

Drafting and implementing rules of origin for a better utilization rate in FTAs

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United Nations Conference on Trade and
Development [UNCTAD]

**21 January 2014
Brussels, Belgium**

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

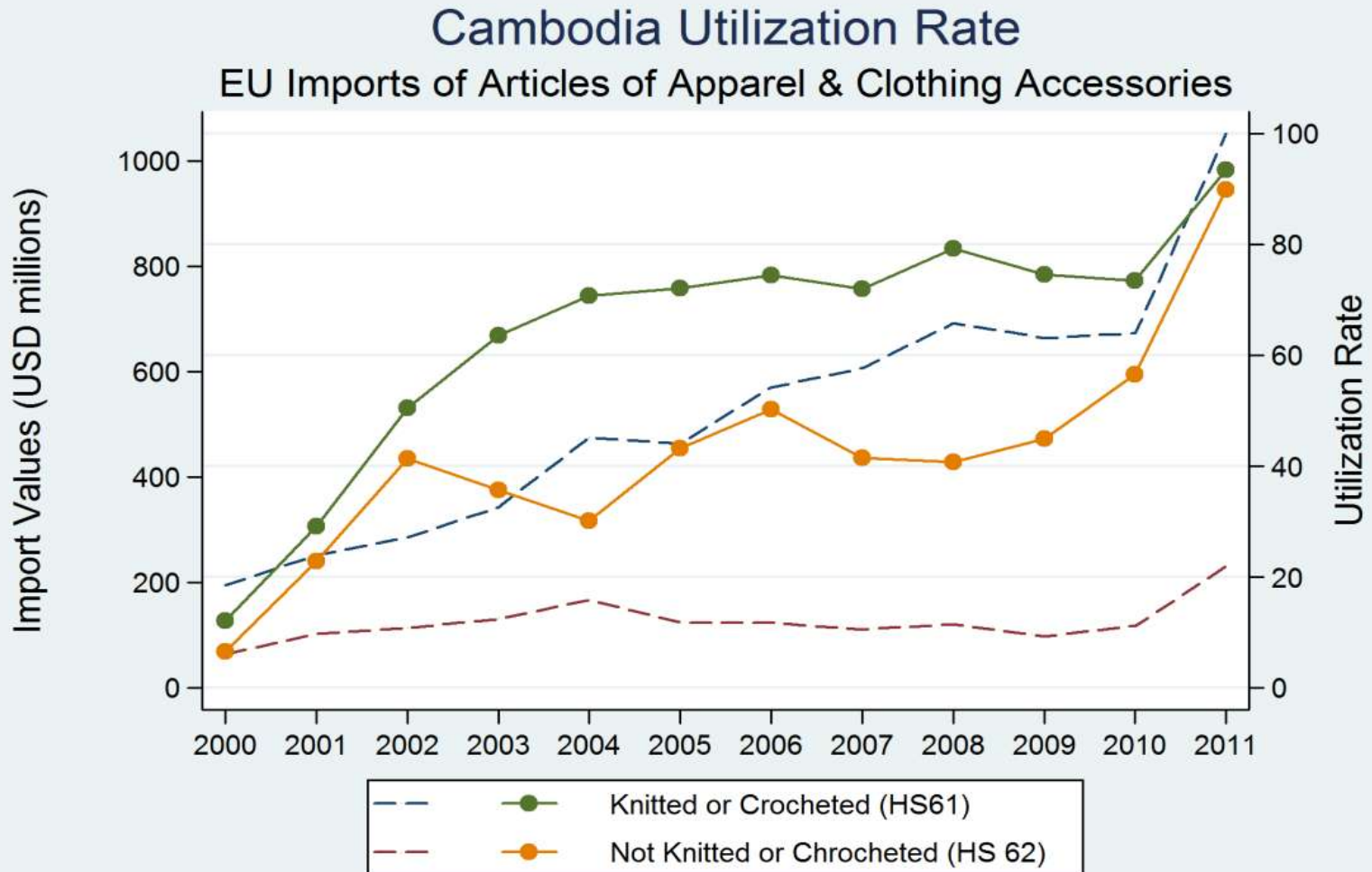
Drafting RoO in FTAs: *We just have some lessons learned*

- 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 ...*

Recording lessons learned using utilization rates

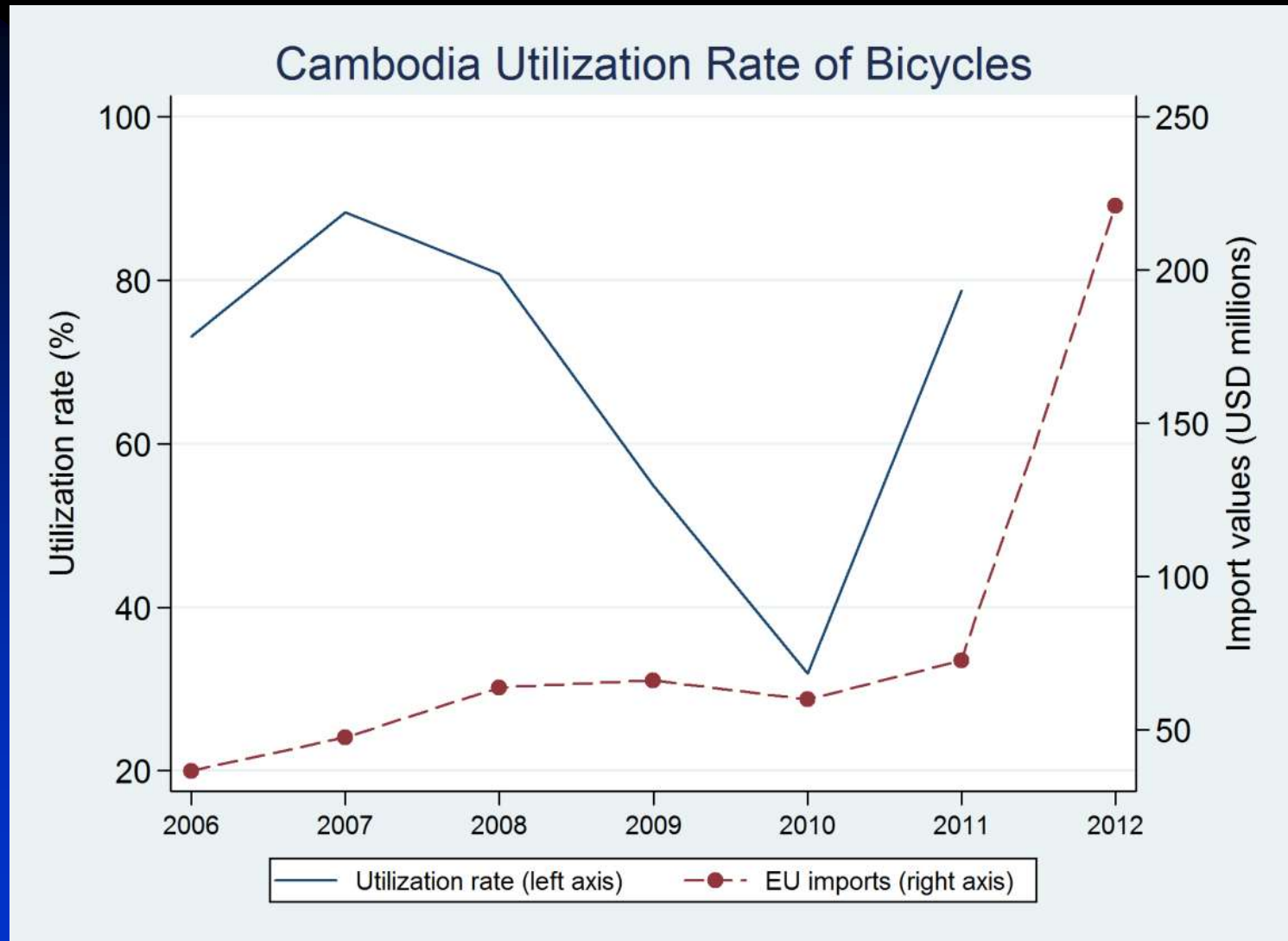
- Two ways of collecting data on utilization rates
- Customs based : the ratio among goods eligible for FTA treatment with those that have effectively received it
- Companies questionnaires
- One difficulty: Utilization rates by customs are not publically available for the majority of countries

First lesson learned: RoO should Match Industrial capacity [EU reform of GSP RoO]

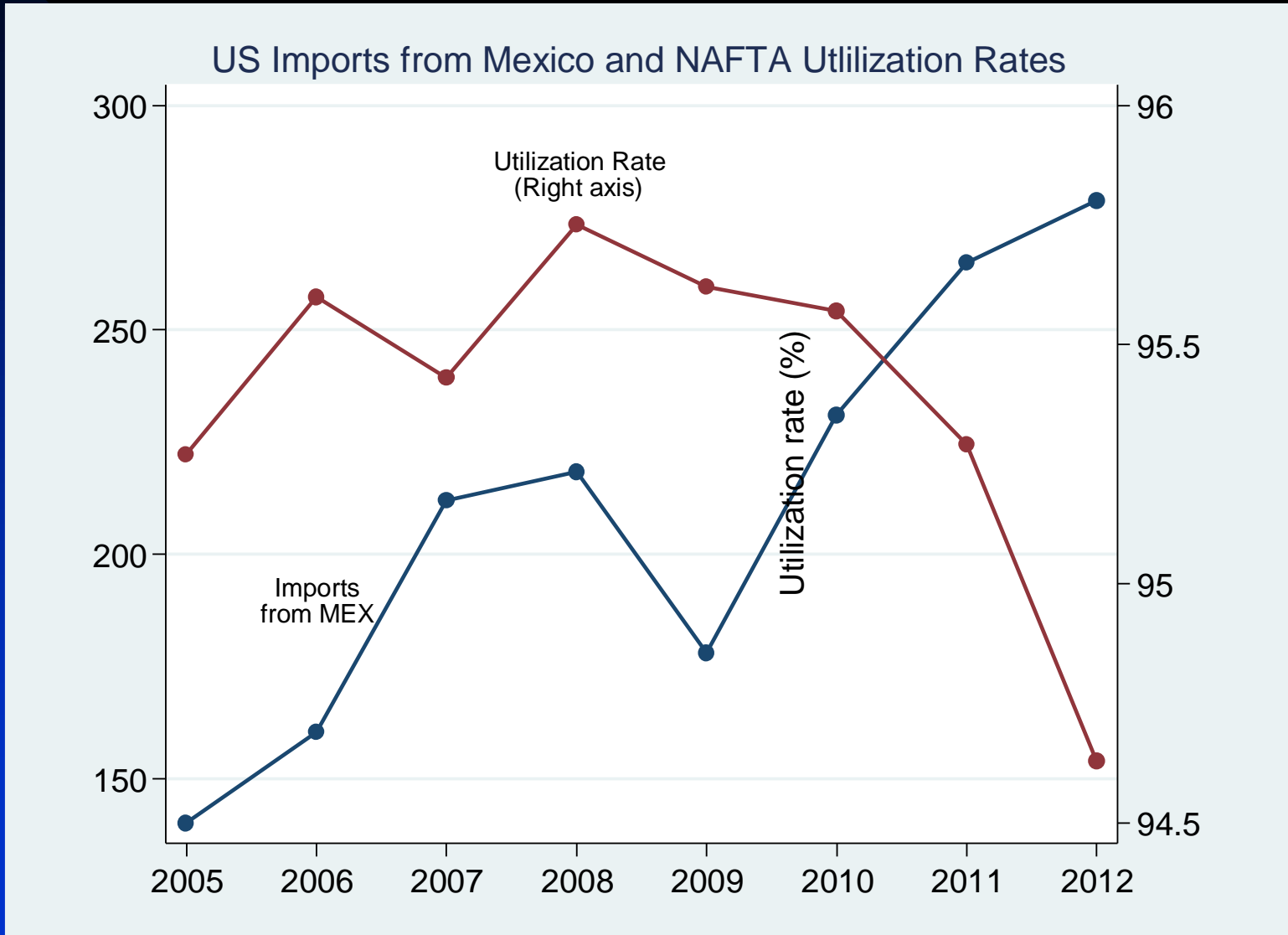


Note: Dashed lines represent import values (left axis)

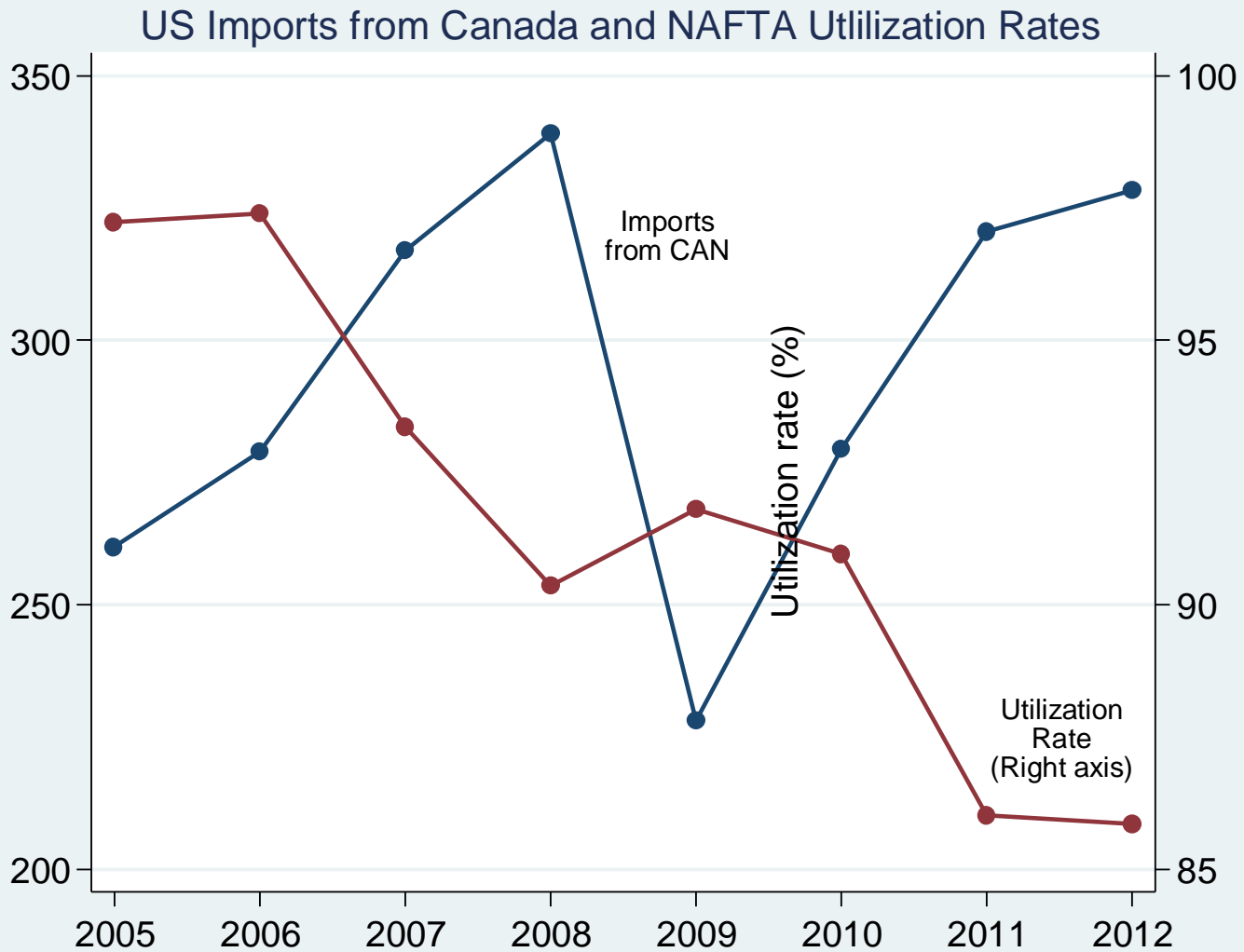
Second lesson learned :RoO should match value chains



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 ?



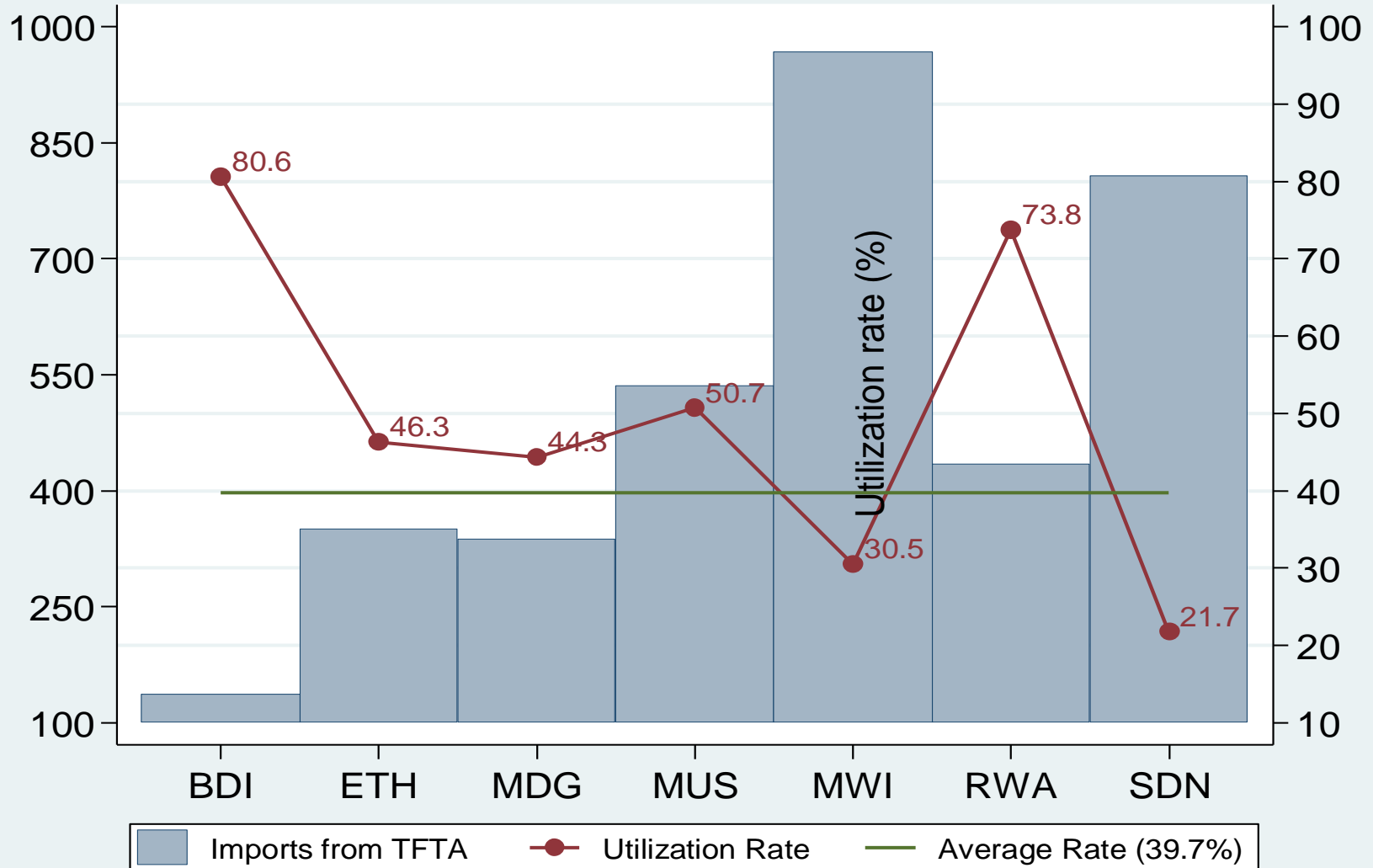
Fifth: Those who seems Learning less:

ASEAN 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

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