

Structure, Application & Scope of the Special Safeguard Mechanism for Developing Countries



Executive Summary

The Special Safeguard Mechanism (SSM) for developing countries is one of the key issues in the current World Trade Organization (WTO) negotiations on agriculture. The SSM is intended as a Special and Differential Treatment (S&DT) trade measure to safeguard the agricultural sectors in developing countries from the potentially destabilising effects of import surges and price depressions.

With an estimated three-quarter of the world's poor living in rural areas in developing countries, agriculture has a significant role to play in employment generation, the promotion of human well-being and sustainable development. It is also important for national food security, growth of rural incomes and employment, social stability and preservation of cultural heritage.

The poorest set of developing countries is likely to be most affected by increased reliance on international markets for food security, and greater exposure to price fluctuations. The dynamic nature of agricultural production and trade necessitates that developing countries have access to a measure that is easy to implement and is responsive to the heterogeneous situations of different crops across different countries.

The WTO mandate clearly stipulates that developing countries shall have access to a SSM. Some countries, including a few developing countries have certain concerns with respect to the measure. These concerns will need to be balanced with the overall aim of the mechanism. What must now be determined are the parameters for operationalising this measure as these will affect its utility and effectiveness.

The key elements of the SSM include product coverage, bases, triggers, remedies and the duration of the measure. The results of country analyses show different thresholds for different countries and products. This indicates that a single approach and threshold, if not set at the appropriate level, would not adequately address the needs of all developing countries, and particularly the most vulnerable. The exhibited price and volume patterns across countries demonstrate the need for a fully flexible and adaptable SSM.

The treatment of certain elements also needs to be clarified. Among these are imports under preferential trade, what constitutes 'normal' trade and the extent to which, if any, these should be taken into account in the application of the SSM. Once established, countries need to determine, whether the price or volume based mechanism suits better the needs of the particular products. The choice of the particular mechanism price or volume based could vary among products as the needs across products and across countries vary.

Undoubtedly, the SSM is a critical element that can assist the poor and marginalised farmers in developing countries. However, securing the long-term viability of the agricultural sector requires complementary policies and action in several areas. Domestic policies should then address the enabling environment to raise productivity and investment in key areas, maintain or enhance employment, and the technical requirements to meet export standards. Access to 'fair' prices and competition on a 'fair' basis are critical supporting elements to domestic agricultural development strategies.

Introduction

The Special Safeguard Mechanism (SSM) for developing countries is one of the key issues in the present World Trade Organization (WTO) negotiations on agriculture. The SSM, which is part of the Special and Differential Treatment (S&DT) modalities for all developing countries, is intended as a S&DT trade measure for safeguarding the agricultural sectors in developing countries from the potentially destabilising effects of import surges and price depressions. This measure can potentially be used to safeguard the products of particular importance to the poor and most vulnerable farmers. Given that agriculture is the central livelihood for the majority in the developing world, it is no surprise that the SSM has emerged as a central issue in the current negotiations.

Opinions on the SSM are divided between those seeking to use the mechanism, and exporters concerned about market access in developing countries. However, these differences are not

simply a North-South divide since a few developing countries have also expressed concerns about the measure. These differing interests will need to be balanced whilst ensuring that a mechanism is designed that adequately addresses trade anomalies and positively affects the market condition facing farmers in developing countries.

Several organisations have examined some of the aspects and parameters surrounding the SSM. For example, the Food and Agriculture Organization of the United Nations (FAO) has prepared a number of briefs on some aspects of the SSM; and ActionAid International (2007) has also analysed a number of country case studies on import surges in developing countries. Recently a simulation exercise for 27 products in six countries was commissioned by the International Centre for Trade and Sustainable Development (ICTSD-2007). It looked at the effectiveness of different parameters e.g. changing reference periods on the effectiveness of the SSM.

This paper seeks to add to the body of research and information on the SSM. Particular focus will be placed on the application, scope and effectiveness of the SSM. Further, in light of some of the constraints facing various developing countries, a number of the expected implementation issues will be highlighted.

Negotiations on the Special Safeguard Mechanism

The G33, a coalition of over 40 developing countries,¹ is the proponent group behind the SSM. The G33 has been advocating for Special Products and the Special Safeguard Mechanism for the past four years. The Group has advocated for the SSM to be available to all developing countries and concurrently: (1) based separately on price and volume; and, (2) simple to understand and implement, given the difficulties of applying the general WTO safeguards. The current WTO Special Agricultural Safeguard Mechanism (SSG)² has also been problematic for developing countries with respect to access to this measure as only a few countries have been able to utilise it. The SSM as proposed by the G33 seeks to build

upon and thus rectify the shortcomings of the existing SSG. After significant advocacy by the G33, agreement was reached in July 2004 for the establishment of the SSM. In December 2005, the WTO Ministers in Hong Kong agreed that developing countries would have access to the SSM based separately on price and volume.

In addition to the G33, Special Products and the Special Safeguard Mechanism have enjoyed the support of other developing country groupings in the WTO. However, several exporting countries have expressed concern on the G33's SSM proposal. They include Argentina, Paraguay and Uruguay - who collectively submitted an alternative SSM proposal -and Malaysia, Thailand and the USA.

Why a Special Safeguard Mechanism?

The importance of agriculture extends beyond just the production of food in developing countries. With an estimated three-quarter of the world's poor living in rural areas, agriculture has a significant role to play in the promotion of human well-being and sustainable development, national food security, growth of rural incomes and employment, social stability and preservation of cultural heritage. For many in the developing world, agriculture is a way of life. Indeed, in the most vulnerable of developing countries, agriculture is the single largest contributor to employment.

The *OECD-FAO Agricultural Outlook 2006-2015* estimated that for the poorest set of developing countries, there is the projection of increased reliance on international markets for food security, and, greater exposure to price fluctuations. Food imports into developing countries have risen rapidly over the last two decades. Increased exposure to price and volume fluctuations necessitate access to a specific mechanism targeted towards these areas.

A Special Safeguard Mechanism is important for developing countries given the problems encountered in accessing and implementing the current general WTO Safeguards and other measures intended to safeguard the agricultural

sector. The implementation of current WTO commitments has been accompanied by increased import surges and displacement of domestic production in some developing countries. Developing countries are therefore keen to have access to the SSM so that they can address both current domestic displacement and the anticipated difficulties from further tariff liberalisation. Some countries have sought to link access to the SSM only to products that will undergo liberalisation. This approach, however, ignores the fact that displacement and injury have occurred with the current obligations and have not been adequately addressed.

'Special' in the current sense differentiates between this proposed automatic and simpler mechanism. More general safeguards often require burdensome proof of serious injury before remedies can be applied. The poor data collection infrastructures in some countries mean that frequent documentation of such an injury is not always available, or not available in a timely fashion to counteract decimation of the local industry. In addition, the current WTO SSG Mechanism has been viewed as complex and difficult to implement. Of the 22 developing countries that have access to this measure, less than 10 have actually been able to utilise the SSG.

One recent FAO study (2007) noted that many countries, particularly those in Sub-Saharan Africa, were less well placed to gain from increased trade liberalisation. Indeed, the agricultural sectors in most of the developing countries are relatively less well-developed and hence certain trade safeguard measures are needed whilst these sectors adjust and develop. Unlike developed and some advanced developing countries, many developing countries are unable to provide producer domestic support payments to assist farmers with required adjustment. In this regard, trade measures such as tariffs and the SSM become increasingly important.

Structure of the SSM

The key elements of the SSM include:

- (1) **Product Coverage:**
Domestic producers, trade officials and trading partners desire clarity on the products

that will be subject to the safeguard mechanism. Hence the potential product coverage of the SSM is of particular interest to both importers and exporters albeit for different reasons.

A product coverage encompassing all agricultural products, rather than any a priori exclusion, is preferable to take into account changing domestic production patterns and needs. As agricultural production in developing countries evolves, there would be the need for a safeguard mechanism to cover new or emerging products that would be subject to fluctuating prices or import volume surges. The dynamic nature of agricultural production and trade precludes the creation of any a priori positive or negative list for SSM treatment. Any a priori exclusion could preclude the safeguard being extended in cases where it may be critically needed in the future.

Developing countries may, however, have a greater interest in those products that are domestically produced and which could be displaced by imported substitutes. Targeted focus could be placed more on those products that are deemed most critical. However, this group of products could change over time and as such, the flexibility of developing countries should not be restrained by any a priori product coverage.

(2) **Bases or References:**

The bases (reference prices/volumes) are critical to the operation and effectiveness of the SSM. Various parameters have been suggested for calculating references, including domestic prices and volumes, imported prices and volumes, and combinations thereof.

The reference period for the bases can be fixed (as in the case of the existing WTO SSG price trigger) or moving as proposed by the G33 for both price and volume bases. Although the former could require less administrative work, the latter is more likely to take into account recent price and volume import trends. Additional elements on references include a simple moving average based on a three or five year period, or an

Olympic moving average, where the highest and lowest figures are discarded in the calculation of the base. The former is administratively easier to apply.

To be effective in addressing import surges or price declines, the base must bear some relation to the current domestic situation. Ideally, local prevailing prices should be used as the most representative and relevant for local farmers. Lags in domestic price adjustments should also be taken into account in calculating the bases.

(3) **Triggers:**

Triggers can be volume based (dependent on the cumulative level of import quantities) or price-based (dependent on the per unit price of the import product which could vary from shipment to shipment). But in all cases it is the imported price/quantity that is relevant. The WTO Ministers at Hong Kong³ agreed that there would be two distinct triggers price and volume available under the SSM mechanism. There is generally no contention that the triggers will be derived from imports.

(4) **Import Surges:**

Debate remains on what level constitutes an import surge⁴ and the levels beyond which such surges become problematic. The WTO to date does not have a unique definition of an import surge. Country experiences (FAO, 2006) have shown that not all import surges are problematic (e.g. in the case of failure of domestic production). Further, a single threshold, e.g. 20% or 30% surge cannot be applied to all countries, for all products. The determination of a problematic import surge is a national decision that should result from signals from all agricultural stakeholders - policy makers, farmers and consumers. The G33 has proposed a 5% surge threshold in order to take into consideration this diversity. ActionAid International (2007) found that many times the real impact on the ground is larger than that reflected in the macro figure - with the poorest and most vulnerable being the most affected. ActionAid found that in Nepal, for example, rice farmers were already affected where imports accounted for 7- 8% of the local consumption market. However, some

other country analyses - FAO (2006), ICTSD (2007) - reveal that the net effects of using a higher threshold are marginal. The differences shown in the various country analyses illustrate why a single approach and single threshold for all countries and commodities cannot be adopted.

(5) **Preferential Trade and Normal Import Levels:**

Preferential trade has also attracted some attention. Preferential trade agreements are covered by Article XXIV (Regional Trade Agreements). Generally, the rules for preferential trade can allow for access to WTO safeguard mechanisms or remedies specific to the agreement itself, including recourse to WTO Most Favored Nation tariffs, and quantitative restrictions on imports. As such, the inclusion or exclusion of preferential trade in remedies may, itself, be determined by the particular agreement. However, in general, developing countries, as a rule, should have access to some type of agriculture safeguard mechanism in bi-lateral agreements, particularly where the negotiations are between unequal partners (e.g. FTAs between developed and developing countries). In general, where increased imports are causing problems, the source of the imports preferential trade or not is irrelevant. The domestic industry is no less injured if the imports are sourced from a country's 'favored' trading partners.

For countries with porous borders, it is especially difficult as, given the homogenous character of agricultural products, it may not be obvious to ascertain whether or not the imports are truly from the preferential trading partner. Whether the imports are part of preferential trade becomes most important for the imposition of the remedies and here the agreed terms/remedies of the preferential agreement would need to apply. Thus preferential trade needs to be examined on a case-by-case basis. One problem is that, in general, preferential trade agreements do not allow for the application of multilateral remedies such as the SSM, but allow some alternative negotiated solutions.

The maintenance of 'normal' trade levels is also one of the elements of the proposal by Argentina, Paraguay and Uruguay. A deeper examination of this concept would reveal that maintaining some calculated 'normal' trade level does not recognise that trade could be declining, local production could be increasing and that there is no fixed market share that is specifically reserved for exporters. 'Normal' trade is a factor of domestic needs, which changes as domestic production and conditions change.

(6) **Remedies:**

These are the measures that can be taken to rectify the particular problems. This is a particular sensitive area between both the exporting and importing countries given the potential impact on the effectiveness of the SSM. Some organisations and those with concerns about the SSM have advocated that countries should firstly determine the existence, cause and extent of import surges before being eligible to apply the SSM remedies. It has also been suggested that a market test⁵ should apply before application of the SSM. However, such an approach requires a comprehensive administrative system that is not always present in many developing countries and could result in the relevant remedies not being applied or being applied in an untimely fashion to the detriment of local producers.

One FAO Brief (2006(a)) notes that establishing causality between imports and injury could be problematic. Part of the problem in identifying problematic surges is the fact that agricultural production is subject to endogenous and exogenous vagaries. It is, therefore, difficult to establish some a priori relationship between import surges and price declines that would apply in all cases for all countries. The FAO (2006(b)) nonetheless noted that in some cases, changes in import volumes were associated with changes in domestic market prices.

Remedies can potentially take the form of additional tariffs and/or quantitative restrictions. Although quantitative restrictions

are generally not allowed in the WTO (in fact Article XI of GATT 1994 mandates the general elimination of quantitative restrictions with certain provisions having been superseded by the WTO Agreement on Agriculture), where there are temporary difficulties and constraints in administrative resources, quantitative restrictions should be an additional flexibility available to the most vulnerable of developing countries, as these are simple to apply and can be transparent. Such countries could include those with long porous borders and technical capacity constraints. It is noted that the existing WTO Agreements (e.g. Subsidies Agreement,) already contain flexibilities to take account of capacity constraints.

Additional tariffs must be able to compensate for the low import price. Ad valorem tariffs (i.e. tariffs in percentage terms) could be the general option with the flexibility for developing countries facing capacity constraints to use specific tariffs. In this regard, application of additional duties would not be hampered by capacity difficulties, including lack of computer software and hardware and would simplify the process for Customs officials and importers. Thus, under this scenario, there could be a minimum import price for the products subject to the SSM.

Under the General Agreement on Tariffs and Trade (GATT) system, several countries utilised minimum import prices for various sensitive products. The United Kingdom, for example, kept minimum import prices for beef, veal and milk products other than butter, cheese, etc.⁶ GATT Article VII on Valuation for Customs Purposes provided exceptions on Customs Valuation, allowing countries to use an 'actual value' that takes into account like merchandise under fully competitive conditions.⁷ Developing countries should have the fullest access to measures previously used by now industrialised countries to support their own growth.

This minimum price could be the reference price in (2) above, or some variant thereof (e.g. the average price taking into account both domestic and import prices). Based on the aforementioned, the minimum price could thus be set at, for example, \$1.50 per

kilogram. Where imports occur below this minimum price, the country would have the flexibility to apply this minimum price. The aforementioned would avoid discussions and debates on the level of compensation, complex calculations of additional duties, and references to bound tariffs and would provide predictability to both importers and domestic producers.

(7) **Duration:**

The SSM remedy should remain in force as long as necessary to rectify the injury. Debates on remedies have focussed on a period of 12 months (G33 proposal) to the end of the year in question (proposed modality by the Chairman of the Agriculture negotiations).⁸ The duration required to address problems would vary across countries and products.

(8) **Price or Volume Mechanism:**

The effectiveness of the price versus the volume-based mechanism largely depends on the structure of the economy and the commodities involved. Generally, a price-based mechanism may be more effective for countries with relatively porous borders, numerous customs entry points, data problems or data lags. This mechanism also ensures that domestic producers do not have to await significant injury or breaching of the volume trigger before remedies are applied. A price-based mechanism also provides domestic producers and policy planners with a base against which to benchmark productivity and cost targets.

Conversely, a volume-based safeguard could be more effective where there is a significant influx of products, as has been the case reported by ActionAid International (2007). In some cases, even a 5% increase in import volume could cause injury, particularly in marginal sectors. Dependent on the structure of the agricultural sector and where the vulnerabilities exist, developing countries, to safeguard domestic producers, may need to have recourse to both measures for different products.

Commodity Price and Volume Trends

Commodity prices on the average have recovered and indeed risen within the recent past after historic declines in the 1990s. However, a commodity-by-commodity examination reveals that different commodities have suffered different fates. Whereas coffee prices have been on the rise, for example, sugar prices have been on the decline (author's calculations). In other products, such as tropical fruits, prices are highly sensitive and experience marked fluctuations.

FAO analysis of 2005 for the period 1980 - 2003 for 102 developing countries concludes that, whilst in the case of cereals, decreases in domestic production correlated with increases in imports, this was not the case observed in meats and vegetable oils. Nearly half of the countries surveyed in the FAO Report experienced more than 70 import surges (i.e. more than 30% increases in imports) during the study period. This FAO analysis noted an increased frequency in surges after 1994, i.e. coinciding with the WTO Uruguay Round trade liberalisation. Whereas surges were widespread, some products (e.g. pig and poultry meats, palm oil, and eggs) and regions (many African countries) were more susceptible than others.

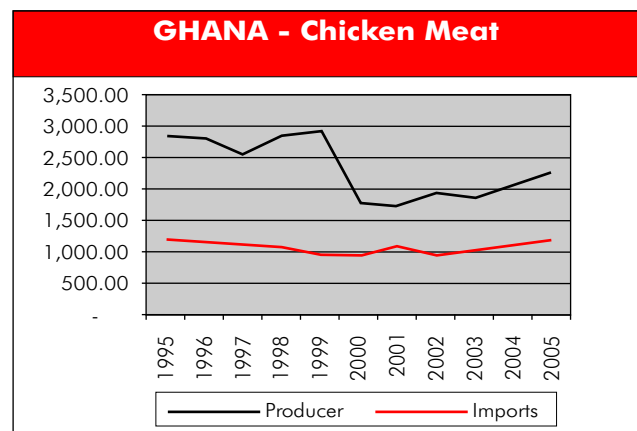
Indicative Country Assessments

Analysing the potential impact of the SSM, an assesment was undertaken of five commodities across eight countries⁹ (author's calculation, 2007). Indicative data was compiled to assess the impact of different approaches/ formulation of the SSM. Data availability varied across countries. The results from the data are indicative and would change depending on the periods used, the commodities chosen and the quality of the data sets. For comparative purposes, data was selected from the FAO Stats database for the period 1995 - 2005.

Some basic patterns were observed from the data. In the first case, as shown for Ghana for chicken meat (Fig.1), producer prices are consistently

above imported prices and import prices display a relatively stable price trend. However, as observed in the trend, import prices are accompanied by decreasing producer prices over time. It seems to imply that low import prices over time have negatively affected producer returns, with a marked reduction occurring most notably between 1999 and 2001. In this scenario, to be effective, the SSM must be set at a level that takes into account the differential between import prices and domestic prices.

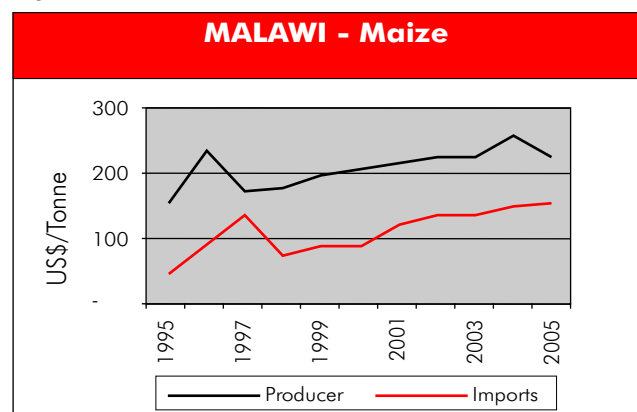
Fig. 1



A second trend observed is simulated for maize in Malawi (Fig. 2) and chicken meat in Malaysia (Fig. 3). Here producer prices are above import prices. However, both producer and import prices showed trend in the same direction.

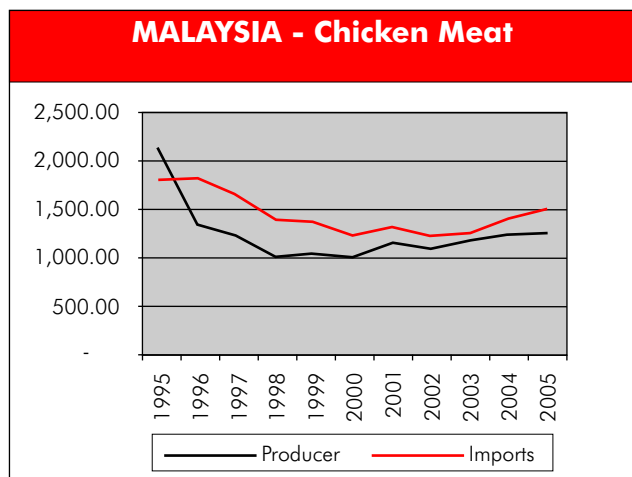
In the case of maize in Malawi, producer and import prices almost mirror each other. Both producer and import prices showed trend in the same direction. Such a trend could possibly emerge in a market where price transmission is fairly efficient and there is little lag.

Fig. 2



In the case of chicken meat prices in Malaysia (Fig. 3), imported prices are generally consistently above producer prices, with both exhibiting similar trends over time. In this scenario, given the apparent faster adjustments, any mechanism needs to be fairly responsive if domestic needs are to be adequately addressed.

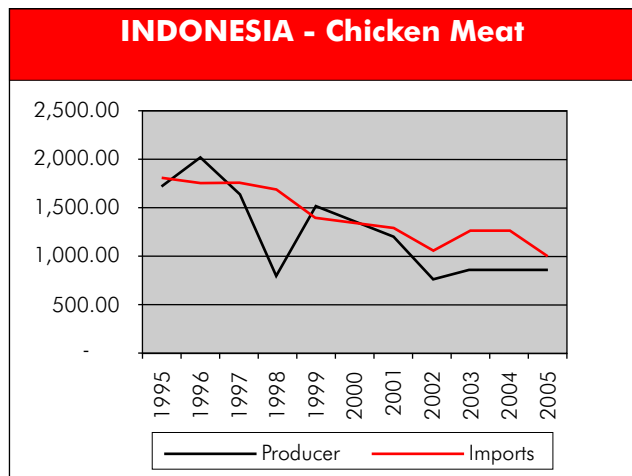
Fig. 3



In both the above scenarios in Fig. 2 and Fig.3, disruptions necessitate access to a fairly rapid and timely mechanism.

In the final simulation, producer and import prices exhibit greater volatility and no clear trend. Import prices display no clear, discernable patterns on domestic prices.

Fig. 4



For the selected countries, the trend in import volumes also exhibited significant variances, as

demonstrated in the case of chicken meat and Maize below. The pattern for chicken meat demonstrates greater variability across countries than that for maize (Figs. 5 and 6).

Fig. 5

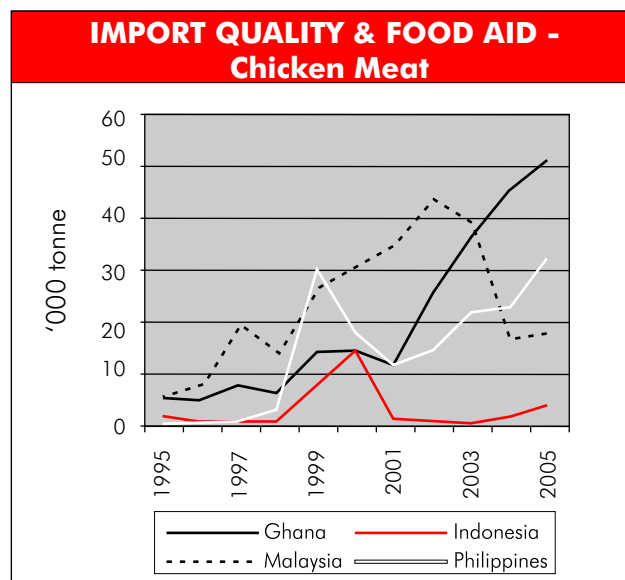
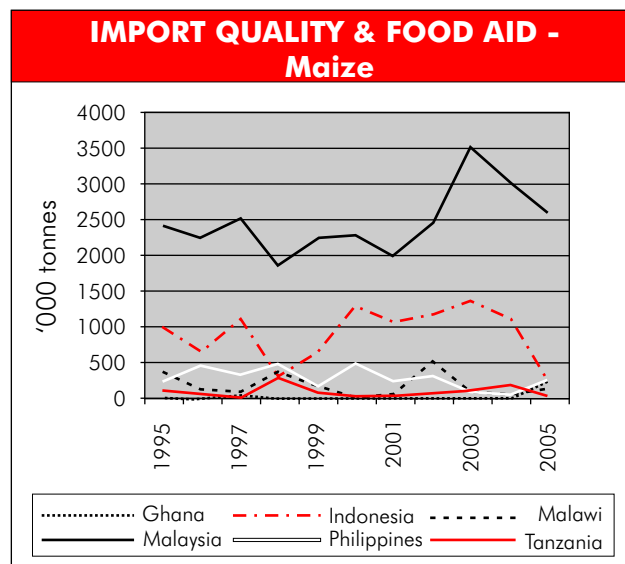


Fig. 6



The instructive point from the above is that given the dynamic nature of agricultural production and trade in developing countries, all of the simulated patterns may be present at different points or for different commodities. Hence, the SSM mechanism must be very responsive and flexible to the various scenarios that could arise and would need to be addressed.

Effectiveness in Addressing Low Import Prices and Import Surges

Some 22 developing countries have access to the existing SSG. Less than 10 countries have made use of their entitlement, using the SSG on only 5% of tariff lines. A preliminary examination of the effectiveness of the SSM was undertaken, using the datasets from the previous section.

Price Based SSM Mechanism

The G33 envisions full compensation of the price difference, whereas those with concerns on the SSM do not. ActionAid calculations reveal that the price based SSM, using a three-year rolling average, and 100% compensation, the required level of compensation varied across countries. Where producer and import prices are fairly stable, the SSM would need to provide remedies that are 3% - 22% to bring the imports back to the calculated reference or base prices (author's calculations, 2007). However, the results vary widely where there are also wide fluctuations in import prices. These are the cases that would need maximum flexibility with respect to triggers and remedies. There can be no homogenous solution applied to each product for all countries as the import patterns and fluctuations varied across countries.

The possible use of minimum import prices, as opposed to a moving average price could take more into account the local situation. Where such a price takes into account domestic producer prices, the results under the SSM are more effective. However, where the minimum import price was based solely on import trigger prices, there were also wide fluctuations in the effectiveness of the measure.

Volume Based SSM

Similar to the price based mechanism, the import trends have an impact on the utility of the volume based mechanism. For products and countries examined, if the G33's proposal were to be used, the SSM would be invoked in a significant number of cases. However, with fluctuating imports, there was no constant triggering of the volume trigger.

Additionally, use of a higher trigger threshold does not materially impact the triggering of the mechanism in many cases. A more detailed country examination would need to ensue in order to examine the vulnerability of the sector in the countries affected with the use of a higher threshold. Based on the limited products and countries examined, it is expected that the importance of thresholds would vary across countries and, even within a country, across different sectors.

In the case of chicken meat in Ghana, for example, import volumes have been increasing significantly over time. Hence, based on a rolling average, the trigger levels have been increasing over time. In contrast, Indonesia's imports of chicken meat fluctuate so that the application of a volume-based safeguard is erratic and not consistent from year-to-year. In the case of Indonesia, the level of the threshold seemed more important in the case of some milk products (e.g. whole milk and evaporated milk) than others (for e.g. chicken meat).

The above example, however, does not take into account peculiar situations that necessitate significant imports, such as the failure of domestic production. It is presumed that in such a scenario, as currently observed, developing countries would endeavour to facilitate such imports. For the present purposes, food aid was counted in total imports since this total could undermine domestic production. As with preferential trade imports, food aid imports could also negatively affect domestic products. Flexibility will need to be granted by policy makers to determine the treatment to be afforded to food aid imports. Whether the SSM is applied to food aid imports depends on the impact such imports have on domestic production.

Other Factors to be Considered

Undoubtedly, the special safeguard mechanism is a critical element that can assist poor and marginalised farmers in developing countries. However, it should be noted that the SSM is a mechanism for addressing temporary aberrations in import volumes and/or prices. Securing the

long-term viability of the agricultural sector requires complementary policies and action in several areas.

Domestic factors also contribute to volume surges. These include domestic shortfalls in production, which could be due to diseases, drought, internal conflict, and disruptions in supply chains, among others. In an examination of import surges of maize in Malawi, one FAO study (2006 (c)) notes that import surges in 1992, 1994, 1998 and 2001- 2003 occurred due to shortfalls in domestic production; higher domestic production levels were accompanied by a reduction in imports. In fact, the susceptibility of the domestic sector to import surges varies depending on the competitiveness of local agriculture and existing supply and distribution constraints. It is, therefore, clear that safeguarding the domestic agricultural sector requires a holistic approach that includes complementary trade and domestic policies.

In the long run, it is important for the sustainable food security of the country - rural and urban populations, farmers and consumers - that policy makers are aware of the changes and evolution impacting the economy and institute the necessary measures to pro-actively address these situations. Thus, whilst use is made of the SSM, there may be a need for a thorough examination of the agricultural sector. Such a long-term view is critical if the livelihood of farmers, particularly those of more vulnerable farmers, is to be safeguarded. Such a long-term view should also inform some of the domestic policies aimed at assisting certain products and producers. FAO (2006) concluded that for countries at earlier stages of development (many of which depend on agriculture), food security in the short to medium term could be undermined if trade reforms are not accompanied by appropriate domestic policies. Indeed the aforementioned is a general rule that should be taken into account in the formulation of agricultural and trade policies in all the developing countries.

Domestic policies should then address the enabling environment to raise productivity and investment in key areas, maintain or enhance employment, and the technical requirements should meet export standards. Farmers must have access to quality seeds, tools, and knowledge. Importantly, access to 'fair' prices and competition

on a 'fair' basis are critical supporting elements to domestic agricultural development strategies.

Changes in trade policies, resultant from negotiations or measures in accordance with programs by International Financial Institutions (IFIs), could also cause surges and domestic displacement. Additionally, the growth of alternative, higher paying sectors may also cause a drop in production and hence a rise in imports. Trade policies must be consistent with agricultural policies and in fact the latter should inform the former (which is not always the case in developing countries). These are additional factors that must be taken into account in the long term planning for the viability of the agricultural sector and domestic producers.

Commercialisation of Food Aid

The FAO (2007(d)) observes the tendency for food aid to be more abundant in periods of low world market prices, rather than periods of high prices, when vulnerable countries may be in greater need of such aid. The timing and form of food aid can have a negative impact on the domestic market, prices and future production.

The commercialisation of food aid, particularly of crops that are produced domestically, could have a negative impact on local production, particularly where such commercialised food aid is sold consistently below the price of domestic products. Such an occurrence in itself could affect domestic prices, production and the future food security of the concerned developing country.

Food Imports and Foreign Direct Investment

One FAO brief (2006 (d)) cites the correlation between increasing food import bill and foreign direct investment (FDI), citing the case of Tanzania in this regard. The same study also concludes that in the case of poultry import surges in Africa, local operations producing fresh poultry were generally unable to compete with imports of frozen poultry parts.

Capacity of developing countries to benefit from SSM

Even where an effective SSM is formulated, a number of developing countries would need trade and technical assistance to improve marketing, customs, port and other infrastructure. Enhancing the technical capacity and knowledge of officials to effectively implement and use the SSM and other trade measures and commitments would need to be accorded priority.

Data collection, analyses and dissemination by developing countries need to be improved. Time lags in data collection and collation could undermine the effectiveness of a volume based SSM. The borders in some countries are very porous and customs and trade officials may not fully capture the level of imports. Such unrecorded imports can cause problems in the domestic market even where official statistics show otherwise. Additionally, an effective trade surveillance system would need to be implemented or improved as the case may be. These infrastructural challenges need to be addressed if the basic premise of the SSM - to safeguard domestic production - is to be achieved.

Any capacity building programmes for developing countries should be formulated with a view of addressing the trade and infrastructural deficiencies that permeate such countries. These initiatives should be used to provide the financial and technical wherewithal for developing countries to benefit from trade or, at the very least, conclusively prevent negative effects of trade and safeguard sensitive domestic sectors. However, in all programmes, developing countries should be equal partners in identifying priority areas and products.

Potential Impact on Exports from Developing Countries

Some developing countries have expressed concern over the impact of the proposed SSM on South-South trade. In this regard, three developing

countries 'Argentina, Paraguay and Uruguay' have submitted a proposal that seeks to take into account the concerns of exporting developing countries. Malaysia and Thailand have also expressed concern over the impact of the SSM on their exports.

Like the USA, Argentina, Paraguay and Uruguay, in their collective proposal, have proposed that crosschecks should be undertaken, that is, an increase in volume must be accompanied by a decrease in price before the SSM can be applied. However, taking into account market inefficiencies in some countries, lags between imports and effects on prices in the domestic market and inefficient market data being kept in some countries, it would be difficult, and administratively burdensome for most developing countries to apply this test in a timely manner. This is one of the reasons why the SSM is 'special' and differentiates the SSM from general safeguards, which require proof of injury before remedies can be applied. Application of such tests negates the 'automatic' nature of the SSM.

One of the benefits of the moving average triggers as proposed by the G33 is that it takes into account trends in imports over time. Thus if imports are decreasing, then with a three - or five - year average, the import triggers should be decreasing. A similar logic follows with the price-based trigger.

The concern of exporting countries on maintaining a certain level of trade is also noted and is a valid concern. However, the choice of a base period for deciding this base could be problematic. Moreover, the SSM is a defensive trade measure to safeguard local products and where the domestic sector is being dis-advantaged, the sources of such imports do not matter.

Conclusion

The WTO mandate clearly stipulates that developing countries shall have access to a special safeguard mechanism. Most important now are the parameters for operationalising this measure, as these will affect its utility and effectiveness.

One of the first responses to increased difficulties occasioned by imports could be the use of existing tariffs. However, in many cases, countries are already applying the maximum tariffs, or are restricted in the application of additional tariffs by IFI measures. As such, an SSM to address difficulties resultant from increased imports or decreased prices is necessary. The dynamic nature of agricultural production and trade necessitates that developing countries have access to a measure that is easy to implement and is responsive to the heterogeneous situations of different crops across different countries.

The G33's proposal on the SSM has some very good elements. However, it needs to be strengthened further. Consideration may be given to elements such as the minimum reference price and quantitative restrictions being eligible to developing countries, and particularly those countries with the greatest capacity constraints and limited current ability to benefit from the mechanism. This is critical if the livelihood and food security of the majority of vulnerable persons in developing countries are to be secured.

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End Notes

1. The G33 was created in 2003 to advocate for the developing country measures of Special Products and the Special Safeguard Mechanism. The Group is led by Indonesia, has a membership that is as diverse as the developing countries in the WTO. The G33 encompasses both small and large developing countries as well as net food importers and countries that have interests in agricultural exports.

2. The Special Agricultural Safeguard Mechanism (SSG) is found in Article 5 of the current WTO Agreement on Agriculture and was only available to those countries that underwent the process of tariffication. Access to the SSG allows countries to derogate from the provisions of paragraph 1(b) of GATT Article II and the tariff commitments outlined in their Schedule of Commitments. Given the complexity of tariffication, only a limited number of developing countries chose this option. Less than 10 of the developing countries with access to the current SSG have been able to implement it.

3. WTO Min (05), December 2005.

4. ActionAid (2007), has described an import surge as 'an influx of volumes imported, usually with the effect of undermining and causing injury to the competing domestic sector'. The FAO has used several markers, including increases of 20% and 30% above normal import levels. There is no universal import threshold at which increased imports can be described as a surge as such depends on a variety of factors including the size and composition of the domestic market.

5. Market test essentially involves a look at import volumes and cross checking import volumes with domestic process to ensure that if there is an increase in volume, this is accompanied by a decrease in domestic prices. This has also been termed a 'cross check' by Argentina, Paraguay and Uruguay.

6. General Agreement on Tariffs and Trade, L/3644, December 1971.

7. GATT Article VII 2(b).

8. WTO Draft Modalities on Agriculture, TN/AG/W/4, dated 1 August 2007.

9. Countries examined were the Philippines, Indonesia, Malaysia, Malawi, Tanzania, Ghana, Haiti, and Vietnam. The commodities examined were poultry, maize, milk, onions and rice. Insufficient data for some countries, such as Madagascar and Mozambique, prevented their inclusion in this analysis.

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