



**United Nations Conference on
Trade and Development**

Division for Africa, Least Developed Countries
and Special Programmes (ALDC)



5th Meeting of the Continental Free Trade Area Technical Working Group on Rules of Origin

The significance of RoO in International trade

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5 February 2018

Addis Ababa, Ethiopia

The concept of Rule of Origin

- Rules of Origin (RoO) are determining the nationality of the goods.
- According to the nationality of the goods, duty free entry may be granted, a product may be labeled as “Made in” or an antidumping duty may be levied.
- Absence of multilateral rules: WTO Agreement on RoO does not cover preferential RoO and no agreement on non-preferential rules of origin.
- Every WTO Member is free to design its RoO: this has implications for business.

An underlying concept and differentiation

- Non-Preferential rules of origin: Not associated with preferential tariffs, used to apply WTO agreements.
- Preferential rules of origin : duty free or reduced MFN rates

The case of the Sport Shoe

- What is the origin of this sport shoe?



Do I get preferential origin under GSP schemes?

a) Raw material	8 €
b) Wages	0.4 €
c) Direct costs of processing	1.6 €
Allowable (assumed)	0.8 €
Not allowable (assumed)	0.8 €
b) <u>Profits producer</u>	<u>2 €</u>
Total cost (Ex-Works Price)	12 €

- EU: assembly of parts of shoes into a complete shoe
- CAN: $VNOM/EW = (a)/EW = 8/12 = 67\% > 60\% \rightarrow$ Non-Originating
- USA: $VOM + DCP/EW = (b) + (c.1)/EW = 0.4 + 0.8/12 = 10\% < 35\% \rightarrow$ Non-Originating
- LDCs: $VNOM/EW = (a)/EW = 8/12 = 67\% < 75\% \rightarrow$ Originating

This example assumes that all raw material originates in countries where no cumulation is applicable.

Preferential Rules of Origin

1. Unilateral preferences – GSP/AGOA/EBA/
2. Contractual trade preferences – Free Trade Areas Agreements

Unilateral preferences - Trade Policy Objectives of the GSP

- To increase export earnings
- To promote industrialization
- To accelerate rate of economic growth

Unilateral preferences - Trade Policy Objectives of Rules of Origin in GSP

- To confine the benefits of the GSP preferences to products genuinely manufactured in beneficiary countries.
- Stringent rules of origin not matching industrial capacity in beneficiary countries = low utilization.

Contractual preferences - Trade Policy Objectives of Rules of Origin in FTAs

- To avoid deflection of trade and tariff circumvention.
- To make sure that regional inputs are preferred over third country inputs...
- To offset tariff concessions?



Contractual preferences - Basic tenets

- RoO can insulate an industry from the FTA: Ex US textiles industries in NAFTA with a RoO requiring yarn- forward rules in order to qualify for NAFTA treatment weaving has to be carried out in NAFTA
- The Drafting of RoO matters: CTH,CTSH, Value added, Net cost methods-product specific rules
- Responses to RoO differs in terms of investment and trade flows : Business respond and relocate according to changes in RoO

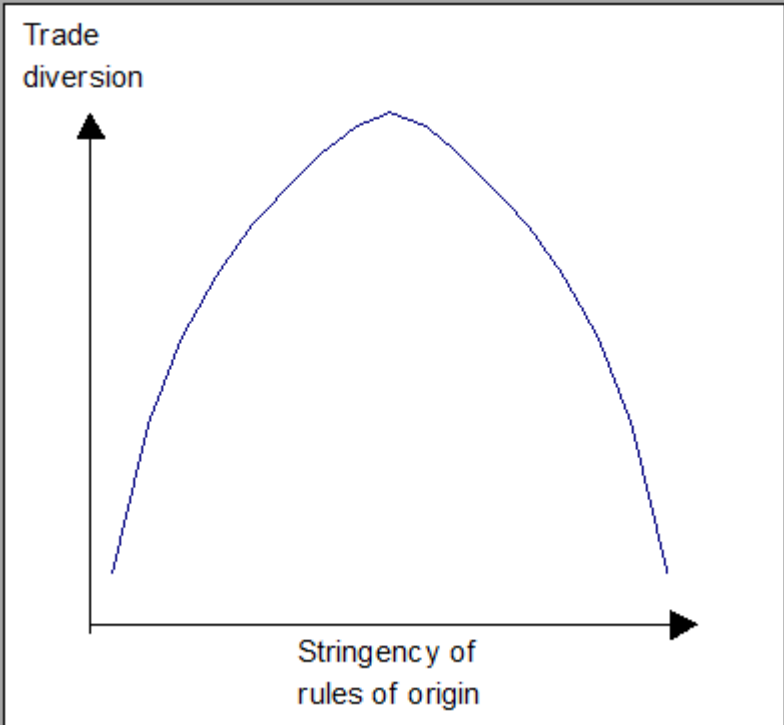
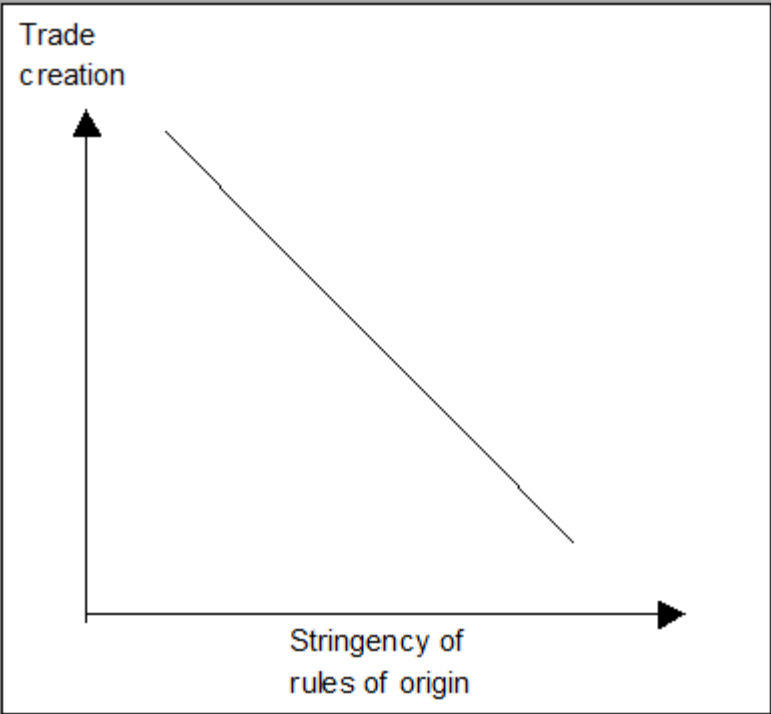
Trade creation and trade diversion effects in FTAs and RoO trade effects

- Trade creation is defined as the reduction in the domestic production of goods, which are substituted by imports from partner countries.
- Trade diversion is defined as the reduction of imports from countries that are not members of the FTA and which are substituted by imports from Partner countries.

Trade Effects of Rules of Origin in FTAs

- The more stringent the rules, the more difficult to comply, the less trade creation is likely to occur.
- The more stringent the rules, the more trade diversion is likely to occur when less efficient inputs from the partner are replacing most efficient suppliers from third countries, up to the point where in the absence of partner inputs there is no trade creation, no trade diversion.

Trade Effects of Rules of Origin in FTAs



Measuring the restrictiveness/leniency of Rules of Origin and resulting trade effects

- Preferential rates are granted only upon compliance with rules of origin
- No compliance – no certificate of origin – MFN rate – no trade effects
- Persistent low utilization over 30 years of operation of GSP schemes

The concept of Utilization Rate

- The mere fact that preferences are granted does not mean that they are effectively utilized
- At the time of customs clearance, in the preference giving country, the preferential rate of duty is granted only upon presentation of a certificate of origin (CO), exporter or importer declaration
- Unless these documents are presented, MFN rate of duty will be levied.
- Why some economic operators to pay duties under the MFN regime instead of utilizing the preference?
 - Compliance with rules of origin
 - Low preference margin (largely anecdotic)
 - Ignorance
- Utilization rates answer the question : to which extent preferential treatment is used whenever the products are eligible ?

Paragraph 4.3 of the Nairobi Decision

Paragraph 4.3 of the Nairobi Decision

*4.3. Preferential rules of origin shall be notified as per the established procedures. In this regard, Members reaffirm their commitment to annually provide **import data to the Secretariat as referred to Annex 1 of the PTA Transparency Mechanism, on the basis of which the Secretariat can calculate utilization rates, in accordance with modalities to be agreed upon by the CRO.***

Transparency mechanism 2010 - Initial Notification of PTAs by Notifying Members

The Member notifying a PTA shall submit the following data, at the tariff-line level:

[...]

(e) Import data for the most recent three years preceding the notification from each of the beneficiary partners, in value for total imports, imports entered under MFN and imports entered under PTA benefits.



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How to calculate Utilization Rates ?

UNCTAD/WTO method

- Customs based : the ratio among goods eligible for FTA treatment with those that have effectively received it

$$UR_{ijpt} = \frac{\text{Imports receiving preferential treatment}_{ijpt}}{\text{Imports covered by the preferential agreement}_{ijpt}} * 100$$

- Product p , importer i , exporter j , year t .
- «Covered» includes only dutiable imports
- For aggregated measures (ex. average UR_{ijt}) use sums of the numerator and denominator.

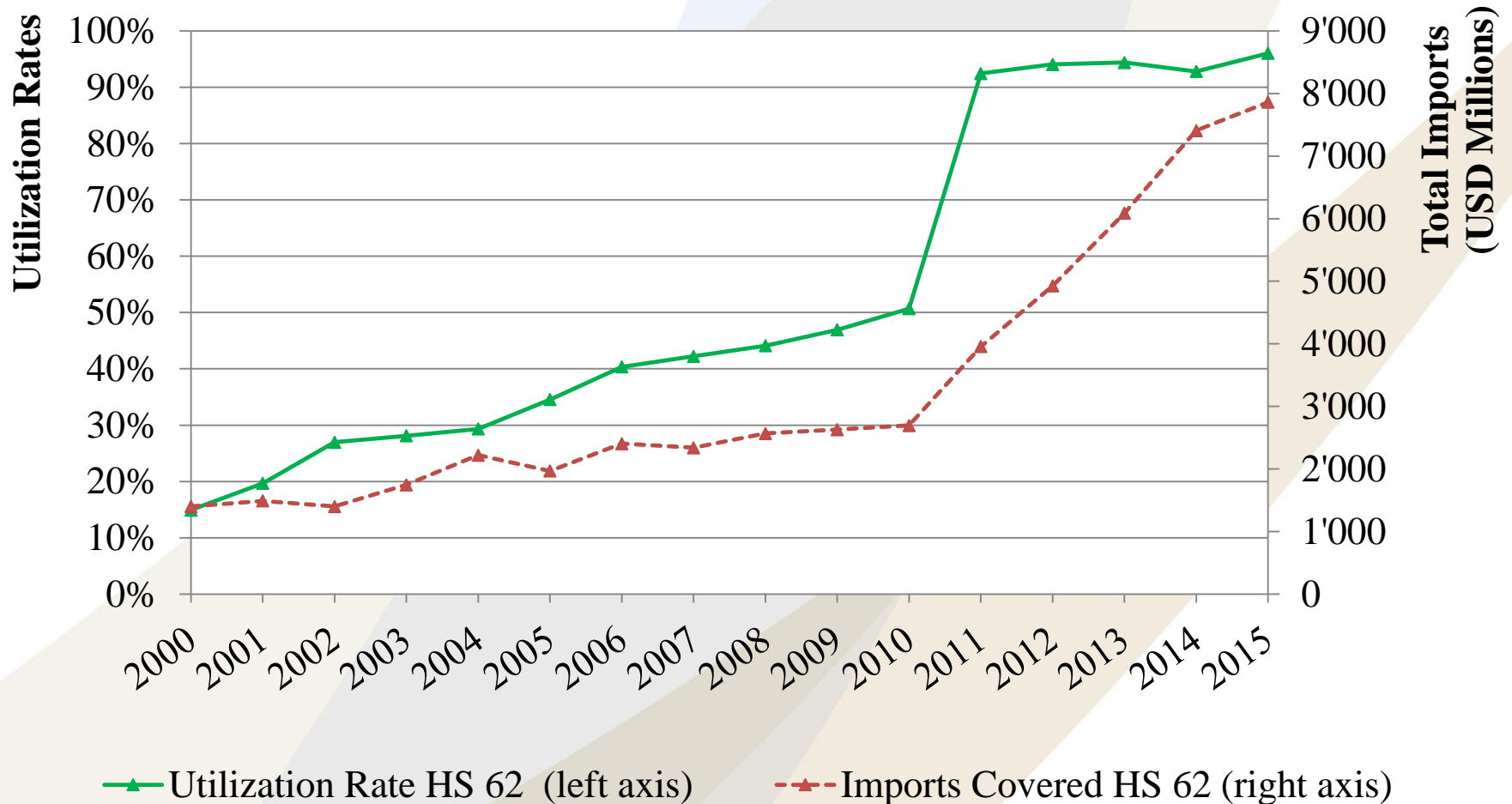
5. How utilization rate is defined in the WTO document: *Modalities for the calculation of “Preference Utilization”* (WTO G/RO/W/161) ?

- *Utilization rates have been used as an indicator to assess the effectiveness of preferences in general and of preferential rules or origin in particular.*
- *A low utilization rate for imports of a particular good **could indicate** that the rule of origin associated with to the preferences for that good is too stringent or not well understood and that the exporter was not able to comply with the rule and/or its ancillary requirements.*
- *Conversely, a high utilization rate **could indicate** that the rule of origin matches the productive capacity of LDCs and can therefore be complied with most of the time.*
- However Trade intensity, Coverage, Multiple preferences pay a role in reading the figures of trade utilization

Trade effects of EU reform

EU imports from LDCs and GSP utilization rates

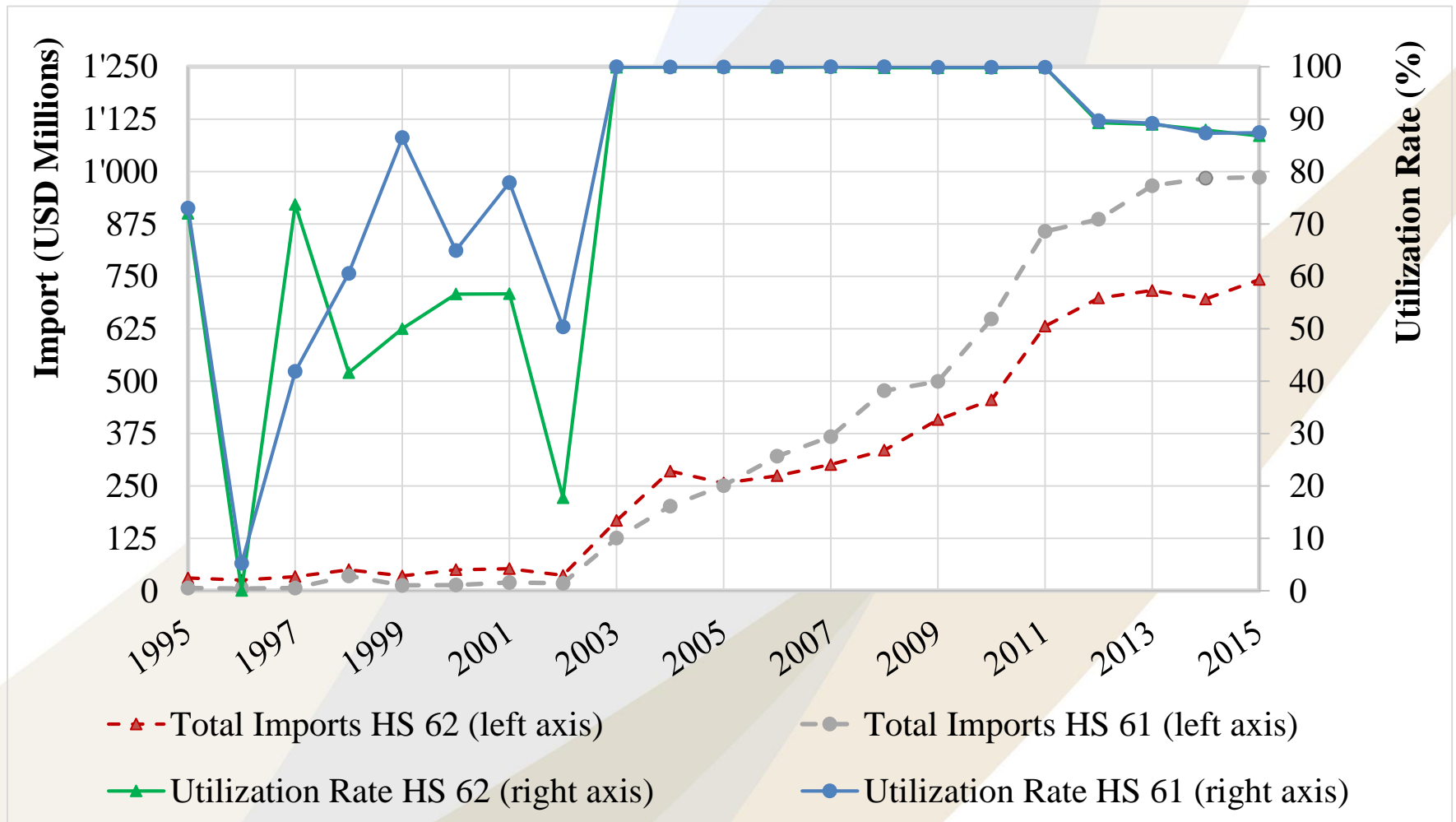
Art of apparel & clothing access, HS62 not knitted/crocheted



Trade effects of Canadian reform

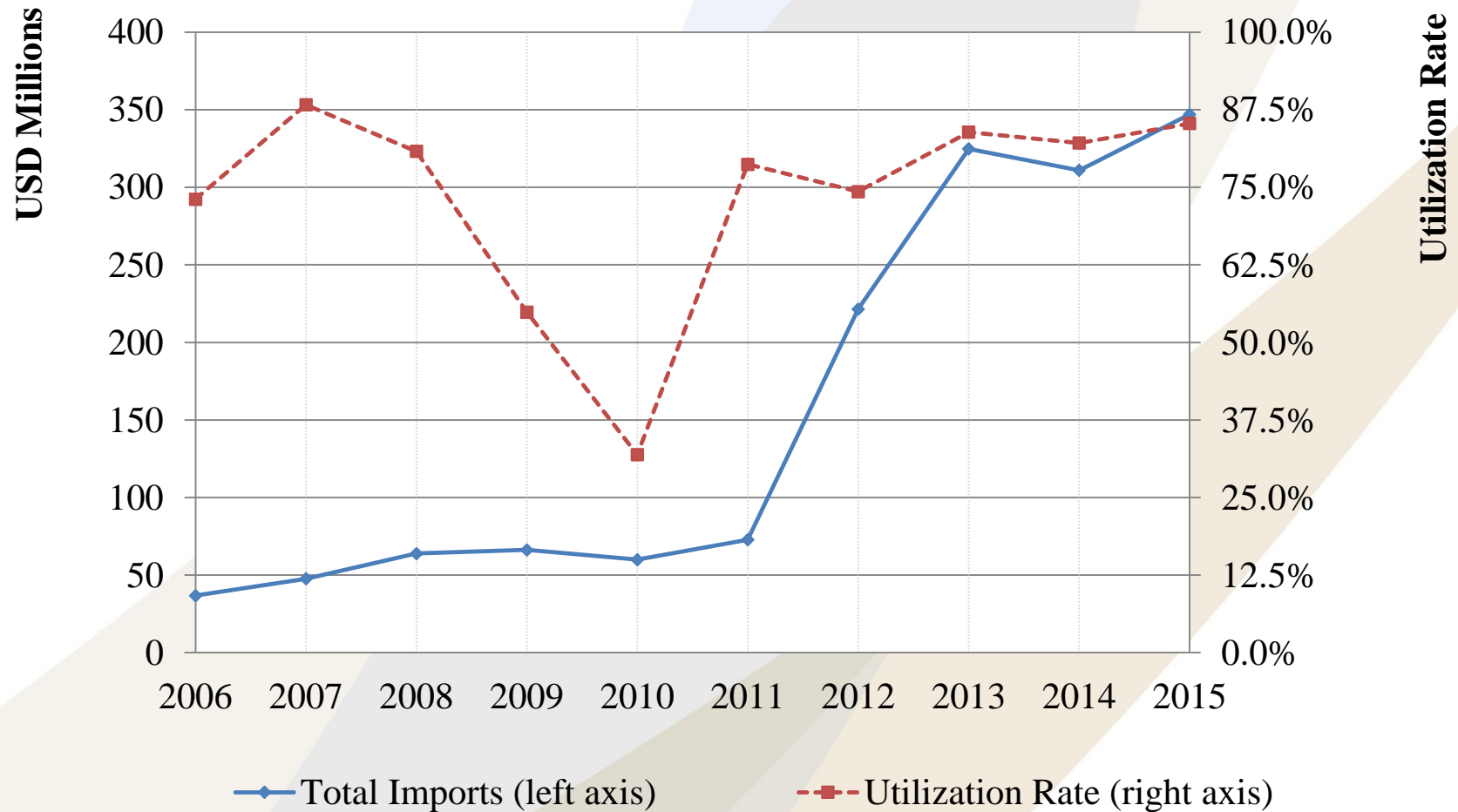
Canadian imports from LDCs and GSP utilization rates

Art of apparel & clothing access, HS 61 knitted/crocheted and HS62 not knitted/crocheted



Trade effects of EU reform

EU imports from Cambodia and GSP utilization rates
Bicycles & other cycles (non-motorized) (HS 8712)



UNCTAD/Swedish Board of trade study on EU FTAs

- Lessons learned for CFTA? More to come tomorrow...



The image shows a screenshot of a Twitter profile for Cecilia Malmström (@MalmstromEU) and a tweet by Anna Stellingar (@AnnaStellingar). Cecilia Malmström's profile includes her name, handle, a bio identifying her as the EU trade commissioner, her location in Brussels, Belgium, her website, and a 'Tweeta till' button. The tweet by Anna Stellingar, retweeted by Cecilia Malmström, discusses the use of EU free trade agreements, citing a study by UNCTAD that shows 67% of EU exporters use these agreements. The tweet includes a link to the study and a translated version of the text. Below the text is a graphic with a map of Europe and the text 'The Use of the EU's Free Trade Agreements'.

Cecilia Malmström 
@MalmstromEU

#EUtrade Commissioner in charge of @Trade_EU policy. Tweets by the Commissioner (without signature) and Catrine Norrgård/CN & Joakim Larsson/JL in cabinet.

Brussels, Belgium
ec.europa.eu/commission/201...
Gått med januari 2012

[Tweeta till](#)

118 Följare du känner

Anna Stellingar @AnnaStellingar - 2 tim
All those free trade agreements EU negotiates -are the really used? With @UNCTAD we give some answers. For instance, we show that EUs exporters use the agreements for 67 % of their exports to countries with which FTA's exist. Read:kommers.se/in-English/Pub... @MalmstromEU @OECDtrade

Översätt från engelska

