

Increasing import penetration of certain products into local markets over time may be another valid consideration, since it would suggest that local production was already operating strenuous conditions, and thus particularly vulnerable to import surges. Sudden increases of imports may irremediably damage the viability of those sectors.

Another consideration could be the extent of subsidisation of particular products by other countries. FAO analyses suggest that high levels of subsidies in exporting countries not only depress overall world market prices, but are correlated with increased price volatility and import surges, for products such as dairy, livestock, and sugar.

Finally, developing countries may want to consider making products that will be subject to significant tariff cuts under the Doha Round eligible for the SSM, since they will be left especially exposed to import surges.

What could SP modalities look like?

Although the Hong Kong Ministerial Declaration appears to have answered the question of how Members will designate their SPs - it provides for self-designation "guided by indicators based on the criteria of food security, livelihood security and rural development" - several issues about the treatment of SPs remain unresolved. What exactly does "guided" entail? What would these indicators be? How would they affect subsequent bilateral negotiations on Members' SP lists? At what level of the Harmonised System (4-digit or 6-digit) should products be identified? The more specific 6-digit level would allow them to designate a more diverse range of tariff lines as SPs. Should SPs be exempted from tariff reduction? If not, what kind of tariff treatment should developing countries seek for these products? Should these products be eligible for the SSM? What, if any, would be the relationship between 'sensitive products' - which both developed and developing countries can designate for tariff cuts lower than those demanded by the formula - and SPs?

Developing a list of multilaterally-agreed indicators would be difficult, not to mention impractical. Not only would it be hard to define uniform thresholds for the indicators of food security, livelihood security, and rural development, a 'one-size-fits-all' approach would not be able to properly account for the specific agro-ecological, social, and economic conditions in different developing countries.

A more realistic option would be to allow developing countries to self-designate their SPs, while at the same time providing an illustrative list of possible indicators that they could use to guide their selection process. These indicators would also serve as support when they have to justify their SP lists in the eventual negotiations on their commitment schedules.

In the course of the negotiations, developing countries might be willing to consider the imposition of an overall limit on the proportion of agricultural tariff lines (or perhaps percentage of agricultural trade) that can be designated as SPs, as a quid pro quo for being allowed to self-select them.

Broadly speaking, the level of flexibility accorded to SPs will depend to a significant degree on the tariff reduction formula for developing countries agreed to in the market access negotiations. An agreement to completely exempt SPs from tariff reduction, though technically possible under the Framework Agreement, would likely only be achievable if SP lists are small, or if exemptions are limited to a subset of particularly important SPs. Developing countries could potentially classify SPs into tiers of varying flexibility, with the lowest tier to be completely exempted from tariff reduction. Eventual reduction commitments should in any event take place under a longer implementation period. Furthermore, SPs should automatically qualify for the SSM.

The Framework Agreement does not say anything about a relationship between 'sensitive products' and SPs. The two concepts have evolved independently of each other, and there is no solid rationale for connecting them. Developing countries have been given access to the flexibility for SPs over and above that for 'sensitive products', for particular public policy objectives. It may thus be strategically better for developing countries to refrain from drawing links between the two during the negotiations.

What is necessary for the SSM to not repeat the mistakes of the SSG?

Developing countries have repeatedly emphasized that the SSM should not replicate the shortcomings of the nearly impossible-to-use Special Safeguard (SSG) provided for in the Agreement on Agriculture. In other words, the SSM should be simple and transparent, relatively easy to invoke, and triggered in reaction to exceptional market conditions in terms of both import price and volume. The remedy measures should be temporary in nature and should not require proof of injury, which can be difficult to provide in time to prevent injury to domestic producers. Finally, the system should be crafted in a way that doesn't lead to misuse or too frequent triggers.

The most significant obstacle to the use of the SSG is that it is limited to the 22 developing countries that converted their non-tariff restrictions into tariffs (so-called tariffication) during the Uruguay Round. The many developing countries that opted for ceiling tariff rates (the high bound levels referred to above) are not even allowed to use the SSG.

Even those 22 countries, between 1995 and 2004, actually invoked the SSG in only one percent of the cases in which they could potentially have done so. This is not necessarily because they did not need to use it. In several cases, countries have had difficulties in undertaking the domestic legislative reforms required to use the mechanism. Others feared that using the SSG might prompt affected members to initiate WTO disputes, charging erroneous application. Importers have also been successful in convincing their government not to use the SSG, since the producer groups most affected by import surges and price fluctuations are far less influential.

Developing countries have found it hard to use the SSG's volume-based trigger for several reasons, in part because they often do not have the resources to estimate import flows or the possibility of import surges in real time. Price-based safeguards are in principle easy and rapid to invoke, but the SSG's base period for price levels dates back to the 1980s, and the fixed reference price is thus low compared to current prices, making it difficult to trigger.

The price-based trigger is a particularly important tool when prices fall, since it is easy to invoke, and import volumes often take some time to increase following a collapse in prices. Furthermore, vulnerable producers in developing countries seem to be more immediately affected by decreases in import prices than by moderate increases in import volume - the former have a sudden, direct impact on their income.

Views on the eligibility of products for the SSM have ranged from no restrictions on product coverage to limiting it to products with low bound tariffs. Others have suggested linking product eligibility to multilaterally-agreed criteria, or to self-designation of a limited number of tariff lines. However, it is difficult to determine which products should be eligible for the SSM and which should not, even for the purposes of food security, livelihood security, and rural development. Indeed, neither the Framework Agreement nor the Hong Kong Ministerial Declaration exclude any developing countries or products from eligibility for the SSM. As discussed above, there is a strong case for letting the SSM apply to all products that meet the trigger requirements. In the event that the negotiations move to restrict access to the SSM, one option for developing countries may be to push for limits not on the number of eligible tariff lines, but instead on the number of times the SSM could be simultaneously invoked against a range of different products.

The Hong Kong Ministerial Declaration specified that the SSM would give developing countries "the right to have recourse" to both volume and price-based triggers. Some proposals have been made for periodically updating the SSM's reference price levels, to ensure that they are more realistic than those for the SSG. Trigger levels would also, however, need to reflect possible long-term trends in commodity prices, and agreement on a transparent and reliable updating system has proved difficult.

Another issue to be determined in the negotiations is the nature of the remedies available under the SSM. One of the problems with the SSG is that it places limits on the level of additional duties that Members are allowed to impose, so that they can only partially offset increase in import volume or the decrease in import prices. Remedies under the SSM should vary with the depth of the import surge or the level of the price depression of the commodity in question, in order for the measures to fulfil their stated objectives.

The SSM should respond to short-term price depressions below a trigger threshold, but not to structural price declines. Structural problems need structural policies for training, research, technology and infrastructure to improve welfare in rural areas. Once a trigger has been activated, the remedy or the action to be taken should be commensurate with the depth of the import surge or the level of the price depression of the commodity in question. In addition, the duration of the application of the safeguard should match the duration of the injury that the remedy is trying to address. This will avoid a repetition of some of the problems that dogged the SSG.

1 INTRODUCTION

The reform of the global agricultural trading system, currently under negotiation in the World Trade Organization (WTO), is crucial to establishing a 'fair and market-oriented trading system'. Highly subsidised agricultural production and exports in developed countries, along with other forms of anti-competitive behaviour, are depressing world prices and undermining development prospects in poor countries. In addition, tariff peaks and tariff escalation are limiting many poor countries' market access opportunities and potential gains from trade.

It is widely recognised that developing countries as a whole will benefit from the removal of trade distortions in agricultural trade. However, some trade negotiators and analysts fear that vulnerable farming communities in developing countries might suffer as a result of further liberalisation under the Doha Round. Many developing countries have large populations of small and resource-poor farmers with limited access to infrastructure and few employment alternatives. As tariff barriers are removed, the livelihoods of communities employed in import-competing sectors could be affected by the lower prices resulting from international competition.

On 1 August 2004, WTO members agreed on a framework in agriculture that constitutes the basis for negotiations of full modalities. The so-called 'Framework Agreement' includes two key sustainable development concepts: Special Products (SPs) and a Special Safeguard Mechanism (SSM). SPs are agricultural products of particular importance to vulnerable farming communities in developing countries for reasons of food security, livelihood security

or rural development. According to paragraph 41 of Annex A, these products should be subject to "more flexible treatment" in the tariff reduction negotiations. This is likely to take the form of lower tariff reductions over longer time periods than would be the case for other products. At the WTO ministerial Conference in Hong Kong in December 2005, Members agreed that developing will have the flexibility to self-designate an appropriate number of SPs but that this designation should be guided by indicators of food security, livelihood security and rural development

The SSM will give developing countries the possibility of raising tariffs beyond bound levels to protect their agricultural sectors against price fluctuations and sudden import surges. A Special Safeguard (SSG) already exists in the current Agreement on Agriculture, but this provision has been limited to only a few developing countries and has proved difficult for eligible countries to apply in practice. Paragraph 42 of the 2004 Framework Agreement simply states that: "*A Special Safeguard Mechanism (SSM) will be established for use by developing country Members.*" In terms of how such a mechanism would function, Ministers agreed in Hong Kong that the SSM will have both a price and volume trigger mechanism.

These two concepts provide a strategic window of opportunity to address food security, livelihood security and rural development needs in current agricultural negotiations. It is also one of the few instances in the multilateral trading system where public policy objectives, as opposed to purely commercial objectives, have been explicitly stated as the rationale for specific multilateral disciplines.

There has been considerable debate among members over the way SPs are to be defined, including how to operationalise the three criteria of food security, livelihood security and rural development; and what should be the level of tariff reduction (if any) to which they should be subject. With respect to the SSM, the debate has focused on product coverage, trigger mechanisms (volume and/or price) and types of remedy.

Turning these concepts into meaningful provisions will require leadership by developing countries in the modality stage of the negotiations. The G-33 alliance members are actively pursuing this objective. Despite the diversity of the group's membership - encompassing, for example, the largest developing country (China), the smallest agricultural producers (Grenada or Saint Kitts & Nevis), the most advanced developing country (Korea) and one of the most deprived economies (Haiti) - the coalition presents a common front based on their support for SPs and the SSM.

The International Centre for Trade and Sustainable Development (ICTSD) has sought to take advantage of this strategic opportunity to inject public policy concerns into the WTO negotiations, by engaging with leading thinkers in this area to develop a conceptual framework for operationalising the SP and SSM concepts. This framework was subsequently applied and 'tested' in the field through a series of six country studies on the identification of SPs and products eligible for an SSM. These studies were carried out in Barbados, Honduras, Kenya, Pakistan, Peru and Sri Lanka, in close collaboration with local researchers.

In keeping with ICTSD's strategic approach, the studies involved a wide range of stakeholders, ranging from government

officials to farmers' groups and academia, in an inclusive and participatory process at the national and international levels. This empirical work was supplemented by a series of targeted analytical pieces that address cross-cutting issues such as tariff structures in developing countries and the interaction between bilateral and multilateral negotiations on SP-SSM. The material produced under this project has undergone a multidisciplinary peer review process with leading experts in the field, representing different countries, international and non-governmental organisations and academia.

The objectives of the present paper are to synthesise the knowledge generated by this fact-finding exercise and convey its main findings to policy makers, negotiators, civil society representatives, farmers' groups, and academia. The paper is not intended to be prescriptive or to propose a particular approach to accommodate the specific needs of developing countries. It rather aims to contribute to ongoing negotiations by providing some empirically-based and scientific elaboration of the SP-SSM concepts from a sustainable development perspective. To achieve this, it connects local realities - such as food insecurity, rural employment structures, market conditions or traditional food preferences - with disciplines under negotiation in the market access pillar of the WTO agricultural talks. The paper has been developed not as an academic exercise, but as a practical tool for both policy makers and stakeholders with immediate applicability to the current WTO negotiations on agriculture. It is also intended to be a living document that will incorporate relevant findings from future country case studies.

The paper is structured as follows. Sections II and III review the rationale for SPs and the SSM.

Section II looks firstly at the considerations of food security, livelihood security and rural development needs, and then reviews empirical evidence of cases and causality of import surges and associated production shortfalls over the last twenty years. Section III provides an overview of the current tariff structure of G-33 countries reflecting both bound and applied rates, and a short analysis of how bilateral and regional agreements have addressed the issues of sensitive products and agricultural safeguards and to what extent they might affect developing countries' abilities to use the flexibilities under negotiation in the WTO.

Section IV focuses on the national level. It proposes a possible methodology for the identification of special products and products eligible for an SSM. To do so, it provides a comprehensive set of possible indicators at the national and sub-national level to: (i) identify the intended beneficiaries; and (ii) assess the importance of specific products from a food/livelihood

security and rural development perspective. It also highlights the need to take into consideration issues such as substitute products, import vulnerability or current levels of protection when finalising national lists and ranking the identified products.

Finally, section V provides a number of strategic considerations in the context of the current WTO negotiations on modalities for SPs and the SSM. It lists possible options for the self-designation of SPs and reviews the pros and cons of various treatment options, ranging from a total exemption from tariff reductions to differentiated treatment following the model of the tiered formula for agricultural tariff reduction, to a combination of both these treatments. The paper ends with a presentation of a set of options to design a fully operational SSM, building on the experience and, particularly, the difficulties encountered by developing countries in using the existing SSG to mitigate the sustainable development impacts of import surges.

2 RATIONALE BEHIND THE CONCEPTS OF SPECIAL PRODUCTS AND THE SPECIAL SAFEGUARD MECHANISM

Several developing countries have justified the need for provisions on SPs and the SSM on the grounds that further liberalisation might affect food and livelihood security and rural development. In this respect it is useful to review the impacts of past liberalisation in developing countries. This is a subject of considerable controversy, with limited and inconclusive empirical evidence. While it is clear that the removal of trade distortions might contribute to employment and poverty alleviation by providing increased trade opportunities, it is widely recognised that indiscriminate liberalisation might also generate negative impacts. Several issues emerging from the literature should be highlighted here (Bernal 2004).

SPs and the SSM are two different instruments. SPs should provide targeted protection for products that are important for food security, livelihood security and rural development, but which would not survive under competitive conditions.

Firstly, trade liberalisation is often accompanied by wider economic reforms, which usually entail the reduction of state intervention in the economy and the withdrawal of governmental support from a number of social and other services. In many countries, this process has also been characterised by a conscious decision by governments to reorient agricultural production towards exports, sometimes by focusing their agricultural support on the promotion of non-traditional export-oriented sectors. This has brought benefits to the rural poor, through increased employment and by allowing some independent farms to produce for the export-oriented sector, thus enabling them to command higher prices. However, the concomitant effect of this reorientation of agricultural production towards exports has been the neglect of domestic food production. This, combined with high transport costs in rural areas and low world prices resulting

in part from subsidised exports from industrialised countries, has made it more cost effective for urban areas to source their food from the world market than from domestic production. Liberalisation has also contributed to farm concentration. This has led to increased productivity in some cases but has also increased inequalities and the marginalisation of small producers who are unable to take advantage of new trading opportunities.

Finally, agricultural trade imports have increased faster than exports in the majority of developing countries. In several instances, this has contributed to the displacement of domestic production, as illustrated by the case of Sri Lanka (see Box 1). According to FAO, there have been increasing reports of food import surges in developing countries since the mid-1990s, particularly among low-income food-insecure countries (FAO 2003.)

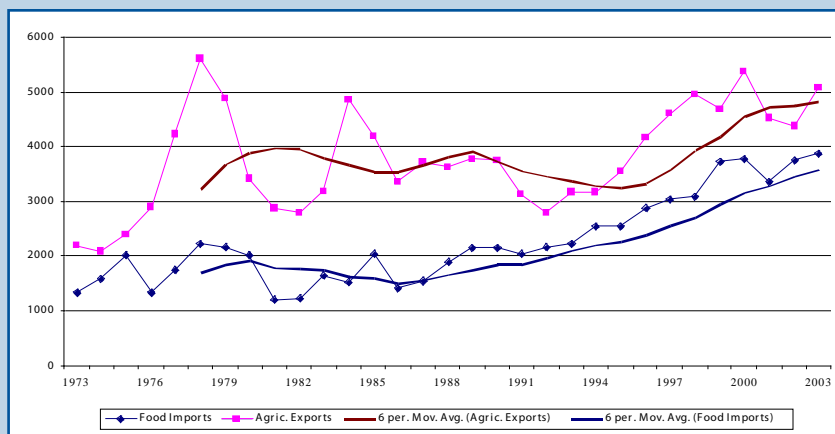
SPs and the SSM are two different instruments, addressing two different problems associated with trade liberalisation. The idea behind the SPs is to provide targeted protection for the rural populations of developing countries from the possible negative impacts of trade liberalisation. This protection is likely to take the form of tariff reduction exemptions or minimal tariff cuts over a longer transition period for products that are deemed important for food security, livelihood security or rural development, but which would not survive under so-called competitive conditions. These products are cultivated mostly by small-scale subsistence farmers, who represent a large proportion of developing countries' rural populations

Box 1 The effects of liberalisation in Sri Lanka

Sri Lanka has had a very open economy since the end of the 1970s when a series of policy measures aimed at creating a market-driven economy was introduced. These reforms included unification of the exchange rate; relaxation of the exchange controls; rationalisation of the tariff structure (reduction of the tariffs/number of tariff bands) and the elimination of all quantitative restrictions and export duties.

The trade-to-GDP ratio in Sri Lanka has increased, accordingly, from 60 percent in the beginning of the 1990s to 70 percent on average during the last ten years. As the expenditure on imports is higher than the earnings from exports, the balance of trade has been in deficit for nearly 25 years, since the start of the liberalisation efforts. Agricultural exports and food imports have also increased notably during the last 30-year period. The six-year moving average trends of agricultural exports and food imports show that the growth of food imports has been faster than the growth of agricultural exports.

Table A Food imports growing faster than agricultural exports



The main imported food items in Sri Lanka include wheat, other cereals, legume products, milk products, sugar, potatoes and onions. The high growth of food imports has negatively affected the cultivation of many field crops in the country, including root crops, chillies, maize and legume crops. This situation has also had a direct impact on rural development and livelihood security in Sri Lanka's rural areas. The poultry sector has also been affected to some extent by cheap imports of various 'poultry parts'. Other meat industries have not been significantly constrained by meat imports, although local price structures are sensitive to the cheap imports of such meat.

Dairy production shows a mixed picture; there has been a decline in fresh milk production, but a gradual increase in the volume of value-added products. Milk powder and ice cream are among the newly emerging dairy-based value-added industries. These industries would, however, need special protection from import competition in order to develop and expand.

Source: Herath (2005)

The SSM allows countries to raise tariffs above their bound levels for a limited duration to protect import-competing sectors from import surges and/or price depression.

but are unlikely to become competitive in the short run. As such, they would be negatively affected by greater exposure to foreign competition.

By contrast, the SSM would allow countries to raise tariffs above their bound levels for a limited duration to protect import-competing sectors against price depression and/or import surges. This tool could be useful for products that are 'competitive' - or which because of SP flexibility could 'compete' with imports - but which are still vulnerable to price fluctuation and revenue-related risks. In more developed

economies, such risks can be offset by, for example, market-related instruments, but in many developing countries the capacity to develop such instruments is currently limited. So, while the SP flexibility may be appropriate for a limited number of products, SSM eligibility should be extended to all products.

In both cases however, the flexibilities provided by SPs and the SSM should help reduce the risks associated with agricultural production and create a more conducive environment for investment in productivity-enhancing technology.

2.1 Rationale behind the concept of Special Products

In the ongoing WTO negotiations on agriculture, developing countries have emphasised the linkages between the concepts of food security, livelihood security, rural development and trade liberalisation. The G-33 countries have stressed that, because of their linkages, these three

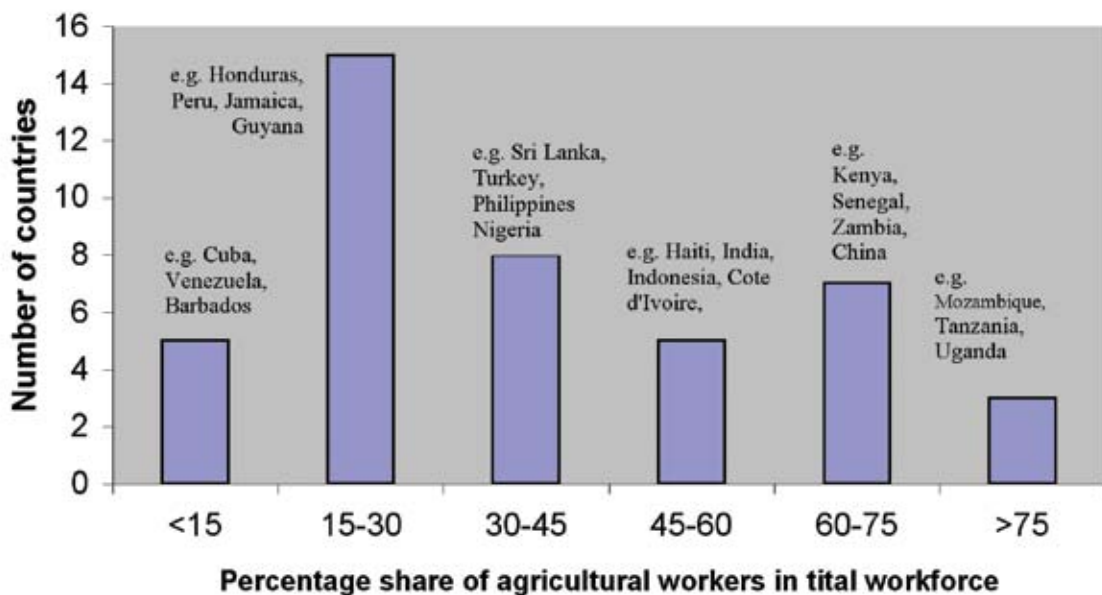
concepts should not be separated in the negotiations.

Livelihood Security

During the negotiations, many developing countries have emphasised livelihood security concerns, stressing the fact that

In both cases, SPs and the SSM should help reduce the risks associated with agricultural production and create a more conducive environment for investment in productivity-enhancing technology.

Figure 1 Agricultural workers as share of total workforce in G33 countries (2002)



Source: EarthTrends database (World Resources Institute 2002)

agriculture continues to be the main employer, providing up to 70 percent of employment in low-income countries and 30 percent in middle-income countries (see Figure 1 below).

These figures reflect the large numbers of small-scale subsistence farmers in these countries, who have very limited alternative employment opportunities. In market economies, when productive resources become redundant in one area of the economy, the expectation is that they would be redeployed in another area. However, developing countries contend that, since alternative avenues of employment for their rural poor are simply not available, agriculture remains the only viable livelihood source in many cases.

Rural development

Agriculture still accounts for a large share of developing countries' GDP (see Figure 2) and constitutes the dominant economic

sector in rural areas. Rural development can therefore only be sustained by vibrant and growing agricultural activity. It is true that the contribution of agriculture to the GDPs of many of the more advanced developing countries has declined. Nonetheless, it still remains fairly substantial, even in some industrialising countries. Since rural areas are home to a large proportion of the poorest of the poor in developing countries, rural development is of paramount importance to poverty alleviation efforts.

Trade liberalisation can help break the vicious cycle of underdevelopment and poverty that is widely prevalent in rural areas. However, further liberalisation, under current trading conditions that are highly affected by massive distortions, also risks having the opposite effect.

Food security

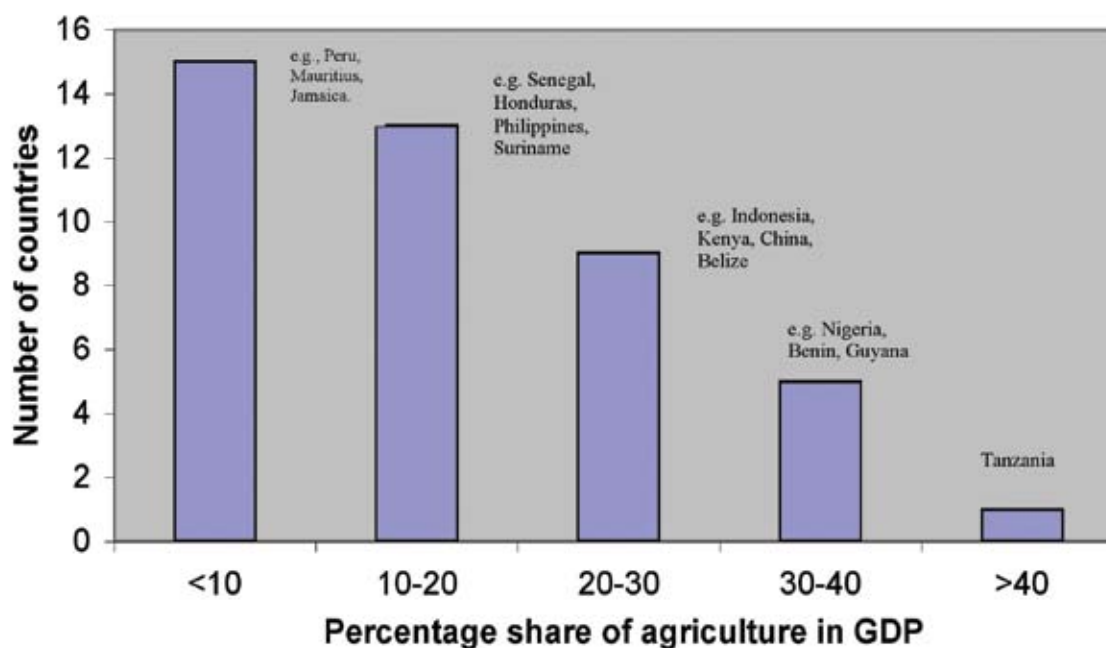
Several G-33 countries have high percentages of undernourished people (as illustrated

The concepts of food security, livelihood security and rural development are closely interlinked and should not be separated in the negotiations.

In the absence of other employment opportunities, agriculture remains the main employer in developing countries, providing up to 70 percent of employment in low-income countries and 30 percent in middle-income countries.

Since the majority of the poor live in the countryside, rural development is crucial to poverty alleviation.

Figure 2 Contribution of agriculture to GDP in G-33 countries



Source: EarthTrends database (World Resources Institute 2002)

in Figure 3) and food security is clearly a major issue to many of them. The concept of food security has evolved significantly over time. Traditionally, many countries equated food security with self-sufficiency in the production of basic foodstuffs. Memories of famines and wartime food shortages made the production of sufficient food a paramount concern. Today, food security concerns have shifted to households' and individuals' access and guarantees to food.

Any food security strategy that is based solely on importing food entails significant risks for poor countries that depend on a few export commodities with volatile and declining prices.

The most widely accepted definition of food security, which was adopted at the World Food Summit hosted by the Food and Agriculture Organization (FAO) in 1996, is the following: "Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life" (FAO, 1996). It follows from the above definition that access to food is the main concern among governments today.

This transformation of the food security concept is linked to the expansion of world trade in the last five decades, as falling trade barriers and cheaper transport have allowed food imports to become a potential source of food security. In practice, the importance of trade in achieving food security is relative and depends on the particular circumstances of individual countries.

For most developed and developing countries, however, a food security strategy based solely on guaranteeing the availability of imported food, whether through commercial imports or food aid would entail significant risks. This is particularly so for poor countries which are highly dependent on a few export commodities whose prices show high volatility and a long-term decline. In spite of the progress seen in the diversification

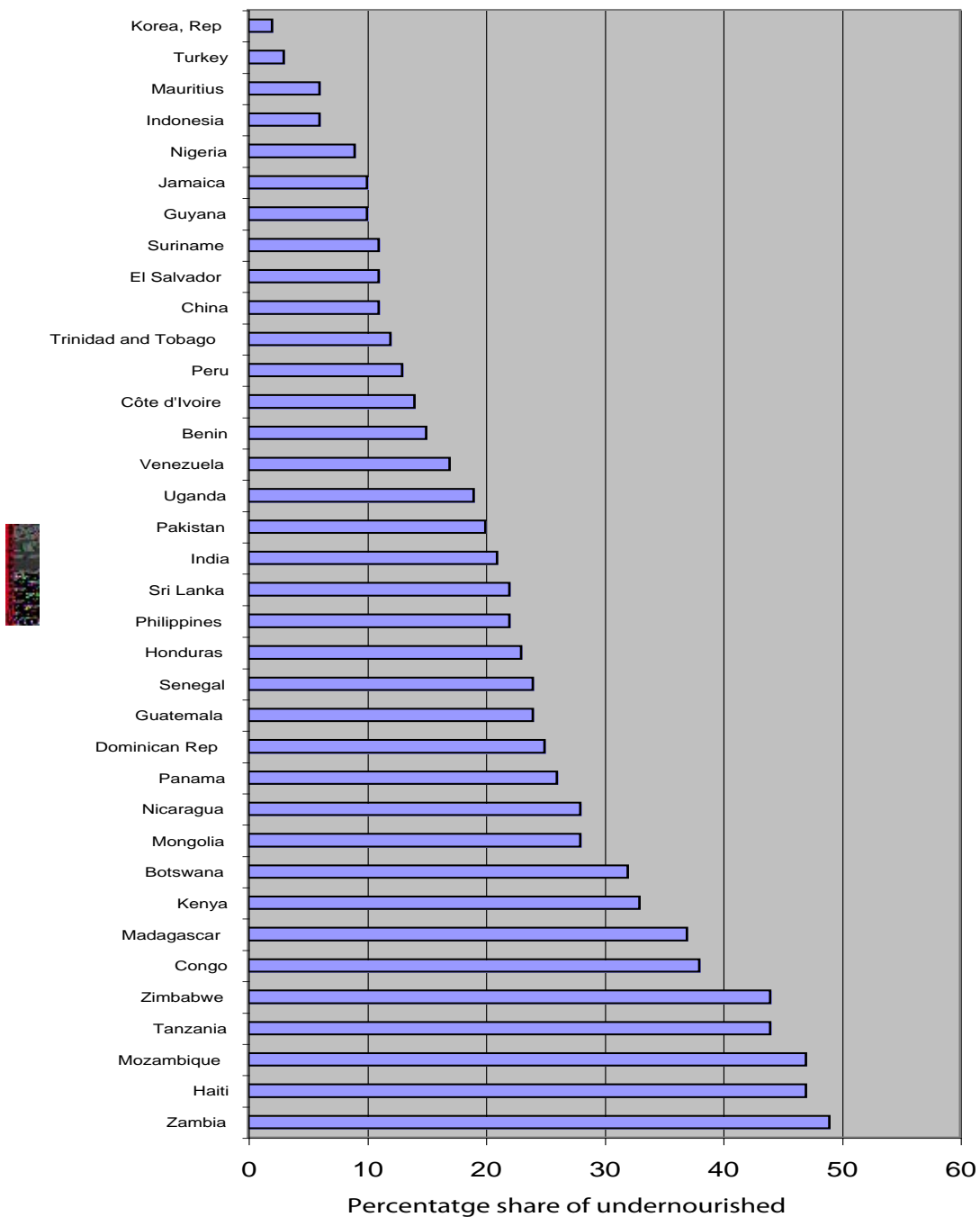
of production for export, these sectors still represent a small proportion of developing countries' exports. This raises questions as to the sufficiency and stability of the export earnings to pay for commercial imports of food.

Food aid is also problematic as a contribution to food security. Evidence suggests that, in addition to being an inherently unreliable source of food imports, food aid has also been in decline and may be in short supply precisely when prices are high and poor countries are likely to be most in need of aid (Bernal, 2004).

Larger developing countries such as Indonesia have also argued that they cannot afford to be dependent on imports to cover their basic food needs. With a population of 210 million people, Indonesia has an annual consumption of its main staple food, rice, that far exceeds the volume of rice that is internationally traded. In 1998, world trade in rice was approximately 20 million metric tons, compared to Indonesia's domestic consumption of 30 million metric tons (Hoda, 2005). India has echoed the concern that increased dependence on imported food could have a negative impact on people's access to it, arguing that the entry of large, high-consumption countries into the world food grain market could drive up prices, thus compounding the problems that these countries face.

Finally, several countries have highlighted the fact that world commodity markets for basic food grains are significantly more volatile than their domestic food grain markets, and dependence on imported food would risk transmitting international price fluctuations to the domestic market. This, in turn, could seriously impact poor people, for whom expenditure on food accounts for

Figure 3 *Undernourished as percentage of total population in G-33 countries (average 2000-2002)*



Source: Based on the Millennium Development Goal Indicators Database (UNSD)

Agricultural markets are by nature cyclical and subject to wide variations. As tariffs are cut, countries become vulnerable to external market instability and to import surges that could affect production.

The policy instruments available to developing economies to deal with sharp price decline are essentially restricted to border protection measures.

World price instability per se is one issue, but more important for the price risk facing agricultural producers in developing countries is the persistence of low prices.

a large share of their household budgets (Hoda, 2005). For these reasons most countries recognise that food security needs to be achieved by maintaining an appropriate balance between domestic food production, imports and public stockholding.

The additional flexibility that developing

2.2 Rationale behind the Special Safeguard Mechanism

Agricultural markets are by nature cyclical and subject to wide variation. As countries reduce their tariffs, they become increasingly vulnerable to external agricultural market instability and to import surges that could wipe out viable, well-established or nascent agricultural production activities. Past protectionist policies - especially quantitative restrictions related to import licenses and quotas, variable levies, and state trading monopolies - reduced the transmission of international price variability to domestic markets. High tariffs by themselves also tend to reduce the practical importance of world price fluctuations for domestic producers (Valdés and Foster 2005).

Today the set of policy instruments available to governments to protect their economies from price fluctuations is largely restricted to limited tariffs and surcharges (including safeguards). For many developing countries, which have limited financial resources and are price takers in world commodity markets, with long-term downward trending prices, the present trade and policy environment has amplified internal political pressures to use border protection. Governments are pressured to counteract the transmission to internal markets of the perceived distortions in world prices. The widely held assumption that developed country subsidies artificially and significantly lower world prices increases the resistance to lowering trade barriers

countries are seeking from SPs is unlikely to provide a direct solution to the structural problems that prevail in many of their agricultural sectors. However, this flexibility could at least afford them the space required to carry out reforms, to set up new policies and to prepare themselves for future trade negotiations on a more level playing field.

on imports. There is a presumption that international prices are so distorted that they do not represent a sound basis for the determination of true competitiveness of domestically produced importables (Valdés & Foster, 2005).

World price instability *per se* is one issue, but more important for the price risk facing agricultural producers in developing countries is the persistence of low prices. The problem facing countries that have significantly opened their markets to trade is how to deal with the episodes of 'excessively low' border prices that affect some import-competing activities. The nature of price movements is such that low prices have a tendency to persist for many months, with occasional spikes of shorter duration. These characteristics of world price movements make the design of appropriate economic policies a very difficult task (Valdés & Foster, 2005).

Closely related to price fluctuation is the problem of import surges, which are generally defined as sharp temporary rises in import volumes above a trend level.¹ Import surges are particularly critical because of their potential impact on food security, and because sudden increases in import volumes can threaten otherwise viable and efficient domestic sectors. While import surges are often the result of sharp commodity price fluctuations, they can also occur under

other circumstances. Other reasons behind import surges include production shortfalls, unfavourable weather conditions and natural disasters, population growth, urbanisation, rising incomes, political instability, macroeconomic instability such as foreign exchange fluctuations, and armed conflict (Jales, 2005). All these variables could have significant impacts on food production and could thus generate food deficits that must be made up by increased imports, but these factors would, in general, not motivate the use of the SSM.

The FAO has closely studied the phenomenon of import surges and attempted to document the cases where sharp increases of imports have coincided with variations in local production in developing countries. Since the mid-1990s, there have been increasing reports of developing countries, particularly Low-Income Food-Deficit Countries (LIFDCs), experiencing import surges of various food products, often associated with negative effects on the local production and economy (FAO, 2005). Table 1 presents incidents of import surges between 1984 and 2000 collected in an FAO study (FAO 2003). The FAO has defined an import surge as a 20-percent increase from a five-year moving average of import volumes for each commodity/country (FAO, 2003). During the period analysed, the number of cases of import surges documented was very high, with pork, poultry meat, vegetable oils and beef among the most common commodities involved. These surges occurred across a varied group of countries. Table 2 presents the cases of production shortfall in the same countries over the same period (Jales, 2005).

A simple comparison between Table 1 and Table 2 is not sufficient to establish that

shortfalls in domestic production necessarily follow import surges. For instance, Tanzania experienced 51 import surges during the period 1984-2000, but only nine cases of production shortfall. Similarly, Honduras experienced 44 cases of import surges during the same period, but saw only eight cases of production shortfall. Jamaica, on the other hand, provides a clear example of a country where the number of import surges corresponds closely to the number of production shortfalls. The country experienced 28 cases of import surges and 26 cases of production shortfall during the study period. In most of these cases, a more detailed study at the national level is necessary to determine whether these import surges were actually the main cause of domestic production shortfalls or vice versa.

The following paragraphs review Jamaica's domestic production and import data for selected products between 1985 and 2003 with a particular focus on dairy, chicken, onions, potatoes and vegetable oils, to see if a correlation can be found between import surges and production shortfalls or production displacement.²

Liberalisation of the dairy sector in Jamaica began in the early 1990s as part of the structural adjustment policies that the country was required to implement in order to receive loans from the World Bank and the International Monetary Fund (IMF). In 1992, the Jamaican Commodity Trading Company (JCTC) lost its import monopoly, import tariffs were reduced, and subsidies for local dairy farmers were abolished. As recently as 2003, an FAO case study stated that "the domestic milk industry has been severely decimated as a result of opening the domestic market to unfair competition from heavily subsidized milk imports." The

According to the FAO, there have been increasing reports of developing countries experiencing import surges, often associated with disruption to their local production.

In most cases, detailed studies at the national level are necessary to determine whether import surges caused domestic production shortfalls or vice versa.

Table 1 Cases of import surges in selected G-33 countries (1984-2000)

Country	Wheat	Rice	Maize	Veg oils	Beef	Pork	Poultry meat	Milk	Total
Philippines	7	9	7	9	12	9	14	5	72
Tanzania	8	5	6	10	6	7	4	5	51
Benin	6	4	3	3	6	7	8	7	44
Honduras	8	5	0	8	6	8	11	3	49
Botswana	6	4	0	6	4	9	7	7	43
Peru	3	4	4	4	4	9	9	6	43
Uganda	10	4	8	11	4	3	2	1	43
Kenya	11	3	5	7	4	6	5	4	45
Cote d'Ivoire	1	4	0	9	7	7	10	3	41
Madagascar	8	5	7	5	3	8	5	5	46
Zambia	4	2	4	4	8	8	5	5	41
Haiti	1	2	4	7	4	9	8	5	40
Dominican Republic	2	-	0	3	8	6	6	3	28
Jamaica	3	4	3	9	3	6	3	1	32
Mauritius	2	0	2	1	7	9	6	0	27
Total	80	55	53	96	86	111	103	61	645

Source: Jales (2005)

Table 2 Cases of production shortfall in selected G-33 countries (1984-2002)

Country	Wheat	Rice	Maize	Veg oils	Beef	Pork	Poultry meat	Milk	Total
Jamaica	-	8	4	7	0	2	1	4	26
Philippines	0	1	1	5	1	1	3	11	23
Zambia	2	5	6	3	2	2	1	2	23
Botswana	5	-	0	5	4	4	0	2	20
Haiti	-	4	1	5	1	2	2	0	15
Kenya	7	0	4	1	0	0	1	0	13
Mauritius	-	-	-	7	2	4	0	-	13
Tanzania	3	4	2	0	0	0	0	0	9
Benin	-	0	1	7	0	3	1	0	12
Dominican Republic	-	-	4	0	1	0	0	4	9
Honduras	0	-	0	0	5	3	0	0	8
Peru	1	-	3	1	0	0	1	0	8
Uganda	3	0	1	0	3	0	0	0	7
Cote d'Ivoire	-	2	0	0	3	3	0	0	8
Madagascar	3	0	2	1	0	0	0	0	6
Total	24	24	29	44	22	24	10	23	200

Source: Jales (2005)

country's import surges of chicken also attracted international attention.

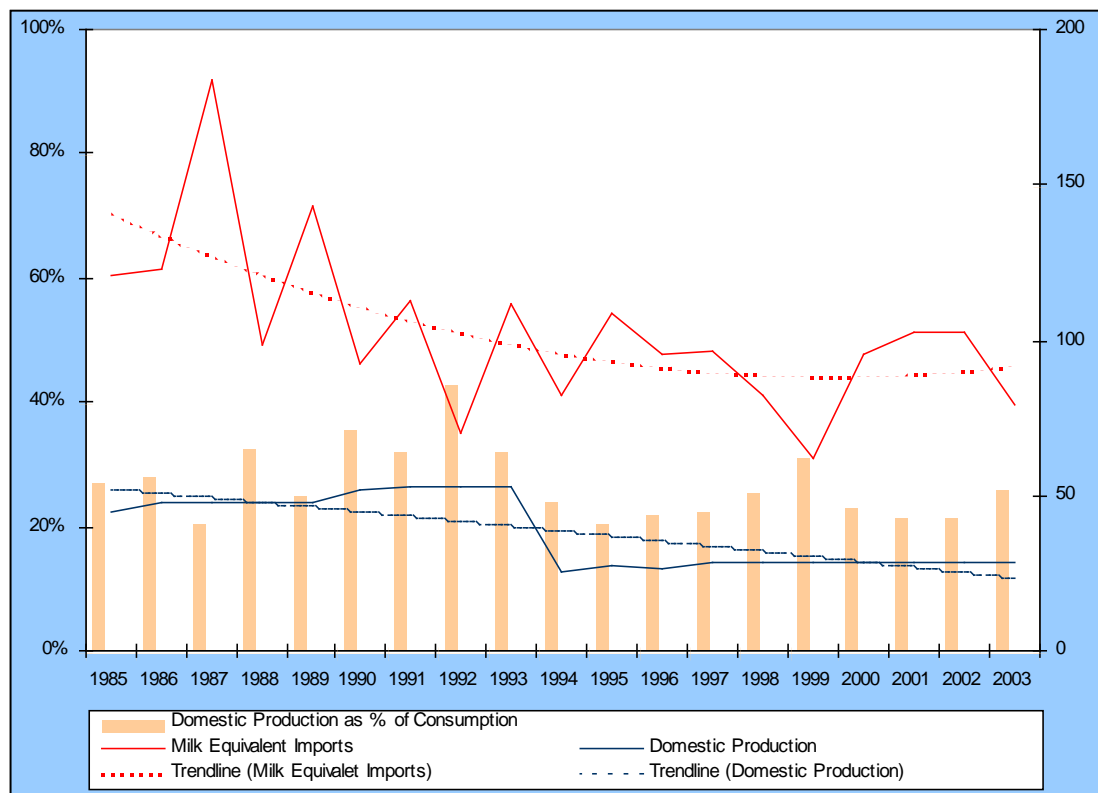
Figure 4 presents figures on Jamaica's domestic production of milk and imports of dairy products (measured in milk equivalent tons) between 1985 and 2003. Imports fluctuated considerably from year to year, but followed a generally descending trend. Average annual imports fell from 134 thousand tons in 1985-1989 to 94 thousand tons in 1990-1994 and 90 thousand tons in 1995-2000.

While it is true that domestic milk production fell substantially in 1994, this shortfall was not preceded by a rising trend in imports of dairy products. Average annual domestic production fell from 48 thousand tons in

1985-1989 to 47 thousand tons in 1990-1994 and 28 thousand tons in 1995-1999 and 2000-2003. Given that both imports and domestic production have fallen, it is obvious that national consumption of dairy products has decreased.

If population growth is taken into account, the fall is even more dramatic: average per capita consumption fell 41 percent from 82.8 kg/inhab./year in 1986-1990 to 48.6 kg/inhab./year in 1991-1999. In the same period, per capita domestic production fell by 30 percent (from 20.7 to 14.6 kg/inhab./year) and per capita dairy imports fell by 42 percent (from 64.7 to 37.3 kg/inhab./year). The fact that per capita imports have fallen more than per capita domestic production in both absolute and relative terms suggests

Figure 4 Jamaica's milk production, imports and consumption (1985-2003)



Source: Based on FAOSTAT (Jales, 2005)

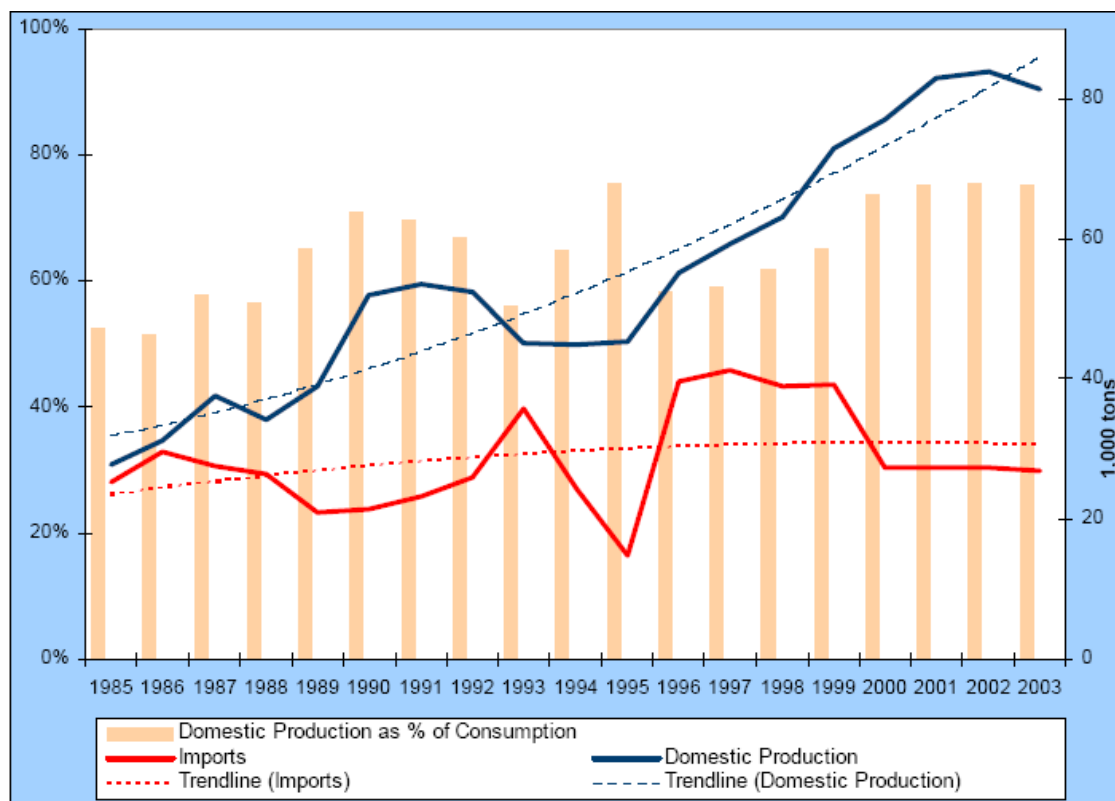
that factors other than import surges have driven domestic production down.

Figure 5 presents data on chicken meat production, trade, and consumption patterns in Jamaica over the 1985-2003 period. Chicken meat imports fluctuated considerably, expanding at an average annual rate of 1.3 percent. However, increased imports did not lead to sustained production shortfalls. On the contrary, domestic production actually expanded at an average annual rate of 6 percent in this period. As a result, domestic chicken meat production in 2003 (81 thousand tons) was three times larger than in 1985 (27 thousand tons). The period was characterised by continuous growth, except for a brief interruption in 1993 when production fell by 15 percent and remained at the same level for two

more years. This fall in production was fully compensated by increased imports. It would be interesting to know whether the fall in domestic production led to the surge in imports, or vice versa. In any case, the share of domestic production in total chicken meat consumption in Jamaica increased from 52 percent in 1985 to 75 percent in 2003.

While the causality of import surges and domestic production shortfalls is not clear in the case of dairy or chicken meat, it could be argued that other products such as potatoes (Figure 6), onions (Figure 7) or vegetable oil (Figure 8) are more likely to have experienced import surges, and at least some sections of the local market in these products have been replaced with more competitive imported products.

Figure 5 Jamaica's chicken meat production, imports and consumption (1985-2003)



Source: Based on FAOSTAT (Jales, 2005)

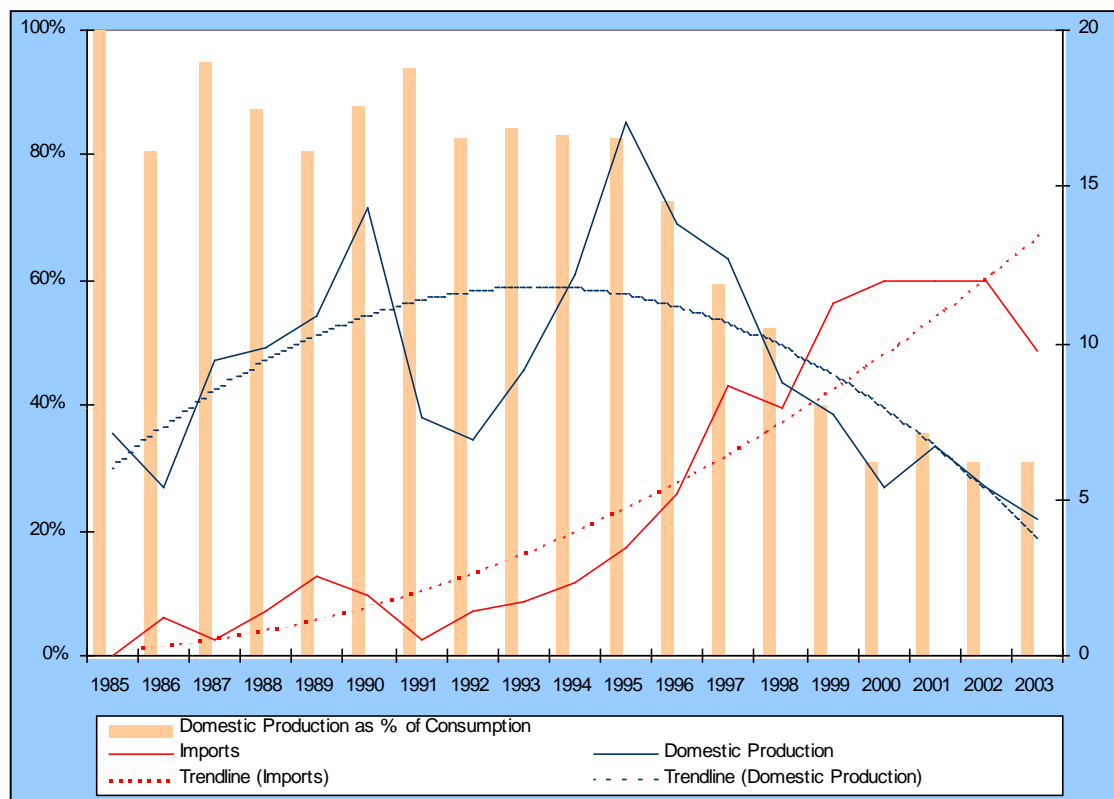
Jamaica's imports of potatoes have increased at an average annual rate of 14 percent since the first year of implementation of the Uruguay Round Agreement on Agriculture. Average annual imports have gone from 1.6 thousand tons in the period 1990-1994 to 7.3 thousand tons in 1995-1999 and 11.4 thousand tons in 2000-2003. Concurrently, domestic production has fallen every consecutive year since 1995, going from 10 thousand tons in 1990-1994 to 5.5 thousand tons in 2000-2003 (an average annual rate of decline of 15 percent). As a result, the share of domestic production in total consumption declined from 100 percent in 1985 to 31 percent in 2003.

This trend becomes even more pronounced in the case of onions and vegetable oil. In

the case of onions, the domestic production as a percentage of consumption was almost 100 percent in 1984, but was only around ten percent in 2003. Vegetable oil shows a similar trend; domestic production as a percentage of consumption was about 50 percent in 1984, but only about ten percent in 2003. In these cases, the imports have increased at almost the same pace as the domestic production has decreased.

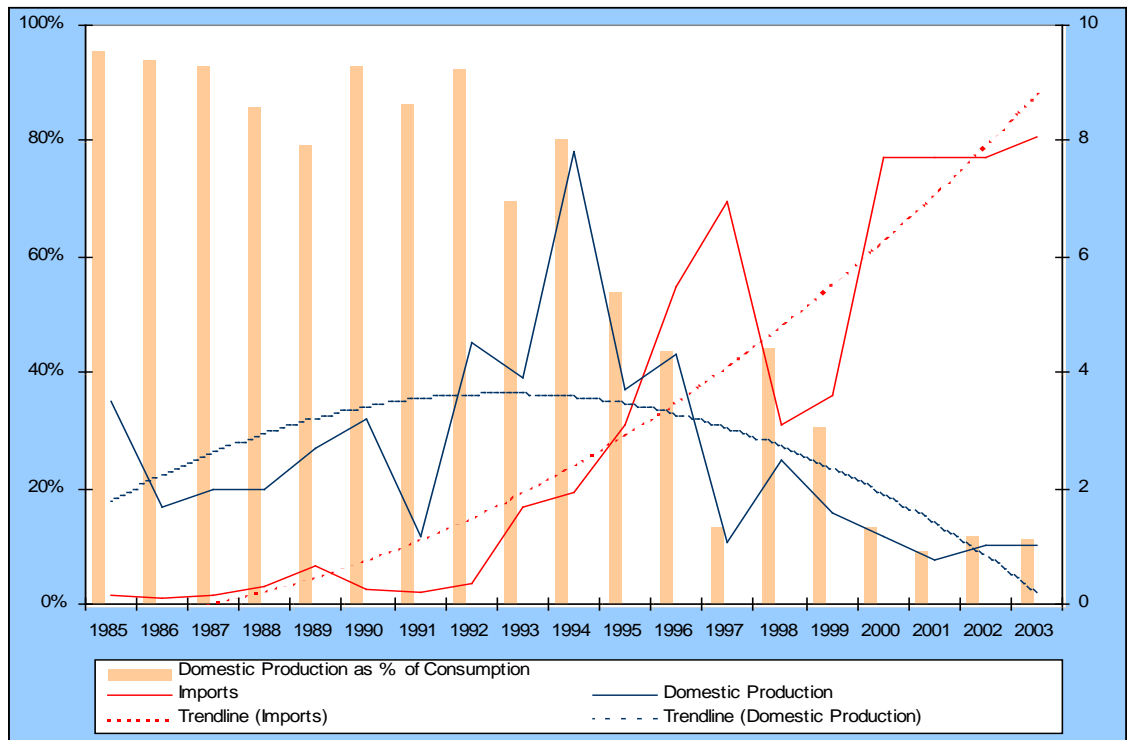
In most of these cases, it remains however difficult to disentangle the causality when comparing a fall in domestic production and a rise in imports – was it the former which induced the latter, or the latter which caused the former. In this context, looking at what happens to import prices, in addition to the volume changes, provides a way of

Figure 6 Jamaica's potato production, imports and consumption (1985-2003)



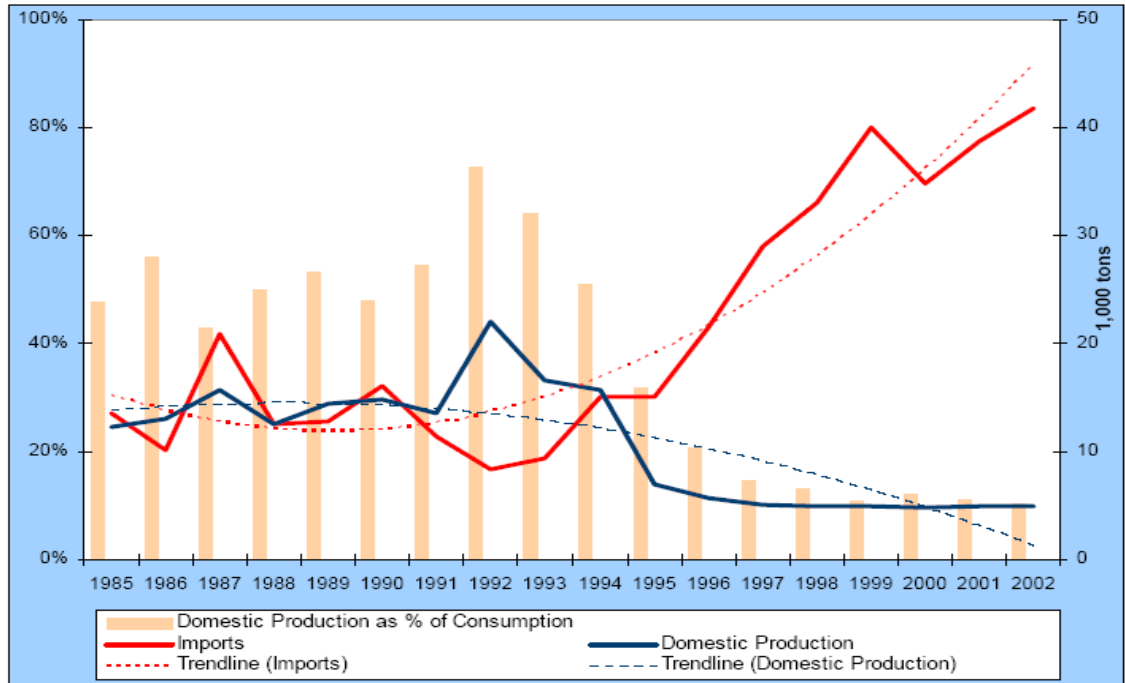
Source: Based on FAOSTAT (Jales, 2005)

Figure 7 Jamaica's onion production, imports and consumption (1985-2003)



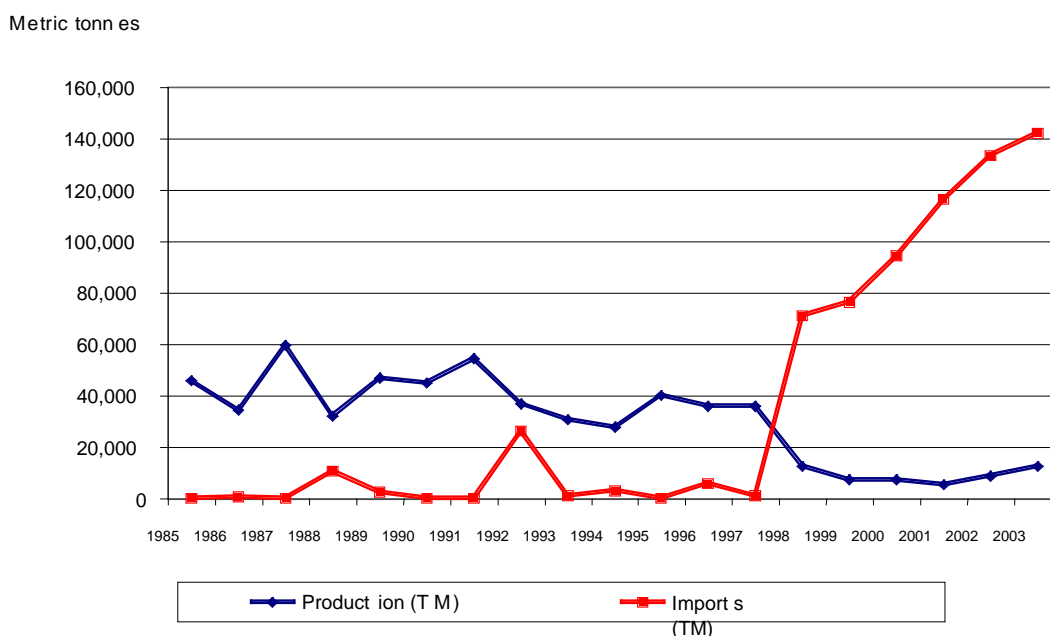
Source: Based on FAOSTAT (Jales, 2005)

Figure 8 Jamaica's vegetable oil production, imports and consumption (1985-2003)



Source: Based on FAOSTAT (Jales, 2005)

Figure 9 Honduras' production and imports of rice (1985-2003)



Source: Deras et al. (2005)

Honduras was self-reliant in rice production in 2001, importing just 2 percent of domestic consumption. In 2002, the rice sector collapsed following cheaper imports and the country now imports 48 percent of its domestic consumption.

distinguishing between the former situation (which might be beneficial to food security) and the latter (which is what the SSM should protect against). Honduras provides an interesting example in this respect (Figure 9). Until 2001, Honduras was practically self-reliant in the production of rice, and imports corresponded to only 2 percent of domestic consumption. The following year, the domestic rice sector collapsed as a result of large imports of cheap rice from Southeast Asia. In 2002, rice imports in Honduras corresponded to 48 percent of domestic consumption.

Documented cases such as these from Jamaica, and Honduras can help other developing countries consider if their own agricultural production faces similar changes on key sensitive products.³

It is reasonable to argue that market-oriented policies would probably be more effective than tariffs in coping with import surges. However, the politically charged environment among agricultural constituents and the sensitivity that surrounds agricultural policy-making often disrupt the chances of success for market-oriented policies. In developing countries, this problem is compounded by their limited fiscal resources. In addition, the possible effects of a sharp fall in import prices of a particular commodity could generate import surges that cannot be contained by established market-oriented policies in developing countries. In this context, the SSM constitutes a reasonable tool to help developing countries minimise the risks that are associated with possible price depression and import surges.

3 INTERNATIONAL TRADE CONTEXT

Developing countries had not bound agricultural tariffs during previous rounds. Many made use of the flexibility to set up ceiling bindings in the Uruguay Round.

3.1 Tariff structures as a trade policy instrument in developing countries

Tariff structures vary widely among WTO Members. Many developing countries had not bound agricultural tariffs to a substantial degree during previous negotiating rounds,

and a large number of these countries made use of the flexibility to set up ceiling bindings in the Uruguay Round.⁴

Table 3 G-33 bound tariff structures – key statistics

	Mean tariff	Median tariff	Maximum tariff	Standard deviation	Coefficient of variation	% of tariff lines above 60%	% of tariff lines above 120%
Antigua & Barbuda	106	100	220	16.5	0.2	100%	14%
Barbados	111	100	223	25.3	0.2	100%	17%
Belize	102	100	110	3.9	0.0	100%	0%
Botswana	38	24	597	54.4	1.5	17%	2%
China	15	13	65	11.5	0.8	2%	0%
Côte d'Ivoire	15	15	64	4.9	0.3	1%	0%
Cuba	37	40	40	9.8	0.3	0%	0%
Dominican Republic	41	40	99	8.3	0.2	3%	0%
Grenada	101	100	200	33.3	0.3	93%	7%
Guyana	100	100	100	0.0	0.0	100%	0%
Honduras	33	35	60	6.9	0.2	0%	0%
India	116	100	300	52.5	0.5	56%	18%
Indonesia	45	40	60	8.1	0.2	0%	0%
Jamaica	98	100	100	12.5	0.1	100%	0%
Kenya	100	100	100	0.0	0.0	100%	0%
Korea, Rep.	63	27	887	137.1	2.2	41%	6%
Mauritius	120	122	122	12.5	0.1	98%	97%
Mongolia	19	20	40	4.1	0.2	0%	0%
Nicaragua	44	40	200	12.4	0.3	6%	0.2%
Nigeria	150	150	150	0.0	0.0	100%	100%
Pakistan	98	100	200	19.2	0.2	96%	2%
Panama	29	30	260	18.5	0.6	4%	1%
Peru	31	30	68	6.7	0.2	3%	0%
Philippines	35	40	60	10.9	0.3	0%	0%
Saint Kitts & Nevis	108	100	250	30.1	0.3	95%	21%
Saint Lucia	116	100	250	25.7	0.2	100%	40%
Saint Vincent & Grenadines	116	100	250	25.0	0.2	100%	38%
Sri Lanka	50	50	60	3.3	0.1	0%	0%
Suriname	20	20	20	0.6	0.0	0%	0%
Trinidad & Tobago	100	100	156	2.7	0.0	100%	0.3%
Turkey	72	58	225	56.5	0.8	37%	18%
Venezuela	37	35	135	15.0	0.4	4%	1%

Source: Jales (2005)

Reduction commitments for all non-LDC WTO Members during the Uruguay Round implementation period were meant to lower and/or harmonise the bound tariff structures as much as possible. However, the very cautious liberalisation commitments undertaken by most developing countries left significant room to raise applied tariffs.⁵

Recently acceded countries, however, did not participate in the Uruguay Round negotiations. They bound their tariffs following an accession process that included bilateral negotiations with existing members, with the best market access obtained by any particular country extended to all WTO members under the most-favoured nation (MFN) clause. The possibility for these countries to bind ceiling levels with

a significant overhang between bound and applied tariffs was thus greatly diminished. It is important to mention here that since the establishment of the WTO in 1995, around sixty developing countries have become members and developing countries today constitute more than two-thirds of the total membership.

Table 3 clearly demonstrates the wide range of bound tariffs among developing countries, in this case the original G-33 countries.

From the statistics presented in Table 3, it is possible to divide this very diverse group into six subgroups, according to their bound tariff structures (see Table 4). The criteria used for this categorisation take into account their mean tariffs, degree of dispersion and percentage of tariff lines

Most countries that acceded after the UR did not use binding ceilings and have only limited overhang between bound and applied rates. Today these countries constitute the majority of the membership.

Table 4 G-33 bound tariff structures – key subgroups

SUB-GROUP	MEMBERS	MEAN TARIFF	COEFFICIENT OF VARIATION	% OF TARIFFS 60%	% OF TARIFFS > 120%
1	<i>Côte d'Ivoire, Mongolia, Suriname</i>	<i>Low (15-20%)</i>	<i>Low (0.0-0.3)</i>	<i>0%</i>	<i>0%</i>
2	<i>Core: Cuba, Dominican Republic, Honduras, Indonesia, Nicaragua, Peru, Philippines Outliers: Panama, Venezuela, Sri Lanka</i>	<i>Moderate (30-45%)</i>	<i>Low (0.2-0.3)</i>	<i>Less than 6%</i>	<i>0%</i>
3	<i>Botswana, Korea, Turkey</i>	<i>Moderately High (40-70%)</i>	<i>Very High (0.8-2.2)</i>	<i>20-40%</i>	<i>Less than 20%</i>
4	<i>Core: Antigua & Barbuda, Barbados, Belize, Grenada, Guyana, Jamaica, Kenya, Pakistan, Saint Kitts & Nevis, Trinidad & Tobago Outliers: Saint Lucia, Saint Vincent & the Grenadines</i>	<i>High (100-110%)</i>	<i>Low (0.0-0.3)</i>	<i>Close to 100%</i>	<i>Less than 20%</i>
5	<i>Core: Nigeria, Zimbabwe Outlier: Mauritius</i>	<i>Very High (120-150%)</i>	<i>Very Low (0.0-0.1)</i>	<i>Close to 100%</i>	<i>Close to 100%</i>
6	<i>China</i>	<i>Low (15%)</i>	<i>High (0.8)</i>	<i>2%</i>	<i>0%</i>
	<i>India</i>	<i>High (116%)</i>	<i>Moderate (0.5)</i>	<i>56%</i>	<i>18%</i>

Source: Based on WTO Members' schedules of concessions (Jales, 2005)

Although tariff reductions will be made from bound rates, it is important to analyze the applied rates to understand how much effort developing countries will have to make in opening up their markets.

above thresholds of 60 percent and 120 percent. The distinct characteristics of these different subgroups serve to demonstrate that different developing countries will be affected to different degrees by any given tariff reduction formula.

Although tariff reductions in the Doha Round will be made from bound rates, it is critical to analyze the applied tariff schedules of WTO Members in order to understand how much of an effort developing countries will actually have to make in terms of market opening. It is the tariff overhang, or the difference between bound and applied tariff rates, – and not the two schedules separately – that should be the focus of the analysis, to identify the constraints that members will face in implementing tariff reduction commitments (Jales, 2005).

The analysis here is limited to observing the direct effects of tariff reductions on applied tariffs

Flexibilities such as the ones provided by SP designation or an SSM will be especially important for ‘problematic tariff lines’ where the tariff overhang is minimal or null. In the past, countries have made use of the tariff overhang to apply additional protection tools, such as levies, mechanisms or the price band system, to address the sensitivities of certain products. The negotiations will impose an additional burden on these countries as they will not only lose the desired margin of flexibility for certain products, but will have to redesign their domestic policy instruments. The most difficult situation in the current WTO negotiations on agriculture is undoubtedly faced by countries with bound rates at the same level as applied rates, which want to preserve or even create additional flexibilities while facing tariff cuts that

would entail reductions in their current level of protection.

While it is difficult to obtain the current applied tariffs of all developing countries, it is still possible to compare current bound rates with ‘not-so-current’ data on applied tariffs. The analysis of these comparisons classified the non-LDC members of the G-33 into four different subgroups, according to the overhang in their tariff structures and the corresponding reduction effort they would have to make in order to implement a 40 percent across-the-board cut on agricultural tariffs.⁶

Table 5 presents the four subgroups and the countries that fall into each one. In some cases, subgroup members share certain characteristics, such as similar tariff structures or participation in the same regional integration process. In many cases, however, there are no similarities other than a comparable tariff overhang (Jales, 2005).

Product-specific analyses could be useful in identifying a certain set of particularly ‘problematic’ products, where a lack of tariff overhang could leave them with no margin of flexibility to assign additional protection. Identification of these ‘problematic products’ could then help pinpoint potential difficulties that might arise in the market access negotiations and help policy makers decide the priority they should attach to each product. In this context, such an analysis could be a useful complement to the indicators presented in section IV. It should be noted, however, that product sensitivity is the result of several different factors and does not depend solely on the margin that exists between bound and applied rates. Similarly one should not automatically assume that the current level of applied tariff is necessarily the optimal

Flexibilities such as the ones provided by SPs and SSM are particularly critical for ‘problematic tariff lines’ where the tariff overhang is minimal or nil.

Table 5 Reduction effort required to implement a 40 percent cut on bound tariffs

SUBGROUP A	SUBGROUP B	SUBGROUP C	SUBGROUP D
<i>No effect on applied tariffs</i>	<i>Minor effect on applied tariffs</i>	<i>Moderate effect on applied tariffs</i>	<i>Substantial effect on applied tariffs</i>
Antigua & Barbuda	Belize	Barbados	China
Saint Lucia	Dominican Republic	Botswana	Côte d'Ivoire
Saint Vincent & the Grenadines	Grenada	Cuba	Korea
	Guyana	Honduras	Nigeria
	Indonesia	India	Suriname
	Jamaica	Panama	Turkey
	Kenya	Peru	
	Mauritius	Philippines	
	Mongolia	Sri Lanka	
	Nicaragua	Venezuela	
	Pakistan		
	Saint Kitts & Nevis		
	Trinidad & Tobago		
	Zimbabwe		

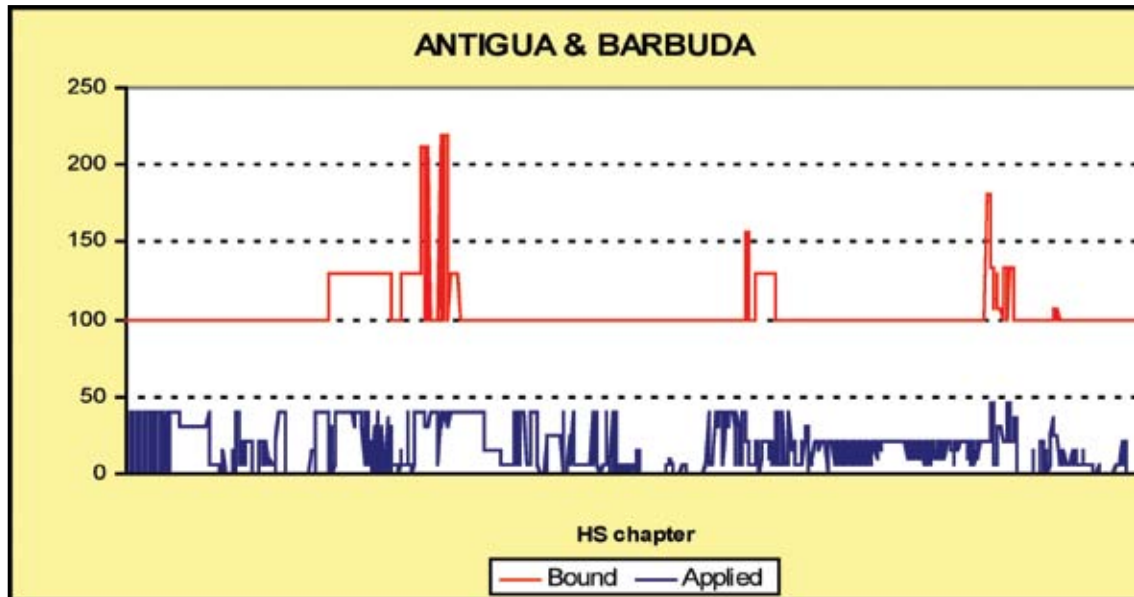
Source: Jales (2005)

From a food security, livelihood security and rural development standpoint, product-specific analyses should be carried out to complement the analyses of existing tariff overhangs.

one. The reason for applying a certain tariff could depend on different historical, political and even external factors, such structural adjustment programmes or regional integration schemes.

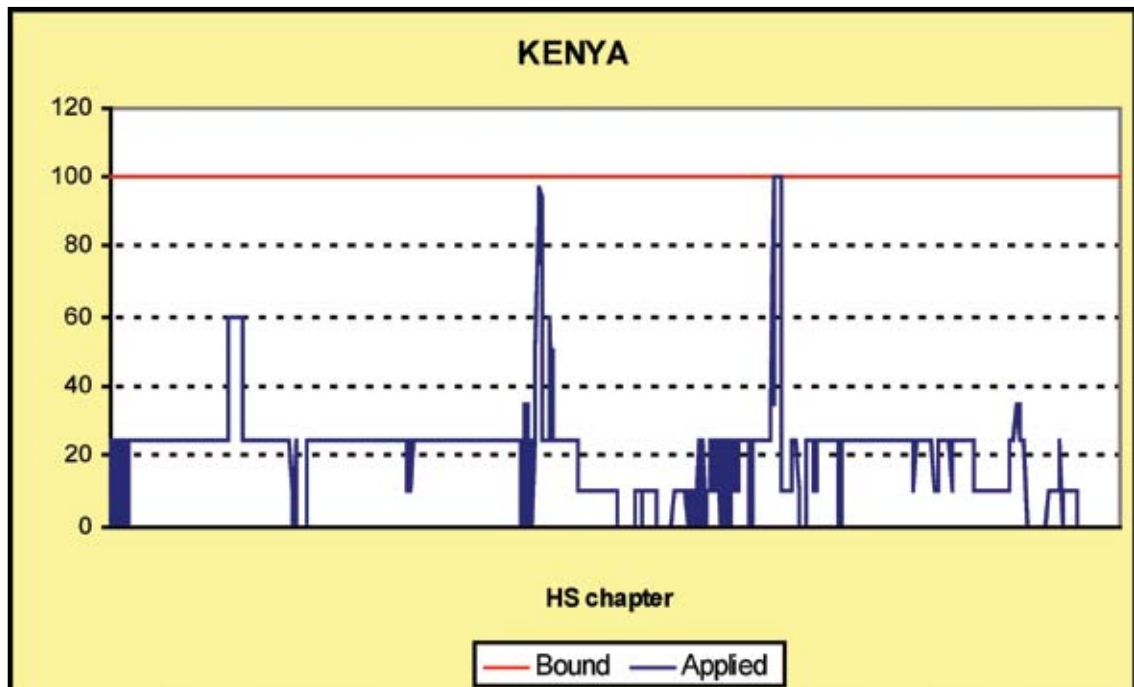
The following graphs present the different tariff structures and the tariff overhangs of some representative developing countries from different regions.

Figure 9 Antigua and Barbuda – comparison of bound and applied tariffs



Sources: WTO (2004) and FTAA (2001)

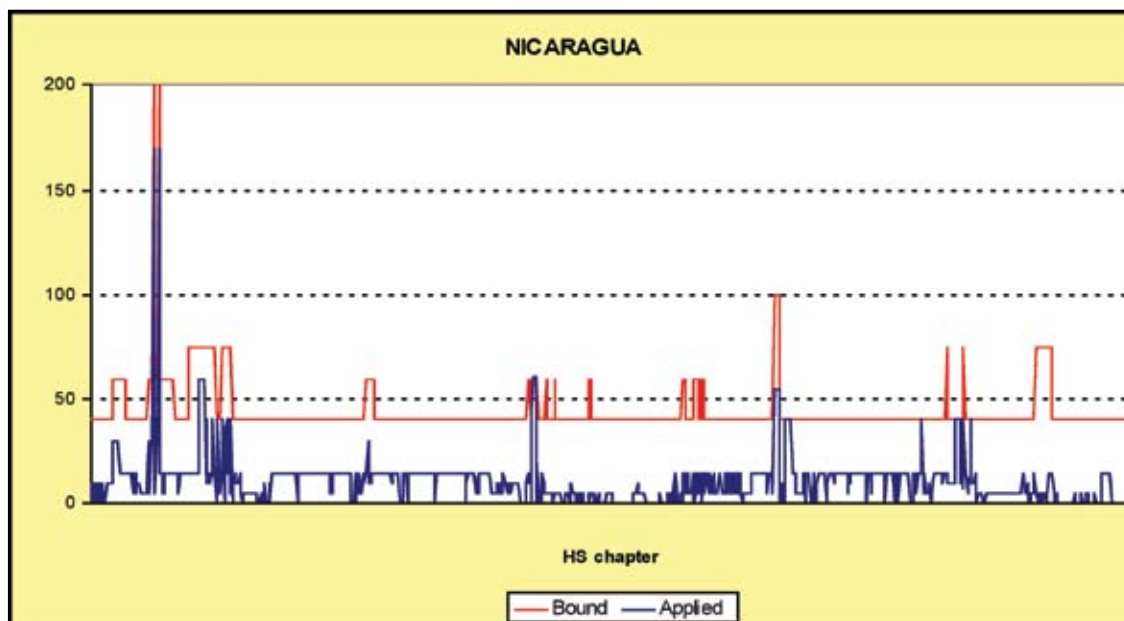
Figure 10 Kenya – comparison of bound and applied tariffs



Sources: WTO (2004) and EAC (2004)

Products affected by a linear 40% tariff cut: Rice (1006), Sugar (1701)

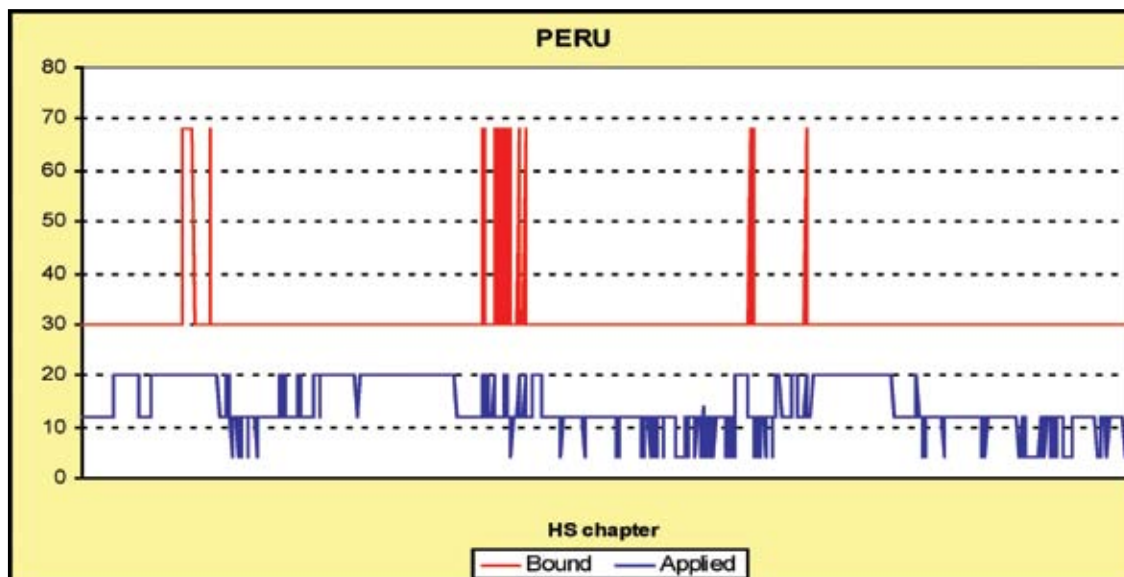
Figure 11 Nicaragua – comparison of bound and applied tariffs



Sources: WTO (2004) and Government of Nicaragua (2003)

Products affected by a linear 40% tariff cut: Chicken cuts & offal (0207.13.114), Butter (0405.10), Refined sugar(1702), Milk (0402), Rice(1006)

Figure 12 Peru – comparison of bound and applied tariffs

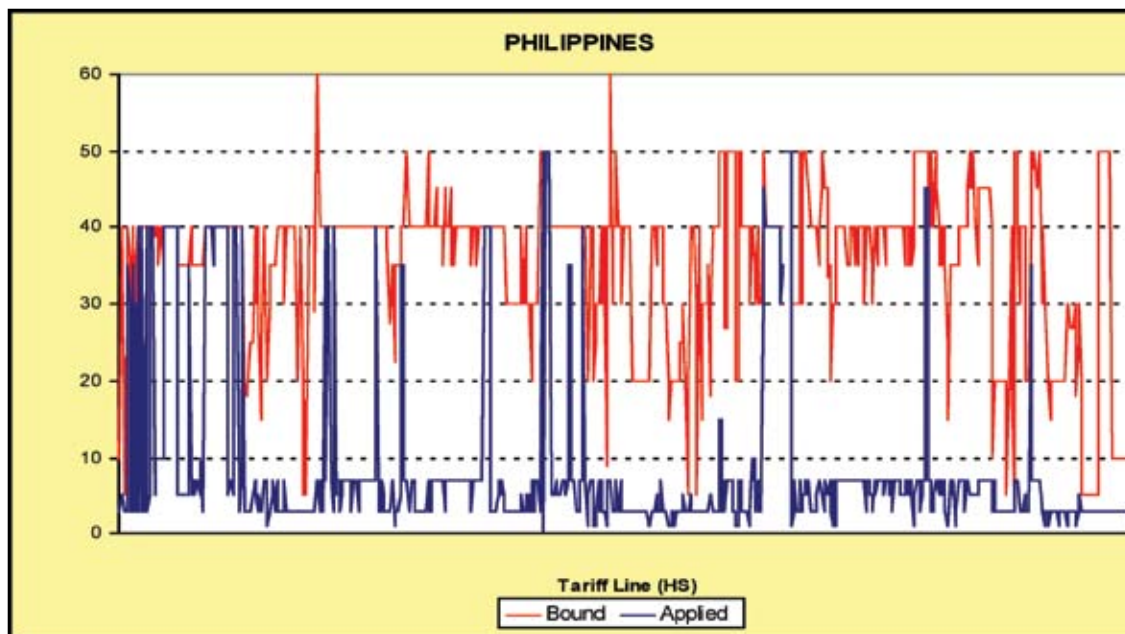


Sources: WTO (2004) and Government of Peru (2001)

Products affected by a linear 40% tariff cut:

02: Meats	0409/10: Honey/other prod.	08: Fruits	1601-2: Sausages/meat prep.	1904: Prep. cereal foods
0401/2: Milk	0708: Beans/peas.	0901-3: Coffee/tea/mate	1704: Sugar confectionary	1905: Bread/pastry
0403-6: Other dairy	0710-13: Veg.(frz/pres/dried)	1104: Worked cereal grains	1806: Chocolate	20: Veg./fruit prep.

Figure 13 Philippines – comparison of bound and applied tariffs

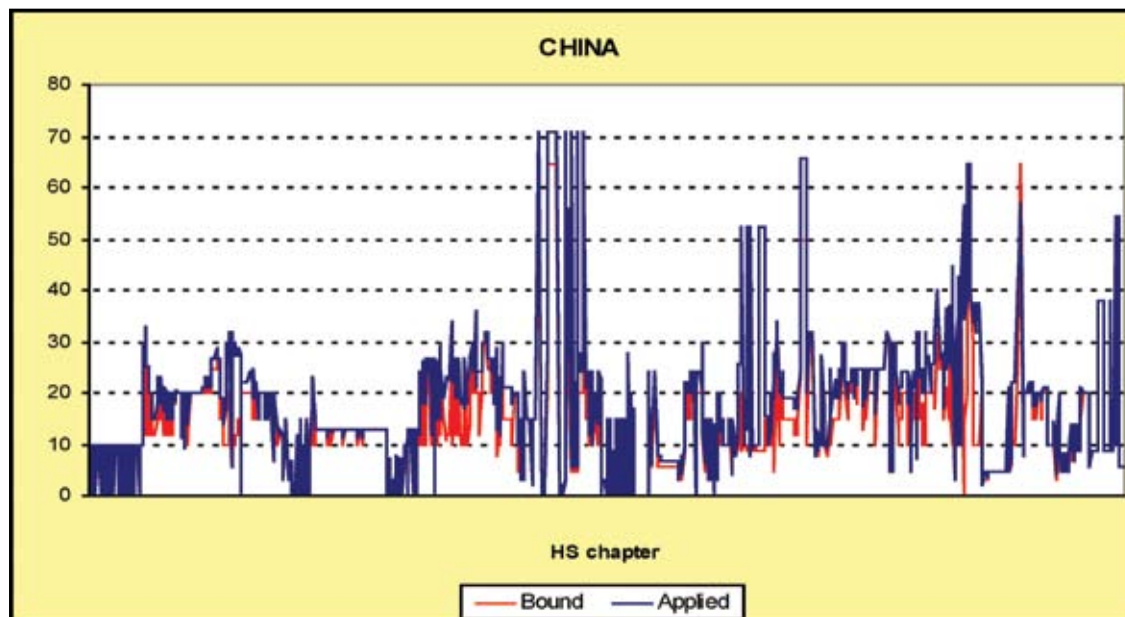


Sources: WTO (2004) and WITS (2002)

Products affected by a linear 40% tariff cut:

01: Live animals	0210: Salted/dried meats	0704.90: Cabbages/kale	1005.90: Corn	1601/2: Sausages/meat prep.
0203: Pork	0701: Potatoes	0714: Manioc/sweet potatoes	1103.13: Corn meal	1701: Coffee
0207: Poultry meat	0703: Onions/garlic/leeks	0901: Coffee	1104.23: Worked corn	2101.11/12: Coffee extract

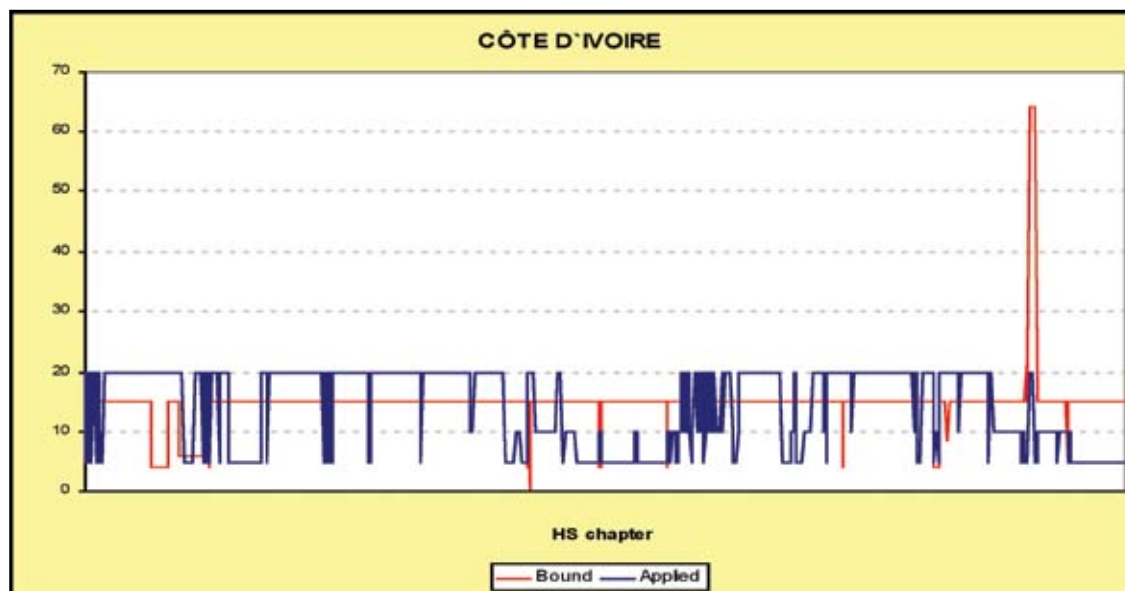
Figure 14 China – comparison of bound and applied tariffs



Sources: WTO (2004) and WITS (2002)

Most applied tariff rates are either equivalent or very close to bound rates.

Figure 15 Côte d'Ivoire – comparison of bound and applied tariffs



Sources: WTO (2004) and WITS (2002)

Products affected by a linear 40% tariff cut: The great majority of products, except pure-bred breeding animals (0101.11, 0102.10, 0103.10, 0104.10), live poultry (0105.11/12/19), other products of animal origin (05), live plants (0601-3), peas (0713.32), beans (0713.33), dates (0804.10), figs (0804.20), cereals except rice (10), oilseeds (12), lac/gums (13), refined sugar (1702), cocoa (1801), tobacco (24), among others.

As can be seen in the case of Antigua & Barbuda, a country in subgroup A, even a 60 percent linear reduction would not require it to make any changes to its applied tariff structure of 2001. This is the case for several countries in the CARICOM with similar tariff structures.

In the case of Kenya, a country in subgroup B, a high bound average tariff gives the country a significant tariff overhang. It is clear though, that certain products with no tariff overhang will be more sensitive. The situation is similar in Nicaragua, another country of subgroup B, with a typical tariff structure of a Central American country. In these countries, only a small number of product groups (on average, less than 6) will be affected by a tariff cut of 40 percent.

Peru represents an example of a country that will have to make a moderate effort; it is classified in subgroup C because its

number of 'problematic' product categories is between 7 and 20. The case of Peru is particularly interesting since it, like other Andean countries, applies variable duties under a price band system. These duties are intended to stabilize prices and protect domestic producers. The price band system is able to operate largely because of a significant tariff overhang. Given the coverage of Peru's price band system and the number of 'problematic' product groups, tariff reduction will likely have a significant effect on effective agricultural protection

The Philippines, also in subgroup C, presents the tariff structure of a typical Asian country. The tariff overhang is, in general, high, but a large number of 'problematic products' can also be identified.

The case of China, a country in subgroup D, represents the situation of recently acceded countries that, in general, have

There are concerns that FTAs might limit the ability of developing countries to benefit from the SP-SSM flexibilities currently being negotiated at the WTO.

bound much lower tariff rates. The country would therefore have to make substantial reductions in its applied tariffs if the bound tariffs were to be lowered by 40 percent.

Côte d'Ivoire, also in subgroup D, has fairly low bound and applied tariffs. As seen in Figure 15, Côte d'Ivoire subjects an overwhelming number of tariff lines to applied rates that are higher than the corresponding tariff bindings. This is partially explained by a data mismatch: bound rates

refer to 2004, while applied rates refer to 2002. In order to fulfil their Uruguay Round tariff reduction requirements, Côte d'Ivoire should have carried out a 25 percent cut on a substantial number of applied agricultural tariffs over the last two to three years. Even if Côte d'Ivoire managed to accomplish such reductions, it would have no tariff overhang for a large number of products. Tariff cuts would thus entail actual reductions in the level of protection currently afforded to domestic producers.

3.2 Concerns about Special Products and the Special Safeguard Mechanism in regional and bilateral Free Trade Agreements

Bilateral and regional Free Trade Agreements (FTA) have proliferated in recent times. Agriculture chapters in those agreements tend to include a wide range of provisions defining tariff reductions, tariff rate quotas, transition periods, but also concerns regarding sensitive products and the need to safeguard such products against possible

import surges. In this respect, there are concerns that specific provisions in some FTAs might limit the ability of developing countries to benefit from flexibilities currently being negotiated at the WTO particularly with respect to the new Special Safeguard Mechanism (SSM).

Table 6 Central American tariff reduction schedules for sensitive agricultural products under CAFTA-DR-US

Product	Guatemala			Honduras			El Salvador			Nicaragua			Costa Rica		
	IT	PP	GP	IT	PP	GP	IT	PP	GP	IT	PP	GP	IT	PP	GP
	(%)	(yrs)	(yrs)	(%)	(yrs)	(yrs)	(%)	(yrs)	(yrs)	(%)	(yrs)	(yrs)	(%)	(yrs)	(yrs)
Beef*	n/d	10	0	15	15	6	15	15	0	15	15	3	15	15	4
Pork	15	15	0	15	15	0	40	15	6	15	15	0	47	15	6
Poultry (leg quarters)	164.4	18	10	164.4	18	0	164.4	18	10	164.4	18	10	151	17	10
Dairy products	15	20	10	15	20	10	40	20	10	40	20	10	66	20	10
Yellow maize	n/d	10	0	45	15	6	15	15	6	15	15	0	15	15	0
Beans	20	15	6	15	15	0	20	15	15	30	15	0	47	15	0
Fresh potatoes	15	15	0	15	15	0	15	12	0	15	15	0	Excluded		
Rice	29.2	18	10	45	18	10	40	18	10	63	18	10	36	20	10
Sorghum	0	0	0	15	15	0	15	15	0	20	15	6	15	15	0

*Beef products other than prime and choice cuts.

IT: initial tariff level; PP: phase-out period; GP: grace period; N/D: no data.

Source: Pomareda (2005)

3.2.1 Sensitive products in Free Trade Agreements

While most FTAs provide for a wide coverage of agricultural products, some, particularly those signed with the EU, exclude a number of sensitive products. These are often high value product (e.g wine and alcoholic beverage in the case of the EU) or products of export interests to developing countries that already face major trade distortions. Furthermore, the number of tariff lines excluded by developed countries partners often exceeds - up to four times in some cases involving the EU - the number of lines that developing countries are allowed to exclude.

In terms of tariff reduction, most FTAs adopt a list-based approach reflecting different liberalization schedules (e.g. immediate elimination of tariff, elimination after 4-5 years; after 10-12 years or after 15-17 years). In a few cases, the transitions periods go up to 20 years. Products included in each list

vary considerably among treaties but overall developing countries tend to include in the lists with the longer transition periods, those products which enjoy high levels of subsidies in developed countries - such as grains, oils and dairy products - or products which are politically sensitive from a food security or rural development perspective. This is particularly clear in the US-Chile FTA or the CAFTA-DR-US (see table 6 below). These lists provide a good approximation of the kind of products that developing countries are likely to designate as special or sensitive products in the context of WTO agricultural negotiations. (Pomareda 2005)

Table 6 illustrates tariff reduction schedules for sensitive products in the recent FTA between the US and five Central American countries plus the Dominican Republic (CAFTA-DR-US).

In US FTAs, safeguard mechanisms allow the party to raise applied tariffs up to MFN duty rates but only during the transition period.

3.2.2 Safeguard mechanisms in Free Trade Agreements

Most FTAs contain safeguard clauses to allow parties to protect themselves against injury that might result from episodes of particularly low import prices or volume surges. In the FTAs signed with the EU, the application of safeguard measures results from consultations between the parties. In such cases a Special Committee may authorize the damaged party to adopt corrective measures. It may also request compensation or authorize the exporting party to withdraw concessions. The use of safeguards is not limited to the transition period.

In the case of the US FTAs, safeguard disciplines are usually similar to the ones provided under Article 5 of the WTO Agreement on Agriculture. The use of safeguard is limited to a specific list of agricultural products/tariff lines and is automatically activated through a price or volume trigger.

Table 7 outlines the safeguards included in various FTAs, highlighting the types of safeguards used, as well as the manner and duration of their application. The remedy usually provided under these safeguard mechanisms allows the party to raise its applied tariff up to the most favoured nation (MFN) duty rate. In the case of US FTAs, a major concern for some countries is the specification that safeguards are only allowed during the transition period provided under the agreement. In other words, once tariffs are eliminated, countries cannot rely on any trade measures to protect them against import surges. Furthermore, most FTAs signed with the US specify that the mechanism cannot be imposed or maintained on a good that is simultaneously subject to a safeguard the party has imposed under Article XIX of GATT 1994. (Pomareda 2005)

Table 7 Implementation and applicability of safeguards in selected FTAs

FTA	Type of Safeguard	Implementation	Applicability
EU-Mexico (2000)	Activated by damage or menace of serious damage	In consultation between Parties for up to three years and with compensations	Indefinite
EU-Chile (2002)	Emergency clause for agricultural fresh and processed products	In consultation between Parties with compensations and transitory measures for up to 120 days.	Indefinite
US-Chile (2004)	ASG activated by a price trigger	Automatic, applicable to a limited number of products (Chile 15 items, US 52 items)	Limited to 12 years
CAFTA-DR-US (2005)	ASG activated by a volume trigger	Automatic, applies when import volume accumulated in the year exceeds a % of the quota, applies for volumes outside the quota	Limited to transition period

Source: Pomareda (2005)

Countries party to FTAs with the US are concerned that their right to apply the new SSM in their bilateral trade with the US would be subject to bilateral negotiation and approval by the US.

3.2.3 The relationship between FTAs and WTO negotiations on Special Products and the Special Safeguard Mechanism

The United States has included in the great majority of its FTAs, a final provision making explicit that if any provision of the WTO Agreement that the parties have incorporated into the FTA is amended, the parties shall consult on whether to amend the bilateral agreement.

Though this provision provides legal security to the FTA parties, it has raised concerns that the right of partner countries to apply the new SSM in their bilateral trade with the US would be subject to bilateral negotiation and approval by the US. This is highly unlikely

to happen, given the objective of the FTAs. In such a situation, the effect of the Doha Round would be limited, at least in respect to the bilateral trade covered by an FTA - which in many cases could constitute most of the trade of certain developing countries. This is, however, in the spirit of bilateral and regional agreements covered by Article XXIV of the GATT. Defensive or trade restrictive measures under the WTO are superseded by FTAs, and to allow their application *a posteriori* could be seen as moving a step backwards in terms of economic integration and trade liberalisation.

3.3 Implications on the South-South trade of Special Products and the Special Safeguard Mechanism

Developing country exports of agricultural products rose by 77 percent between 1990 and 2003, from 83 billion to 147 billion dollars, exceeding the world agricultural trade growth (excluding intra-EU trade) of 66 percent. In the years 2001, 2002 and 2003, developing country agricultural export growth expanded by 3, 6.5, and 15.5 percent, respectively. In 2003, developing countries' share of world agricultural exports reached 42 percent (WTO, 2005).

Developing Asia, Latin America and the Caribbean remain the dominant exporting regions of the developing world, accounting for over 80 percent of total developing country agricultural exports in 2003.⁷ During the period 1990-2003, the Latin American and Caribbean region overtook developing Asia to hold the largest share of developing country agricultural exports. Africa, on the other hand, is the only region to have suffered a loss in its share of world agricultural trade, declining from approximately six percent in 1990 to around five percent in 2003 (WTO, 2005).

While Western Europe remains the leading developed country market for agricultural exports of developing countries, its relative importance has declined over the 1990-2003 period, as a result of strong growth in trade between developing countries. South-South trade, as a share of developing countries' total agricultural export trade, increased from 32 to 46 percent over the 1990-2003 period (WTO, 2005). Given these trends, developing countries are expected to dominate agricultural consumption and trade.

Intra-regional trade accounts for most of the exports to developing countries. Aside from this intra-regional trade, developing Asia remains the key export market for agricultural products, mainly due to its large size and high population

growth. However, annual growth in developing country agricultural exports to Africa and the Middle East, of 8 and 7.5 percent respectively, outperformed both developing Asia and Latin America and the Caribbean. As a result, Africa and the Middle East have overtaken the Latin American and Caribbean region to become the second and third largest destinations respectively, for developing countries' agricultural exports (WTO, 2005).

Given these trading patterns, many WTO Members fear that any measures that increase the trade barriers to developing country markets could impede the dynamic potential of the South-South trade. This argument has been put forward mostly by more advanced developing countries.

Recent research on this issue tends to show, however, that the so-called welfare impact of implementing the concepts of SPs and the SSM would be minimal to both developed and developing countries alike (Polaski, 2005). This is partly due to the fact that trade between developing countries in subsistence and staple products today accounts for only a small proportion of exports in most developing country regions. However, further research and refined modelling exercises in this field are needed.

At most, if SPs are fully exempted from tariff reduction, this might slow down the expansion of South-South trade. At the same time it has also been argued that these flexibilities would in fact contribute to increasing South-South trade in the longer term as they would allow developing countries to make investments in their agricultural sectors and readjust their production structure to become more competitive, or to diversify into other sectors of the economy.

South-South trade, as a share of developing countries' total agricultural export trade, increased from 32 to 46 percent over the 1990-2003 period. (WTO, 2005)

The impact on global welfare of introducing SPs and the SSM is likely to be minimal, as subsistence products make up only a small share of South-South trade.

4 THE NATIONAL PROCESS

Each developing country will have to undertake internal discussion and consultations to identify its SPs. This is a pre-condition for an informed and effective participation in the negotiations.

As stated in the Hong Kong Ministerial Declaration, developing countries will be allowed to self-designate an appropriate number of SPs guided by indicators of food security, livelihood security and rural development needs. This means that each developing country will have to undertake a process of internal reflection, discussion and consultation to identify its own SP list, based on

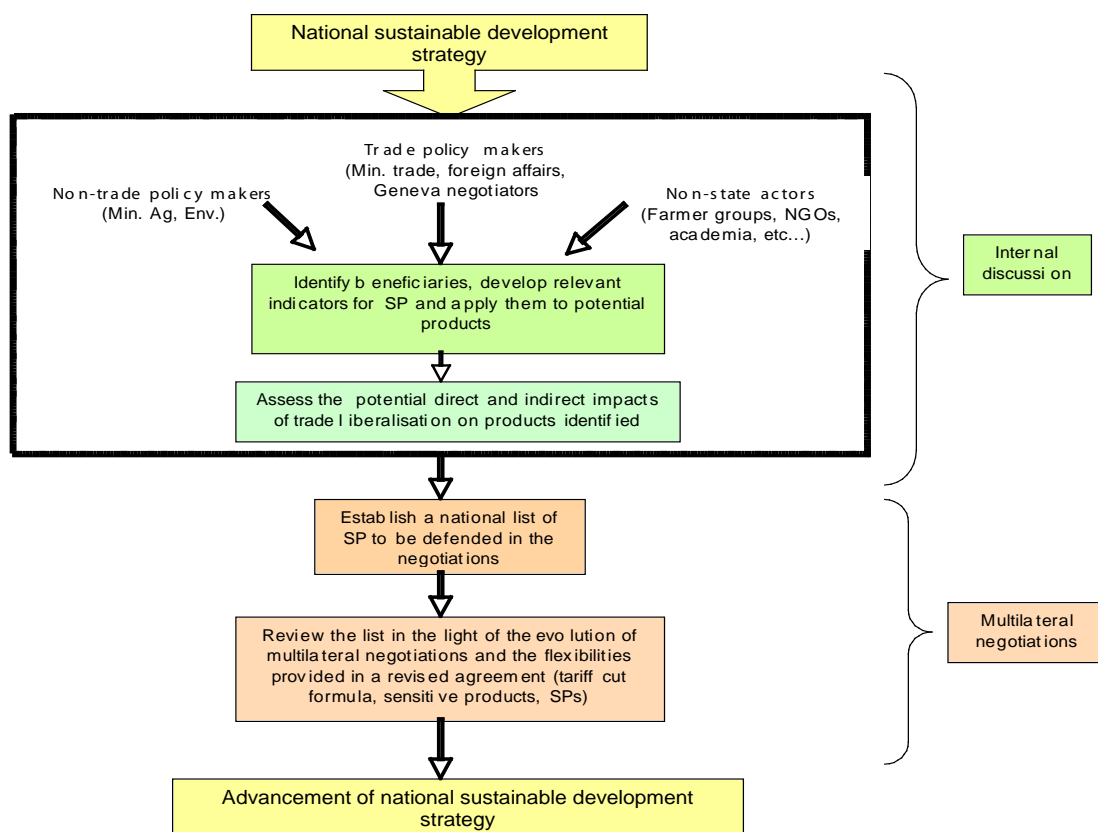
the above-mentioned criteria. Such a process is a *sine qua non* condition for an informed and effective participation in the negotiations. One of the main challenges for Members in this definitional stage is to genuinely focus on the concepts of food security, livelihood security and rural development, rather than being driven by narrowly defined commercial considerations.

4.1 Methodology for the selection of Special Products and products eligible for the Special Safeguard Mechanism

With a view to facilitating this process, ICTSD has developed a methodology to help developing countries to establish their national lists of SPs and identify products

that should be eligible for an SSM (Bernal, 2004). The methodology is based on the conceptual framework described in Figure 10. It focuses on the internal process to

Figure 16 A Conceptual Framework for the Identification of Special Products in Developing Countries



ICTSD has developed a methodology to help developing countries establish their national lists of SPs.

be undertaken by individual developing countries, rather than on multilaterally agreed indicators in the context of the WTO negotiations. In this context, the indicators of food security, livelihood security and rural development proposed below are identified for the national discussion. They are not intended to be negotiated and/or adopted at the WTO.

The methodology frames the analysis for the identification of SPs within the broader national strategy for sustainable agricultural development and poverty alleviation. It attempts to operationalise the concepts entailed in the Framework Agreement through a combination of quantitative and qualitative indicators applied at the national and sub-national levels. These indicators are designed to identify the intended beneficiaries of the SP-SSM flexibilities and assess the importance of specific products from a food/livelihood security and rural development perspective.

Based on the preliminary list of products identified through this process, the methodology then provides guidelines to assess the potential direct or indirect impacts of further liberalisation on the selected products. In particular, it highlights the need for policy makers to take into consideration issues such as substitute products, vulnerability to imports or current levels of protection when finalising country lists and ranking the identified products.

The methodology was tested in the context of six country case studies undertaken by ICTSD in co-operation with national governments and local researchers. The selection of countries was based on the following criteria: (i) the countries should be formally associated with the G-33; (ii) the countries should not be LDCs;⁸ (iii) the focus

should be on Net Food-Importing Developing Countries (NFIDC), Low-Income Food-Deficit Countries (LIFDC), and Small Island Developing States (SIDS); (iv) the selection needs to ensure a reasonable geographical balance; (v) the countries selected need to have proven domestic research capacity; and (vi) the national governments of the countries selected need to be committed to actively support and participate in the project.

On the basis of these criteria, the following countries were selected:

- Barbados, Caribbean (SIDS)
- Honduras, Central America (LIFDC)
- Kenya, Africa (LIFDC)
- Pakistan, Asia (NFIDC)
- Peru, South America (NFIDC)
- Sri Lanka, Asia (LIFDC)

The process of testing the methodology in these countries involved working closely with local researchers, policy-makers responsible for trade negotiations and agriculture policy, and non-state actors such as farmer organisations, private sector representatives and civil society actors (see Box 2). In addition to promoting participation, the process also contributed to the strengthening of analytical capacities in the countries concerned.

The methodology has been designed not as a fixed set of activities and indicators, but rather as a flexible set of options, to take into account national specificities. As such, the methodology provides an illustrative, non-exhaustive list of possible indicators to assess the importance of particular products from a food security, livelihood security and rural development perspective. Based on the findings and experience of this initial set of studies, the methodology was subsequently refined and the list of possible indicators expanded.

The methodology was tested in the context of six country case studies, in cooperation with national governments and local researchers.

This methodology provides an illustrative list of indicators to assess the importance of particular products from a food security, livelihood security and rural development perspective.

4.2 Suggested indicators for the identification of Special Products

As previously discussed, the concept of food security has significantly evolved over time. Adequate availability of food at the national level does not guarantee access to food to all households and individuals; issues of livelihood security and rural poverty also come into play. Thus, the underlying concerns behind the concepts of food security, livelihood security and rural

development needs in a developing country context are intertwined.

The above discussion has two major implications. First, the analysis should apply a combination of indicators for use not only at the national level but also at the sub-national or provincial level. Second, in addition to the identification of products most relevant

Box 2: The importance of a multi-stakeholder approach

Multi-stakeholder participation has been critical in the process of facilitating the identification of SPs and products with access to the SSM. While government officials and policy makers are responsible for the final selection of products to be designated on the basis of specific criteria, the decisions will also need to be informed by consultation between stakeholder groups such as farmers' associations, consumers, industry and exporter representatives and civil society with customs, agricultural and central bank officials and trade negotiators. Such a consultation process ensures that any empirical research is subjected to close scrutiny and further refinement, particularly by farmers' groups, which are affected by any decision taken at the national level. This process also enables policy-makers to complement empirical research with new insights and perspectives on the selection criteria for SPs that may have been ignored or overlooked during the research process.

A multi-stakeholder approach was adopted as a key feature of the ICTSD project on SPs and an SSM, and was integral to the preparation of the country studies as well as the cross-cutting papers. The structure of the National Consultations varied according to the specific situation in the country concerned. In the case a relatively small country like Honduras, it was possible to hold a number of smaller consultations with farmers' representatives in different sub-regions during the course of the research process. In Sri Lanka, on the other hand, the consultations involved group discussions on specific sectors such as livestock, cereals and export agriculture crops.

The feedback received from the stakeholders was then taken into account in the study. In certain cases the dialogue also gave local stakeholders an insight into how WTO trade negotiations work. The presence of senior representatives and government officials from relevant decision-making ministries such as Trade and Agriculture, as well as WTO trade negotiators, ensured that the findings of the study and the reactions from stakeholders would be heard and hopefully taken into account when the moment of decision-making at the WTO arrived. The involvement and participation of local experts and research institutions also meant that local research capacities were strengthened.

from the perspective of food security at the national and/or sub-national levels, there is also a need to identify vulnerable groups - the rural poor and small farmers - and the products on which their livelihoods depend. This would lead to a more focused

approach in assessing the economic and social importance of particular products for specific sub-regions with high populations of rural poor. The indicators suggested in the present methodology are described below and summarised in Table 10.

4.2.1 Identification of the intended beneficiaries

The intended beneficiaries of the SP provisions and flexibilities are those segments of the population whose livelihoods may be put at risk from the effects of liberalisation. These are the rural poor, often small farmers with no other source of income, and population groups where women usually are the main source of labour in the production process. To address the needs of these groups, three categories of indicators are proposed.

i) Indicators related to the income level

The determination of these indicators will depend on the availability of data in each country. Nationally established poverty indicators, including parameters on urban and rural poverty, can be used since they respond best to the reality of each country and its particular circumstances. Indicators such as the following could be used:

- The number of households or persons below the national poverty line;
- The number of people with incomes insufficient to cover basic needs (i.e. food, shelter, health, clothes, education, etc);
- The measurement of household expenditures; or,
- The use of international measures of poverty, such as the World Bank's poverty line of US\$ 1 per person per day.

ii) Indicators related to the geographical distribution of poverty

Several studies suggest that poverty can be particularly severe in certain areas, so-called 'pockets of poverty', something which is often explained by the lack of an adequate resource base, for example scarcity of fertile land and a lack of water resources, or isolation due to a lack of adequate infrastructure. The population's livelihoods in poorly endowed regions will usually depend on a single activity which can be put at risk by liberalising trade in the few crops usually grown in those areas.

To address these issues the indicators will need to be based on:

- an analysis of the geographical distribution of poverty on the basis of the administrative/political organization of each developing country; and
- an assessment based on the agro-ecological conditions of various regions.

iii) Indicators regarding production capacity

The definition of subsistence and small-scale farmers depends on the particular circumstances of each country and its agricultural sector. No internationally agreed parameters exist for identifying such farmers, even though improving their livelihoods is fundamental to improving

Indicators related to poverty distribution and production capacity can help identify vulnerable groups and the products on which their livelihoods depend.

the living standards in rural areas. In this context, the indicators used would need to relate to the size of the production unit - for instance, the number of hectares for

cultivation in the case of crops and number of heads for livestock - and its productivity; for instance, metric tons of produce per hectare and per head of livestock.

4.2.2 Identification of relevant products from the perspective of livelihood security and rural development needs

In addition to identifying the beneficiaries, it is also necessary to identify the products on which their livelihoods depend. Livelihood security and rural development needs are closely linked to the resource base, economic activities and social networks on which rural populations depend. It follows then that certain products are particularly relevant for the

well-being of large segments of a country's population.

The two sets of indicators suggested below attempt to capture the relative contribution of certain products to the economy and to employment generation, using these two variables as proxies for the broad concepts of livelihood security and rural development needs.

4.2.2.1 Measuring the economic importance of agricultural products

The following primary indicators can help capture the relative economic importance of a particular agricultural sector:

- The contribution of the product to the national agricultural GDP;
- The contribution of the product to a particular region's GDP;
- The area of land dedicated to the production of a particular product at the national or regional levels;
- The number of heads of livestock in the country or region;
- The share of per capita income derived

from a particular sector at the national or regional level.

A qualitative analysis may also be necessary to address other variables such as the links between a particular sector and the rest of the economy, or the potential for value addition. Indicators of the potential for value addition and linkages of a product include the extent to which it is or can be locally processed; the share of domestic agricultural intermediate inputs used in non-agricultural sectors, and the value of goods and services used as inputs in the production of the sector.

Indicators of livelihood security and rural development should capture the relative contribution of certain products to the economy and to employment generation.

4.2.2.2 Measuring the contribution of agricultural products to employment

Indicators related to employment should reflect the importance of a particular sector as a source of income and livelihood for the population. The contribution to employment of a particular product can be assessed by indicators such as the following:

- Total (absolute size of) workforce engaged in the sector at the national level or in a region;
- The proportion of the national or regional agricultural population engaged in the production of a specific product;
- Labour requirement.

It is often difficult to obtain data on agricultural employment broken down by product or sector. In most cases, countries will have to develop formulas to calculate the labour requirement of particular sectors, or for the production of a particular product. One option would be to use ratios that have been developed for use in other contexts that

closely resemble the production conditions for the product in question.⁹ It is also important to consider a number of activities closely related to production such as basic processing, selection of crops, transport etc., that would need to be covered by the indicators.

4.2.3 Identification of relevant products from the perspective of food security

Food security can be assessed on different scales, from the national to the household and individual levels. The indicators developed should therefore reflect the relative importance of particular products to the consumption profile of the population at these different levels. When collecting data on consumption patterns, it is worth noting that national statutes or regulations may already identify a number of key staple products and/or a basket of basic foods reflecting local preferences and circumstances.

Indicators related to food security could look at parameters such as:

- The share of a particular product in total national or regional consumption, as reflected by its contribution to the calorie intake of the population;
- The share of income spent on a particular product at the national or regional levels;
- Self-sufficiency and import penetration, especially on products prominent in the consumption profile of the population;
- The overall capacity of the country to finance food security programs, including its capacity to import food.

Food security should be assessed at the national, household and individual levels by analysing the importance of products to the consumption profile of vulnerable populations.

4.2.4 Indicators related to the sustainability of agricultural sectors

Developing countries may also want to look at indicators related to the sustainability of their agricultural sectors. For example, the environmental impact or agro-ecological role of some farming practices might be included in the considerations to designate a particular product as a SP. Although

these additional concerns may not fit neatly into criteria based on food security, livelihood security and rural development needs, they are nonetheless important to the development concerns of developing countries.

4.2.5 Supplementary elements for the analysis

The categories of indicators proposed above are considered directly relevant for purposes of identifying potential SPs, based on the criteria of food security, livelihood security and rural development needs. There

are, however, additional considerations that developing countries may want to incorporate in their internal evaluations to facilitate the process of prioritisation.

Developing countries should analyse situations where local production could be displaced by imports of substitutes.

4.2.5.1 Substitutes

In identifying SPs, developing countries should analyze situations where local production could be displaced by imports of substitutes that are not locally produced. Recent examples of such displacements have included imports of wheat to Africa displacing the consumption of cassava or millet in the region, and imports of powdered milk in the Caribbean displacing the local production of fresh milk as an input to the local dairy industry. The analysis is best undertaken as a two-step process. Firstly, it could look at the extent to which potential SPs might

be exposed to the problem of substitutes. Next, the analysis could examine import penetration of directly competing products and how this has changed over time vis-à-vis the local production. It is also important to take into consideration how the issue of substitutes could develop in future. The negotiated provisions for SPs should then aim to enable countries to maintain some protection against the import of directly competing substitutes that could lead to permanent changes in the consumption patterns of the population.

4.2.5.2 Unfair competition

When applying the indicators, developing countries will need to bear in mind that imported products can be exported by third parties with substantial levels of subsidies. The list of highly-subsidised products is long and covers many developing countries' staple foods, such as rice and corn. This problem is compound by the fact that the Doha Round is unlikely to seriously change the situation

and high levels of subsidies by industrialised countries will most probably continue to be allowed under future agriculture disciplines in the WTO. Negotiators should keep these trade distortions in mind when establishing their list of SPs and consider whether a potential SP or its substitute are particularly vulnerable to such distortions.

4.2.5.3 Current level of protection

The current level of protection provided to a potential SP, as reflected in the level of tariff overhang, may also be worth taking into account in the national identification process, and in the designation of SPs at the WTO. It will particularly relevant in the negotiations to the extent that the freedom to designate SPs by developing countries is restrained.

This would allow countries to target those products where the designation as SP would be most useful, in light of other S&DT provisions available to developing countries. In this case, the designation of SPs should include an analysis of the likely effect on each product of the commitments to be undertaken by developing countries.

4.2.5.4 Vulnerability to import displacement

Analysis of the extent to which local production could be displaced by imports would need to include an assessment of both the competitiveness of the sector and the likelihood that imports would pose a

threat to local production. Factors such as consumer preferences and transport-related considerations may reduce the threat of imports competing in the local market.

This has been highlighted with respect to imports of potatoes in Peru, where the high cost of transporting the product relative to its value, and the particular consumer preference for local varieties, make it unlikely that imports will increase

significantly as a result of reduced border protection. This analysis may be necessary for the purposes of deciding on the actual designation of SPs to the extent that the freedom of members to select such products is constrained.

Any prioritisation of potential SPs constitutes a strictly internal process for each country, and one that would need to involve a wide range of stakeholders.

Table 8 Matrix worksheet for identifying potential SPs

Product	Criteria														1.0					
	Food Security (0.35)				Livelihood Security / Rural Development (0.55)						Other Issues (0.1)									
	National Food Security - product identified in National food security basket	Household food security	Individual food security	Import dependency - % sourced from imports	Contribution to calorie intake	Contribution to total domestic output	Contribution to total domestic consumption	% of labour force employed in activity	% of producers that are small farmers (<0.025 ha)	% of [agricultural] land under cultivation of product	% of farmers with activity as sole source of income	Income generation	Potential forward/backward linkages	Sectoral linkages/co-ordination/strategic alliances	Vulnerability to import displacement	Contribution of small farmers to total output	Environmental impact	Agro-ecological sustainability	Domestic production as % of world production	OVERALL SCORE FOR PRODUCT
	Indicator-specific Scores																			
Rice																				
Corn																				
Poultry meat																				
Diary products																				
Beef																				
Potatoes																				
Onions																				

Source: Developed by the ICTSD

The most common products identified as SPs are wheat, rice, maize, sugar, chicken and beef, milk and dairy products, tomatoes, onions and potatoes.

The average percentage of total tariff lines identified as SPs was 12.5 percent, with a maximum of 20 percent in one of the country studies.

4.2.5 Prioritisation of potential Special Products

Up to this point, the methodology proposed for the identification of SPs seems to imply that all products identified as SPs merit the same level of special attention from a policy perspective. In reality however, potential SPs will show different degrees of sensitivity and developing countries may want to look at these variations to optimise the use of the flexibilities that may be accorded to them.

The decision to prioritise potential SPs and the criteria and methods used in any prioritisation exercise is a strictly internal process for individual developing countries. The following suggestions illustrate some possible approaches, and are not intended to be prescriptive.

A simple approach would require assigning weights to the stated criteria and the various indicators within these. The products with the highest scores would form the basis for drawing up a priority list of SPs. The same weight could be assigned to every indicator and criterion, or they could vary depending on the relative importance of each to the profile of the country concerned. For instance, a small island state widely open to trade may give more weight to food security criteria than to livelihood considerations. On the other hand, large agrarian economies with

significant numbers of subsistence farmers may give more weight to indicators linked to livelihood security. In the end, assigning different weights to different criteria and indicators is a rather arbitrary decision.

An interesting tool used in one of the national studies is a matrix that mixes qualitative and quantitative indicators through a scoring system that applies food security, livelihood security and rural development criteria, according to the relevance of the chosen indicator. Once the indicators have been identified, they are classified in relation to the corresponding criteria. These indicators are then placed in the matrix to be measured against particular products. A sample matrix worksheet for identifying SPs is shown in Table 8.

Once the matrix has been filled in with the selected indicators, weights and scores are applied to the criteria and indicators to assist in identifying the most critical products. The weights selected would depend on the relative importance of each of the three criteria for the particular country or region. However, to minimise bias, each indicator uses the same overall score. Each of the potential SPs in the matrix is then rated according to the indicators and the overall score is aggregated. It is

Table 9 Findings of ICTSD country studies in a nutshell

Countries selected	Barbados, Honduras, Pakistan, Kenya, Peru, Sri Lanka
Most common products:	Wheat, rice, maize, sugar, chicken and bovine meat, milk and dairy products, tomatoes, onions, potatoes
Average number of product categories identified:	13.6
Study with the highest no. of products:	19
Study with the lowest no. of products:	6
Average % of total tariff lines	12.5%
Study with highest % of tariff lines	20%
Study the lowest % of tariff lines	3%

Source: Based on the ICTSD country case studies

Table 10 Summary of possible indicators identified for the selection of potential SPs

Identification of beneficiaries		Identification of relevant products		
Indicators of income level	<ul style="list-style-type: none"> Number of persons/ households below the national poverty line, including distinctions between rural and urban poverty; Number of persons/ households with income insufficient to cover basic needs (i.e. food, shelter, health, clothes, education, etc); Measures of household expenditures; International measures of poverty such as the World Bank's poverty line of 1 US\$ per person per day. 	Products for livelihood security and rural development	<p>Measuring the economic importance of a particular product</p> <ul style="list-style-type: none"> The contribution of the product to the national agricultural GDP; The contribution of the product to a particular region's GDP; The extension of land dedicated to the production of a particular product at the national or regional levels; The number of heads of livestock in the country or region; The share of per capita income derived from a particular sector in a specific region or at the national level; Potential for value addition and linkages generated by a particular product; Environmental impact and externalities of a particular product. 	
		Products for livelihood security and rural development	<p>Measuring the contribution to employment of a particular product</p> <ul style="list-style-type: none"> Total (absolute size of) workforce engaged in a particular sector at the national level or in a region; The share of the agricultural population at the national or regional level engaged in the production of a specific product; The labour requirement in a particular agricultural sector (no. of workers/day or year necessary to cultivate one ha. of land or to produce one ton of livestock product, multiplied by the total land extension dedicated to the product concerned or the total tonnage production of the livestock product in question. 	
Indicators relating to the geographical distribution of poverty	Consideration of regional-specific data, particularly of areas poorly endowed with infrastructure (e.g. irrigation facilities, transportation) and/or natural resources (e.g. fertile land, water, etc), and disadvantaged regions.	Products for food security	<ul style="list-style-type: none"> National basket of basic foods reflecting local preferences; The share of a particular product in total national or regional consumption as reflected by its contribution to the calorie intake of the population (the contribution of particular products to the protein and fat requirements can also be taken into account); The share of income spent on a particular product; Ratio of self-sufficiency on particular products; Import penetration; import revenue derived from a particular product (indicates the capacity of a country to finance food security and development programmes), etc. 	
Indicators relating to production capacity	<ul style="list-style-type: none"> Size of holdings; Number of ha. dedicated to a particular crop or head of livestock available at the national or regional levels; kg/ton of produce per ha. and head of livestock. 	Additional considerations	Substitutes	Imports that displace local production of substitutes.
			Unfair competition	Products highly subsidised though domestic as well as export subsidies.
			Current level of protection	Assessment of the level of tariffs and the existence of other measures currently available to a particular product, and how those may be affected in the negotiation of international commitments.
			Vulnerability to import displacement	Assessment of the extent to which the local production could withstand competition from low-cost imports.

Source: Based on the ICTSD country case studies

this overall score that then forms the basis for the identification of priority SPs. Given the importance of selecting these priority SPs, this exercise should be undertaken as a collaborative effort among agricultural stakeholders. Only if done as part of a

national multi-stakeholder process of reflection, discussion and consultation, will the exercise reflect validated data and respond to real concerns of farmers, government officials and consumers.

4.2.6 Preliminary findings of six ICTSD case studies

The six case studies commissioned by ICTSD show significant differences in the scope and product coverage of the SP category. This reflects differences in the agriculture sectors of these diverse developing countries, as well as different perspectives on the threats posed by trade liberalisation. For example, while one study designated as many as 145 tariff lines at a 6-digit level as SPs, another study considered that 19 tariff lines at 6-digit level would be sufficient to safeguard its agricultural sector.

Overall, the most common products identified were wheat, rice, maize, sugar, chicken and beef, milk and dairy products, tomatoes, onions and potatoes. It is not surprising that many of these products are the ones where major trade distortions prevail in the world

market, most often with the highest levels of subsidies in developed countries. This is certainly the case for bovine meat, milk and dairy products, but also sugar, wheat, rice or tomatoes (see Table 9).

It is also interesting to note that many of the products identified are also those for which longer transition periods and safeguard measures are present in bilateral and regional trade agreements with large trading partners such as the EU and/or the US. The average percentage of total tariff lines designated as SPs was 12.5 percent, with a maximum of 20 percent in one of the country studies. This corresponds roughly to the 15-20 percent suggested by some G-33 countries in WTO negotiations.

4.3 Additional indicators for the selection of products eligible for a Special Safeguard Mechanism

Developing countries need a safeguard mechanism to respond to the characteristics of highly volatile agricultural markets. There is no economic reason for excluding *a priori* any agricultural product from eligibility to the SSM, as the mechanism should offer the possibility of applying border measures against temporary import surges or international price declines that could harm a country's fragile agricultural sector. Nonetheless, WTO Members may decide in the course of the negotiations to limit product coverage of the SSM, so it may be useful for countries to identify certain prioritised products that would particularly benefit from access to the SSM.

The first priority should be given to products identified as SP on the basis of food security, livelihood security and rural development needs. The livelihoods of the rural poor and small farmers are indeed very fragile; their resilience capacity is minimal. Further, most developing countries do not have in place safety net mechanisms or other support measures to smooth the effect of temporary shocks in prices and import surges on specific sectors. Under such circumstances, the livelihoods of the population whose livelihood depend on the affected sectors can be put under considerable pressure.

An additional consideration, relates to the sectors in which imports have been increasing over time, indicating the local sector has already been put under strain. In this context, it is advisable to focus the analysis on indicators of self-sufficiency and import penetration, especially on products prominent in the consumption profile of the population. Self-sufficiency would indicate the extent to which local production is enough to meet consumption needs. Import penetration measures the extent to which total consumption of a particular product is met through imports. A low level of self-sufficiency may or may not represent a problem. It will depend of the context and the food security strategy of the country in question: for instance, a low level of self-sufficiency may reflect the low or inexistent production of a particular product in a country; in which case border protection may not be warranted and even counter productive. On the other hand, a decreasing level of self-sufficiency, even if remaining high, may justify protection because there is potentially a threat to local production and food security. This would be reflected in increasing levels of imports in the local markets as well.

4.4 Data availability

The analyses at the sub-national level may come up against problems in finding readily available data. Possible sources of such data include not only government departments and research institutes, but also international organisations working in the field, such as the FAO and the IFAD, and donors and NGOs involved in rural development, as these organisations gather statistics for the design, implementation and monitoring of their programmes. Thus, the necessary

The level of subsidies for production and export granted by trading partners to specific sectors constitute an additional element to factor in for consideration. Analyses by FAO suggest that import surges are more frequent in sectors benefiting from high levels of subsidies in the exporting countries. Some of the products identified include: dairy/livestock (milk powder, poultry parts), certain fruit and vegetable preparations and sugar. Notifications on subsidies by members to the WTO as well as the more comprehensive information on subsidies published by the OECD can be used for identifying the products most heavily subsidised and where protection through the SSM can be especially valuable.

Finally, in addition to the above, it is relevant to consider the commitments to be undertaken by developing countries as a result of the Doha round. Those commitments will entail the reduction of border protection in various degrees for different products. Under such circumstances, developing countries may want to consider for eligibility for the SSM those products in which significant cuts are envisaged, leaving the sector especially exposed to import surges.

data could be available, albeit dispersed in different institutions inside or outside the country. Collecting and processing the data will therefore require a good deal of coordination and collaboration. Since the national process of identifying SPs and the SSM would require access to substantial amounts of detailed data, it is important that the developed countries facilitate this data-gathering process by providing well targeted technical assistance.

5 THE GENEVA PROCESS

Members began developing their positions on SPs and the SSM from the outset of the agriculture negotiations in 2000.

This section deals with the negotiating process in Geneva. It gives a short overview of the different positions among the main coalitions on agriculture, followed by a

discussion on possible modalities for the designation and treatment of SPs and the design of an SSM.

5.1 WTO Member positions on Special Products and the Special Safeguard Mechanism

WTO Members began developing their positions on the concepts underlying SPs and the SSM from the outset of the agriculture negotiations that started in 2000. Among the first proposals was a suggestion to establish a Development Box for measures designed to meet the specific needs of developing countries.¹⁰ The main aim of this proposal was to provide flexibility for countries to enhance domestic food production and adopt measures to protect the livelihoods of resource poor farmers, including concrete measures to address dumping and import surges. The proponents of the Development Box saw it as a way to operationalise S&DT by allowing developing countries to benefit from certain exceptions to trade rules in agriculture. In the same context, India submitted a proposal for a Food Security Box in 2001.

The concept of 'strategic' products was first introduced by the African Group in 2002, aimed at allowing developing countries to grant lower tariff reduction on these products in order to address food security, livelihood security or rural development needs. Arguing that the existing Special Safeguard (SSG) already provided under Article 5 of the Agreement on Agriculture was of little use to developing countries, the African Group also called for the development of an appropriate Agricultural Safeguard Mechanism for developing countries.

Among the main proponents of these new concepts were the 'Alliance for SP and SSM' that later became the G-33¹¹. This alliance presented its first statement on the 18 July 2003 Formal Special Session of the Committee on Agriculture.¹²

From the outset of the negotiations, countries such as the US and members of the Cairns Group of agricultural exporters expressed concerns that exceptions for SPs would diminish the expected benefits in terms of market access, and would have negative impacts on South-South trade. They also argued that it was inappropriate to discuss the exceptions (i.e. SPs) before having clarity on general rules and commitments. These countries preferred the SSM to be the sole instrument available to developing countries to address their food security, rural development and livelihood concerns. They felt that a permanent concept such as SP status would impede exports more than the time-limited approach of the SSM.

In later discussions on the SSM, developed country members, including the EU and the US, have pushed for criteria to limit its coverage, rather than letting the SSM extend to all agricultural products as proposed by the G-33. These developed countries would prefer to see the SSM apply only to staple food products or products necessary for food security. The EU and the US have also suggested that the SSM should apply to

The main proponents of the new concepts were the 'Alliance for SP and SSM' that later became the G-33.

Box 3: Indicators proposed by the G-33

The following list of indicators, as proposed by the G-33, is a non-exhaustive, indicative list that could provide guidance to developing countries in the identification and designation of SPs:

- a. a higher proportion of the domestic consumption of that product is met through domestic production;
- b. the product is identified as part of the country's 'basic food basket' through laws and regulations, including administrative guidelines;
- c. the product contributes a higher proportion of the domestic requirement of each food class (e.g. carbohydrates, proteins, fats, etc.) out of domestic production of that class, and contributes to a balanced diet;
- d. the product contributes to a higher proportion of calories per capita per day of the total calories per capita per day intake;
- e. a higher proportion of income is spent on that product out of either the total food expenditure or the total income;
- f. the domestic consumption of that product represents a higher proportion of total world trade volume or value of that product;
- g. a large absolute number or a higher proportion of producers engaged in the production of that product are low income or resource poor, or are disadvantaged producers;
- h. a higher proportion of total domestic production of that product is produced by low income or resource poor or disadvantaged producers;
- i. either a large absolute number of small farmers or operational holdings are engaged in the production of that product, or a higher proportion of total domestic production of that product is grown in small farms or operational holdings;
- j. a large absolute number of persons or a higher proportion of the total agricultural population is employed in the production of that product;
- k. a higher proportion of total agricultural income is derived from that production;
- l. a large amount or a higher proportion of farm land is under production of that product;
- m. the product contributes to the livelihood of the vulnerable populations such as tribal communities, women, aged people, or disadvantaged producers;
- n. the product contributes to improving the living standards of the rural population directly and through its linkages to non-farm rural economic activities;
- o. the product is important for handicrafts and cottage industries;
- p. the product contributes a higher proportion of the value of agricultural production, agricultural GDP or income; or
- q. a higher share of the tariff revenue is derived from that product.

Source: "Proposed Modality for Special Products" presented by the G-33 at the Hong Kong Ministerial Conference 13-18 December 2005.

The G-20 has registered its support for the G-33 approach to SPs and the SSM, as has the ACP Group.

In October 2005, the G33 came forward with a 'non-exhaustive' list of indicators, outlining some potential ways in which SPs could be identified.

The G-33 paper argues that products whose world market prices are distorted by rich country subsidies should automatically be eligible for SP status.

products that already have low tariffs, in order to facilitate the overall liberalisation process.

The G-20 group of major developing countries - including Brazil, China, India and South Africa - has supported the G-33 approach to SPs and the SSM on a number of occasions, as has the ACP Group. The possible effects of SPs and the SSM on South-South trade have nevertheless stirred controversy in discussions at the WTO. In this context, some Latin American countries have suggested that export products should not be eligible for SP status as they do not meet the food

5.1.1 Recent G-33 proposals on Special Products and the Special Safeguard Mechanism

The G-33 has been under increasing pressure to produce indicators for operationalising the criteria for SPs outlined in the Framework Agreement, i.e. food security, livelihood security and rural development needs. In October 2005, the group came forward with a 'non-exhaustive' list of indicators outlining some potential ways in which SPs could be identified. This list was further developed and presented at the Hong Kong Ministerial Conference (see Box 3)

Noting that each country's situation is unique and that members will apply their own set of indicators when designating their SPs, the G-33 paper put forward indicators under each of the three broad sets of criteria. National level food security concerns included access to food across regions and in individual households, as well as the share of a product in average calorie intake. International concerns included countries' vulnerability to interruptions in supply.

In looking at the importance of products to livelihood security, the G-33 paper focused heavily on the role of small and resource-

security criteria, and have proposed limiting SP recognition to non-commercial products. The G-33 has, however, opposed such limitations, arguing that the criteria of food security, rural livelihood and development do not prevent these products from being commercial. Some countries have also suggested that tropical products should not be designated as SPs.

The G-33 members are currently working to define and propose full negotiating modalities that would entrench an SSM and flexibilities for SPs within WTO rules.

poor farmers in the production of particular crops that may be displaced by imports. The paper also said that the needs of special groups, such as tribal communities or women, or products from disadvantaged geographical regions could be taken into account. On rural development, the paper noted the need for options to improve the living conditions of rural populations, based on both existing products and the potential for value addition in rural areas.

The G-33 noted that countries should have the flexibility to designate new SPs in place of existing ones, as circumstances change. Notably, the G-33 paper argued that products whose world market prices are distorted by rich country subsidies should automatically be eligible for SP status.

At the same time, the G-33 also tabled a detailed proposal on the SSM. This proposes that the SSM be triggered by both import volume surges and price decreases, and argues that price decreases should be insulated from recent depreciation in the domestic currency rates of the importing

country, which could otherwise make imports seem artificially expensive and thus above the trigger level.

The SSM paper proposes that developing countries would be able to use the mechanism to impose duties higher than the bound ceiling level on farm imports in the event that import volumes rise above their three-year average, or if import prices fell below their average level for the three years preceding the year in which the duty was being imposed. These duties would last a maximum of 12 months regardless of the calendar year. The G-33 also outlined provisions for four tiers of increased import levels and maximum additional tariffs that could be levied, the sizes of which would

still to be negotiated.

According to the proposal, products en route to importing countries on the basis of contracts settled before the SSM trigger volume was exceeded would be exempt from additional duties but counted towards the threshold volume and price level for the following year. Safeguard measures imposed in response to a drop in the import price of a product would be levied in one of two ways: on a shipment-by-shipment basis; or on a percentage *ad valorem* basis.

Finally, the G-33 suggested that developing countries would have to notify the Committee of Agriculture of any measures taken under the SSM.

The G-33 tabled a detailed paper on the SSM, proposing that safeguard measures be triggered by both import volume surges and price decreases.

5.2 Modalities for Special Products

In the ongoing WTO negotiations many questions have been put forward on the SPs: What should be the guidelines for the application of the three criteria? At what level of the Harmonised System (4-digit or 6-digit) should products be identified? Should SPs be exempted from tariff reduction? If

not, what kind of tariff treatment should developing countries seek for these products? Should these products be eligible for the SSM? What, if any, would be the relationship between 'sensitive products' and SPs? This section attempts to answer some of these questions.¹³

A major difficulty with a selection based solely on multilaterally agreed indicators will be to define uniform thresholds for the different indicators of food security, livelihood security and rural development.

5.2.1 Product coverage

5.2.1.1 Multilaterally agreed indicators with uniform thresholds versus self-designation based on a non-exhaustive list of possible indicators

The selection of SPs could be done either on the basis of a series of multilaterally agreed indicators that include specific thresholds, or by allowing countries to self-designate their SPs on the basis on certain indicative indicators.

As discussed above, a major difficulty associated with the first option would be to define uniform thresholds for the different indicators of food security, livelihood security and rural development needs. For example, if the contribution of a particular product

to the traditional diet of a population is accepted as an indicator of food security, at what level of contribution to the daily calorie intake of the population would it qualify as an SP? Similarly, if employment generated by a particular product is recognised as an indicator of its contribution to livelihood security and rural development, what should the critical employment level be, and how should the sub-national level be defined?

In short, defining such thresholds would not be desirable from a sustainable development

A more realistic option would be to allow developing countries to self-designate their SPs, while at the same time providing an illustrative list of possible indicators that they could use to guide their selection process.

perspective as it would not properly take into account the specific circumstances prevailing in all the different developing countries, at different stages of development and with different agro-ecological, social and economic conditions.

A more realistic option consists of allowing developing countries to self-designate their SPs, while at the same time providing an illustrative list of possible indicators that countries could use to guide their selection process. Such a list could build on the indicators identified above. This would allow WTO Members to maintain the necessary flexibility to set their own thresholds and critical levels for each indicator. The Hong

5.2.1.2 The problem of substitutes

Once the SPs have been identified and flexibility granted, the developing country concerned would be assured a certain level of protection until the next round of negotiations. Imports of substitutes, however, would not be affected by the special tariff treatment for SPs, and could thus pose a problem in the future. The only sure way of addressing this problem would

5.2.1.3 Harmonized System Level

The Harmonized System classifies products into Sections, Chapters, Headings (4-digit) and Sub-Headings (6-digit). Countries may also choose to go into further sub-classification at 8-digit or 10-digit levels. In tariff negotiations during the Uruguay Round, 6-digit or 8-digit classifications were generally used.

The country case studies commissioned by

5.2.2 Treatment of Special Products in the negotiations

The level of flexibility accorded to SPs will depend to a significant extent on the tariff

Kong Ministerial Declaration seems to favour this last option, as it stated that developing countries “will have the flexibility to self-designate an appropriate number of tariff lines as Special Products *guided* by indicators based on the criteria of food security, livelihood security and rural development”.

As a *quid pro quo* for being allowed to self-select SPs, developing countries might have to accept the imposition of an overall limit on the number of SPs. This limit could either take the form of an absolute number or a proportion of agricultural tariff lines or percentage of agricultural trade or both (Hoda, 2005). The exact level of any overall limit would be determined within the overall agricultural negotiations.

be to identify all substitutes and designate them as SPs as well. This task would not be easy, as in the long run many products could substitute for each other and price considerations may even induce dietary changes in populations. If the list of SPs is to be manageable, only direct substitutes should be considered for inclusion.

ICTSD found that views differ from country to country on whether the designation of SPs should be made at the Heading (4-digit) or Sub-Heading (6-digit) levels of the Harmonized System. If there is a cap on the total number of SPs, the choice of level would matter, since designating them at a 6-digit level would allow countries to spread the coverage of additional flexibility over a larger range of product types.¹⁴

reduction formula for developing countries agreed to in the market access negotiations,

as well as on the flexibilities assigned to 'sensitive products', which are not limited to developing countries. It will also depend on the modalities for designation that will be determined for them. It could, however,

be argued that the flexibilities for the SPs should be permitted to operate for the entire implementation period and possibly until the next round of negotiations are initiated.

Regardless of the number of SPs, there is a case for tariff reduction exemption for at least a sub-set of them.

5.2.2.1 Should Special Products be exempted from tariff reduction?

Neither the Framework Agreement nor the Hong Kong Ministerial Declaration explicitly rules out exempting SPs from tariff reduction altogether, and this should certainly be in the range of possibilities considered. An agreement on an outright exemption would probably be achievable if the list of SPs is small. Exemption may also be possible if sought for a sub-set of SPs for which there

is particular justification, such as relatively low bound tariffs. Developing countries could possibly seek complete exemption from tariff reduction for all tariff lines in a long list of SPs. However, such exemptions would almost certainly be costly and could result in a steep lowering of the overall level of ambition in the agricultural negotiations.

5.2.2.2 Should developing countries have access to quantitative reductions for Special Products?

The prohibition of quantitative restrictions on agricultural products was seen as a major reform accomplished during the Uruguay Round, although it only extended to farm trade the general prohibition on such restrictions that has been in existence since GATT 1947 came into being. Economists agree that quantitative restrictions are the most distorting of all trade policy instruments. Asking for permission to impose quantitative restrictions as a temporary

measure under the SSM could nevertheless make sense, as it would be consistent with GATT 1994 practice in emergency safeguard action. However, seeking the right to impose quantitative restrictions on SPs on a permanent or semi-permanent basis might be construed as seeking a reversal of the trend of liberalisation in agriculture, and would not be considered a constructive argument in the negotiations.

Countries could ask for all SPs to be treated identically, or could classify them into different tiers with varying flexibility.

5.2.2.3 What kind of flexibility should developing countries seek for Special Products?

The level of flexibility that developing countries could seek in reducing tariffs on SPs would evidently depend on the flexibilities that they manage to secure for other products. Developing countries could ask for all SPs to be treated identically, or could classify them into tiers of varying flexibility. There may be some advantage in

seeking a tier-based system, since they may even be able to press for SPs in the lowest tier to be completely exempted from tariff reduction. In any case, eventual reduction commitments should take place under a longer implementation period. In addition, the SPs should automatically qualify for the SSM.

5.2.2.4 Is there a relationship between 'sensitive products' and Special Products?

The Framework Agreement does not say anything about a relationship between

'sensitive products' and SPs. These two concepts have evolved independently of

Sensitive products and Special Products have evolved independently in the negotiations and there is no solid rationale for linking the two concepts.

each other, apparently without any linkage. All members, developed and developing, have the right to designate to-be-negotiated numbers - higher for developing countries - of tariff lines as 'sensitive products'. Developing countries have been given access to the flexibility for 'sensitive products' over and above that for SPs. A major difference between SPs and 'sensitive products' relates, however to the rationale behind the two instruments.

In the case of SPs, public policy objectives, as opposed to purely commercial objectives, are explicitly stated as the rationale for specific multilateral disciplines. Accordingly, negotiating modalities should be crafted in a way that fully addresses these concerns. In the case of 'sensitive products', their

designation will only be the result of the negotiating process. In addition, as stated in the Framework Agreement, "substantial improvement in market access will be achieved for all [sensitive] products", and WTO Members will undertake tariff quota commitments, in addition to tariff reductions. In the case of SPs, there is no mention of tariff reductions or other related commitments neither in the Framework Agreement nor in the Hong Kong Ministerial Declaration. Furthermore, only developing countries have access to the SPs. It would appear to be good strategy for developing countries to keep 'sensitive products' and SPs separate during the negotiations. This would enable them to get flexibility for 'sensitive' tariff lines independently of SPs.

5.3 Modalities for the Special Safeguard Mechanism

Developing countries have repeatedly emphasized that the SSM should not replicate the shortcomings of the SSG that have made its application very cumbersome. At present, the use of the SSG is limited to countries that have converted their non-tariff restrictions into tariffs (so-called tariffication). The many developing countries that opted instead to offer ceiling tariff rates therefore have no access to the SSG.

Table 11 provides a summary of the use of the SSG by WTO Members. Between 1995 and 2004, the SSG was invoked 163 times by six of the 22 developing countries that were eligible to use the mechanism. This is a fairly small number relative to the number of times they could potentially have used it. A rough calculation shows that the overall 'SSG utilisation rate' - the ratio of actual use to potential use - is about one percent of its potential use by all 22 countries and about 5 percent of its potential use by the 6 countries that have used it to date (FAO, 2005).

It has been argued that the SSG has not been widely used because it has not been necessary, either because countries have recourse to other border measures (i.e. the use of price band systems or restrictive import license regimes) or because the tariff protection is high enough (i.e. the tariff overhang between applied and bound rates permits tariff fluctuations). A quick review of developing countries' experience in this area reveals that in several cases countries have experienced difficulties in promptly undertaking the necessary domestic legislative reforms to be able to use the mechanism. Others have been reluctant to do so out of concern that this might prompt affected members to initiate WTO disputes in case of erroneous application. Finally, in several instances influential importers have been successful in convincing their government not to use the SSG, whereas producer groups most affected by import surges and price fluctuations only had a minimal influence on governments' decisions (Montemayor, 2005).

Overall, developing countries have only used the existing safeguard under the Agreement on Agriculture (SSG) in one percent of the cases in which the mechanism could have been used.

Various negotiating proposals and statements at the WTO have argued for some or all of the following basic characteristics for the SSM (FAO, 2005):

- Simple and transparent;
- Relatively easy to invoke, i.e. not burdensome administratively;
- Triggered in reaction to exceptional market conditions;
- Remedy measures to be temporary in

nature;

- No requirement for proof of injury;
- Should not lead to misuse, e.g. too frequent triggers.

This section addresses some of the mechanisms proposed at this stage of the negotiations with a particular focus on product eligibility, trigger mechanisms, remedies and the duration of the safeguard.¹⁵

5.3.1 Country and product eligibility for the Special Safeguard Mechanism

Neither the Framework Agreement nor the Hong Kong Ministerial Declaration exclude

any developing countries or particular products from eligibility for the SSM, nor

Table 11 Countries reserving the right to use the SSG and actual use (1995-2003)

Countries	Number of products with reserved right		Year of use of SSG ¹								
	Tariff items	HS 4-digit ²	1995	1996	1997	1998	1999	2000	2001	2002	2003
<i>High income countries</i>											
Australia	10	2									
Canada	150	37									
European Union-15	539	72									
Iceland	462	121									
Israel	41	14									
Japan	121	27									
New Zealand	4	2									
Norway	581	141									
Switzerland-Liechtenstein	961	134									
United States	189	26									
<i>Total high income</i>	<i>3058</i>	<i>576</i>									
<i>Eastern Europe</i>											
Bulgaria	21	9									
Czech Republic	236	29									
Hungary	117	117									
Poland	144	133									
Romania	175	14									
Slovakia	114	28									
<i>Total Eastern Europe</i>	<i>807</i>	<i>330</i>									

Table 11 continued on next page.

Table 11 (cont.): Countries reserving the right to use the SSG and actual use (1995-2003)

Countries	Number of products with reserved right		Year of use of SSG ¹								
	Tariff items	HS 4-digit ²	1995	1996	1997	1998	1999	2000	2001	2002	2003
<i>Latin America and the Caribbean</i>											
Barbados	37	24									
Colombia	56	55									
Costa Rica	87	24									
Ecuador	7	1									
El Salvador	84	23									
Guatemala	107	35									
Mexico	293	83									
Nicaragua	21	14									
Panama	6	2									
Uruguay	2	1									
Venezuela	76	63									
<i>Total LAC</i>	<i>776</i>	<i>325</i>									
<i>Africa</i>											
Botswana	161	71									
Morocco	374	46									
Namibia	166	75									
South Africa	166	75									
Swaziland	166	75									
Tunisia	32	13									
<i>Total Africa</i>	<i>1065</i>	<i>355</i>									
<i>Asia</i>											
Indonesia	13	4									
Malaysia	72	12									
Philippines	118	36									
South Korea	111	34									
Taiwan	84	29									
Thailand	52	23									
<i>Total Asia</i>	<i>450</i>	<i>138</i>									
<i>Total all countries</i>	<i>6,156</i>	<i>1,724</i>									

Notes: (1) As of WTO notifications received by October 31, 2004. (2) The International Harmonized Commodity Coding and Classification System (HS) is an international standard for world trade at a 6-digit level of detail. The product groups here are for the 4-digit level.

Source: Valdés & Foster (2005)

do they restrict its coverage to a particular number of products. The issues relating to the SSM's product coverage that have been discussed in the negotiations so far can be grouped into four categories (FAO, 2005).

- The use of development-related criteria agreed at the multilateral level: Several negotiating proposals have argued for limiting the SSM to 'food security crops'. This means selecting products according to indicators such as their contribution to food security and/or their food nutrition status, or the products' share of rural GDP in the case of rural development. The framework text agreed between the US-EU framework a month before the Cancun Ministerial in 2003 falls into this category, since it suggests limiting the SSM to 'import-sensitive products'.
- The depth of the tariff cuts and/or the level of the bound tariffs: The underlying rationale is that an SSM is essential only when bound tariffs are low. It is also suggested that access to the SSM should be an incentive for members to reduce bound tariffs. A safeguard is obviously more valuable when bound tariffs are lower. This approach presents at least the following two problems: first, it is possible that no SSM would be accessible for the 'sensitive products' and SPs because of limited tariff cuts; and second, this proposal would leave LDCs unable to access the SSM because they

will not be obliged to cut tariffs, even though they might need the safeguard more than others.

- Self-designation by WTO members, subject to an agreed number of products and/or tariff lines: In this case, the debate on the selection of the SSM products or tariff lines would take place in the countries themselves. This approach, nevertheless, requires a multilaterally negotiated agreement on the total number of products or tariff lines for the SSM.
- No restriction on product coverage: Given the difficulties in determining, a priori, which products should be eligible, there is a strong case for making the SSM applicable to all tariff lines that meet the trigger requirements. In addition, there is no economic or logical rationale for excluding certain products a priori.¹⁶ Some countries with large and diversified agricultural sectors may argue that they need the SSM for numerous products when taking into account various like-products or import-competing products not necessarily produced by the country, while countries with smaller, less diverse agriculture sectors would need the SSM for far fewer products.¹⁷

Table 12 shows how the negotiation has evolved in the definition of the SSM (FAO, 2005).

There is no economic or logical rationale for excluding any products a priori from the SSM.

Developing countries have found it difficult to use the existing volume-triggered SSG because they often lack the resources to estimate import flows or the possibility of import surges in real time.

5.3.2 Elaborating useful trigger mechanisms of the Special Safeguard Mechanism

In Hong Kong Ministers agreed that developing countries "will have the right to have recourse to a Special Safeguard

Mechanism based on import quantity and price triggers, with precise arrangements to be further defined".

5.3.2.1 Volume-based trigger

Developing countries have found it difficult to use the existing volume-triggered SSG

because they often lack the resources to estimate import flows or the possibility of

Table 12 Evolving SSM modalities in WTO negotiations

Modalities/ Framework texts	Date	Proposed Text on SSM
Harbinson modalities (1)	18 March 2003	An outline of a possible new SSM to enable developing countries to effectively take account of their development needs, including food security, rural development and livelihood security concerns, is currently subject to technical work and will be included at the appropriate stage in Attachment 2.
Harbinson modalities (2)	1 August 2004	The right to invoke this mechanism shall be reserved (with 'SSM' symbol) for the products concerned.
EU-US text	13 August 2003	An SSM shall be established for use by developing countries as regards import-sensitive tariff lines.
G-20 text	20 August 2003	Under conditions to be determined in the negotiations, an SSM shall be established for use by developing countries, the scope of which would depend on the impact of tariff cuts as per 2.6 above. (This paragraph makes reference to the tariff reduction formula for developing countries in the G-20 text.)
Draft text for Cancun	24 August 2003	An SSM shall be established for use by developing countries subject to conditions and for products to be determined.
Cancun Ministerial text	13 Sep 2003	An SSM shall be established for use by developing countries subject to conditions and for products to be determined.
Framework Agreement	1 August 2004	An SSM will be established for use by developing country members.
G-33 proposal	2 November 2005	An SSM will be available to all developing countries and it would apply to all agricultural products. The right to apply the SSM will be triggered by either the volume of imports or by the price of the imports, "but not concurrently".
Hong Kong Ministerial text	18 December 2005	Developing countries will have the right to have recourse to an SSM based on import quantity and price triggers, "with precise arrangements to be further defined".

Source: Based on FAO (2005) and negotiating proposals

import surges in real time. Furthermore, the design of the current SSG favours volume-triggered safeguards when imports represent a fairly high proportion of consumption. It is thus biased against countries with lower degrees of openness.¹⁸

Issues of this kind must be taken into consideration in the design of the SSM, since low-income countries and LDCs are less able to purchase (import) agricultural commodities, especially food products, and tend therefore to be 'less open'. The

SSG implicitly rewards openness, while the SSM, on the other hand, should be designed explicitly to support developing country concerns about food security.

Another issue to take into account when designing the SSM is that the SSG formula is biased against countries where consumption levels are rising, as increases in consumption raise the trigger level - making it harder to trigger the safeguard. This works against low-income countries and LDCs, as their overall food consumption tends to increase,

because of population and income growth. Furthermore, many of these countries may lack data on consumption levels.

A negotiating problem emerges from the broad definition of an import surge as a sharp, sudden, recent and significant increase in imports. This definitional problem is particularly complex because volume-based triggers, which are not necessarily related to low prices, can be contaminated by import surges correlated with domestic production shortfalls. However, a rise in imports due to a decline in domestic production would not imply any externally induced injury to domestic producers, and imposing safeguards in such cases would not be consistent with the principle of protecting potentially competitive sectors.

5.3.2.2 Price-based trigger

While the use of volume-based triggers has the advantage of being based on a verifiable event, the damage to the domestic sector is often due not to the volumes of imports, but to the reduction in net producer income that results from the ensuing price decline (Valdés & Foster, 2005). When import volumes are related to world prices, import volume surges often follow price drops. A decline in the border (cif) price could lead to a reduction in domestic producer prices prior to import surges (Valdés & Foster, 2005). A price reduction of this kind will nevertheless affect production and income for low-income and resource-poor farmers in developing countries, but it would be difficult to remedy only by a volume-based trigger.

In this context, one of the advantages of a price-triggered mechanism is that invoking it is a rapid and easy procedure compared to the volume-triggered safeguard. This makes the scheme attractive to developing

Another problem arises when determining the volume of imports that should be reported as the level for triggering the safeguard. The negotiation of that level can be difficult, especially in cases where imported volumes are traditionally extremely low. However, for small countries such as Honduras, the country studies indicated that a volume-based SSM would be necessary in any case, as the country does not have the resources necessary to apply the corresponding price-based safeguard. The main constraint with the price-based SSM, as discussed below, is the need to constantly monitor imports in real time, as well as related variables such as domestic production and consumption (Deras et al. 2005). These considerations are important to take into account in the design of the new SSM.

countries, especially since the safeguard is to be limited in duration. From the point of view of implementation, it is also more difficult to manipulate a price-based trigger than a volume-based trigger. However, problems could arise with price-based triggers when dealing with heterogeneous products, i.e. products of different quality or origin with very different prices. This is mostly the case with processed products. Another issue is the HS-digit level at which the reference price is set. For example, using a composite price at the 4-digit level may not reflect the fact that prices may vary greatly between products in the same category at the 6 or 8-digit level.

It is generally agreed that the SSM should respond to short-term price depressions below a trigger threshold but not to longer-term price declines. The reference price used for triggering the safeguard is therefore the key parameter that ensures this stated objective. However, it is important to

The price-based trigger is important because damage to the domestic sector is often due not to the volumes of imports, but to the reduction in net producer income that results from the ensuing price decline.

The SSM should respond to short-term price depressions below a trigger threshold but not to structural price declines.

consider the problem that arises when current prices bear no relation to the fixed reference prices. A low reference price, relative to the current import price, as is the case with the current SSG trigger, has had the effect of making this instrument more difficult to use.

In view of this, some proposals have called more realistic reference prices for the SSM. These include suggestions, for example, to update base prices periodically (e.g. every four or five years), use moving averages of various lengths, or use a basket of currencies as a reference, as suggested by the G-33 in a recent proposal.¹⁹ The choice of reference price should be governed by certain principles, such as the idea that excessive interference with the world market should be avoided. In particular, there is a need for periodic adjustments to the trigger level to reflect possible long-term trends in commodity prices, to ensure that world

price changes should, within a reasonable degree, ultimately be transmitted to the domestic market.

It is, however, widely believed that the current formula for the price-based SSG is too complicated for many developing countries to use. It is necessary to develop a simpler formula to replace the current use of five bands, while maintaining the basic principle that the level of the remedy should vary with the depth of the price depression.

Agreeing on a transparent and reliable updating system for the price thresholds, however, has proved difficult. It would be important for an SSM proposal to assure members that it would function in a transparent manner. In order to avoid overuse, an SSM could require detailed notification to the WTO secretariat, indicating the products for which safeguards have been activated. This would also provide a data-base for the determination of reference prices.

5.3.3 Remedy

The remedy refers to the action to be taken once a trigger has been activated. It can take various forms including, for example, the application of an additional tariff, a tariff rate quota, or a quantitative restriction. The remedy also refers to the extent to which the action will be taken. The GATT Safeguard Agreement states that "a Member shall apply safeguard measures only to the extent necessary to prevent or remedy serious injury and to facilitate adjustment". The issue to be determined in the WTO negotiations is whether the SSM will be raised only to the pre-Doha Round level of bound tariffs, or to any level necessary to offset the price depression or import surge by which it was activated.

In this regard, the G-33 has proposed that "where the level of imports during a year exceeds [x] percent but does not exceed [x1] percent of the average import volume, the maximum additional duty that may be imposed shall not exceed [y] percent of the bound tariff or [z] percentage points, whichever is higher."

In the case of the price-based SSG, the additional duty varies with the extent of the price depression below the fixed trigger level. The SSG response was designed to offset only a part of the price depression. Since the SSG is assumed to be triggered only when the WTO bound tariff is insufficient, the total tariff that members can apply is equivalent to the bound rate plus the

additional SSG duty. Remedies under the price-based SSG are however strongly non-linear - additional duties are fairly low in the lower range of the price depression, i.e. up to 40-50 percent, after which they escalate dramatically (see Figure 17).

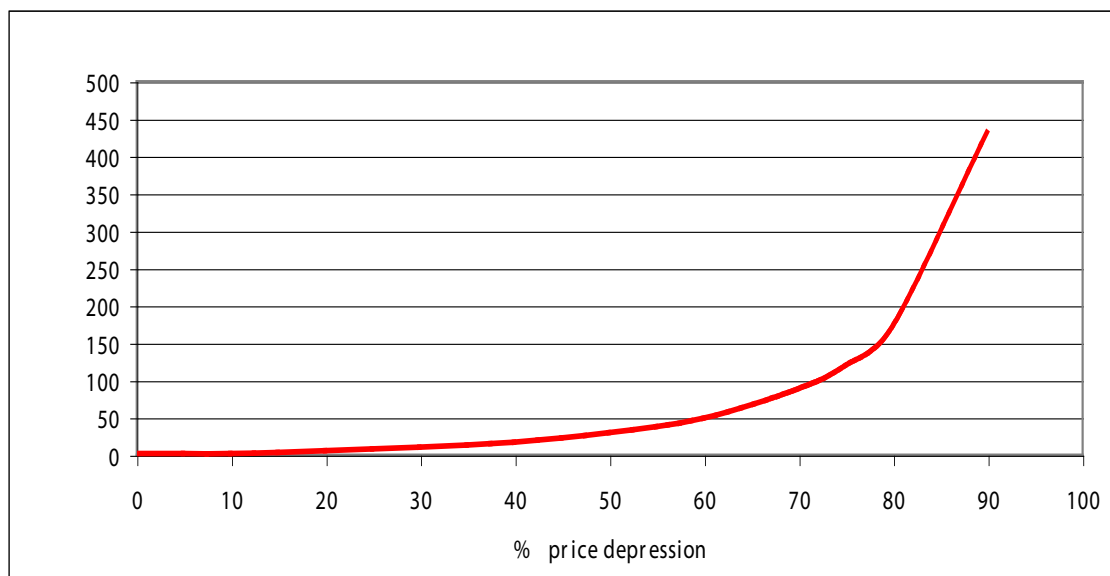
In the case of the volume-based SSG, the additional duty imposed is only “levied at a level which shall not exceed one-third of the level of the ordinary (applied) customs duty in effect in the year in which the action is taken”. Thus, the additional duty is fixed, irrespective of the depth of the problem. This is one important difference between the two types of SSG. For the SSM to overcome the shortcomings of the SSG, it is important that the remedy vary with the depth of the import surge or the level of the price depression of the commodity in question. This would allow remedies to be raised progressively, in accordance with the potential injury that triggered the safeguard mechanism.

Another important distinction in the application of the two types of SSG is that the additional duty levied in the case of the price-based safeguard is on a shipment-by-shipment basis, and the actual levels of the additional duties imposed come to be known only after the event. On the other hand, in the case of the volume-based SSG, an additional duty is never going to be more than one-third higher than the regular tariff level. Additionally, the SSG has no provision for quantitative restrictions. This will most likely be the case for the SSM as well, since quantitative restrictions would be perceived as a regressive step in the WTO.

An additional fact to take into account is that in most countries the application of a safeguard mechanism is not automatic. This means that political considerations will ultimately decide whether the SSM will be invoked. Developing countries might decide not to invoke the SSM for fear of disturbing trade relations or being brought before a WTO panel to prove their issue.

For the SSM to overcome the shortcomings of the SSG, the remedy should vary with the depth of the import surge or the level of the price depression of the commodity in question.

Figure 17 Remedy in price-based SSG



Source: Sharma & Morrison (2005)

In the case of the volume-based SSG, the reference to the tariffs “in effect in the year” effectively links remedies to the applied rate. The SSM should specifically

link extra duties to the bound rate. This is of particular relevance in developing countries where bound rates are often much higher than applied tariffs.

5.3.4 Duration

A safeguard is by definition a temporary instrument meant for addressing problems of a temporary nature. The key question here is: for how long should the safeguard be put in place?

Under the current rules for the SSG, a safeguard is in effect until the end of the calendar year in which it is triggered, which basically could mean 12 months if the SSG is triggered on 1 January, or one day if triggered on 30 December. The SSG can be triggered again in the beginning of the next year if doing so can be justified with new data. There are some cases where the SSG has been invoked for some products on an almost permanent basis, i.e. every year since 1995.

The new SSM should definitely correct this situation, which was probably designed with the intent to minimise overuse of the SSG but has failed to do so. The SSG has also failed to adequately respond to downturns in prices, as these tend to endure longer than the safeguard itself.

It could be acceptable for the SSM to limit the duration of safeguard measures to one year. However, there is no reason why the end of the calendar year should be the end of the safeguard period. More generally, the duration of the application of the safeguard should correspond to the duration of the injury that the remedy is trying to address.

In the case of the price-based SSM, the cycle of depressed world market prices would be the basis for calculating the duration of the injury. Over the past three to four decades, the typical length of a price slump for primary commodities has been 39 months, or roughly three years (FAO, 2005). If the maximum length of an SSM trigger is to be 12 months, it may make sense to allow the SSM to be triggered a total of three times (the initial application and up to two extensions) for the same product. This would be followed by a three-year ban on applying the safeguard.

There is no similar example based on world market behaviour for the volume-based SSM, but the same rule might be used - with three triggers in a row the maximum for activation of the trigger on a particular product, followed by a three-year period during which it cannot be used.

Many FTAs give the parties access to safeguard mechanisms only during the implementation period. However, this does not make economic sense, particularly since developing countries would be more exposed to import surges and/or price fluctuations when all provisions of the agreement are implemented. Developing countries in the WTO should therefore, have access to the SSM beyond the implementation period of the agreement.

The application of the safeguard should last as long as the injury that the remedy is trying to address.

CONCLUSIONS

It is widely recognised that developing countries as a whole will benefit from the removal of trade distortions in agricultural trade. However, some trade negotiators and analysts have expressed concerns that the livelihoods of small and resource-poor farmers employed in import-competing sectors might be adversely affected by further liberalisation under the Doha Round. The concepts of SPs and the SSM have therefore emerged as a key compromise between efforts to make substantial improvements in market access and the need to provide targeted flexibilities under special and differential treatments. In this context, multilateral disciplines on SPs and the SSM should contribute to reducing the risks associated with agricultural production in developing countries and ultimately create a more conducive environment for investment in productivity-enhancing technology.

While SPs and the SSM share the same goal, they are two different instruments, designed to address two different problems. In the case of SPs, it is public policy concerns, rather than purely commercial objectives, that are explicitly stated as the rationale for specific disciplines. Such disciplines should provide targeted protection through tariff reduction exemptions or minimal tariff cuts over a longer transition period for products deemed important from a food security, livelihood security and rural development perspective, but which would not survive under so-called competitive conditions. These products are mostly cultivated by small-scale subsistence farmers, who represent a large proportion of developing countries' rural populations but who are unlikely to become competitive in the short run. As such, they would be negatively affected by greater exposure to foreign competition.

The SSM, by contrast would allow countries to raise tariffs above their bound levels for a limited duration, to protect import-competing sectors against price depression and/or import surges. This tool could be useful for products that are 'competitive' - or, because of SP flexibility, could 'compete' with imports -but which are still vulnerable to price fluctuation and revenue-related risks. As successive rounds of trade negotiations continue to reduce tariffs, the countries that are least prepared could become particularly vulnerable to external market instability and to import surges that could affect agricultural production and inflict huge adjustment costs, in both economic and social terms.

In more developed economies, such risks can be offset by market-related instruments, but in many developing countries the capacity to develop such instruments is limited and tariffs and surcharges are the only trade instruments realistically available to them. Developing countries are further pressured to use these border protection measures as tariffs are often the main source of government revenue.

A major concern regarding SPs and the SSM is the potential impact of these provisions on South-South trade. However, recent research tends to show that the so-called welfare impact of these provisions would be minimal, to developed and developing countries alike. This is partly due to the fact that trade between developing countries in subsistence and staple products today accounts for only a small share of exports in most developing country regions. At most, if SPs are fully exempted from tariff reduction, the introduction of these additional S&DT provisions might slow down the expansion

of South-South trade. At the same time, it has also been argued that these flexibilities would in fact contribute to increasing South-South trade in the longer term, as they would allow developing countries to make investments in their agricultural sectors and readjust their production structure, in order to become more competitive or diversify into other sectors of the economy.

The past five years have seen a significant evolution of the concepts of SPs and the SSM in the agriculture negotiations. Although WTO Members now recognise the need for SPs and the SSM, as recently stated in the Hong Kong Ministerial Declaration, there has been considerable debate over the way SPs and the SSM are to be identified, selected and made operational.

The selection of SPs constitutes a strictly national process that should take into consideration many variables. The main challenge for members is to genuinely build on the concepts of food security, livelihood security and rural development needs when doing so, instead of being driven by narrowly defined commercial considerations. Each developing country will have to undertake a process of internal reflection, discussion and consultations in order to identify its SPs based on the above mention criteria. Such a process is a sine qua non condition for an informed and effective participation in the negotiations.

The methodology presented in this document aims to guide countries in establishing their national lists of SPs and identifying products that could be eligible for an SSM. The methodology proposed focuses on the internal process to be undertaken by individual developing countries, rather than the multilaterally agreed indicators in the context of the WTO negotiations.

The methodology frames the analysis for the identification of SPs within the broader national strategies for sustainable agricultural development and poverty alleviation. It attempts to operationalise the concepts entailed in the Framework Agreement through a combination of quantitative and qualitative indicators applied at the national and sub-national levels. These indicators are designed to identify the intended beneficiaries of the SP-SSM flexibilities, and to assess the importance of specific products from a food/livelihood security and rural development perspective.

Based on the preliminary list of products identified through this process, the methodology then provides guidelines to assess the potential direct or indirect impacts of further liberalisation on the selected products. In particular, it highlights the need for policy makers to take into consideration issues such as substitute products, vulnerability to imports or current levels of protection when finalising country lists and ranking the identified products. Any prioritisation of potential SPs, and the criteria and methods used for such a prioritisation, would be a strictly internal process for individual developing countries. Prioritisation exercises would need to take many different factors into account and would require extensive consultations with key agricultural stakeholders.

The proposed methodology has been 'tested' in the field through a series of six country studies carried out in Barbados, Honduras, Kenya, Pakistan, Peru and Sri Lanka, in close collaboration with local researchers and other stakeholders, including government officials, farmers' groups and academia. The products most commonly identified as SPs are wheat, rice, maize, sugar, chicken and beef, milk and dairy products, tomatoes, onions

and potatoes. The average percentage of tariff lines identified as SPs is 12.5 percent, with a maximum of 20 percent in one of the countries studied.

In the context of the WTO negotiations - as opposed to the national debate - the designation of SPs could be done either on the basis of a series of multilaterally agreed indicators that include specific thresholds, or by allowing countries to self-designate their SPs, guided by an agreed set of indicators. A major problem associated with the first option would be the difficulty of defining uniform thresholds for the different indicators of food security, livelihood security and rural development needs. The latter option is therefore more realistic, and it is this option which the Hong Kong Ministerial Declaration seems to support. As a *quid pro quo* for being allowed to self-select SPs, developing countries might have to accept the imposition of an overall limit on the proportion of agricultural tariff lines or percentage of agricultural trade or both.

Regardless of the number of SPs, there is a case for tariff reduction exemption for at least a sub-set of them. Developing countries could potentially seek complete exemption from tariff reduction for all tariff lines in a long list of SPs. However, such exemption would almost certainly have heavy cost repercussions and could lead to a steep lowering of the overall level of ambition in the agricultural negotiations. In terms of treatment, countries could ask for all SPs to be treated identically, or could classify them into different tiers with varying flexibility.

As for the modalities of the SSM, developing countries have repeatedly emphasized that the SSM should not replicate the shortcomings of the SSG that have made its application very cumbersome. In other

words, it should be simple and transparent, relatively easy to invoke, and triggered in reaction to exceptional market conditions. The remedy measures should be temporary in nature and should not require proof of injury. Finally, the system should be crafted in a way that doesn't lead to misuse or too frequent triggers.

At present, the use of the SSG is limited to countries that have converted their non-tariff restrictions into tariffs (so-called tariffication). The many developing countries that opted instead to offer ceiling tariff rates therefore have no access to the SSG.

Between 1995 and 2004, the overall 'SSG utilisation rate' - the ratio of actual use to potential use - is about one percent of its potential use by all 22 countries. A quick review of developing countries' experience in this area reveals that in several cases countries have had difficulties in promptly undertaking the necessary domestic legislative reforms to be able to use the mechanism. Others have been reluctant to do so out of concern that this might prompt affected members to initiate WTO disputes in case of erroneous application. Finally, in several instances influential importers have been successful in convincing their government not to use the SSG, whereas producer groups most affected by import surges and price fluctuations only had a minimal influence on governments' decisions. This experience tends to indicate that the risk of abuse of a new SSM might be rather low in practice.

In terms of coverage, neither the Framework Agreement nor the Hong Kong Ministerial Declaration exclude any developing countries or particular products from eligibility for the SSM, nor do they restrict its coverage to a particular number of products. There is no

particular economic rationale for restricting the number of product eligible beyond the fact that they should meet the trigger requirements.

In the Hong Kong Ministerial Declaration, it was decided that developing countries “will have the right to have recourse” to both volume and price-based triggers. While the use of a volume-based trigger has the advantage of being based on a verifiable event, the damage to the domestic sector is often due not to the volume of imports, but to the reduction in net producer income from the ensuing price decline. The price-based trigger is a particularly appropriate tool when prices fall and import volumes remain constant.

The SSM should respond to short-term price depressions below a trigger threshold, but not to structural price declines. Structural problems need structural policies for training, research, technology and infrastructure to improve welfare in rural areas. Once a trigger has been activated, the remedy or the action to be taken should be commensurate with the depth of the import surge or the level of the price depression of the commodity in question. In addition, the duration of the application of the safeguard should match the duration of the injury that the remedy is trying to address. This will avoid a repetition of some of the problems that dogged the Special Safeguard (SSG) in the Agreement on Agriculture.

ENDNOTES

- 1 There is no unique definition of an import surge. The WTO Agreements on general trade remedy measures (i.e. anti-dumping, countervailing and emergency safeguard) refer to the concept of an import surge in a general way. For example, in Article 2 of the WTO Agreement on Safeguards the concept is defined as: “When a product is imported into a country in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products”. Thus, a surge is associated with some form of ‘unusual’ level of trade, i.e. a significant break from some established trend. However, in the case of the Agreement on Agriculture (Article 5), there is a specific quantitative definition of the concept: when current import volume and import price deviate from established base period values. In 2003, the FAO presented a paper to the 64th Session of the Committee on Commodity Problems that examined the nature and extent of import surges for a range of basic food commodities in developing country markets. This study defined an import surge as “a 20 percent (positive) deviation from a 5-year moving average of import volumes [for each commodity/country]”.
- 2 This section builds extensively on Jales (2005).
- 3 In a discussion of this kind, it is important to emphasise the difficulties that are associated with the identification of import surges, since many different factors are involved. This is, accordingly, an area that would require further investigation; country case studies would be particularly relevant, to examine the details and establish the possible correlation between import surges and production shortfalls.
- 4 Côte d’Ivoire and Suriname are two notorious exceptions. Côte d’Ivoire bound tariffs on all agricultural products at a ceiling rate of 15 percent, except for a list of 29 tariff lines on which tariffs were bound at rates ranging from 4 and 64 percent. The lower bindings refer to milk, wheat flour, and beer, among other products; the higher bindings refer tobacco. Suriname bound all agricultural tariffs at a general ceiling rate of 20 percent, except for some products bound at rates ranging from 8.5 to 17 percent. The lower bindings apply to cereal flours, gum resins, and animal and vegetable fats and oils (Jales, 2005).
- 5 However, it is also important to highlight that different countries have different limitations to raising the applied tariffs, particularly due to structural adjustment programmes with international financial institutions and/or other political constraints.
- 6 The 2004 Framework Agreement determined that tariff reductions in the Doha Round will be made through a tiered formula that incorporates the principle of progressivity, i.e. deeper cuts in higher tariffs. The number of bands, the thresholds for defining the bands, and the type and size of tariff reduction in each band have yet to be negotiated. The current exercise focuses on a linear cut of 40 percent on all agricultural tariff lines since this is the highest tariff cut suggested for developing countries by G-20 in their negotiating proposal as of 12 October 2005, and later supported by the EU in its proposal on 28 October 2005. However, in the EU proposal this cut corresponds only to tariffs in the highest tier (>130 percent).
- 7 Developing Asia refers to Asia, excluding Australia, Japan and New Zealand (WTO, 2005).
- 8 This is essentially related to the fact that LDCs will not be required to reduce their agricultural tariffs in the current round and would, accordingly, not need the flexibilities provided for SPs.
- 9 “The labor required, in terms of the number of workers per day or per year, to cultivate one hectare of land or to produce one ton of livestock product, multiplied by the total land extension dedicated to the product concerned or the total tonnage production of the livestock product in question.” (Bernal, 2004)

- 10 This proposal was presented by the so-called like-minded group, consisting of Cuba, the Dominican Republic, El Salvador, Haiti, Honduras, Kenya, Nicaragua, Pakistan, Sri Lanka, Uganda, and Zimbabwe. These countries are primarily net food-importers and many are heavily dependent on export revenues from just one or a few crops.
- 11 The G-33 currently consists of 44 developing countries: Antigua & Barbuda, Barbados, Belize, Benin, Botswana, China, Côte d'Ivoire, Congo, Cuba, the Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, India, Indonesia, Jamaica, Kenya, Korea, Madagascar, Mauritius, Mongolia, Mozambique, Nicaragua, Nigeria, Pakistan, Panama, the Philippines, Peru, Saint Kitts & Nevis, Saint Lucia, Saint Vincent & the Grenadines, Senegal, Sri Lanka, Suriname, Tanzania, Trinidad & Tobago, Turkey, Uganda, Venezuela, Zambia and Zimbabwe.
- 12 "The Philippines is pleased and honoured to share its voice with 15 other Members that constitute the Alliance for SP and SSM: Cuba, Dominican Republic, Honduras, India, Indonesia, Kenya, Mauritius, Nigeria, Pakistan, Panama, Peru, Turkey, Uganda, Venezuela, and Zimbabwe. We likewise acknowledge and thank the delegation of Indonesia for providing coordinative leadership in this Alliance. As is apparent from this list, the Alliance binds countries well-spread across the continents. They range from the very small to the very big. Altogether they account for the bulk of the world's resource-poor farmers." (Statement by the Philippines)
- 13 This section builds extensively on Hoda (2005).
- 14 To illustrate the above, let us suppose that HS Chapter 09 constitutes the entire universe of agriculture and the developing country members are given the flexibility to designate 10 percent of the tariff lines as Special Products. This Chapter has 10 Headings (4 digit) and 31 Sub-Headings (6-digit). If a member were to base the selection of Special Products on 4 digits it could select any one of the 10 Headings. If its selection is for instance 0908 then Nutmeg, Mace and Cardamoms would all be included in the list, even if it has a problem only with regard to Cardamom. There would be no possibility of the member adding one or two other products to the list. If, however, it bases its selection on 6 digits, then it can select HS 090830(cardamom) for instance, and still have the possibility of selecting two more Sub-Headings. It could thus add, for example, HS 090411 (Pepper) and HS 091010 (Ginger). Thus we see the designation of Special Products on a 6-digit basis would give greater flexibility to members.
- 15 This section builds extensively on FAO (2005).
- 16 An alternative option would be to limit the number of products eligible for SSM simultaneously, or to limit the number of times that the SSM could be used during one year. A possible difficulty with this approach is that the price-based SSM has no specific time limit; it is in place as long as it is being activated.
- 17 The six country case studies commissioned by ICTSD come to different conclusions regarding the optimal product coverage of the SSM. Some argue in favour of a limit that could be imposed (12 products at 4-digit level or 261 tariff lines at 6-digit level), while others recall proposals made during the negotiations that indicate a preference for not imposing a limit to the product coverage of the SSM. Some of the studies suggest establishing a strong link between the selected SPs and the SSM based on the development criteria that could be applicable in a similar manner.
- 18 Letting I_t represent import levels and C_t represent domestic consumption in year t , the volume trigger (V_t) is given by a formula based on an adjustment factor (F_t) to average imports plus the domestic consumption change: $V_t = F_t * 1/3(I_t - 1 + I_t - 2 + I_t - 3) + (t - 1 - C_t - 2)$.
- 19 As reflected in the G-33 proposal it is also important to take into account currency depreciation in developing countries. It states that "provided that, where the developing country member's domestic currency has at the time of importation depreciated by at least $[m]$ percent over the preceding $[n]$ months against the international currency or currencies against which it is normally valued, the import price shall be computed using the average exchange rate of the domestic currency against such international currency or currencies for the three-year period referred to above."

ANNEX 1

Evolution of the modalities in WTO negotiations from the Harbinson 1 Draft Proposal to the Hong Kong Ministerial Declaration

The Harbinson text I

On 12 February 2003, the then Chair of the WTO Committee on Agriculture, Stuart Harbinson, prepared a draft modalities paper. This first draft (TN/AG/W/1), also termed Harbinson 1, was later revised as it failed to resolve differences among WTO Members. The text provided that "Developing countries shall have the flexibility to declare up to [...] agricultural products at the [6-digit] HS level as being strategic products with respect to food security, rural development and/or livelihood security concerns and designate these products with the symbol 'SP' in Section I-B of Part I of their Schedules." Paragraph 10 of the Harbinson 1 text further stated that "The simple average reduction rate for all SP products shall be [10] percent subject to a minimum cut of [5] percent per tariff line [except for SP products for which a developing country opts to have access to the special safeguard provisions under paragraph 24 below]." The Harbinson 1 approach was criticised on the grounds that it did not exempt these products from further trade liberalisation and that even the minimum 5 percent tariff reduction required for SPs would be problematic for countries that had bound their tariffs at low levels during the Uruguay Round.

With regard to the Special Safeguard Mechanism, the text provided that the provisions of Article 5 of the Agreement on Agriculture "...shall cease to apply for developed countries [at the end of the implementation period for the further tariff reductions]" or "[...two] years after the end of the implementation period for the further tariff reductions." It added "...for SP products [subject to tariff reductions in accordance with paragraph 10 above], developing countries shall have the flexibility to apply a special safeguard mechanism to be based on the provisions of Article 5 of the Agreement on Agriculture. This right shall be reserved by designating in their Schedules with the symbol 'SSM' the products concerned. Only products designated in this way in the Schedule, as well as items already currently covered and designated with the symbol 'SSG', shall be eligible for measures under Article 5." A review of the provisions of Article 5 of the Agreement on Agriculture was also provided for, with a view to ensuring that these provisions are operationally effective in enabling developing countries to take account of their development needs, including food security, rural development and livelihood security concerns.

From strategic to special products: The Harbinson 2 draft modalities text

A revised version of the draft modalities text was issued by the Chair Harbinson on 31 March 2003, which expanded the possible scope of special products that developing countries could designate by providing for an additional option to designate products at the 4-digit HS level as well. Interestingly, the terminology changed from "strategic products" in the first draft to "special products" in the second draft. This was attributed to concerns by some countries that countries with an export interest in certain products could use the concept to block further liberalisation. The original Harbinson draft had made the lowest level of tariff reduction proposed for 'strategic products' conditional upon giving up the right to use the SSM for these products. Such a link was dropped from the revised text, which simply stated: "An outline of a possible new safeguard mechanism to enable developing countries to effectively take account of their development needs, including food security, rural development and livelihood security concerns, is currently subject to technical work...". Harbinson 2 retained language on exempting developing countries from expanding tariff quota volumes for SPs. Regarding in-quota tariffs, the first draft modalities text did not require reduction commitments but the revised text included a provision on the reduction of in-quota tariffs for products in which quotas had been historically underfilled.

The Castillo Text

On 24 August 2003, then WTO General Council Chair Carlos Pérez del Castillo, circulated a revised draft Cancun Ministerial Text, which incorporated the structure of a joint EU-US text, but added and modified some concepts from other draft texts submitted by members. Under two different market access options proposed, developing countries would have had the flexibility to 'designate' a number of SPs for which lower reduction commitments would apply. Moreover, an SSM for developing countries would be created.

The Derbez Text

This text was tabled by Cancun Conference Chair Luis Ernesto Derbez on 13 September 2003. Under the Derbez text, SPs - designated by developing countries under conditions to be determined - would still have been subject to a linear cut of a minimum of x%, with no new commitments to expand tariff rate quotas. Where tariff bindings were very low (below x%), there would be no requirements to reduce tariffs. The option of designating products at both the 4- and 6-digit levels was provided for, as it was felt that the 6-digit classification would be too detailed.

The 1st August 2004 General Council Decision (Framework Agreement)

After long and arduous negotiations, WTO members on 1 August 2004 agreed on a "Framework Agreement" to keep the Doha Round trade negotiations alive. This text constitutes the 1 August Decision adopted by the General Council on the Doha Work Programme (WT/L/579). The text retained earlier provisions on allowing developing country members to designate an appropriate number of products as SPs on the basis of food security, livelihood security and rural development needs (paragraph 41). This was the first time that these objectives had been mentioned as criteria per se. The text however only stated that SPs would be "eligible for more flexible treatment". Further specification of these broad criteria and treatment of these products was left to negotiations, recognising the "fundamental importance of Special Products to developing countries." The framework also provided access to an SSM, without specifying further details or modalities (paragraph 42).

In addition, paragraph 31 provided for both developed and developing country members to designate an appropriate number of tariff lines as 'sensitive', taking account of existing commitments but without undermining the 'tiered' approach. The principle of 'substantial improvement' was, however, to apply to sensitive products as well, through a combination of tariff reductions and tariff-quota commitments on each product.

The Hong Kong Ministerial Declaration

During the Hong Kong Ministerial Conference that took place in December 2005, some important decisions were taken regarding SPs and the SSM. In the Ministerial Declaration it was decided that developing countries will have the flexibility to self-designate an appropriate number of tariff lines as SPs, guided by indicators based on the criteria of food security, livelihood security and rural development. It was also stated that developing countries will have the right to have recourse to an SSM based on import quantity and price triggers. However the exact conditions of the latter will be further defined during the ongoing WTO negotiations on agriculture.

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