

**Committee on Agriculture  
Special Session**

**SPECIAL AGRICULTURAL SAFEGUARD OF ARTICLE 5 OF THE AGREEMENT ON  
AGRICULTURE (SSG) - REASONS FOR ITS IMMEDIATE ELIMINATION IN  
DEVELOPED MEMBERS**

Communication from the Cairns Group<sup>1</sup>

Revision

The following communication, dated 14 June 2007, is circulated at the request of the Cairns Group.

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1. The Cairns Group refers to its proposal on "other market access elements" (JOB(06)/167 of June 2006) and in particular to the issue of the Article 5 Special Safeguard.
  2. In this regard we recall Article 5.9 of the Agreement on Agriculture (AoA): "*The provisions of this Article shall remain in force for the duration of the reform process as determined under Article 20.*"
  3. The approach in paragraph 139 of the first installment of the Chairman, dated 30 April 2007, seems to give the indication that the continuation of SSG is still a possibility.
  4. No reason for such approach is given.
  5. As we do not agree with this possibility, we hereby provide the reasons for the immediate elimination of SSG of Article 5.

**I. SYSTEMIC REASONS:**

**1. The Agreement on Agriculture:**

- a) **Exception:** The SSG is a measure which is inconsistent with Article 4.2 of the AoA, as it is an explicit exception to this provision, which prohibited quantitative restrictions and other similar tariff measures in the Uruguay Round (tariffication).
- b) **Tariffication and the *ongoing reform process* in Article 20 of the AoA:** Maintaining the SSG, even for very few products, would mean further delaying compliance with tariffication. It would mean the politically unsustainable result of leaving unachieved this tariffication process initiated twelve years ago.

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<sup>1</sup> Australia, Argentina, Bolivia, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand, Uruguay. Brazil is still consulting in capital.

- c) **Qualification as a temporary measure:** It is agreed in Article 5.9 of the AoA that the SSG is not a permanent measure. This means that its elimination is agreed. What needs to be established is the date of its elimination. The question is not *if*, but *when*. The date of its elimination must be day one of the Doha implementation period.

## 2. GATT 1994:

6. The SSG is an exception to Article II:1(b) of GATT 1994<sup>2</sup>. Article 5.1 of the AoA explicitly authorizes the application of an additional tariff, which together with the regular tariff can be higher than the rate bound in Members' schedules of tariff concessions. Such exception can not be permanent as it would severely undermine a central rule of the GATT system.

## 3. The Agreement on Safeguards:

7. The ability to apply an additional tariff without meeting the requirements set out in the Agreement of Safeguards implies that this agreement is *de facto* only applicable to non agricultural products and those agricultural products without SSG.

8. **This is a serious imbalance in the way Members may protect themselves:** While most of them have to meet the requirements set out in the Agreement of Safeguards, others have the privilege of a shortcut with Article 5 SSG, which makes redundant that central Agreement of the WTO system.

9. **In conclusion**, the WTO system of rules can not sustain the continuation of this systemic exception, which has benefited the protectionist developed members against exports of developing members and which constitutes an unfair exception to WTO rules.

## II. EFFECTS IN AGRICULTURAL MARKET ACCESS:

- a) **Tariffs:** The SSG is an additional tariff. It is therefore an exception to the GATT rule of limiting protection to bound tariffs. With SSG a second tariff is in place. The unique character of the binding is lost.

Consequently, any tariff cut resulting from the tiered tariff reduction formula will be significantly undercut by the presence of SSG (by an amount of 33% in the case of the volume trigger<sup>3</sup> and even higher than that in the price trigger<sup>4</sup>).

Furthermore, any calculation of average cuts to tariffs would only be correct under the assumption the SSG is eliminated. We note also that the simulations of JOB(06)/63 took no account of the effect of the SSG – consistent with the fact that SSG must disappear. Otherwise, this additional duty should have been taken into account, as it offsets any tariff cut, be it the full formula cut or the sensitive cut.

- b) **Unnecessary additional protection:** As the sensitivity of certain products will be addressed by lesser tariff cuts and tariff rate quota expansion, there is no need for a further layer of protection.

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<sup>2</sup> Initial phrase in Article 5.1 of AoA.

<sup>3</sup> Article 5.4 of AoA.

<sup>4</sup> Article 5.5 of AoA.

**III. INTERACTION WITH PARAGRAPH 24 OF THE HONG KONG MINISTERIAL DECLARATION:**

10. Continuation of SSG is an additional imbalance between Agriculture and NAMA, which goes against the provisions of paragraph 24 of the Hong Kong Ministerial Declaration.

**IV. NEGOTIATING PROCESS:**

11. Delaying the decision to eliminate SSG from day one of the Doha implementation period would *impede* convergence on certain market access issues. Continuation of the SSG would adversely affect the negotiating dynamic in this pillar, as well as in other negotiating areas in this Round.

**V. CONCLUSION:**

12. The continuation of the SSG of Article 5, even for few products, would severely undermine the rules-based WTO system, the effective results of the tiered tariff reduction formula to be agreed, and would preserve a multilayer protection system that will obstruct the negotiating process.

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