



**United Nations Conference on
Trade and Development**

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

Government of
the Netherlands



Executive Training on Negotiating and Drafting Rules of Origin

Measuring restrictiveness of RoO (2)

- Experience from RTAs

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

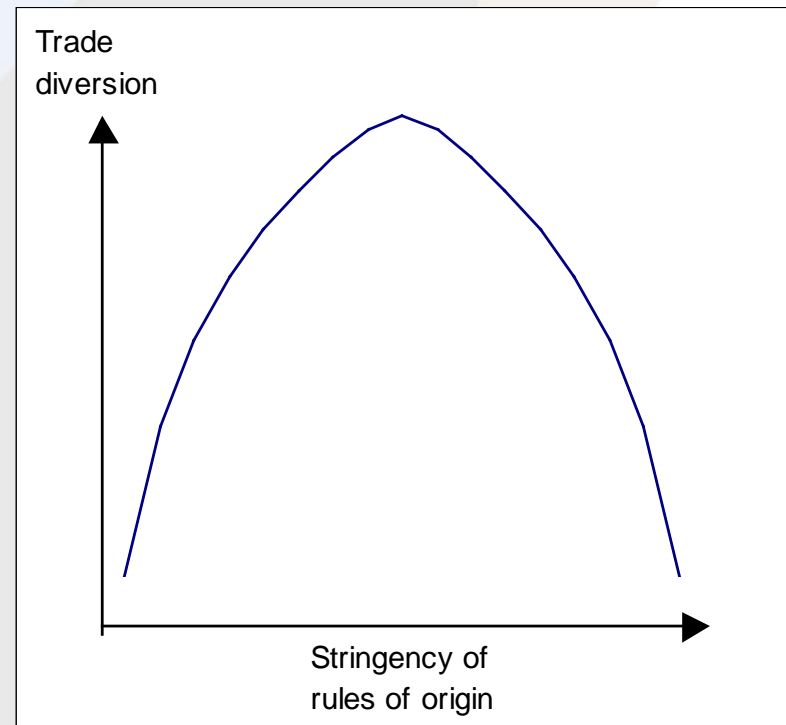
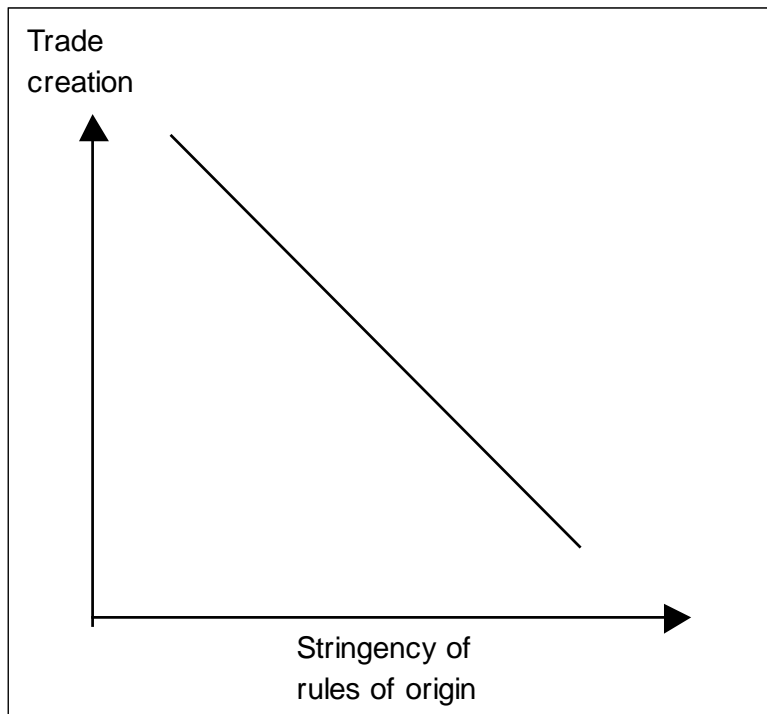
*[1] **Trade creation** is defined as the reduction in the domestic production of goods, which are substituted by imports from partner countries.*

*[2] **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.*

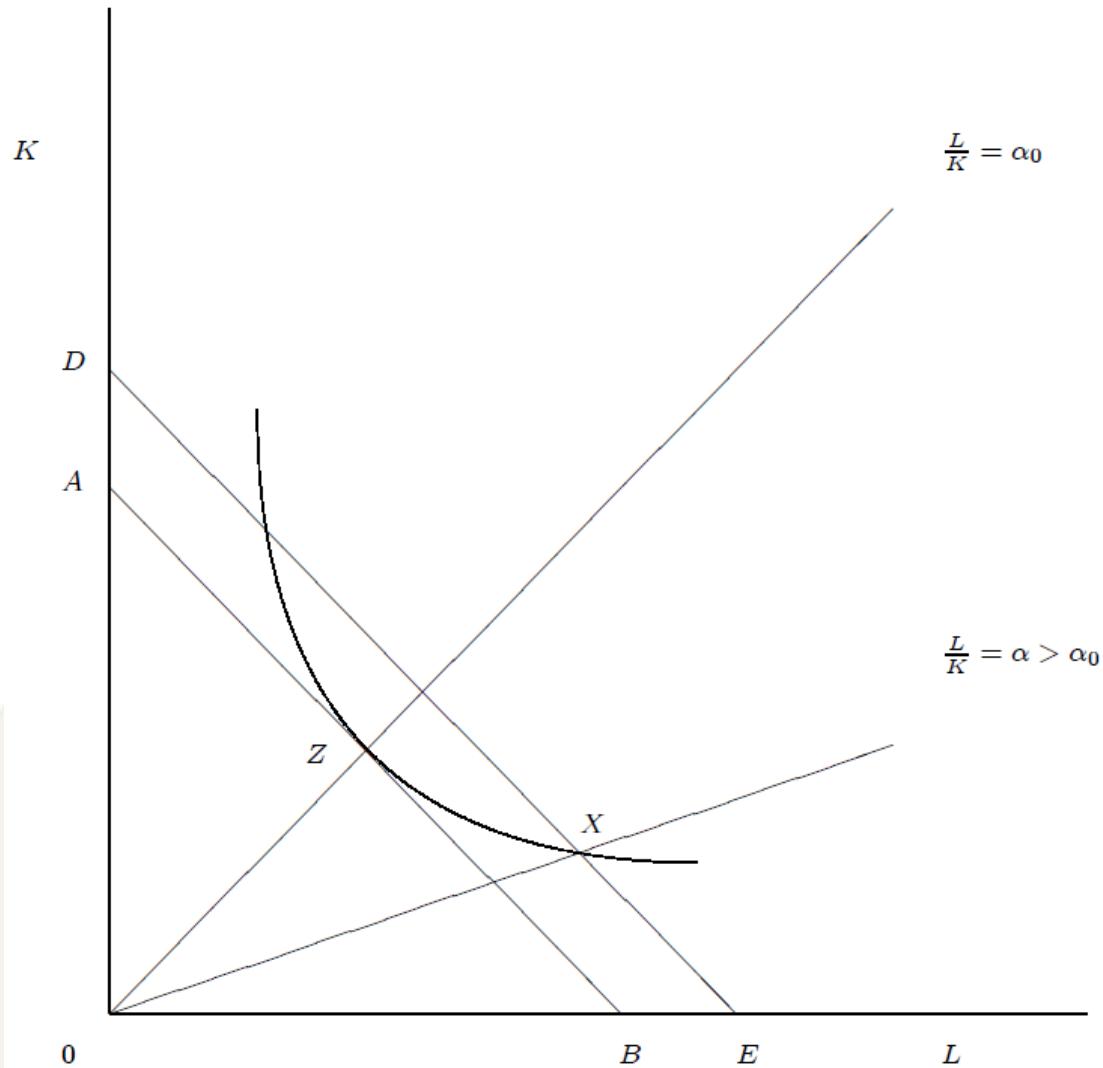
Trade Effects of Rules of Origin in FTAs

- *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



Trade restrictiveness of RoO in Theory



Drafting RoO in FTAs: Do we have a golden model ?

- Absence of Multilateral rules
- Very few analytical studies.
- Forthcoming study by UNCTAD [2014]
- Existence of models : NAFTA inspired rules, Pan-Euro RoO
- Absence of models in South-South FTAs
- Different practices in administering origin

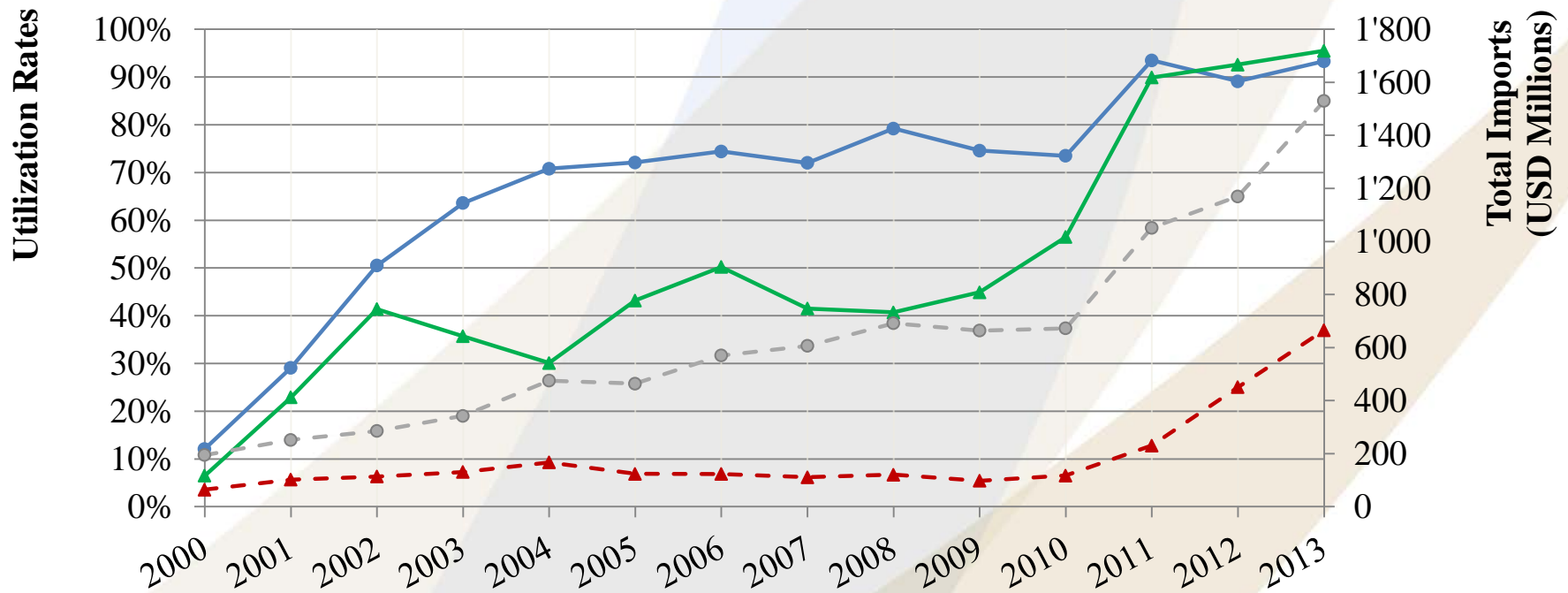
Drafting RoO in FTAs: We just have some lessons learned

- The lessons may be drawn from :
- Low utilization of a FTA or other preferential PTAs
- Changes in practice in the way RoO are drafted since administrations found that some RoO are easier to administer than others.
- Need to adapt RoO to fragmentation of production vs. vertical industrial integration
- There are those that are learning more and those who are learning less ...

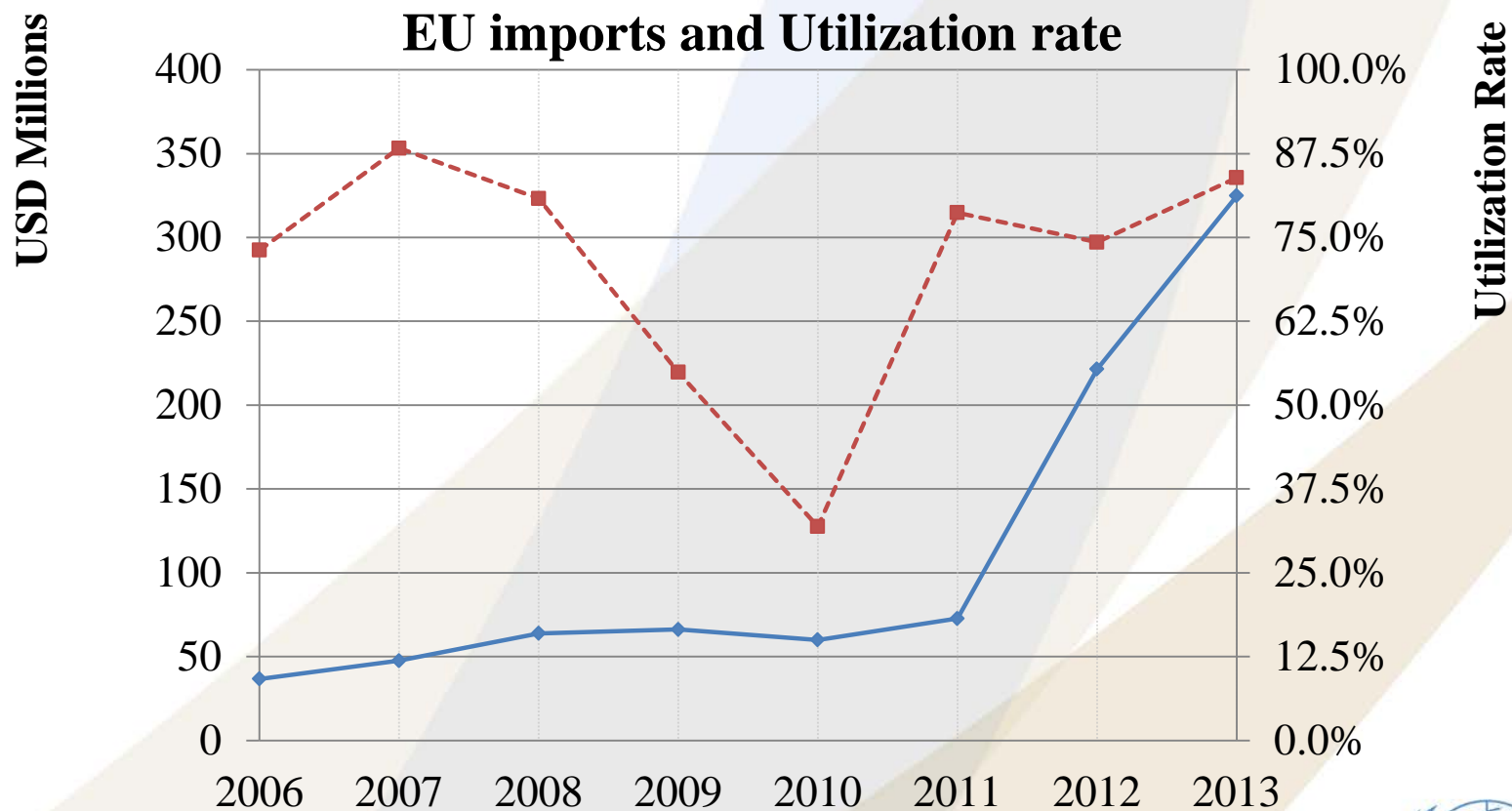
First lesson learned: RoO should match Industrial capacity - Trade effects of EU reform

EU imports from LDCs and GSP utilization rates

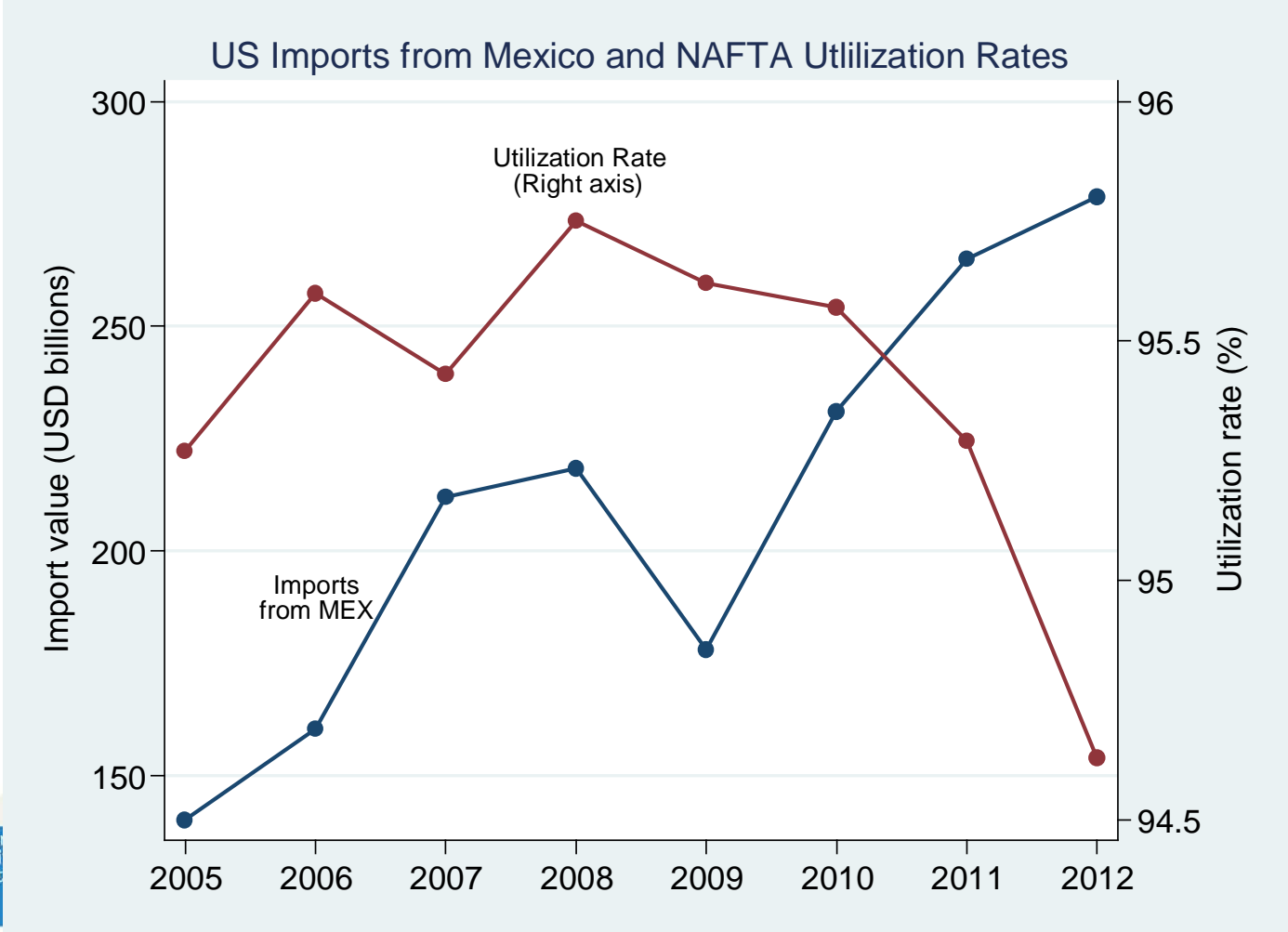
Art of apparel & clothing access, HS 61 knitted/crocheted and HS62 not knitted/crocheted



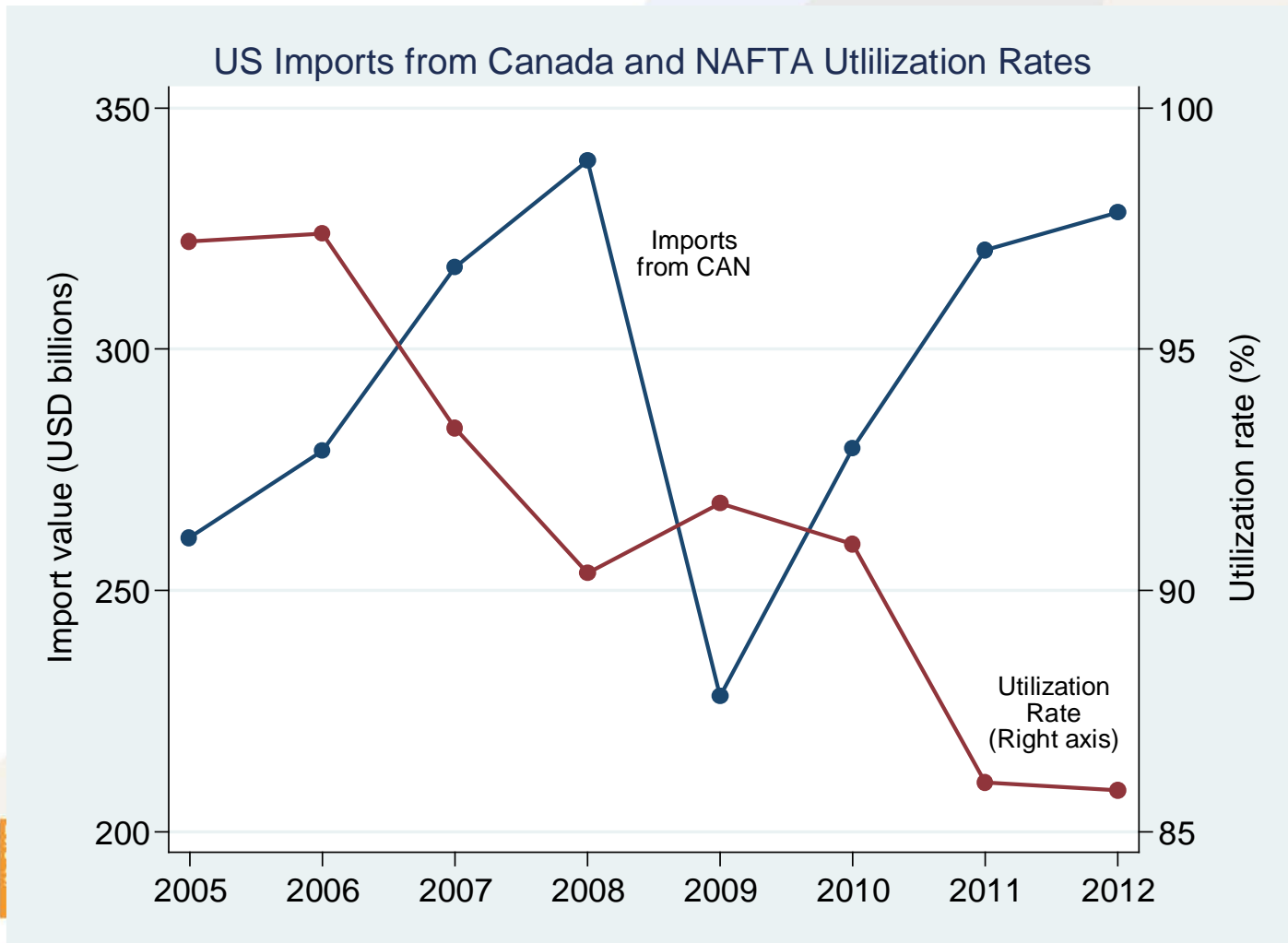
Second lesson learned: RoO should match value chains – Bicycles from Cambodia



Third: RoO may be stringent, however utilization high, RoO well drafted, what would happen with RoO less strict ?



Fourth: Is compliance with RoO worth the effort ?



Fifth: Those who seems Learning less: ASEAN Total Imports Utilization rates [2010]

	BRN (Jan-Jun)	KHM (Jan-Dec)	IDN (Jan-Dec)	LAO (Jan-Mar)	MYS (Jan-Dec)	MMR (Jan-Dec)	PHL (Jan-Dec)	THA (Jan-Sep)	VNM (Jan-Jun)
Form D (USD millions)	20	792	7'385	14	4'976	10	6'694	5'126	1'019
Intra- ASEAN (USD millions)	585	1'682	38'912	404	44'907	1'993	16'270	22'681	7'587
Utilization (%)	3.34	47.1	18.98	3.44	11.08	0.49	41.15	22.6	13.44

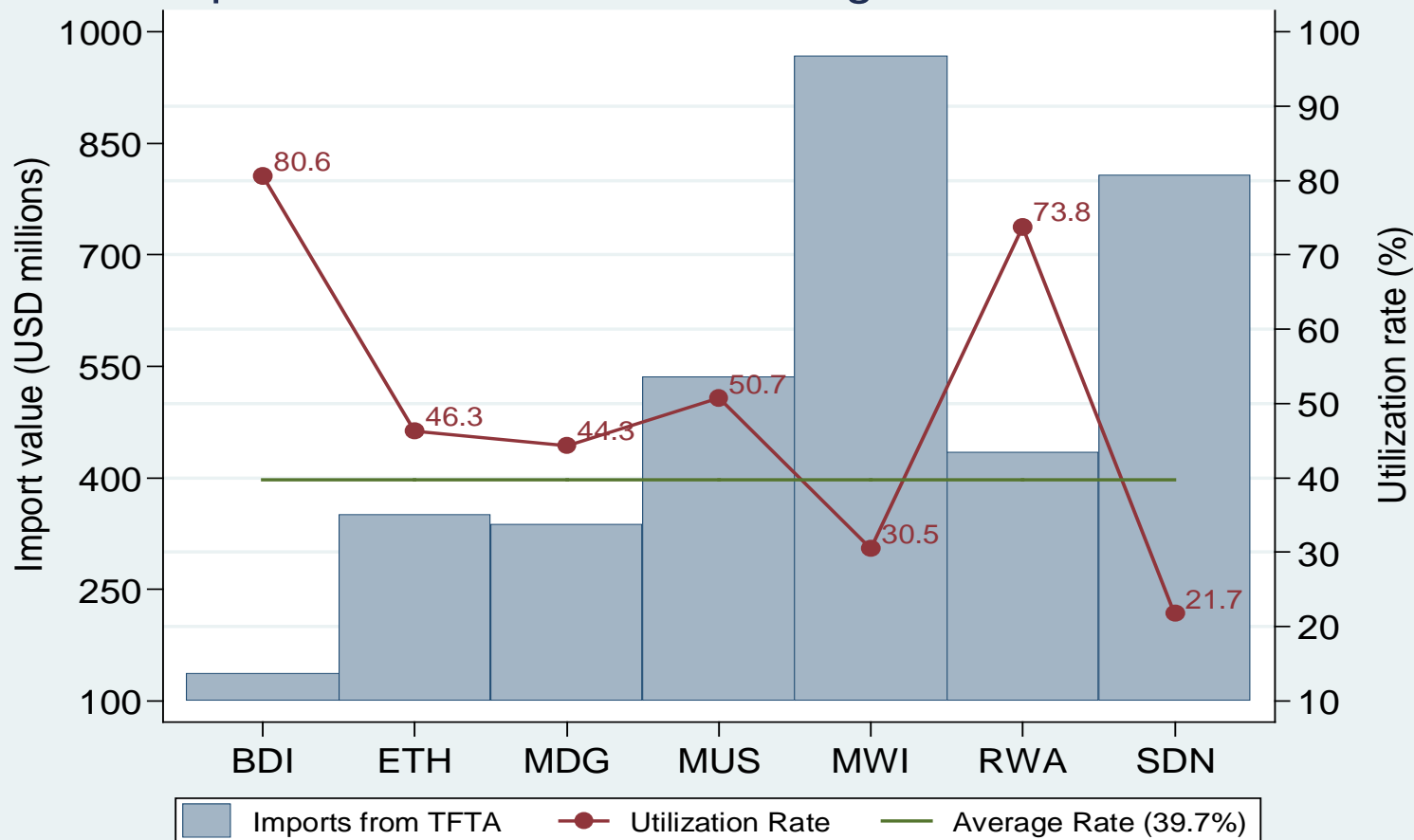
Source: SEOM Chairman's report to the AEM-25th AFTA Council Meeting of 10 August 2011, Manado, Indonesia



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Sixth: Those who seems Learning less-Reported averages of Utilization Rates in COMESA and SADC [2010]

Imports from TFTA and Average Utilization Rates



What we can learn ?

- RoO matching industrial capacity are trade creating and generate value chains [Cambodia]
- RoO may be stringent and predictable leading to high utilization rates in NAFTA. Counterfactual : what if RoO were less stringent ?
- The less trade creating: RoO are not predicable and/or do not reflect industrial capacity [ASEAN ,COMESA and SADC]

There are clear lessons in drafting and administering RoO

- Abandon use of value added/net cost calculations when using percentage criterion
- Use value of materials calculations
- Move from across the board to Product- Specific RoO [PSROs]. This does not necessarily mean to have PSROs for all products
- Distinguish the issue of '*form*' from '*substance*' when drafting PSROs
- Cumulation is not a substitute for liberal RoO
- Insert rules on value tolerance and intermediate materials

Lessons learned in Administering RoO

- The classical model of the certifying authorities and the certificate of origin
- Stamps only (GSP)
- Variations: approved exporters and registered exporters(EU reform)
- Importer declaration (US)
- Stamps and signatures : RTAs in Africa and Asia
- There is clear evidence from utilization rates that the latter is the less trade facilitating

Thank you for your attention

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