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## **1. Introduction**

Regional trade agreements (RTAs) have proliferated over the past decade around the world to cover nearly half of global trade. The number of RTAs notified to the WTO is approaching 200, while the total number of RTAs around the world exceeds 300. The global RTA spree has forged a veritable spaghetti bowl of multiple and often overlapping agreements. The various rules included in each RTA entangle the bowl further. Besides market access of goods, many RTAs today include provisions in such trade disciplines as services, investment, standards, intellectual property, and competition rules, as well as a host of issues not directly related to trade, such as the environment.

While RTAs can generate important economic benefits, their spread has also produced a number of concerns. First, the manifold disciplines embedded in RTAs can introduce policy frictions that increase the costs of trading. Each new RTA rule represents a new policy for firms to consider in their export, outsourcing, and investment decisions. Each also has legal, administrative, and economic implications to the RTA parties.

Second, differences in rules across RTAs can translate into transaction costs to countries operating on two or more RTA fronts simultaneously. This is a growing consideration today given that nearly all WTO members are party to at least one RTA; in some regions such as Latin America, the average number of RTA memberships per country rises to more than half a dozen.

And third, at the systemic level, the burgeoning universe of RTAs is feared to set back the implementation of the multilateral trade rules of the General Agreement on Tariffs and Trade (GATT) and the WTO Agreements, and undercut states' incentives for multilateral trade liberalization.

The concerns about RTAs have focused policy attention on GATT Article XXIV, which sets out the conditions under which the main types of RTAs—free trade agreements (FTAs) and customs unions (CUs)—are viewed as consistent with the multilateral trade rules. The article is, however, ambiguous, and thus a source of extensive debate and a host of interpretations. Some of the most disputed issues center on the article's stipulation that RTAs are to eliminate tariffs on “substantially all trade” between the parties, and to do so within a “reasonable length of time.” Another key line of debate involves the meaning of the Article's requirement that besides tariffs, RTAs eliminate “other restrictive regulations of commerce” on “substantially all trade.”

Further discussions have focused on the extent to which RTAs are “WTO+”, or cover a broader range of disciplines than the multilateral agreements, and, as such, regulate the behavior of their members more—and potentially also involve deeper liberalization—than multilateral rules do. Alongside these debates has developed an important body of academic literature aimed at establishing whether RTA formation is ultimately trade-creating and conducive to multilateral trade liberalization; however, even on this front, a clear consensus has yet to emerge.

Notwithstanding the forceful emergence of RTAs and the contentious debates on them, there are few rigorous efforts to disaggregate RTAs in order to analyze the operation and effects of their component provisions. This implies that assessments of RTAs’ economic outcomes have yet to disentangle the various RTA rules’ respective causal effects from each other, let alone from the effects of variables beyond RTAs—which, in turn, limits the usefulness of the arguments of both those who view RTAs as discriminatory instruments that work to obstruct global trade liberalization, and those who regard RTAs as compatible with multilateral trade rules and conducive to global free trade. Yet, an improved understanding of the regional-multilateral nexus is crucial in the face of the growing importance of RTAs in the global trading system. Particularly timely are efforts (1) to establish appropriate methods for assessing and to measure the compatibility of the RTA rules with the multilateral trade rules; (2) to evaluate the legal and economic implications of the system of RTAs on the multilateral trade regime; and (3) to explore the utility and feasibility of harmonizing the RTA rules toward a common standard.

The purpose of this paper is to start shedding light on the extent of compatibilities among RTAs as well as between RTAs and the multilateral trade rules in the area of market access. We strive to accomplish this by presenting a detailed mapping of six market access provisions—tariffs, non-tariff measures (NTMs), so-called other measures, special regimes, rules of origin (RoO), and customs procedures—in 50 RTAs around the world. The focus here is on both the main texts of RTAs, and RTA annexes containing the member states’ tariff liberalization programs. While the findings are preliminary, the paper discusses their potential broader implications to market access issues in the multilateral trade regime, including their usefulness for sharpening the contested GATT terminology related to RTAs.

The first section elaborates on some of the main debates surrounding the meaning of the Article XXIV, and discusses the potential contribution of this paper in light of the existing literature on market access in RTAs. The second section presents the mappings. Section three

focuses on the potential implications of the findings, while section four charts avenues for future research. Section five concludes.

## **2. Market Access in RTAs: Key Debates and Analytical Approaches**

### **A. Main Debates Surrounding RTAs**

Preferential market access is the most fundamental characteristic of any RTA. The margin of preference that an RTA creates depends on the RTA's market access provisions—on whether the barriers to trade between the RTA parties are fully removed or only partly removed, and in the latter case also on the extent to which they are removed. The preferential margin also depends on the level of the most favored nation (MFN) barriers of the RTA parties, as well as on whether the MFN barriers are increased, lowered, or left unchanged when the RTA is formed. As such, the measurement of the extent of market access granted by an RTA—and any assessment of RTA's economic effects—has more than one dimension. While product coverage is important, the pace and extent of tariff reductions also matter, as do the parties' trade policies toward third countries. Furthermore, the relevance of an RTA to its members depends on whether the products of greatest export interest to them are covered by the RTA.

These issues permeate the legal debates on RTAs. From a legal perspective, the key questions surrounding Article XXIV are three-fold: (1) the extent of product coverage by an RTA; (2) the length of the transition period to the RTA; and (3) RTA instruments that are deemed key arbitrators of market access.

The first two issues are subject to the GATT Article XXIV stipulation that the elimination of tariffs on “substantially all trade” (SAT) between the parties must occur within a “reasonable length of time.” Importantly, the 1979 Enabling Clause imposes less stringent requirements on RTAs involving only developing countries; while such RTAs are expected to carry out some lowering of barriers between the parties, they can stop short of complete tariff elimination.

The third key question on RTAs pertains to the Article XXIV provision that besides tariffs, RTAs eliminate “other restrictive regulations of commerce” on “substantially all trade.” There is no clear consensus as to which of the various trade policy instruments should be regarded as “other restrictive regulations of commerce.” The following three parts elaborate on the various interpretations of these key GATT terms.

## **(1) Substantially All Trade**

GATT Article XXIV stipulates that the elimination of tariffs on “substantially all trade” (SAT) between the parties must occur within a “reasonable length of time.” Efforts to define “substantially all trade” have followed two main approaches:

- A quantitative approach that would use a statistical benchmark, such as a percentage of trade between the parties. The commonly suggested percentages are 90, 85, and 80 percent. A main objection to this approach is that it would not preclude the exclusion of entire sectors from liberalization.
- A qualitative approach, whereby no sector (or at least no major sector) would be kept from liberalization. One difficulty of this approach is defining “sector”; a further question is whether the inclusion of a minor segment of a major sector would satisfy the definition.

Four further approaches have been suggested as possible ways to resolve the above ambiguities:

- A definition of product coverage “in terms of a certain percentage of tariff lines.” For instance, Australia has suggested using a threshold of 95 percent of all Harmonized System (HS) tariff lines at the six-digit level.
- A definition based on the calculation of the percentage of trade between the RTA parties that are carried out under the preferential rules of origin applying to the RTA.
- A definition stating that all sectors should be included.
- A definition along the lines suggested by footnote 1 of GATS Article V, which precludes an a priori exclusion of any sector from an agreement.

The economic rationale for the SAT requirement is not altogether clear. (Laird 1999) notes that exclusion of products in which at least one of the parties is internationally competitive will indeed reduce the scope for trade creation and limit the potential welfare gains from the agreement. Meanwhile, exclusion of products in which both parties are internationally uncompetitive will lower the potential for trade diversion, and could therefore be welfare enhancing. However, it is not difficult to conceive of situations where inclusion of sensitive products could be trade diverting, even if one party is an internationally competitive producer. If the protected market is shared between several internationally competitive suppliers, the supplier that secures preferential access through an RTA may be able to displace the other competitive suppliers from the market. If the preferred partner is unable to supply the entire market, the price

in the importing partner market may not fall; (Panagariya 1999) points out that the result may be some trade diversion, combined with a welfare loss for the importing partner that is not offset by the gain to the exporting partner.

## **(2) Reasonable Length of Time**

Article XXIV paragraph 5(c) requires that “any interim agreement” leading to the formation of an FTA or a CU “shall include plan and schedule for the formation of such a customs union or of such a free-trade area within a reasonable length of time.”<sup>1</sup> While “reasonable length of time” is generally accepted to apply only after the arrangement has been fully implemented, there are various ambiguities, such as what exactly constitutes a “reasonable length of time,” and whether the elimination of barriers scheduled for beyond such time should be counted towards the fulfillment of the SAT requirement. The multilateral 1994 Understanding on the Interpretation of Article XXIV states that the length of time in question should exceed 10 years only in “exceptional cases.” However, there is no guidance as to what constitutes an “exceptional case.”

## **(3) Other Restrictive Regulations of Commerce**

Article XXIV requires that besides tariffs, RTAs eliminate “other restrictive regulations of commerce” on “substantially all trade”. RTAs carry several disciplines that can impose qualifications to the extent of market access provided by tariff liberalization, such as tariff rate quotas (TRQs), special safeguards (SSG), NTMs, and RoO. However, whether these or any other RTA instruments should be subject to the “other restrictive regulations of commerce”-phrase is unclear.

TRQs can limit the extent of market access by restricting the traded quantities of goods that are provided preferential access. While they can be interpreted as a means to smoothen the importing partner’s adjustment to the effects of liberalization, such a cushioning role could be considered relatively more important in cases where TRQs are applied only during the transition period. It is in cases where TRQs continue being applied beyond the end of the transition that they can be viewed as geared to limiting market access—and thus potentially subject to the phrase “other restrictive regulations of commerce.”

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<sup>1</sup> Interestingly, even though most FTAs and CUs have been, at least in part, implemented by stages, very few have expressly been notified as “interim agreements” to the WTO. See WTO (2002c).



SSG provisions allow RTA members to impose additional duties (usually with the existing MFN rate at the time as a ceiling) in the event that their market is disrupted by imports from the partner. In some cases, SSGs can be invoked automatically on the basis of a price or volume trigger. Bilateral emergency actions (BEAs) generally require some formal investigation prior to their imposition. Such requirements apply sometimes also to SSGs.

Preferential rules of origin, a market access instrument that has yet to be subjected to any meaningful multilateral rules,<sup>2</sup> have long been viewed as a protectionist instrument and a particularly appropriate subject to the “other restrictive regulation of commerce”-phrase. Recent debates have paid attention also to the role of customs procedures in determining the actual market access in RTAs; indeed, much like in the case of RoO, the potential uses of customs procedures as non-tariff instruments have gained growing attention at the multilateral level.<sup>3</sup>

## **B. State of the Literature on Market Access in RTAs**

Despite the lively debate on the meaning of Article XXIV, there are as yet only a handful of detailed surveys of RTAs’ market access provisions and the extent to which they comply with the various interpretations of the Article. The World Trade Organization (2002a) carries out an extensive inventory of the coverage and liberalization of tariff concessions in 47 RTAs of a total of 107 parties. The data cover tariff treatment of imports into parties to selected RTAs, tariff line treatment as obtained from individual countries’ tariff schedules, and tariff dispersion for a number of countries. (Scollay 2005) performs a similarly rigorous analysis of tariff concessions in a sample of 18 RTAs. The IADB (2002) presents an exhaustive survey of market access commitments of RTAs in the Americas, while the (World Bank 2005) carries out a more general mapping of the various disciplines in RTAs around the world. Besides tariff concessions, there are surveys on RoO. WTO (2002b) breaks ground, mapping the general rules of origin in 91 RTAs around the world. (Estevadeordal and Suominen 2006) and (Suominen 2004) cover a

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<sup>2</sup> The only multilateral effort to deal with preferential RoO is the Common Declaration with Regard to Preferential Rules of Origin annexed to the Uruguay Round’s Agreement on Rules of Origin. The declaration provides disciplines for preferential rules of origin; in particular, Article 3(c) requires that laws and regulations relating to them be published “as if they were subject to, and in accordance with, the provisions of Article X of GATT 1994” that regulates the publication and administration of trade regulations. However, the declaration has yet to be acted upon.

<sup>3</sup> The WTO has raised RoO to a systemic issue in the Doha Development Round, while the World Customs Organization recently highlighted customs procedures as having “significant influence on the economic competitiveness of nations and the growth of international trade and the development of the global marketplace.” See World Customs Organization <http://www.wcoomd.org>.

larger set of RTAs, and include both general and product-specific RoO in their analysis.

Most empirical analyses have tended to abstract from the contractual details of RTAs, employing a simple dummy variable to represent RTAs and generally assuming that RTAs liberalize all trade immediately for all partners. While RTAs are in general found to boost trade among the partners, academic literature remains divided on whether RTAs are ultimately trade-creating or trade-diverting—and whether RTAs are a stepping stone or a stumbling block to global free trade.<sup>4</sup> Among some examples, (Kemp and Wan 1976), (Deardorff and Stern 1992), (Baldwin 1993), (Wei and Frankel 1995), (Bergsten 1995), (Frankel, Stein, and Weil 1997), (Ethier 1998), and, on the political science side, (Oye 1992) and (Kahler 1995), provide grounds for believing that RTAs can be ever-expanding and propel strategic interactions conducive to global free trade. In contrast, (Bhagwati 1993) argues that reduced protection between RTA members will be accompanied by increased protection vis-à-vis outsiders, with RTAs ultimately undermining multilateral liberalization.<sup>5</sup> However, the conclusiveness of these analyses remains hampered by the crude operationalisation of RTAs.

Some recent empirical studies do draw finer distinctions between RTAs. (Li 2000) and (Adams et al. 2003) introduce a measure on the “depth” of RTAs in a gravity model. (Limão 2006), examining tariff concessions, finds that the United States and the EU have limited their multilateral tariff liberalization in goods traded with the RTA partners. However, (Estevadeordal and Robertson 2004) and (Estevadeordal, Freund and Ornelas 2005), operationalising tariff liberalization in a number of Western Hemisphere RTAs, find that RTAs in the Americas have not only been liberalizing and conducive to trade in the region, but also helped further multilateral liberalization. (Estevadeordal and Suominen 2005b) and (Suominen 2004) operationalise the restrictiveness of rules of origin in some hundred RTAs, finding that while RTAs foster trade, restrictive product-specific RoO dampen it.<sup>6</sup>

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<sup>4</sup> For early works on the welfare effects of RTAs and customs unions, in particular, see Viner (1950), Meade (1955), Lipsey (1960), Johnson (1965), Mundell (1964), Corden (1972), and Kemp and Wan (1976). Richardson (1994) and Panagariya and Findlay (1996) extend the political economy analysis of RTA formation to looking at welfare implications of endogenously determined RTAs.

<sup>5</sup> For further works on RTAs’ effects, see Haveman (1992), Bagwell and Staiger (1993), Saxonhouse (1993), Stein (1994), Bond and Syropoulos (1995), Krueger (1997), Krishna (1998), Lawrence (1996), and Bond, Syropoulos, and Winters (2001), Melitz (2001), Coe (2002) et al., Frankel and Rose (2002), Rose (2002), and World Bank (2005).

<sup>6</sup> However, RoO likely also defy the traditional welfare analysis based on the uni-dimensional friction, the tariff because any given RoO regime entails a layer of frictions—restrictiveness, complexity, and various regime-wide components—that can work in different directions. This renders efforts to capture the welfare effects of RoO a hefty challenge at best. Furthermore, the global trade effects of the differences across RoO regimes have thus far escaped both theoretical and empirical scrutiny, as have the verification costs of RoO.

This paper aims to make four contributions to the nascent pool of mappings of RTA provisions, and, as such, help advance the empirical literature on the effects on RTAs. First, we pioneer in integrating six major market access disciplines into one single study. Second, unlike most existing mappings, we focus both on the main RTA texts and the sectoral tariff concessions in RTA annexes and protocols. Third, this paper presents three alternative measurements to examine RTA tariff schedules' compliance with SAT and "reasonable length of time." And fourth, this paper goes beyond the geographical coverage of many existing analyses by incorporating RTAs formed throughout the world. We also include a number of very recently concluded RTAs.

### **3. Descriptive Mapping**

This section consists of a descriptive mapping of six market access disciplines—tariffs, NTMs, other measures, special regimes, rules of origin, and customs procedures—in 42 RTAs. The mapping seeks to capture two dimensions of RTAs: coverage (or "comprehensiveness") and liberalization (or "depth"). We seek to measure the two dimensions through two distinct approaches.

The first approach involves mapping out the obligations included in the annexes and protocols of the RTAs' market access chapters, and centers primarily on different measurements of RTA parties' tariff liberalization schedules. The second approach focuses on the provisions spelled out in the main texts of RTAs. While the first set of indicators is both country- and product-specific and largely based on quantitative information, the second set draws on inherently regime-specific and largely qualitative information. The data in the first set of indicators are based on 38 RTAs, and in the second set on a sample of 50 RTAs (table 1).

**Table 1 – RTAs Covered in the Study**

<b>Agreement</b>	<b>Year of Entry into Effect</b>	<b>Tariff Line Schedules</b>	<b>Trade-Weighted Chapters</b>	<b>Import-Linked Tariff Lines</b>	<b>Aggregate Provisions</b>
Chile-China	10/1/06	Y	Y	Y	Y
Panamá-Singapore	7/24/06	Y	Y	Y	Y
Australia-Thailand	1/1/05	Y			Y
CAFTA	12/17/04 (SV), 03/03/2005 (HO), 03/10/05 (GU), 10/11/05 (NI), 07/27/05 (US) *	Y			Y
Canada-Chile	7/5/97	Y	Y	Y	Y
Canada-Costa Rica	11/1/02	Y	Y	Y	Y
Chile-Korea	4/1/04	Y	Y	Y	Y
Chile-Mexico	8/1/99	Y	Y		Y
China-Hong Kong, China	1/1/04	Y	Y	Y	Y
EU- South Africa	1/1/00	Y	Y	Y	Y
EU-Lithuania	1/1/95	Y			Y
EU-Morocco	3/1/00	Y	Y		Y
EFTA-Mexico	7/1/01	Y	Y	Y	Y
Japan-Singapore	11/30/02	Y	Y	Y	Y
Mexico-Japan	4/1/05	Y	Y		Y
New Zealand-Singapore	1/1/01	Y	Y	Y	Y
Singapore-Australia	7/28/03	Y	Y	Y	Y
United States-Australia	1/1/05	Y	Y	Y	Y
United States-Chile	1/1/04	Y	Y	Y	Y
United States-Jordan	12/17/01	Y	Y		Y
United States-Morocco	1/1/06	Y	Y	Y	Y
United States-Singapore	1/1/04	Y	Y	Y	Y
Chile-Central America	02/15/2002 (CR), 06/03/2002 (SV)	Y			Y
Chile-New Zealand-Singapore-Brunei	6/3/2005 08 November 2006 (CHL); June 2006. (NZL, SGP, BRN)	Y			Y
EU-Chile	2/1/03	Y	Y	Y	Y
Mexico-Bolivia	1/1/95	Y	Y	Y	Y
Mexico-Costa Rica	1/1/05	Y	Y	Y	Y
Mexico-Nicaragua	7/1/98	Y	Y	Y	Y
Mexico-Northern Triangle	03/15/2001 (SV, GU), 06/01/2001 (HO), 03/14/2001 (MEX)	Y			Y
Mexico-Uruguay	7/15/04	Y	Y	Y	Y
NAFTA	4/1/94	Y			Y
US-Peru FTA	NA	Y	Y	Y	Y
Chile-Peru	1998 (original)	Y	Y	Y	Y

<b>US-Colombia</b>	NA	Y	Y	Y	Y
<b>Mercosur-Chile</b>	10/1/96	Y			Y
<b>Mercosur-Bolivia</b>	2/28/97	Y			Y
<b>ACE 58</b>	6/27/05	Y			Y
<b>ACE 59</b>	6/27/05	Y			Y
<b>Australia-New Zealand</b>	3/28/83				Y
<b>Canada-Israel</b>	1/1/97				Y
<b>Central America-DR</b>	03/07/2002 (CR),10/04/2001 (SV), 10/03/2001(GU),12/19/2001 (HO)				Y
<b>COMESA</b>	12/8/94				Y
<b>EU-Mexico</b>	7/1/01				Y
<b>EU-Romania</b>	2/1/95				Y
<b>EFTA-Singapore</b>	1/1/03				Y
<b>Mexico-Colombia-Venezuela</b>	1/1/95				Y
<b>Mexico-Israel</b>	7/1/00				Y
<b>New Zealand-Thailand</b>	7/1/05				Y
<b>United States-Bahrain</b>	12/13/05*				Y
<b>United States-Israel</b>	8/15/85				Y
	<b>Total Agreements</b>	<b>38</b>	<b>27</b>	<b>23</b>	<b>50</b>

\* Refer to ratification dates.

### A. RTA Coverage and Liberalization: An Assessment at the Tariff-Line Level

This section examines the coverage and liberalization at the tariff-line level in the 38 RTAs outlined in table 1. The first part consists of a survey of the overall approach of the tariff liberalization regimes—divided here into basket, sectoral and preferential tariff approaches.<sup>7</sup> While most RTAs fall into one single category, some employ a combination of two of the approaches. Other agreements, such as some of the more recent RTAs in the Asia-Pacific region, liberalize trade immediately on all products. The second part analyzes tariff-line data emerging from the RTA parties' tariff liberalization schedules. The third part examines alternative measurements—share of trade-weighted tariff lines that are liberalized and share of trade that is liberalized from the RTA partner in a given year—in sub-samples of 27 and 23 RTAs, respectively.

<sup>7</sup> Various prior studies characterize tariff elimination as carried out on the basis of a positive or a negative list, or as based on a certain formula. This study strives to abstract from these characteristics and classify liberalization programs by their categorization of goods into distinct paths of liberalization. To be sure, some of the categories are more aligned with a positive list approach, while others lend to a negative list approach.

## **(1) Empirical Survey: Tariff Liberalization Regime Models**

### **Basket Approach**

In a basket approach, the tariff elimination program assigns all products into a set of distinct categories. The categories provide a time frame and trajectory towards complete elimination of tariffs (as opposed to providing only an end-point preferential tariff, such as a reduction of tariffs from 35 percent to 10 percent). The baskets include TRQs, typically with a reference to an appendix with the quantities, as well as exceptions to preferential treatment (that are typically entered into a basket of continued MFN treatment).<sup>8</sup>

The United States tends to follow the basket approach, generally subjecting nearly the entire tariff universe to eventual complete tariff elimination. Some of the less visible “action” in the US agreements can be found in the annexes on TRQs, where tariff liberalization generally takes place over longer time horizons and is accompanied by increasing in-quota quantities. Even sugar, a sensitive product from the US perspective, typically receives an increasing in-quota quantity (albeit from a small starting point), such that even when sugar receives continued MFN treatment, as is the case in CAFTA, at a theoretical future point an infinite quantity of sugar will enter the RTA partner free of duty.<sup>9</sup>

### **Sector Approach**

The sector approach, typically favored by the EU, subjects all industrial products to a general tariff elimination schedule. A separate list for exceptions and separate annexes or protocols govern the treatment of agricultural and/or fish and/or processed agricultural products. The protocols tend to be quite complex, featuring different types of regimes, such as end-point preference margins or residual preferential tariffs, TRQs, reference quantities, and a phased reduction of tariffs to a final level (which is often non-zero). The sections referring to the scope

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<sup>8</sup> Thailand-Australia and Thailand-New Zealand FTAs defy categorization, as they do not use any clearly defined baskets, but, rather, implement staging simply by cross-tabbed reduced tariff rates. This lends itself mostly to the basket approach, due to the use of comprehensive schedules. However, there are a large number of case-by-case trajectories, which suggests a preferential tariff approach, as well.

<sup>9</sup> It should be noted that the in-quota quantities (and even the existence of in-quota treatment) in these agreements differ greatly within CAFTA. Although the United States has given the same schedule with the same baskets to the other countries, the treatment within these baskets differs greatly between countries. So although the statistics will reflect identical treatment of all Central American countries, this will not be the case, especially when considering that a number of the products subject to TRQs are those where Central America will have a strong comparative advantage (such as in sugar).

of the agreement and definitions of certain product categories are as important to understanding the process of tariff reduction as is the section on the tariff reduction program.

The EU-Chile FTA that entered into effect in 2003 diverges from the EU's standard practice of dividing tariff elimination into separate venues. Instead, the agreement establishes a single schedule for each party that contains all products. In its category column, the schedule includes various measures that will be maintained, such as TRQs, elimination of only the *ad-valorem* component of a mixed duty (including in cases where the non *ad-valorem* component is linked to an entry price),<sup>10</sup> products subjected to a tariff concession of 50 percent of the basic customs duty, and cases where no liberalization takes place, for instance due to "protected denominations."

The agreements negotiated by EFTA follow the EU model in carrying a general tariff elimination program and separate schedules for fish and agriculture. In these sectors, rather than having a single tariff liberalization schedule, EFTA's agreements include country-specific schedules.<sup>11</sup>

### **Preferential Tariff Approach**

In addition to the basket and sector approaches, some agreements, such as those forged under the umbrella of the Latin American Integration Association (LAIA), place a greater emphasis on the end-point preferential tariff. The Bangkok Agreement also focuses on the end-point preferences, with additional concessions provided to less developed RTA members. Both the LAIA and Bangkok models take a positive list approach to the concessions, whereby the schedules contain the products to which the market access provisions of the RTA apply (as opposed to the negative list approach, which catalogues the products to which the market access provisions do *not* apply).

### **(2) Tariff Liberalization Statistics**

This part turns to analyzing tariff-line data developed on the basis of the tariff liberalization schedules of 76 parties in 38 RTAs.<sup>12</sup> There are two main sets of indicators. The first set contains

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<sup>10</sup> These two cases, as in TRQs, are additional examples of where the basket incidence statistics don't adequately present what is occurring within the "black box".

<sup>11</sup> In this paper, the data on tariff elimination in the EFTA-Mexico FTA is based on Switzerland's tariff schedules.

<sup>12</sup> The tariff liberalization schedules were obtained from the Foreign Trade Information System at <http://www.sice.oas.org/> and some national sources, including websites. Some tariff data was obtained from TRAINS.

basic statistics that indicate the percentage of the tariff universe subject to tariff reductions, immediate tariff elimination, eventual tariff elimination, exclusions (or products subject to continued MFN treatment), and continued MFN treatment but with increasing TRQ access.

The second set of indicators strives to capture the share of each individual RTA party's tariff lines that are accorded some tariff reductions, and the share of lines that are duty-free by certain benchmark years (generally 1, 5, 10, and 15) since the launching of the RTA.<sup>13</sup> Year 1 refers here to the year of entry into force. We focus on the absolute and relative number of duty-free lines, as well as on the speed at which concessions are made.<sup>14</sup> Also calculated is the number of staging categories in an agreement and some simple statistics indicating the share of tariff lines that carry TRQs.

Figures 1a and 1b provide two distinct views of the share of tariff lines liberalized by the partners in the 38 RTAs. Figure 1a maps out the shares of national tariff lines that become subject to liberalization in year 1, years 2-5, years 6-10, years 11-20, and more than 20 years into the RTA. The three-letter ISO code of each country giving the concession (i.e., the importing country) precedes the arrow, while the code of the partner country follows the arrow. Agreements formed in the Americas and particularly those signed by the NAFTA members generally liberalize trade relatively fast, with about three-quarters or more of lines freed in the first year of the agreement. The figure reveals the share of tariff lines subject to backloaded liberalization—particularly marked in Morocco and South Africa's schedules in FTAs with the

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<sup>13</sup> Dummies are assigned according to when tariff reductions start (whether or not in year 1, 5, 10, or 15), as well as when a product becomes duty-free, and when a product that was not duty-free before becomes duty-free. The dummies are subsequently multiplied by the number of lines with that treatment, and then divided by the total number of lines to obtain the percentage incidence. The total number of lines *does not* include previously duty-free lines for the incidence of reductions and non duty-free lines that are now duty-free, but *does* include all lines for the total duty-free number. A line that has split treatment (i.e. part has a reduction one year and part does not) is treated as having the *most* generous reductions, but the *least* generous duty-free treatment (as a reduction on any part of a line is a reduction, but duty-free should cover a product in its entirety). Note that in CAFTA, indicators for the Dominican Republic and each of the five Central American countries were calculated individually and then averaged together to create a single, indicative partner to the United States.

The percentages for these three basic indicators include lines subject to TRQs, based on when out-of-quota tariff rates are reduced or phased out. For example, where tariff reductions or elimination are made on in-quota tariff rates, the product in question is treated as not receiving tariff reduction. Products subject to entry prices are, when relevant, are counted as receiving tariff reduction, but not as having tariffs eliminated. Safeguards are not taken into account here (i.e., as interfering with tariff elimination). Split products or products partially covered by an agreement, as a general rule are accorded a reduction at the first date at which any of the various baskets accord a reduction, but a treated as having tariffs eliminated at the last date at which any of the various baskets accorded elimination. Other side notes are dealt on an *ad-hoc* basis. Any TRQ, regardless of whether reductions occur on the in-quota or out-of-quota tariff rate, are counted in the TRQ incidence measure.

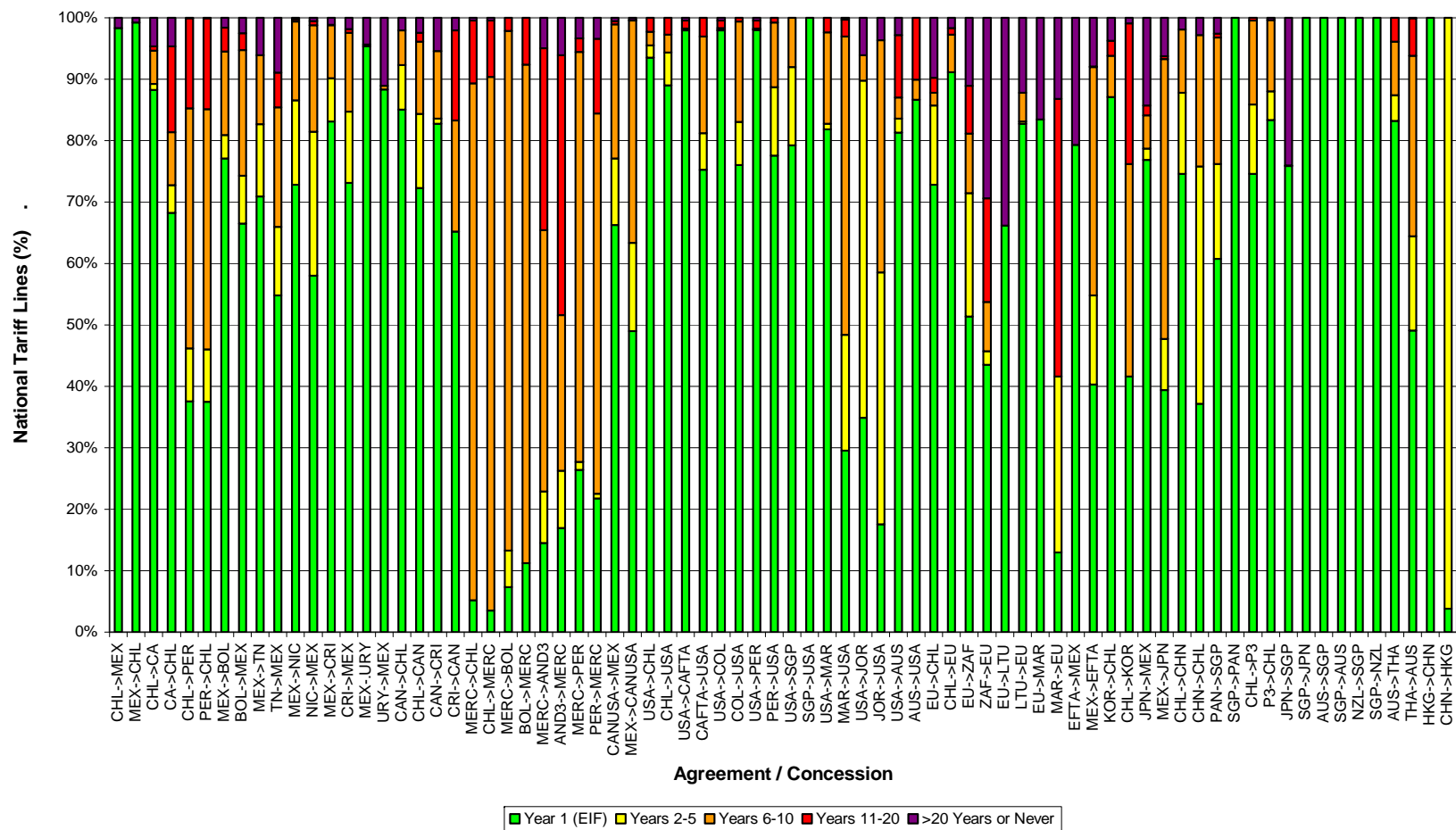
<sup>14</sup> An argument for the third indicator is that it measures actual concessions, while the second one measures the persistence of residual tariffs.



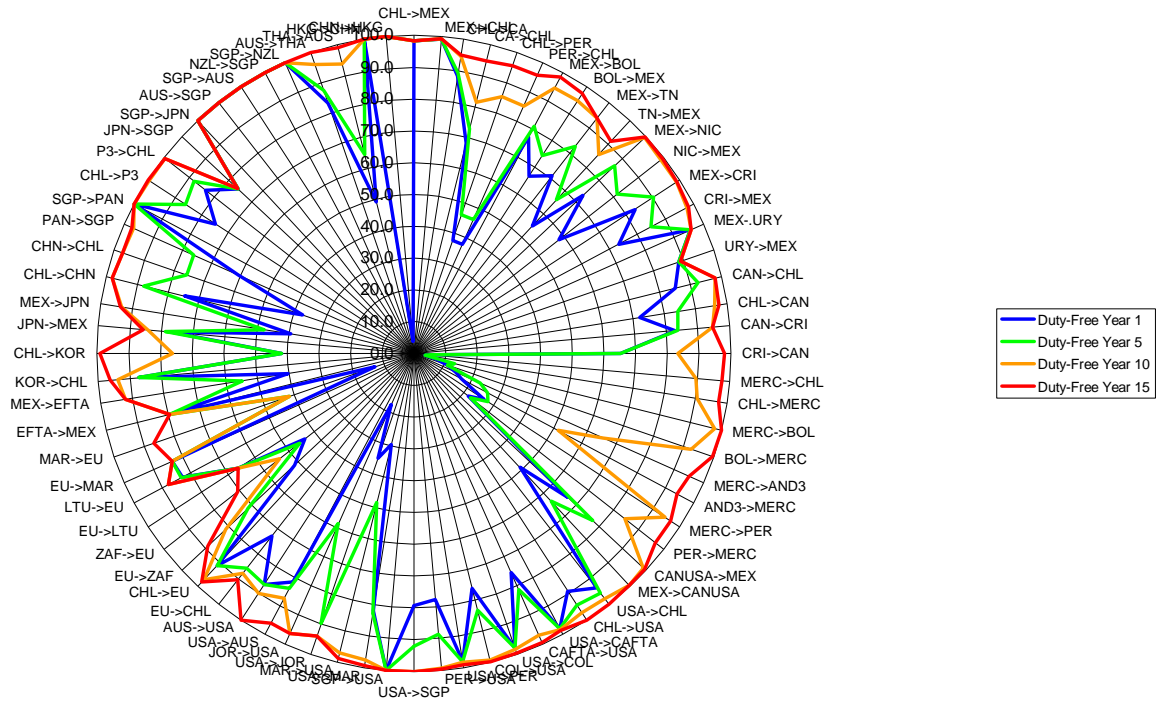
EU, largely due to the persistent protection in the agricultural protocols. Asia-Pacific RTAs stand out for being particularly frontloaded: they liberalize the bulk of the tariff universe in the first year of the RTA. This is in good part due to Singapore's according duty-free treatment to all products upon the entry into force of its agreements.

Figure 1b takes a distinct tack, exploring liberalization by the various RTA parties in the benchmark years 1, 5, 10, and 15. It provides preliminary evidence that while RTA partners vary markedly in the share of tariff lines subject to liberalization in years 1 and 5, the bulk of them attain a common interpretation of SAT and "reasonable length of time"—liberalization of 90 percent or more of tariff lines by year 10 into the RTA.

Figure 1(a) - % of Tariff Lines Duty Free, by Selected Benchmark Years

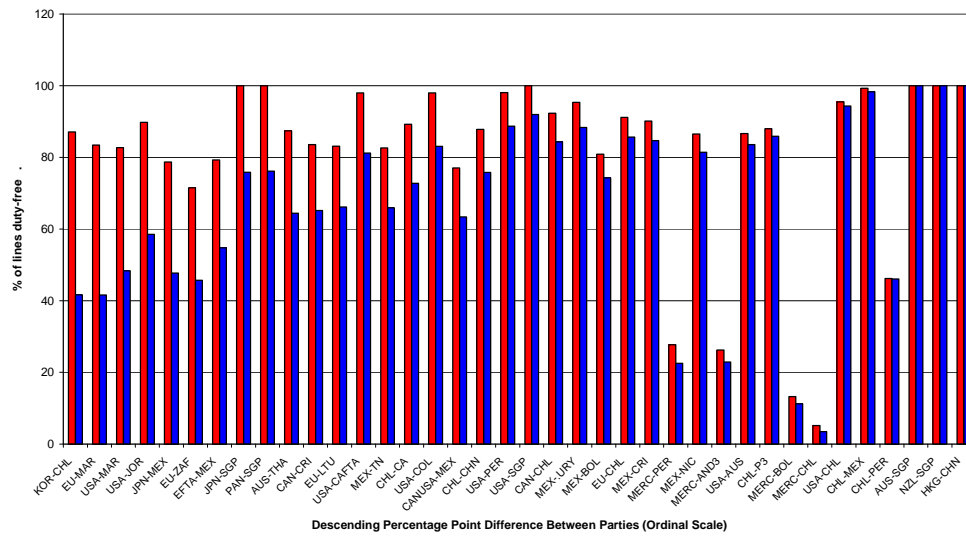


**Figure 1(b) - % of Tariff Lines Duty Free, by Selected Benchmark Years**

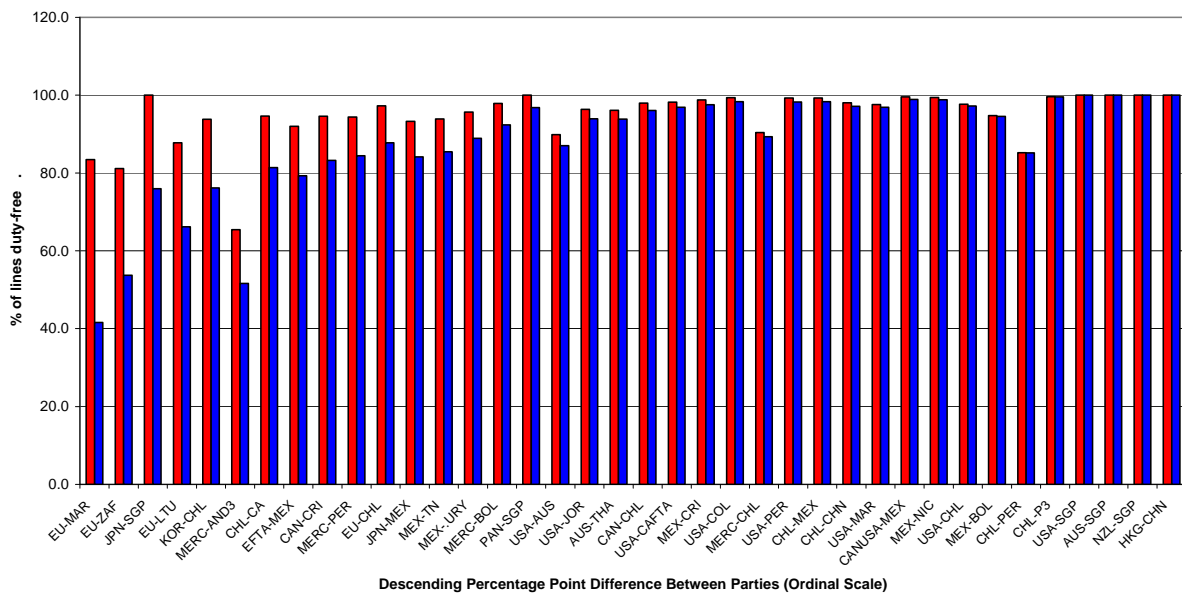


Figures 2a and 2b assess the extent to which tariff elimination is reciprocal among the RTA members by the benchmark years 5 and 10. They are sorted in a descending fashion from the least to the most reciprocal. While the parties' respective product coverage's often diverge markedly in year 5, with some partners (such as Korea) liberalizing up to twice as many lines as their partners (such as Chile), the differences shrink considerably by year 10 with the exception of EU's agreements with Morocco and South Africa.

**Figure 2(a) - Reciprocity of Concessions: Year 5**



**Figure 2(b) - Reciprocity of Concessions: Year 10**

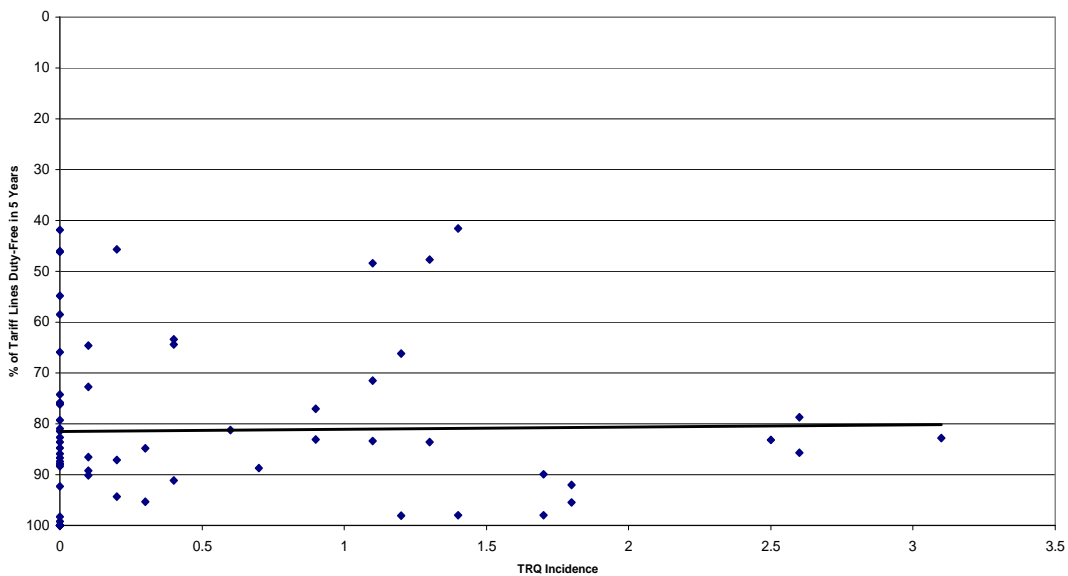


Figures 3a and 3b display the relationship between tariff elimination and the incidence of TRQs in the 5- and 10-year benchmarks. Tariff elimination (y-axis) uses a reverse scale, so that values closer to the origin denote greater liberalization. While the figures measure the progress of tariff elimination at different points in time, TRQ incidence is here treated as time invariant (so that if a TRQ is completely phased out by year 9, it will appear in the figures for both year 5

and year 10). To be sure, many RTAs do not have TRQs; in such cases, the points are concentrated along the y-axis. Some agreements entail very rapid tariff elimination, with a handful of sensitive products being subject to TRQs. These appear lower on the y-axis, yet feature a significant TRQ incidence.

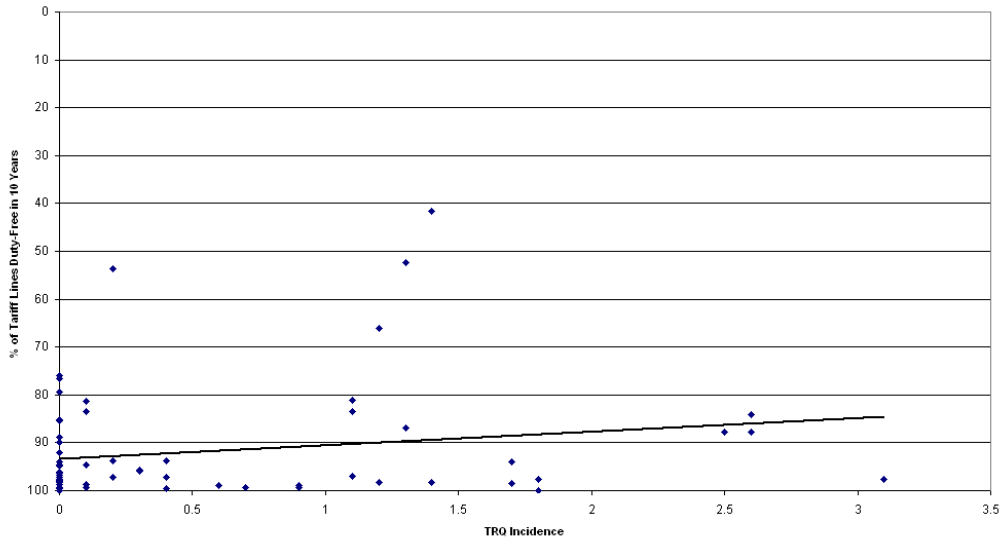
Note that TRQs in RTAs are usually additional to TRQ entitlements under the WTO Agreement on Agriculture, so that the RTA parties' existing entitlements are not affected. Nevertheless, in quota-controlled markets where the Agreement on Agriculture allocates quotas to several supplying countries, the expansion of the quota of one supplying RTA partner will put downward pressure on prices, causing some erosion in the quota rents available to all quota-holders, while only the RTA partner is compensated by increased market access. Given the possible negative impact on other quota-holders, it is not clear that TRQs in RTAs are consistent with the WTO rules on quotas. It is also unclear whether Article XXIV provides a dispensation from those rules—or from GATT Article I.<sup>15</sup>

**Figure 3(a) - Duty-Free Lines in 5 Years vs. TRQ Incidence**



<sup>15</sup> GATT Article I establishes disciplines on general most favored nation treatment and for preferential margins in arrangements that are mentioned in the article. The Appellate Body in the dispute *Turkey –Restrictions on Imports of Textile and Clothing Products* found that a dispensation could be available in cases where it could be shown that the proposed measure is essential to the formation of the PTA, but did not set the criteria by which this condition could be fulfilled in practice.

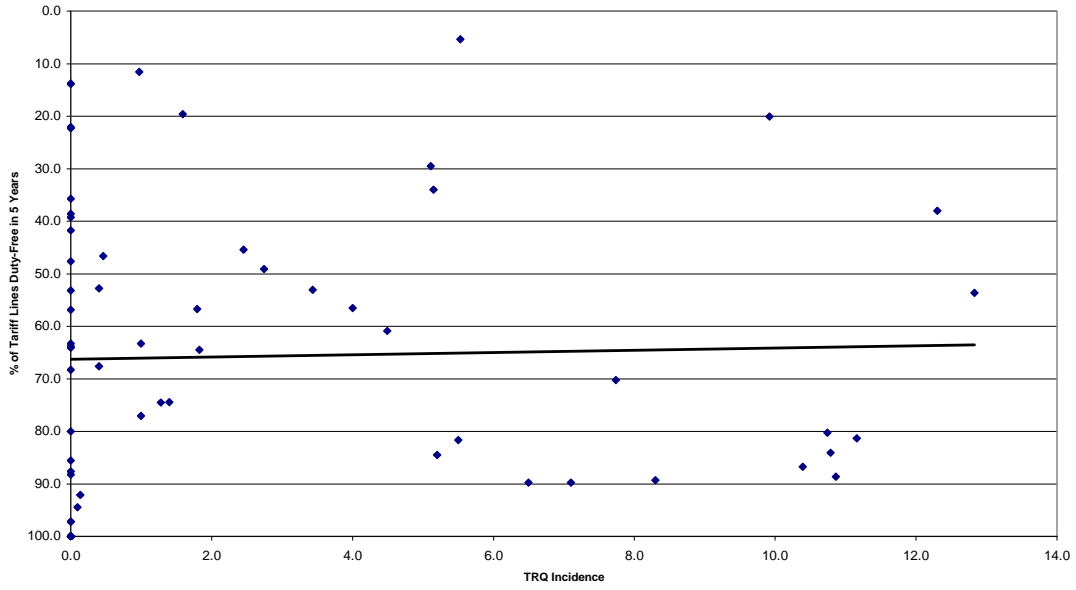
**Figure 3(b) - Duty-Free Lines in 10 Years vs. TRQ Incidence**



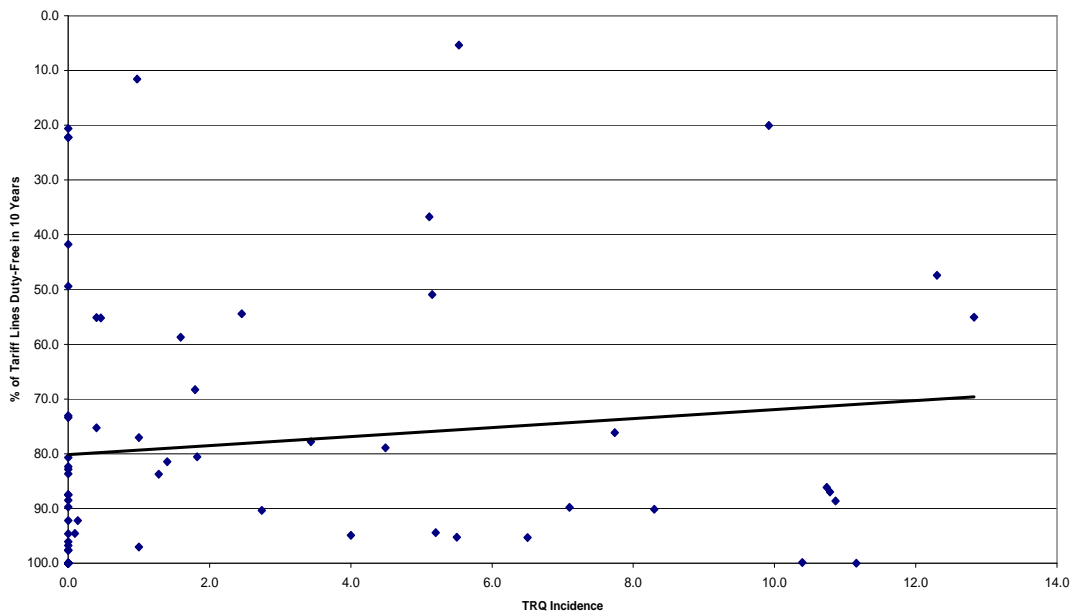
The aggregate tariff reduction statistics return a narrow range of averages for all of the agreements, but disguise what could be expected to be important variation in the speed of liberalisation across product categories.<sup>16</sup> Figures 4a and 4b take the first cut at the sectoral data, examining the relationship between tariff elimination and the incidence of TRQs for agricultural products. The figures indicate a stronger positive relationship between the two indicators than that emerging from the aggregate analysis. As such, they are suggestive of the sensitivity of agricultural products for many RTA partners. Box 1 and tables 2 and 3 detail the operation of TRQs in CAFTA.

<sup>16</sup> Viewing the percentages of lines that are duty-free by a certain benchmark year (e.g., year 10) by two-digit HS chapters may be ideal given that the level of disaggregation is detailed enough to provide distinct product categories. A four-digit approach may be useful as well, but can be excessively complex and disguise the more general trends. The best method could be to identify some two-digit chapters that have the least comprehensive tariff elimination, and then use these as priors to conduct four-or six-digit analysis *within* these chapters

**Figure 4(a) - Agricultural Duty-Free Lines in 5 Years vs. TRQ Incidence**



**Figure 4(b) - Agricultural Duty-Free Lines in 10 Years vs. TRQ Incidence**



### **Box 1: Tariff Rate Quotas in CAFTA**

The United States presented a single schedule of tariff concessions to the Central American countries and the Dominican Republic in CAFTA. However, there are some differences in the actual concessions to each Latin American party. The differences in treatment arise from the granting of immediate elimination of duties for finite quantities of some goods by means of a tariff rate quota. While some of the parties receive duty-free access under a quota, others do not, and while the products subject to quotas are similar across the parties, the quantities vary widely among them (table 2).<sup>17</sup> The differences can have substantial implications, as the products in question are among the most sensitive, and as the tariff reduction takes a long time and may be subject to grace periods before actual reductions begin.

Each of the Central American parties and the Dominican Republic has their individual schedules on products entering from the United States. The concessions are rather similar for the various product categories among these countries. Table 3 displays the TRQs by the Central American countries and the Dominican Republic on the United States.<sup>18</sup> Indeed, while there are some differences in the tariff elimination treatment within Central America for individual products and for the in-quota quantities, the products on which the Central American parties open TRQs tend to be very similar. The Dominican Republic has a slightly different list of products than the Central American parties do; however, the differences can in part be explained by the aggregation of the TRQ in terms of product coverage.

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<sup>17</sup> These tables are summary versions of those used in the Comparative Guide to the Chile-United States Free Trade Agreement and the Dominican Republic-Central America-United States Free Trade Agreement, a joint project of the Tripartite Committee (IDB, OAS, and ECLAC). The categories in the US table are in order of appearance in the US General Notes, while those for the Central America/Dominican Republic table are an alphabetized common set.

<sup>18</sup> TRQs between the Dominican Republic and Costa Rica and Nicaragua are also part of the Agreement, but are not shown in these tables.



**Table 2 - Products Subject to Tariff Rate Quotas in CAFTA: US Tariff Quotas on Products Entering from Central America and the Dominican Republic**

Product Category	Out-of-Quota Tariff Elimination Treatment <sup>1</sup>	Initial Quantity <sup>2</sup>						Unit
		CRI	DOM	SLV	GTM	HND	NIC	
Beef	15 year	10,536	1,320	105	*	525	10,500	Metric tons
Sugar <sup>3</sup>	Continued MFN	11,000	10,000	24,000	32,000	8,000	22,000	Metric tons
Sugar (Organic) <sup>4</sup>	Continued MFN	2,000 <sup>2</sup>	*	*	*	*	*	Metric tons
Peanuts	15 year, non-linear, 6 year grace period	*	*	500	*	*	10,000	Metric tons
Peanut Butter	15 year	*	*	*	*	*	280	Metric tons
Cheese	20 year, 10 year grace period	300	413	450	500	350	625 (250 <sup>5</sup> )	Metric tons
Milk Powder	20 year, 10 year grace period	50	*	*	*	*	*	Metric tons
Butter	20 year, 10 year grace period	50	*	60	*	100	*	Metric tons
Other Dairy Products	20 year, 10 year grace period	150	110 (220 <sup>6</sup> )	120	250	*	100	Metric tons
Ice Cream	20 year, 10 year grace period	97,087	160,194	77,670	194,174	48,544	266,989	Liters
Fluid Fresh Milk and Cream, and Sour Cream	20 year, 10 year grace period	407,461	*	366,715	305,596	560,259	254,663	Liters
Ethyl Alcohol (Central America originating)	Immediate	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	Gallons
Ethyl Alcohol (non-Central America originating)	Most Favored Nation	31,000,000 <sup>7</sup>	*	6,604,322 <sup>7</sup>	*	*	*	Gallons

Source: Adapted from: Tripartite Committee, *Comparative Guide to the Chile-United States Free Trade Agreement and the Dominican Republic-Central America-United States Free Trade Agreement*, based on TRQ Annexes to CAFTA Agreement.

1 In-quota imports shall be free of duty as of entry

2 With the exceptions of imports of "Sugar (Organic)" and "Ethyl Alcohol (non-Central America originating)" from Costa Rica, which remain fixed, access quantities will be subject to growth over time.

3 TRQ access based on trade surplus condition.

4 A fixed 2,000 MT TRQ was allocated by the U.S. to Costa Rica for organic sugar under the U.S. specialty sugar TRQ, and applies to tariff lines AG17011110, AG17011210, AG17011910, AG17019910, AG17029010, and AG21069044.

5 In the case of Nicaragua, an additional initial quantity of 250 metric tons applies to 5 tariff lines of the 52 total tariff lines making up the entire Cheese TRQ.

6 In the case of the Dominican Republic, an additional initial quantity of 220 metric tons applies to 4 tariff lines of the 46 total tariff lines making up the entire Other Dairy Products TRQ.

7 Or 10 percent of the base quantity of dehydrated alcohol and mixtures established under Section 423, whichever is lesser.

\*No TRQ.

**Table 3 - Products Subject to Tariff Rate Quotas in CAFTA: Central American and DR Tariff Quotas on Products Entering from United States**

Product Category	Out-of-Quota Tariff Elimination Treatment <sup>1</sup>						Initial Quantity in Metric Tons <sup>2</sup>					
	CRI	DOM	SLV	GTM	HND	NIC	CRI	DOM	SLV	GTM	HND	NIC
bacon	*	10 year	*	*	*	*	*	220	*	*	*	*
beans	*	15 year	*	*	*	*	*	8,560	*	*	*	*
beef	*	*	15 year, NL, Special <sup>3</sup>	10 year	*	*	*	*	105	1,060	*	*
beef, prime and choice	*	15 year	*	*	*	*	*	1,100	*	*	*	*
beef, trimmings	*	15 year	*	*	*	*	*	220	*	*	*	*
butter	20 year, 10yr GP	10 year	20 year, 10yr GP	20 year, 10yr GP	20 year, 10yr GP	20 year, 10yr GP	150	220	100	100	100	150
buttermilk, curdled cream, and yogurt	*	*	20 year, 10yr GP	*	*	*	*	*	10	*	*	*
cheese	20 year, 10yr GP	*	20 year, 10yr GP	20 year, 10yr GP	20 year, 10yr GP	20 year, 10yr GP	410	*	410	450	410	575
cheese, cheddar	*	15 year	*	*	*	*	*	138	*	*	*	*
cheese, mozzarella	*	20 year, NL, 10yr GP	*	*	*	*	*	138	*	*	*	*
cheeses, other	*	10 year	*	*	*	*	*	138	*	*	*	*
chicken meat, mechanically de-boned	*	10 year	*	*	*	*	*	440	*	*	*	*
chicken leg quarters	17 year, NL, 10yr GP	20 year, NL, 10yr GP	18 year, NL, 10yr GP	18 year, NL, 10yr GP	18 year, NL, 10yr GP	18 year, NL, 10yr GP	330	550	0	21,810 <sup>6</sup>	0	0
corn, white	*	*	Con't MFN <sup>4</sup>	Con't MFN	Con't MFN	Con't MFN	*	*	35,700	20,400	23,460	5,100
corn, yellow	*	*	15 year, NL, 6yr GP <sup>4</sup>	10 year	15 year, NL, 6yr GP	15 year, NL, 6yr GP	*	*	367,500	525,000	190,509	68,250
fresh onions	Con't MFN	*	*	*	*	*	300	*	*	*	*	*
fresh potatoes	Con't MFN	*	*	*	*	*	300	*	*	*	*	*
frozen french fries	5 year	*	*	*	*	*	2,631	*	*	*	*	*
glucose	*	12 year	*	*	*	*	*	1,320	*	*	*	*
ice cream	20 year, 10yr GP	12 year	20 year, 10yr GP	20 year, 10yr GP	20 year, 10yr GP	20 year, 10yr GP	150	165	120	160	100	72,815 <sup>5</sup>
liquid dairy	*	*	20 year, 10yr GP	*	*	*	*	*	10	*	*	*
liquid milk	*	10 year	*	*	*	*	*	220	*	*	*	*
milk powder	20 year, 10yr GP	20 year, 10yr GP	20 year, 10yr GP	20 year, 10yr GP	20 year, 10yr GP	20 year, 10yr GP	200	2,970	300	400	300	650
other dairy products	20 year, 10yr GP	*	20 year, 10yr GP	10 year	20 year, 10yr GP	20 year, 10yr GP	140	*	120	182	140	50
pig fat	*	12 year	*	*	*	*	*	550	*	*	*	*
pork	15 year, 6yr GP	*	15 year, NL, 6yr GP <sup>4</sup>	15 year	15 year, NL, 6yr GP	15 year	1,100	*	1,650	4,148	2,150	1,100
pork cuts	*	15 year, NL, 6yr GP	*	*	*	*	*	3,465	*	*	*	*
rice, brown	*	20 year, NL, 10yr GP	*	*	*	*	*	2,140	*	*	*	*
rice, milled	20 year, NL, 10yr GP	20 year, NL, 10yr GP	18 year, NL, 10yr GP	18 year, NL, 10yr GP	18 year, NL, 10yr GP	18 year, NL, 10yr GP	5,250	8,560	5,625	10,500	8,925	13,650
rice, rough	20 year, NL, 10yr GP <sup>4</sup>	*	18 year, NL, 10yr GP <sup>4,5</sup>	18 year, NL, 10yr GP <sup>4</sup>	18 year, NL, 10yr GP <sup>4</sup>	18 year, NL, 10yr GP <sup>4</sup>	51,000	*	62,220	54,600	91,800	92,700
sorghum	*	*	15 year	*	*	*	*	*	263	*	*	*
turkey meat	*	12 year	*	*	*	*	*	3,850	*	*	*	*
yogurt	*	20 year, 10yr GP	*	*	*	*	*	110	*	*	*	*

Source: Adapted from: Tripartite Committee, *Comparative Guide to the Chile-United States Free Trade Agreement and the Dominican Republic-Central America-United States Free Trade Agreement*, based on TRQ Annexes to CAFTA Agreement.

GP = grace period; NL = non-linear.

1 With the exception of Milk Powder in the Dominican Republic, in-quota imports shall be free of duty as of entry into force of the Agreement.

2 With the exception of imports of "Chicken Leg Quarters" by Guatemala from the United States, where there are reductions in the duty-free quantity in several years, followed by unlimited access in year 18, access quantities will be subject to growth over time.

3 Duties in this category shall be reduced to 15% in year 1.

4 May be subject to performance requirements.

5 The aggregate quantity of goods entered into El Salvador from the United States under SAC provision 1006 shall be free of duty in any calendar year specified, and shall not exceed 3,000 MT for 'parboiled rough' rice or its equivalent 'parboiled milled' rice quantity in any such year. Parboiled milled equivalency shall be calculated according to a 0.7 conversion factor, where 1 MT of parboiled rough rice is equivalent to 0.7 MT of parboiled milled rice.

6 Quantities are measured in Liters for the Nicaragua Ice Cream TRQ.

\*No TRQ.

Figures 5 (a-c) displays in light gray the year-to-year evolution of liberalization by the 76 RTA parties over a period of 20 years.<sup>19</sup> The analysis is most relevant for RTAs that take the basket approach, and, in particular, for RTAs with a wide range of baskets. The percentage of duty-free national tariff lines in the overall total is calculated for each schedule. The bold line shows the average evolution of the various schedules. The figures also explore the parties' attainment of the hypothetical interpretation of Article XXIV by placing the bar for SAT at product coverage of 90 percent (vertical axis), while using year 10 (horizontal axis) as the benchmark time period for “reasonable length of time.”<sup>20</sup>

**Figure 5(a) - Evolution of Duty-Free Treatment in Selected RTAs**

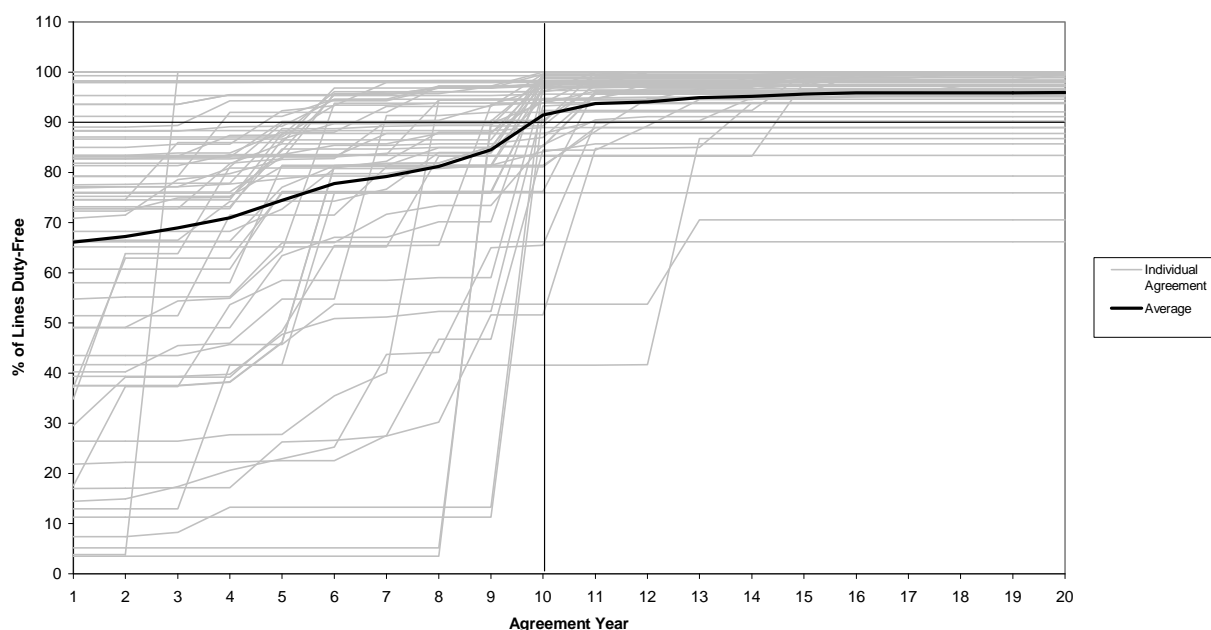


Figure 5(a) shows that while some countries employ a “stair-step” approach (stemming from the use of various gradual baskets) to tariff liberalization, others have constant percentage coverage of tariff lines in what could be characterized as a “now-or-never” approach. Still others

<sup>19</sup> The entry into force dates differ between agreements, thus the actual years of a given benchmark (e.g., agreement year 10) differ as well.

<sup>20</sup> Product coverage in terms of a benchmark based on trade, as opposed to tariff lines, may be more indicative of tariff liberalization, but is beyond the scope of the current analysis, due to the challenges of linking trade with tariff data at the product level. However, trade in a given product is also endogenous to the level of tariff protection on that product, although there may also be a tendency for tariff lines to be more highly concentrated in more some sectors as opposed to others; this concentration may differ across countries based on their varying criteria for creating tariff openings.

start from a low coverage, proceeding through one or two jumps to a near-100 percent coverage. The overall average lies slightly above 90 percent in year 10. However, there is wide variation across the parties, with a number of outliers lagging well behind the benchmark.

An interesting result is that while most concessions are made before year 10, there are much smaller movements in the subsequent years, and almost none after year 15. Overall, the findings echo those of (WTO 2002a) and (Scollay 2005), which note that RTAs in general do attain the 90 percent mark within 10 years. However, it should also be noted that a small number of agreements contain phase-outs even after year 20—although the number of products subject to prolonged phase-outs is quite small.

**Figure 5(b) - Evolution of Duty-Free Treatment in Selected RTAs: North-North Agreements vs. Agreements with a Southern Party**

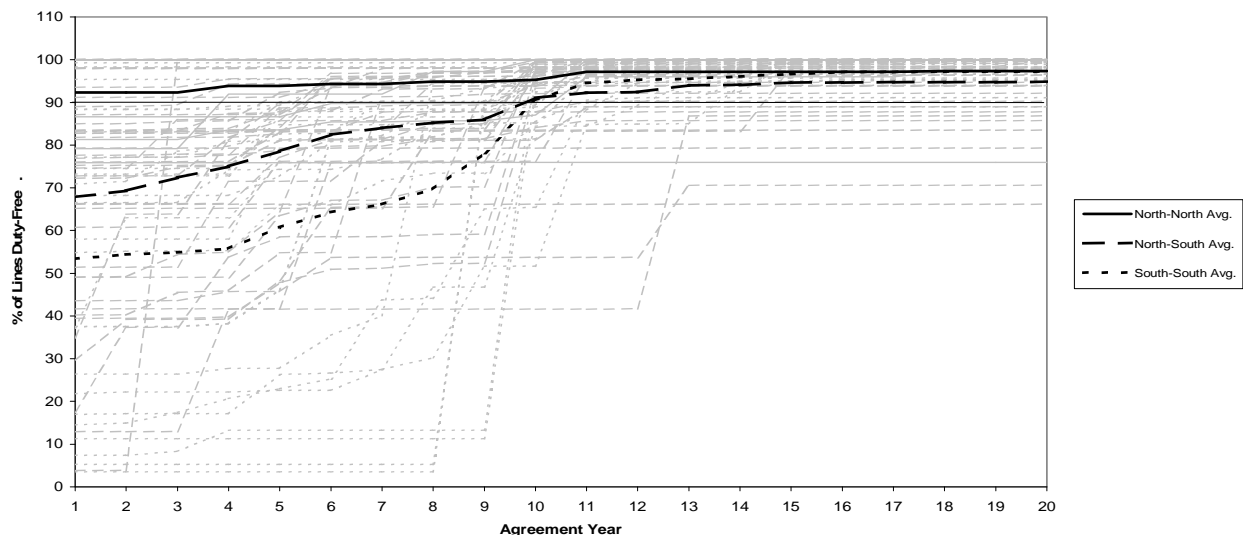


Figure 5(b) shows the evolution of duty-free treatment distinguishing between North-North (solid lines), North-South (broken lines), and South-South (dotted lines) agreements.<sup>21</sup> The averages for the three sets of lines are marked in bold. The North-North average is around 95 percent of tariff lines covered at year 10, while the North-South and South-South averages are slightly above 90 percent. This is a somewhat intuitive result given the sensitivity of agricultural

<sup>21</sup> A somewhat arbitrary definition of North versus South is used here. North consists of the EU, EFTA, United States, Canada, and the Pacific Rim economies except for China and Thailand.

products and the relative advantages of the developing nations in agriculture, as the overall average for all products in the figure is pulled upwards due to the larger number of industrial products than agricultural products in the data. The North-North average is also pulled upward by the treatment of Singapore as Northern country. Moreover, only five of the agreements are classified as North-North, and four of these have Singapore as a party.

**Figure 5(c) - Evolution of Sectoral Duty-Free Treatment in Selected RTAs**

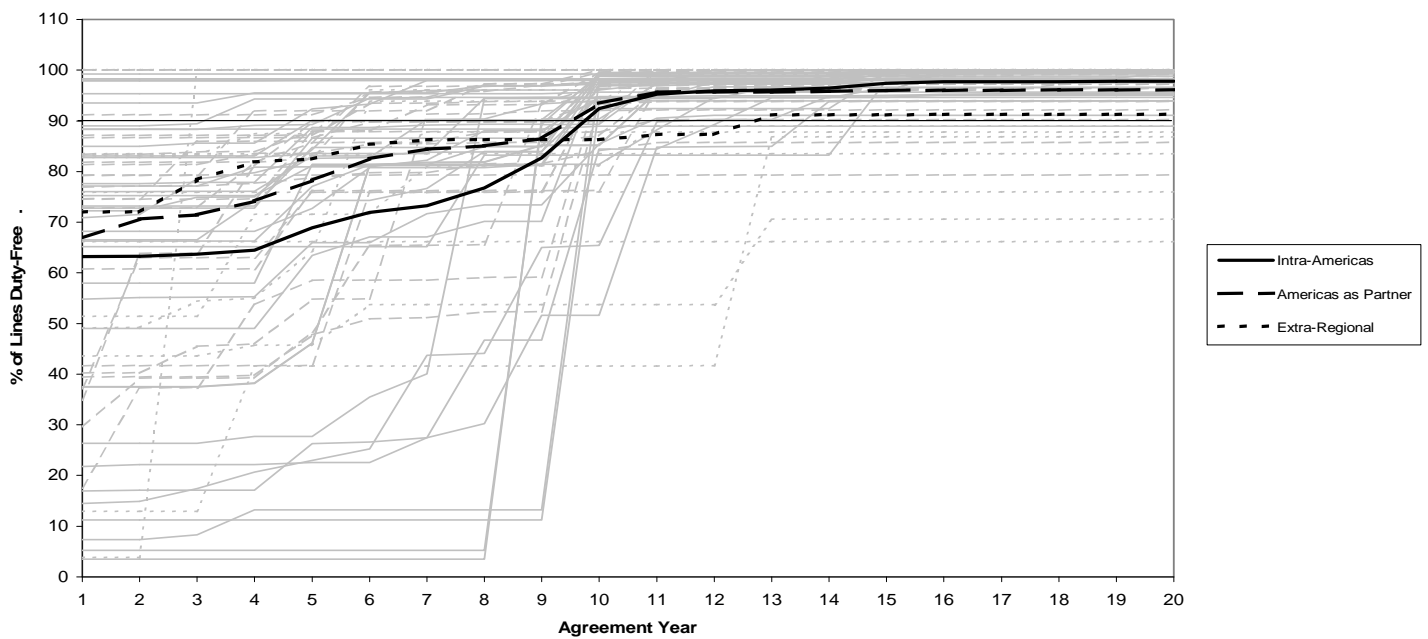


Figure 5 (c) turns to the sectoral data, showing the evolution of duty-free treatment for agricultural and industrial products (as grouped by the WTO), respectively. As expected, agricultural products are more highly protected than industrial products. On average, RTAs explored here liberalize only 78 percent of tariff lines in agriculture by year 10, while reaching duty-free treatment for 94 percent of industrial goods by the same point in time.

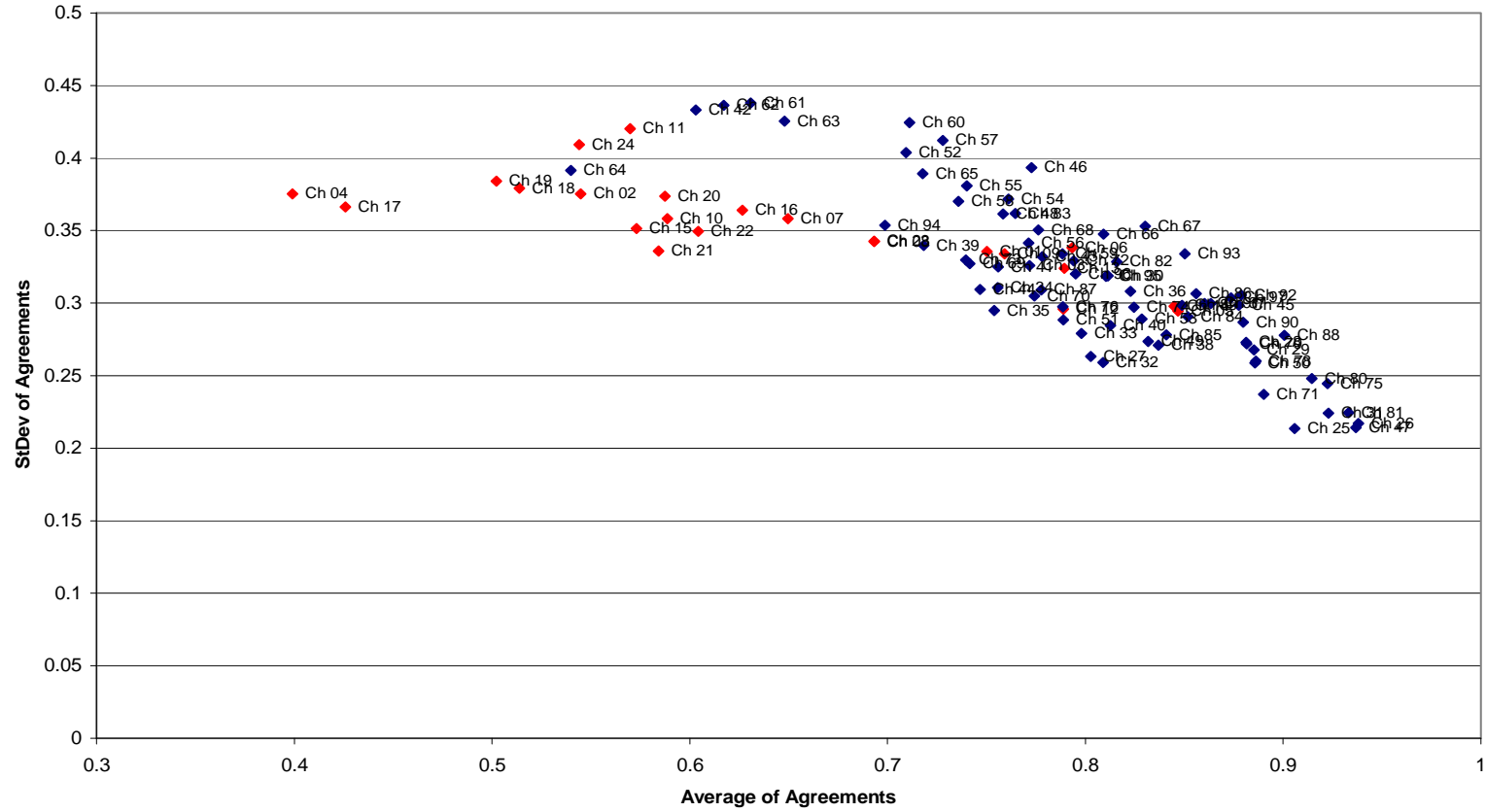
Figures 6(a) and 6(b) provide further nuance by measuring the average liberalization (x-axis) and dispersion of liberalization (y-axis) *across* 64 RTA partners' (in a total of 32 RTAs) liberalization schedules in the 97 Harmonized System chapters. The dots in red indicate chapters consisting entirely of agricultural products, while dots in blue refer to chapters consisting of industrial products.<sup>22</sup> The chapters in the southeast corner are those in which all RTAs analyzed here feature deep liberalization, with negligible dispersion values resulting.<sup>23</sup> Chapters in the northwest corner indicate limited liberalization across RTAs and particularly shallow liberalization in some RTAs, with high dispersion resulting. Figures 7a and 7b display the same data in box-plots.

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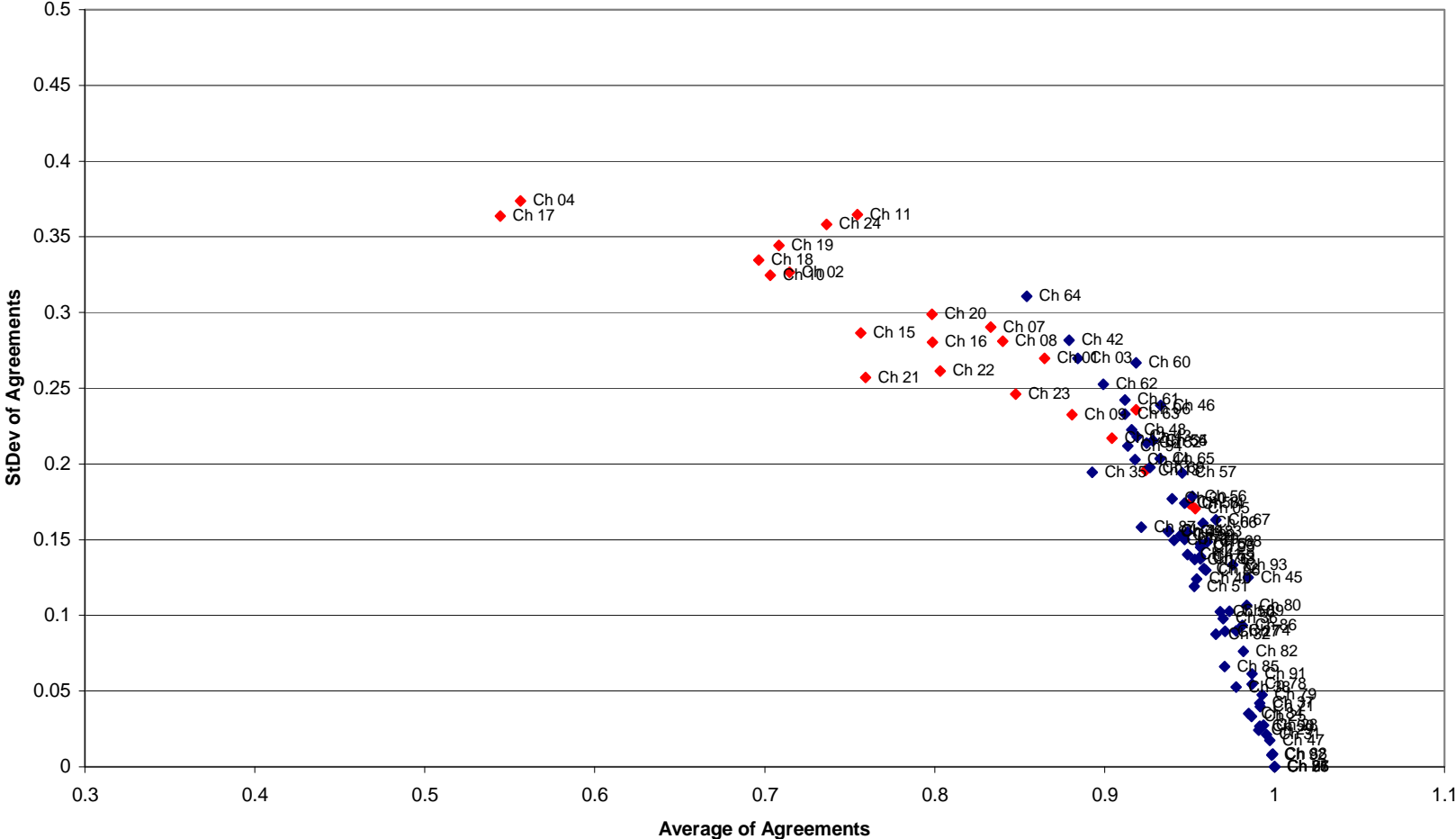
<sup>22</sup> For ease of presentation, in these figures chapters 1-24 (excluding chapter 3) are highlighted as agriculture. However, in the analyses of tariff liberalization statistics, agricultural and industrial products are defined at the 6-digit HS level.

<sup>23</sup> An average liberalization level of one (100 percentage coverage) will necessarily be accompanied by a standard deviation of zero, but there are cases where one chapter may exhibit a higher standard deviation (dispersion among agreements) than another for a given level of average liberalization, or vice versa.

**Figure 6(a) -Distribution of Liberalization by RTA Parties in Chapters, Year 5**

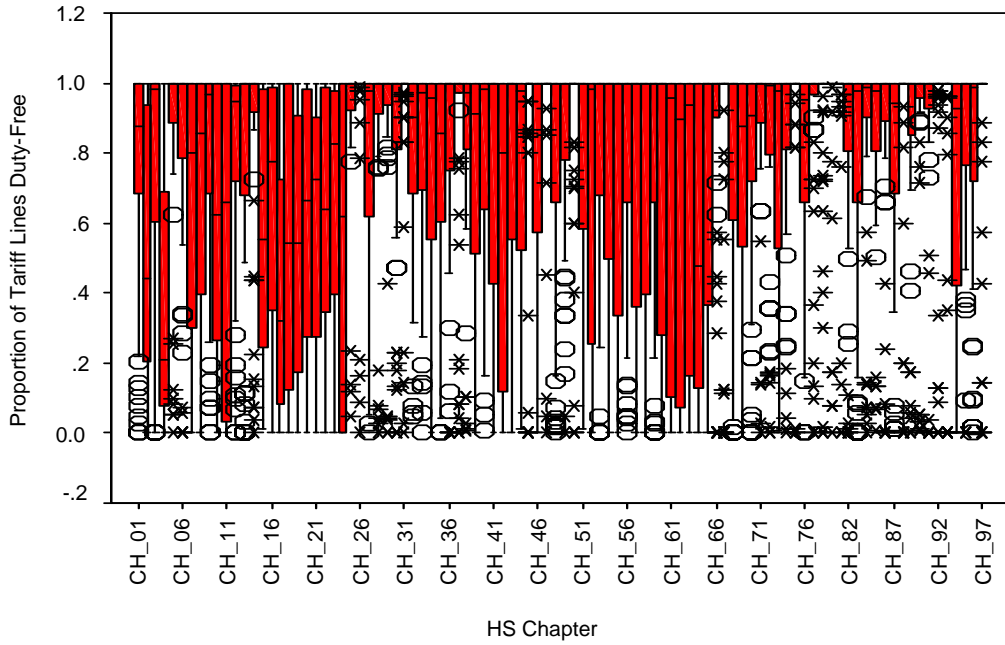


**Figure 6(b) - Distribution of Liberalization by RTA Parties in Chapters, Year 10**

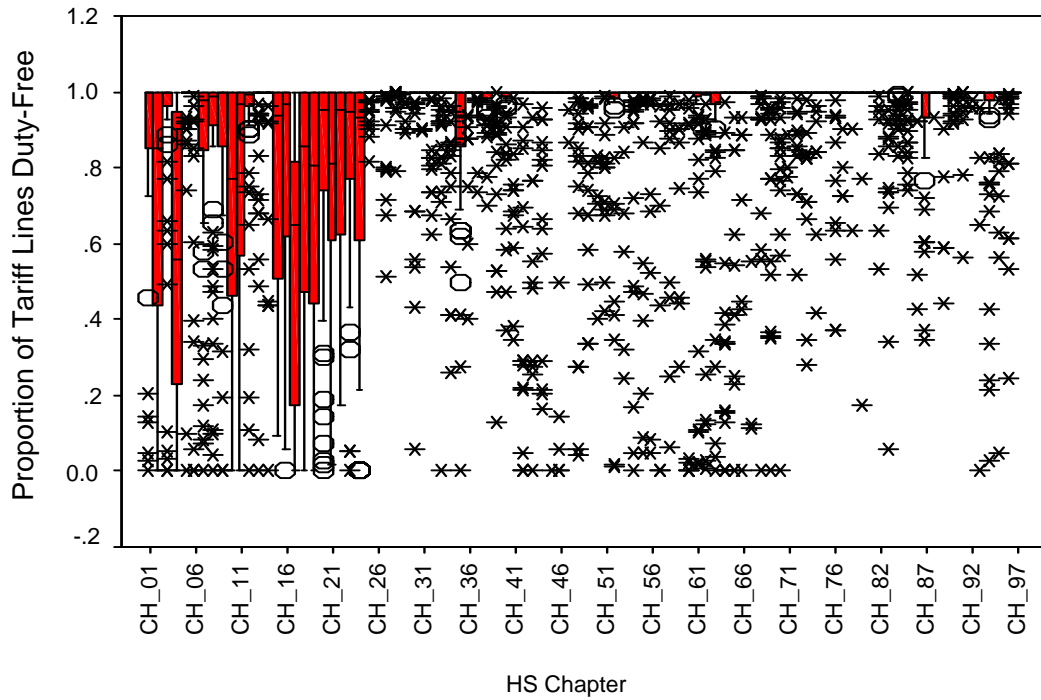




**Figure 7(a) - Distribution of Liberalization by RTA Parties in Chapters, Year 5**



**Figure 7(b) - Distribution of Liberalization by RTA Parties in Chapters, Year 10**



Boxplots represent interquartile ranges. The line in the middle of the box represents the median 50th percentile of the data. The box extends from the 25th percentile to the 75th percentile, or through the so-called inter-quartile range (IQR). The whiskers emerging from the boxes extend to the lower and upper adjacent values. The upper adjacent value is defined as the largest data point less than or equal to  $x(75) + 1.5 \text{ IQR}$ . The lower adjacent value is defined as the smallest data point greater than or equal to  $x(25) + 1.5 \text{ IQR}$ . Observed points more extreme than the adjacent values are individually plotted (outliers and extreme values are marked using “x” and “o” symbols, respectively).

The pattern is clear: agricultural chapters in RTAs feature the least liberalization and also the highest dispersion of liberalization across RTAs, indicating that these chapters are particularly protected in some RTA parties’ schedules. The figures also show the relatively slow pace of liberalization: on average, RTA parties liberalize well below 50 percent of tariff lines in the most sensitive chapters—dairy (ch. 04) and sugars (17) by the fifth year of the agreement, and less than 55 percent in several others, including meat, cocoa, prepared cereals and baked goods, tobacco, and footwear (02, 18, 19, 24, and 64, respectively), while sugar and dairy still remain below 60 percent at year 10.

Encouragingly, however, RTA parties on average liberalize more than 75 percent of tariff lines in the bulk of chapters by year 5 and more than 90 percent of tariff lines in most chapters by year 10. The fastest and deepest liberalization takes place in such non-sensitive products as ores (ch. 26), fertilizers (31), pulp of wood (47), and some base metals (81); perhaps one of the reasons is that these are inputs into other products.

The results indicate that most “action” in the extent of liberalization occurs in agricultural and textile and apparel products. To be sure, there is significant movement in the textile chapters between the 5- and 10-year benchmarks, while dairy and sugar show little additional liberalization. The differences across parties dissipate by year 10; the persistent variation in agriculture owes largely to the EU’s agreements where liberalization is postponed—at times in perpetuity, as is the case, for example, for certain live animals, meat, dairy, and sugar products originating in South Africa in the EU-South Africa RTA.

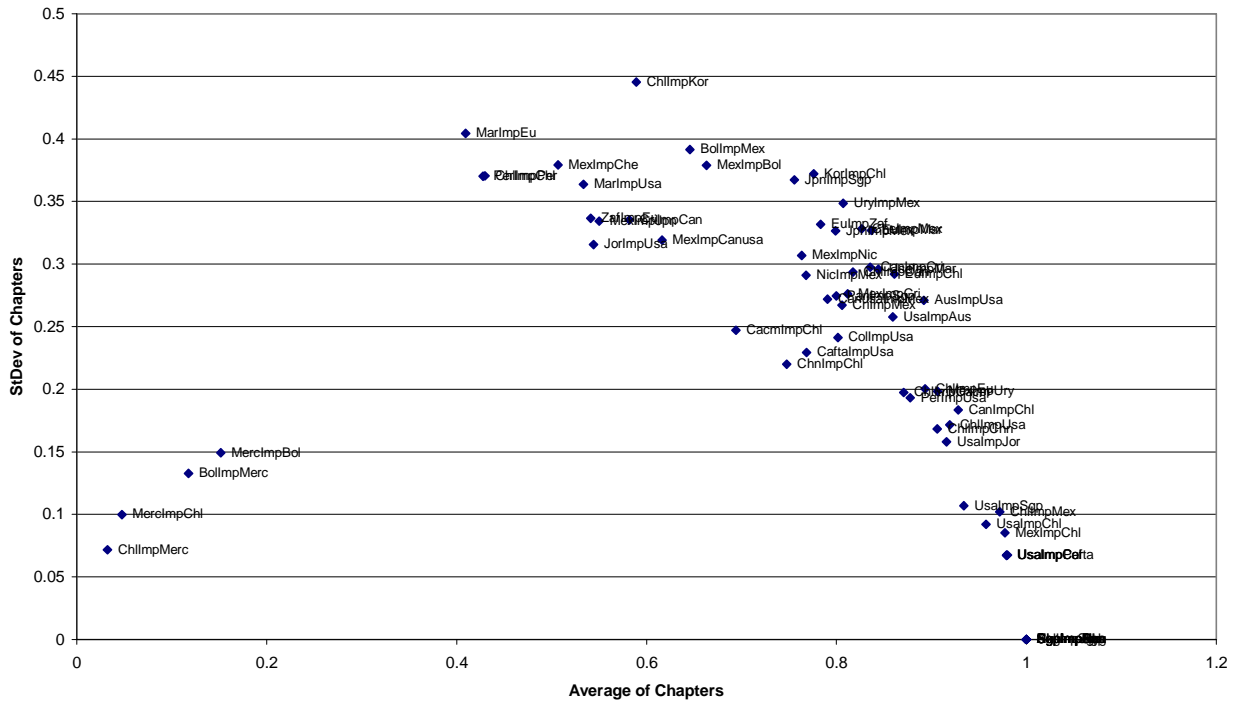
Figures 8(a) and 8(b) turn the analysis around, examining the degree of dispersion of liberalization in the 97 Harmonized System chapters *within* the liberalization schedules of 64 RTA parties. Parties in the southeast corner feature deep liberalization across-the-board.

Meanwhile, those in the northwest corner are marked by limited liberalization as well as by particularly limited liberalization in some chapters, which entails high dispersion of liberalization across chapters.<sup>24</sup> Figures 9a and 9b display the same information in box-plots. They provide an additional handle on the evolution of liberalization in RTAs. The bulk of RTA partners approach across-the-board liberalization by year 10; however, outlier sectors persist in many agreements.

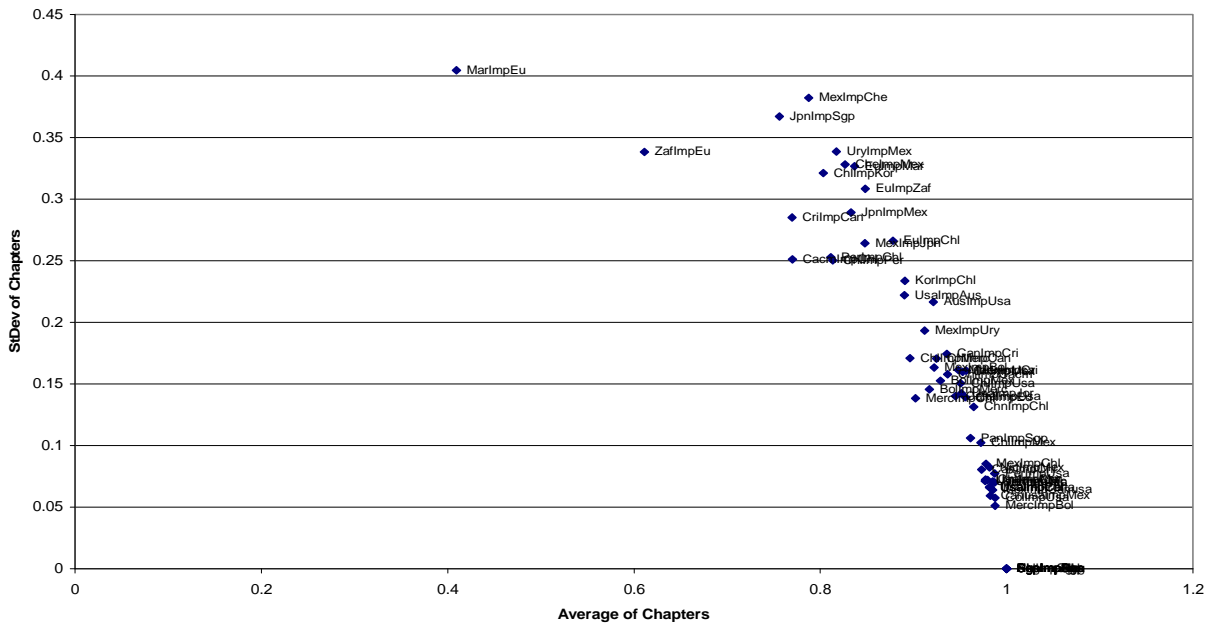
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<sup>24</sup> Again, in Figures 9 and 10, the importing country code precedes the “Imp” term while the partner country code follows it.

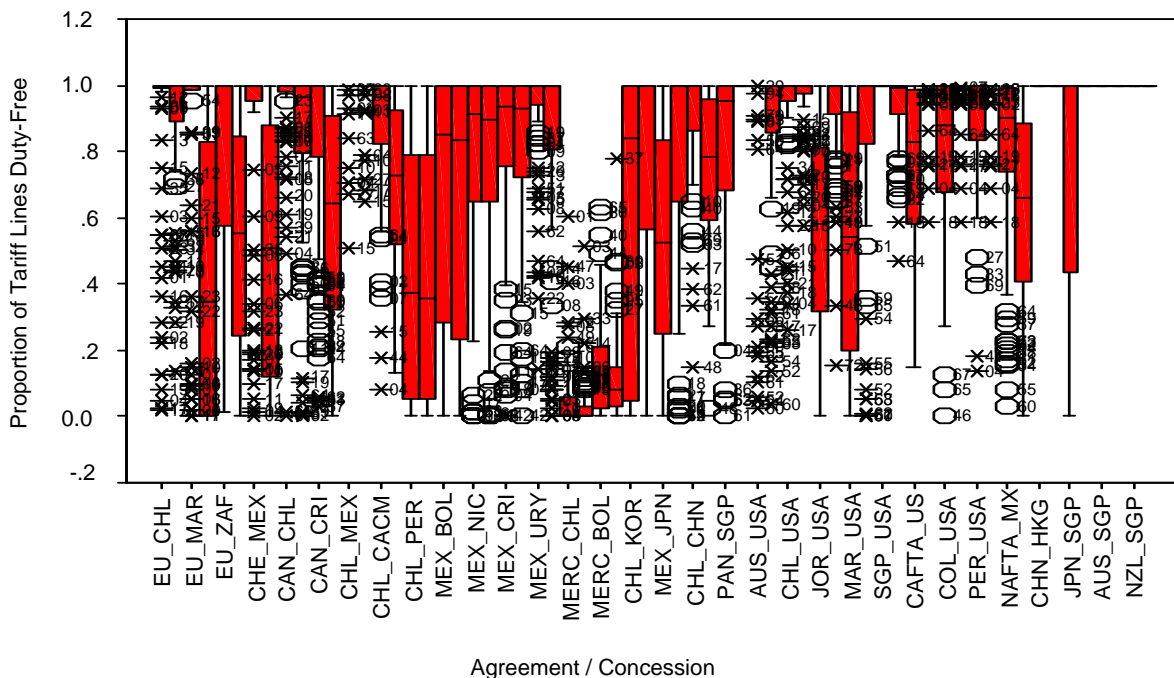
**Figure 8(a) - Distribution of Liberalization of Chapters in RTA Parties' Schedules, Year 5**



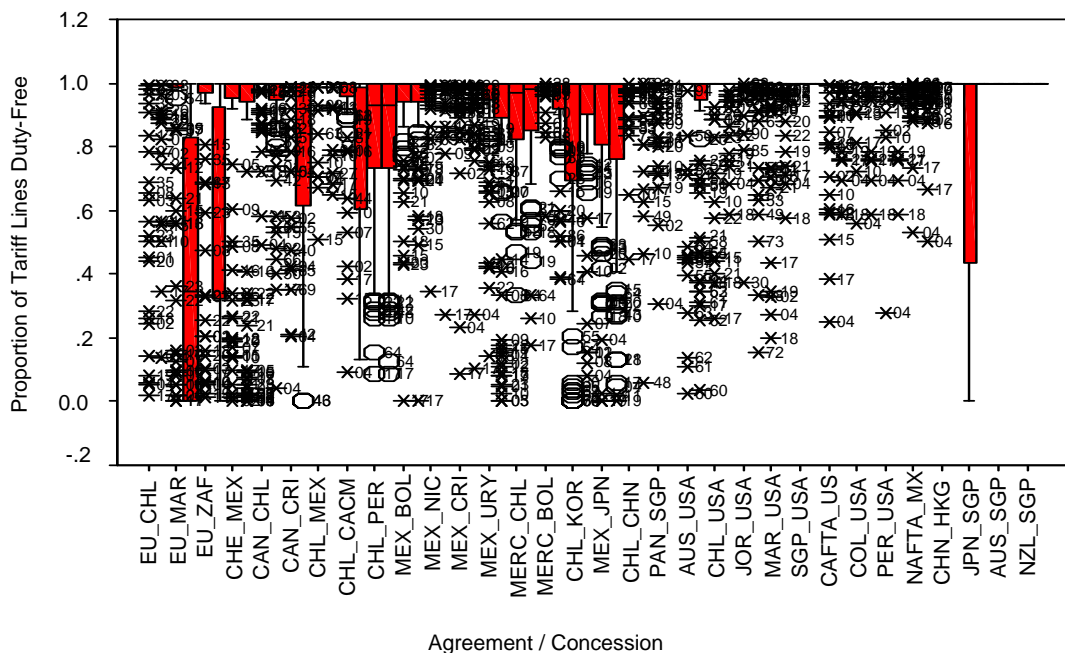
**Figure 8(b) - Distribution of Liberalization of Chapters in RTA Parties' Schedules, Year 10**



**Figure 9(a) - Distribution of Liberalization of Product Categories within RTA Parties' Schedules, Year 5**



**Figure 9(b) - Distribution of Liberalization of Product Categories within RTA Parties' Schedules, Year 10**



### **(3) New Approaches to Measuring SAT: Trade-Weighted Tariff Liberalization**

The measurement of SAT simply as a share of tariff lines fails to fully account for the exclusion of sensitive products from RTAs, if the products are covered in a very small number of tariff lines. Does RTAs' conformity with SAT vary, then, with the measurement that is employed?

We strive to shed light to this question by combining the data on liberalization as a share of tariff lines with data on trade flows. In particular, we introduce two alternative methods of exploring the depth and speed of liberalization in RTAs: liberalization statistics examined above as weighted by trade, and the percentage of total trade (imports) from the RTA partner that is completely liberalized.<sup>25</sup> By seeking to capture the economic significance of RTA concessions, the approach helps overcome the deficiencies of the measurements based on simple counts of tariff lines, and, as such, to further the debates on the appropriate definition for SAT.

Figure 10 takes the first cut, examining the evolution of the duty-free treatment as trade-weighted share of tariff lines. The similarity with the unweighted data in Figure 5a is striking. This is hardly surprising: most trade occurs in sectors that are opened up rapidly, while sectors with backloaded liberalization have a low share of the overall trade given that they also tend to feature the highest tariff and non-tariff barriers. To be sure, while the bolded averages in the two figures are also similar, they are not immediately comparable due to different numbers of observations—27 vs. 38 RTAs.

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<sup>25</sup> The calculations are based on COMTRADE data.

**Figure 10 - Evolution of Duty-Free Treatment as Trade-Weighted % of Tariff Lines**

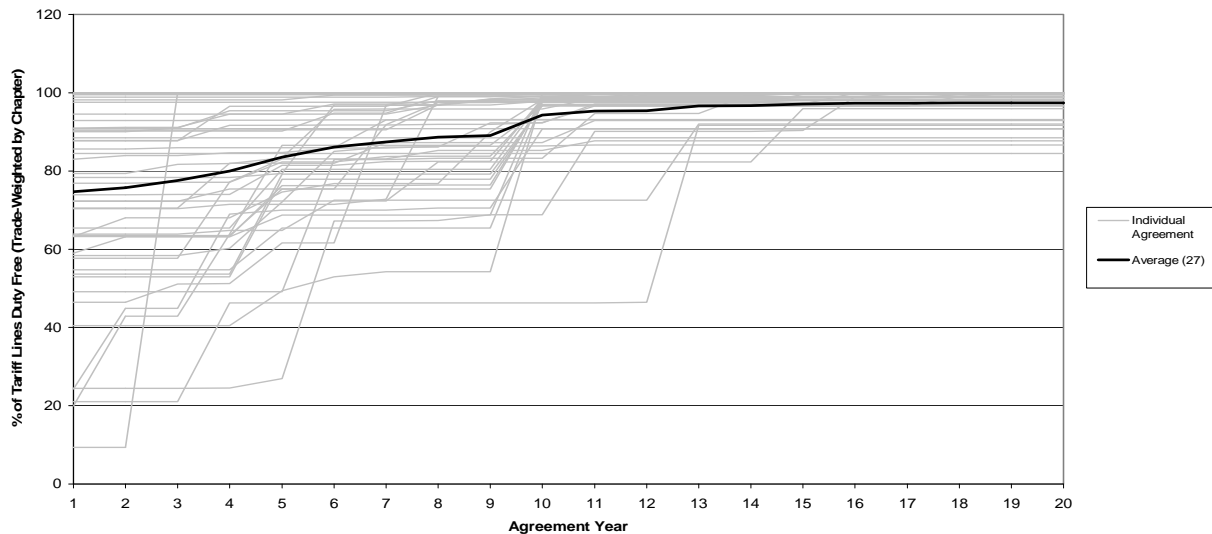
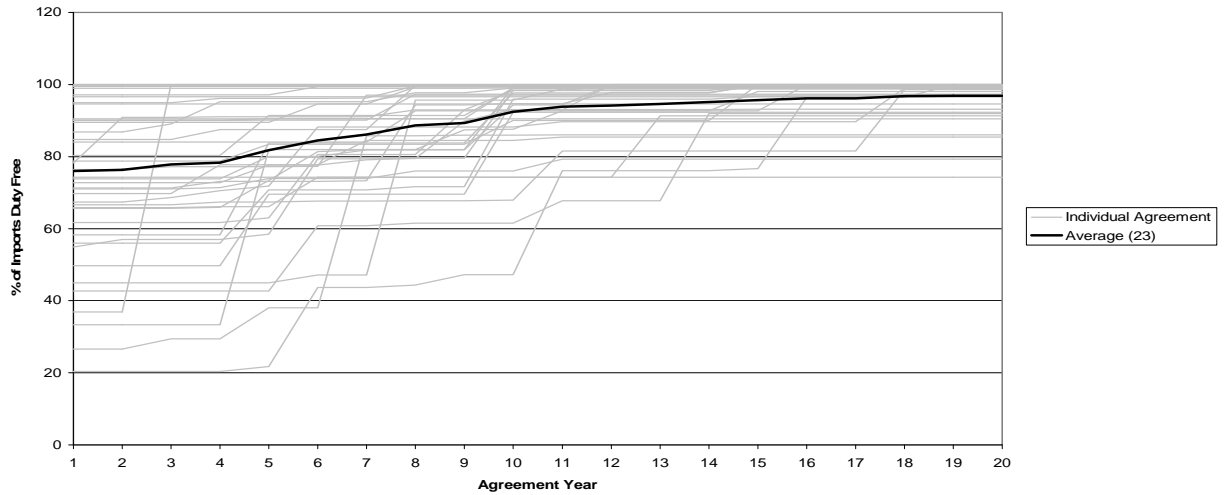


Figure 11 measures the evolution of duty-free treatment as a share of the imports from the partner that are liberalized. By this measure, RTA partners on average reach the 90 percent mark right at year 10.<sup>26</sup> The result could be seen as encouraging: RTA partners liberalize a larger share of trade than they do of tariff lines. However, again care should be taken not to compare the figure directly with figures 5a and 10 given that it contains an even less comprehensive dataset than that displayed in Figure 10 (23 RTAs). Moreover and importantly, the figure does not capture the *potential* trade among the RTA partners. Even if the share of actual trade excluded from an RTA were very small, the potential trade could be very significant in the absence of policy barriers.

<sup>26</sup> Ideally, imports were averaged over a three-year period immediately prior to the entry into force of the agreement. However, due to data availability constraints as well as to ensure consistency between versions of the Harmonized System, the number of years taken as well as the years themselves varied somewhat from party to party.

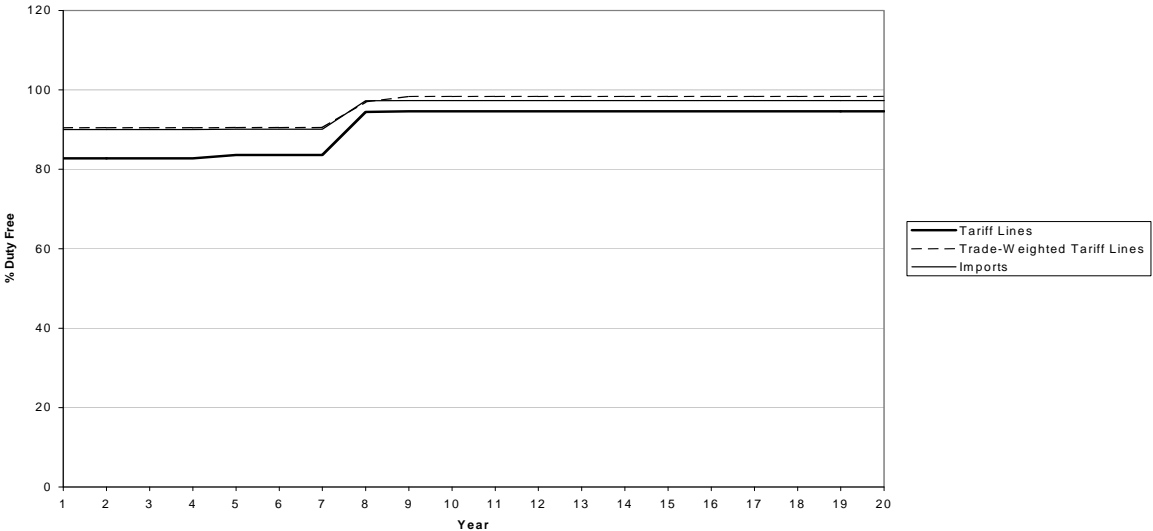
**Figure 11 - Evolution of Duty-Free Treatment as % of Imports**



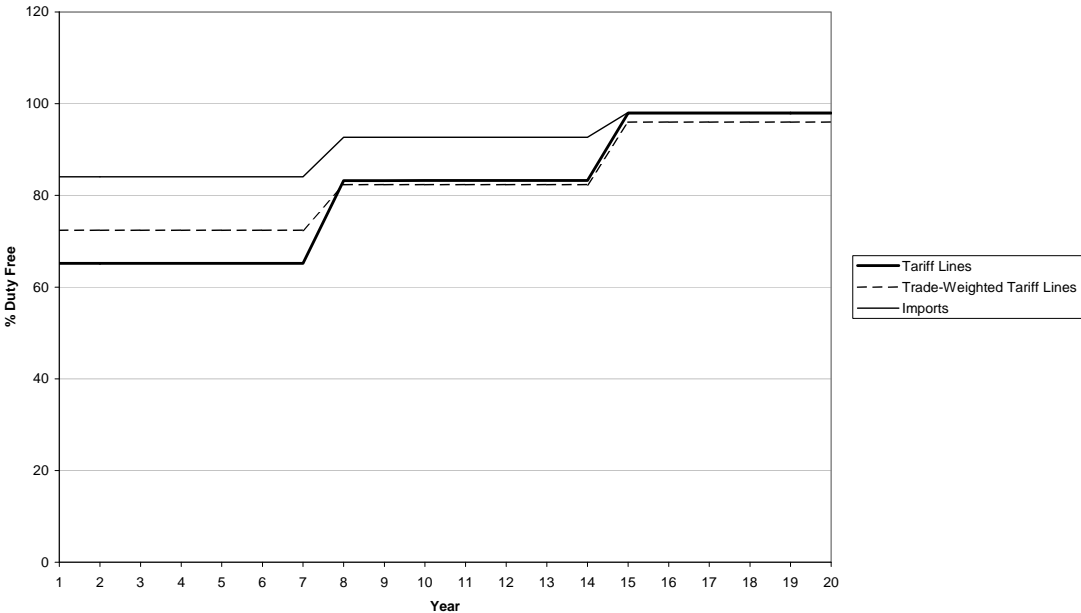
Figures 12(a-h) take a closer comparative look at liberalization under the three alternative measurements. They chart the evolution of the liberalization as an unweighted share of liberalized tariff lines, trade-weighted share of liberalized tariff lines, and share of liberalized imports by eight RTA parties in four RTAs—Canada-Costa Rica, Chile-Korea, EU-South Africa, and US-Morocco FTAs.



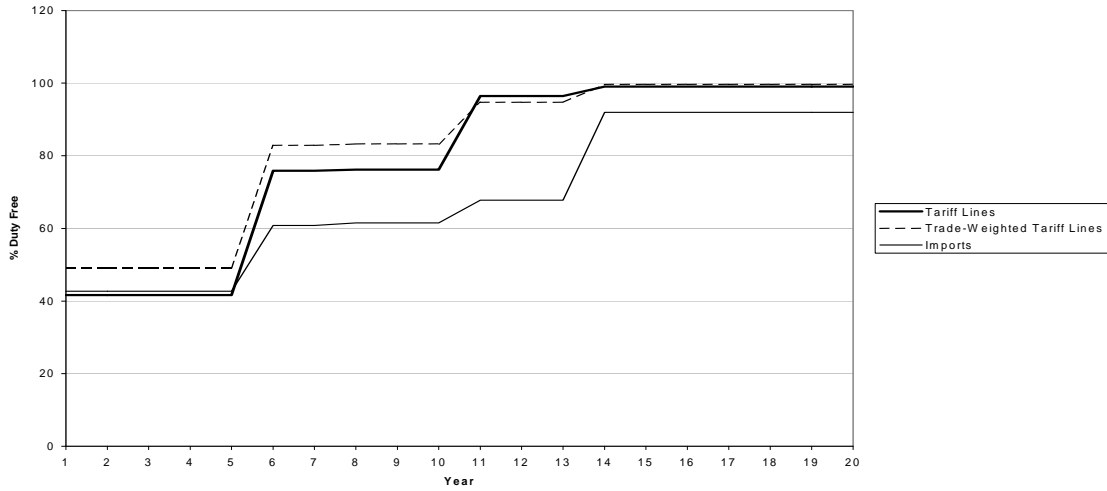
**Figure 12(a): Evolution of Duty-Free Access in Canadian Market for Costa Rican Goods: A comparison using various measures**



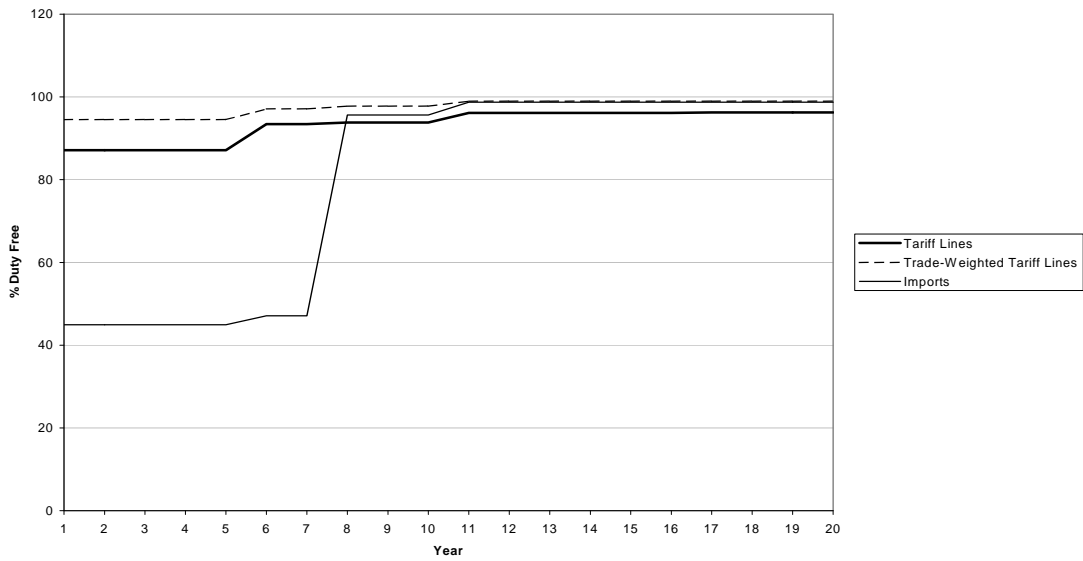
**Figure 12(b): Evolution of Duty-Free Access in Costa Rican Market for Canadian Goods: A comparison using various measures**



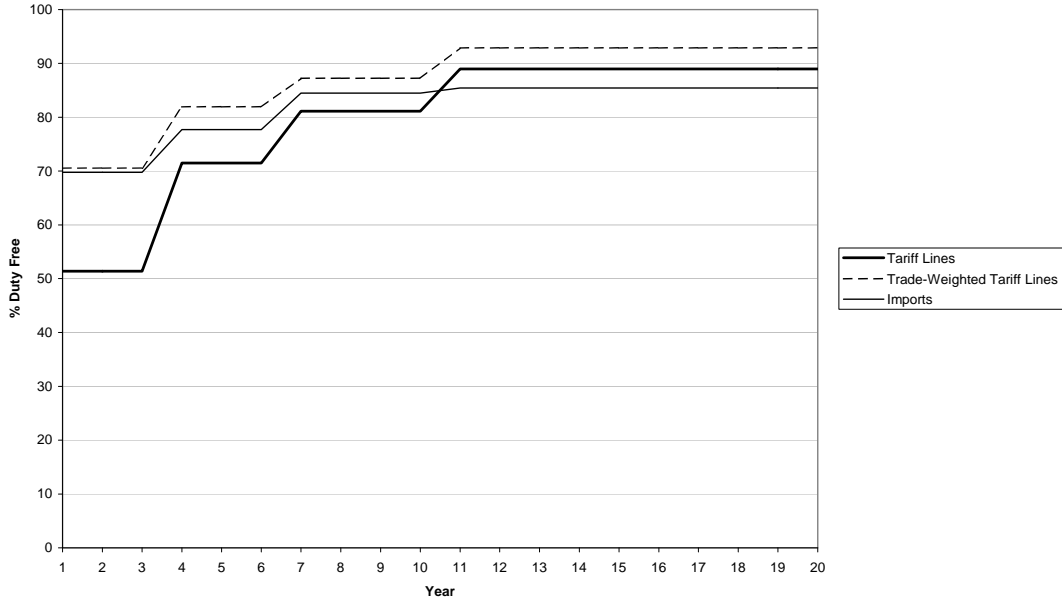
**Figure 12(c): Evolution of Duty-Free Access in Chilean Market for Korean Goods: A comparison using various measures**



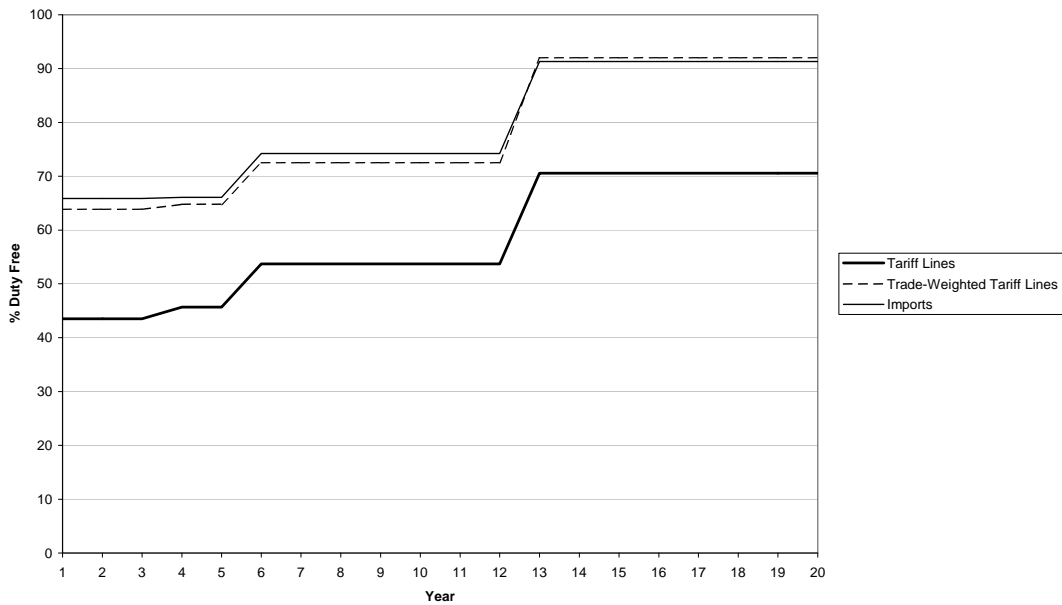
**Figure 12(d): Evolution of Duty-Free Access in Korean Market for Chilean Goods: A comparison using various measures**



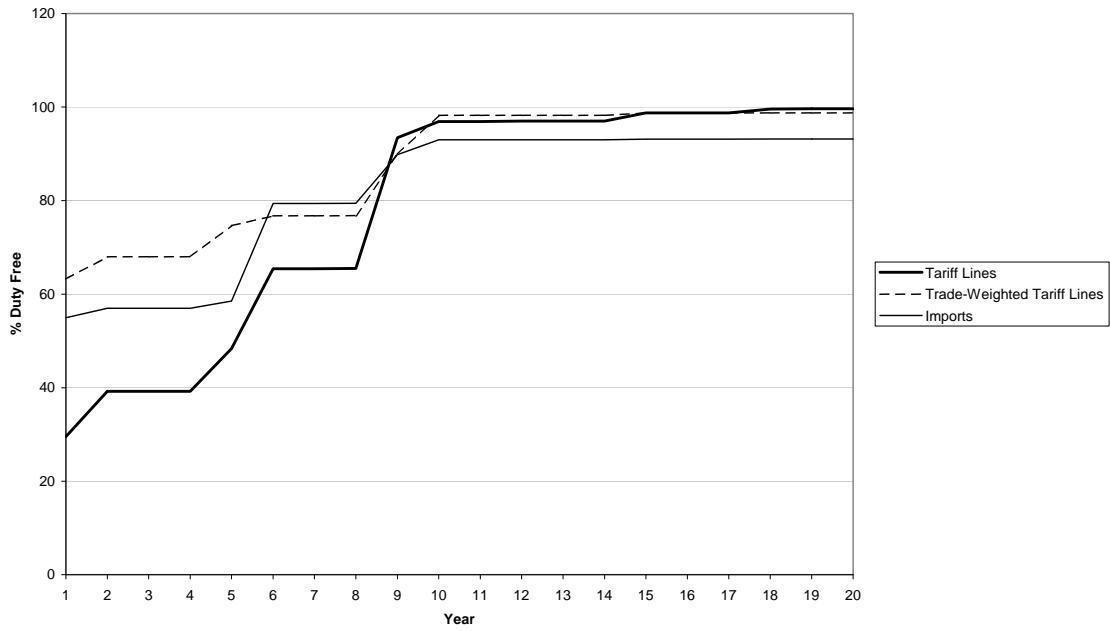
**Figure 12(e): Evolution of Duty-Free Access in EU Market for South African Goods: A comparison using various measures**



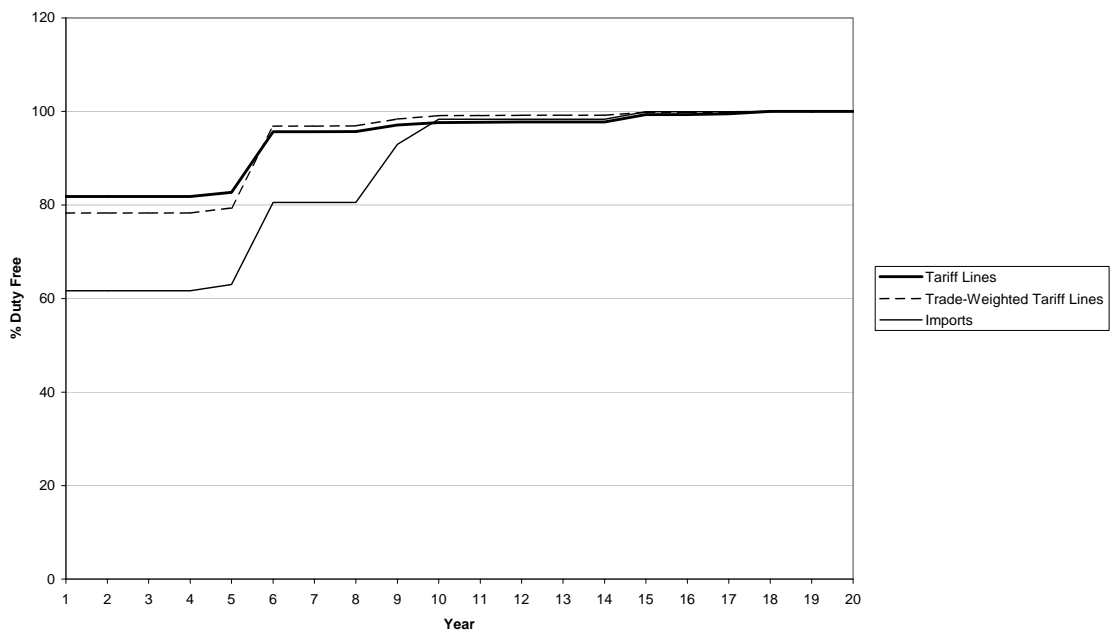
**Figure 12(f): Evolution of Duty-Free Access in South African Market for EU Goods: A comparison using various measures**



**Figure 12(g): Evolution of Duty-Free Access in Morrocan Market for US Goods: A comparison using various measures**



**Figure 12(h): Evolution of Duty-Free Access in US Market for Morrocan Goods: A comparison using various measures**



While the paths of the three measurements tend to mirror each other, liberalization as a share of trade-weighted lines and as a share of actual imports tends to be deeper in some cases (as in EU-South Africa RTA) and shallower in others (as in Chile-Korea FTA) than conveyed by the simple counts of tariff lines. To be sure, the result does not necessarily hold throughout the entire analyzed time period. In any case, measuring liberalization as a share of tariff lines often either under- or over-estimates (1) the importance of the bilateral trade in some tariff lines; and (2) the extent of trade that actually enters free of duty.

RTAs where liberalization appears deeper when trade data is entered are not necessarily highly liberalizing. Rather, the results may simply indicate that much of the trade between the partners is free of duty even prior to the RTA's entry into effect, which in essence would confirm the endogeneity of trade to the level of protection. In contrast, in some cases—Chile-Korea FTA and US schedule in the US-Morocco FTA—the share of liberalized imports trails that of liberalized lines.<sup>27</sup> The bulk of actual trade in these schedules is subject to tariffs, which can be taken to indicate that while tariffs persist on much of trade, they are not prohibitive of trade. Further iterations of this paper can explore these hypotheses.

Overall, the results here echo the above findings on the differences between Northern and Southern parties' liberalization paths. However, there are some notable exceptions. For instance, Morocco markedly attains the 90 percent mark under each of the three liberalization measures by year 10 in its FTA with the EU, and Costa Rica does so in the Costa Rica-Canada FTA when liberalization is measured as a share of duty-free imports. Meanwhile, the EU does not attain the 90 percent mark even by year 20 in the EU-South Africa FTA except under the trade-weighted tariff lines measure, which evinces the persistence of barriers in sensitive agricultural products in EU's schedule.

Again, none of the figures captures the extent of *potential* trade between partners. Sectors with backloaded liberalization also tend to feature the highest tariffs, which mean that they could also generate the greatest payoffs from liberalization. Indeed, measures based on potential trade, if possible, could well yield very different results. To be sure, a thorough analysis of potential trade would need to take into account such factors as total trade with the world and/or domestic production or consumption data.

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<sup>27</sup> The Korea-Chile FTA is analyzed in detail by the WTO (2005).

In a sense the question of potential trade is only of academic interest because WTO members are unlikely to agree on estimating the amount of trade that would occur in the absence of restrictions. Nevertheless, the issue is potentially of considerable practical importance in cases where prohibitive or near-prohibitive tariffs or quantitative restrictions seriously inhibit trade in sensitive products. In such cases, the party that aims to insulate its sensitive products might be able to do so while claiming that only a minimal percentage of the existing trade is affected by the exclusion—yet, the potential trade that is being excluded could be very substantial.

## **B. RTA Coverage: Aggregate Provisions**

This section strives to complement the tariff-line data by exploring the coverage of the various market access commitments contained in the main texts of 50 RTAs. The mapping is based on a three-level matrix. The first level covers five main issue areas: NTMs, other measures, special regimes, RoO, and customs procedures. The second level is composed of disaggregated sets of issues falling under the main issue areas; the third level disaggregates the matrix further, carrying 19 provisions for NTMs, 1 provision for other measures, 15 provisions for special regimes, 26 for RoO, and 22 provisions for customs procedures. The three levels are displayed in Appendix I-1, along with definitions for the second level provisions. There are also two sectoral matrices for agriculture and textiles that are populated when the tariff liberalization chapter of an RTA carries a separate chapter, section, or annex on provisions in these sectors (appendix I-2).

While the structure of the matrix draws on various different RTAs and RTA types, perhaps the greatest weight in the design of the matrix is given to RTAs based on the structure of the North American Free Trade Agreement (NAFTA). The justification for doing so is that NAFTA is among the most detailed and comprehensive of trade agreements, and also increasingly important as a blueprint for many RTAs in the Americas and around the world. As such, the methodology strives to ensure that no major provisions are being left out—which could be the case were the matrix based on “thinner” agreements. However, the matrix is general enough to accommodate differently structured agreements.

### **(1) Methodology**

The methodology of the mapping as conducted at the second level of disaggregation aims to capture the coverage of market access provisions in the various RTAs. A provision in an

agreement is simply assigned 1 when the RTA covers it and 0 when it does not. The underlying criteria for the choice of the various provisions are two-fold—(1) to cover all provisions for which there are counterparts in the multilateral trade regimes [GATT, WTO Agreements, and the World Customs Organization (WCO) rules per the 1999 Revised International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention)]; and (2) to capture also provisions that are not included in the multilateral rules but that figure prominently in RTAs.

The coding is based on a liberal interpretation, so that 1 is assigned even when an agreement makes a relatively marginal reference to the provision; a stricter interpretation would result in a large number of zeros. For example, while some RTAs in the area of customs procedures have very detailed disciplines on the release of goods, including a specific timeline for the release, a clause on rapid release, and provisions on control and release systems, others include only a general statement that goods should be released expeditiously. In both cases, the coding methodology here would consider the provision covered. A provision is also considered covered if it is outlined in another, more general chapter in the RTA rather than in the chapters pertaining to an issue area examined here. For instance, while some agreements deal with the provisions of transparency and due process in the chapter on customs procedures and trade facilitation, others relegate them to a separate, general chapter on transparency that applies to the entire agreement. Again, the methodology here considers the provision covered in both cases.

The third level of analysis goes beyond the simple 0-1 coding to *qualify* the coding conducted at the second level. For instance, in the case of cumulation of rules of origin, whereas the second level coding assigns 1 for RTAs employing any type of cumulation—bilateral, diagonal, or full cumulation—and zero for an RTA without any cumulation provisions, the third level allows for distinguishing between the three types of cumulation. Similarly, in the area of special regimes, the second level provisions “temporary admission of goods” divides into five third-level areas, such as provision on specification of the types of goods for temporary admission is allowed, provision on expeditious release, and a “flexibility” provision—possibility to extend the time limits for temporary admission of goods. In short, the third level of analysis paves the way for capturing properties or “outer measures” of market access obligations of RTAs, such as restrictiveness and flexibility, depth and shallowness, and acceleration and deceleration.

## **(2) Coverage of Market Access Disciplines in RTAs: Main Trends**

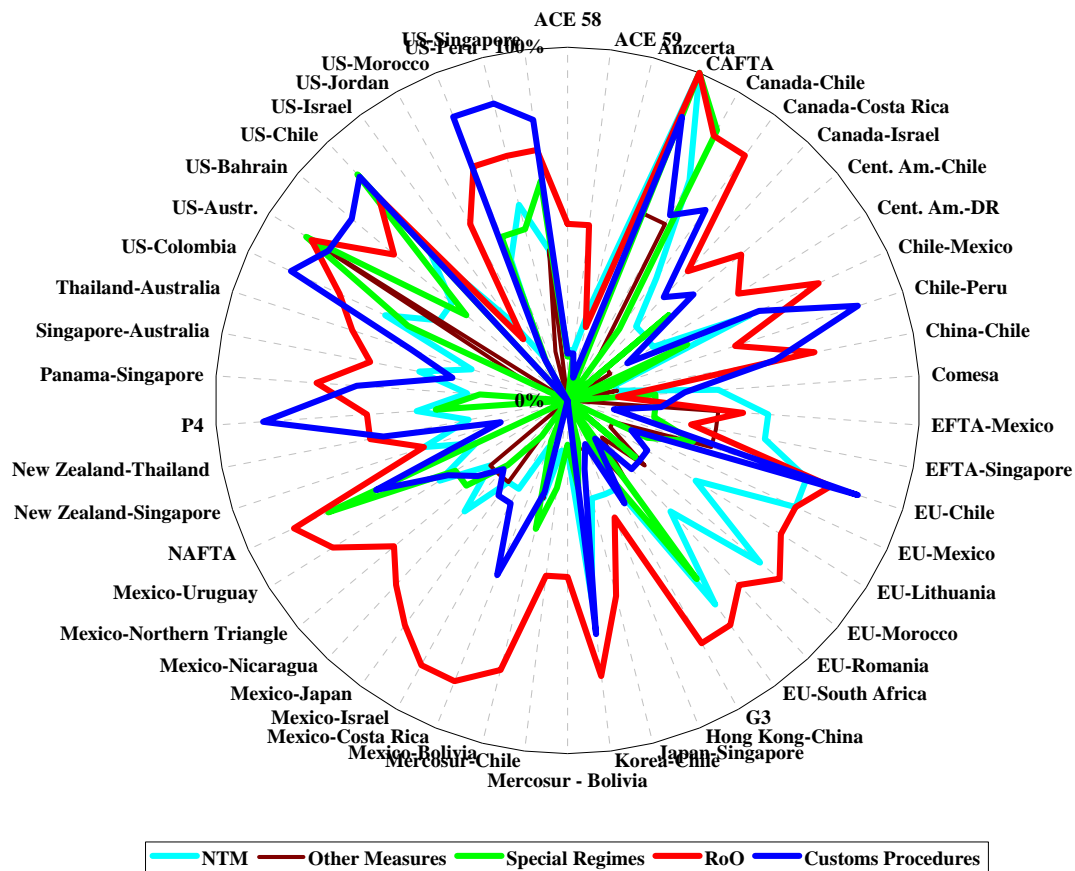
Figure 13 provides a stylized visualization of RTAs' coverage in the five disciplines examined here. Each spoke captures the coverage of one RTA at the second level of analysis. The figure reveals important variation across RTAs. While most RTAs contain NTM provisions on administrative fees and formalities and on import and export restrictions, only a handful of RTAs—mainly CAFTA and EU's extra-regional agreements—are particularly encompassing, carrying provisions also on internal taxes and quantitative measures. FTAs in the Americas, Singapore's FTAs, and EU's FTAs with Lithuania and Romania address export taxes, as well. Overall, most Asian and Mexico's FTAs cover fewer than 50 percent of the NTM provisions.

In the area of special regimes, CAFTA, NAFTA, US FTAs with Australia and Chile, and the Canada-Chile FTA are particularly encompassing. Except for US-Israel and US-Jordan FTAs, US FTAs contain provisions on waiver of customs duties, temporary admission of goods, expeditious release, and goods re-entered after repair or alteration. In RoO, agreements involving Western Hemisphere parties as well as EU's FTAs tend to be comprehensive. Asian FTAs are lighter mainly due to lacking cooperation and review and appeal provisions, as well as tariff preferences levels (TPLs) and short-supply clauses pertaining to textile and apparel RoO particularly in FTAs in the Americas.

In general, many EU and US agreements tend to be more comprehensive than intra-Asian RTAs. There is some correlation in coverage: agreements that are comprehensive in one discipline tend to be so also in the others.



**Figure 13 – Coverage of Selected Market Access Disciplines in 50 RTAs**



Figures 14-18 take a converse tack, exploring the coverage of the various agreements by the second and third level provisions. Each bar represents the share of the 50 RTAs that incorporate a given provision. The black bars represent second level provisions, while the white bars measure the third level provisions (that fall under the second level provision immediately to their left).

The figures reveal a wide variation in coverage across provisions. For instance, in NTMs, while some 95 percent of RTAs surveyed here contain provisions on import and export restrictions and some 60 percent—most FTAs in the Americas and Singapore’s FTAs—have provisions on export taxes, only EU’s extra-regional agreements carry well-developed provisions on internal taxes and quantitative measures.

In contrast, very few RTAs contain other measures provisions. Those that do are several FTAs in the Americas and the EU-Chile and EU-South Africa FTAs, especially in the areas of protection of distinctive products and geographic indications (generally wine and spirits). As for special regimes, only temporary admission of goods is covered by more than half of the RTAs; CAFTA, NAFTA, US FTAs with Australia and Chile, and the Canada-Chile FTA are particularly encompassing. Except for US-Israel and US-Jordan FTAs, US FTAs contain provisions on waiver of customs duties and goods re-entered after repair or alteration.

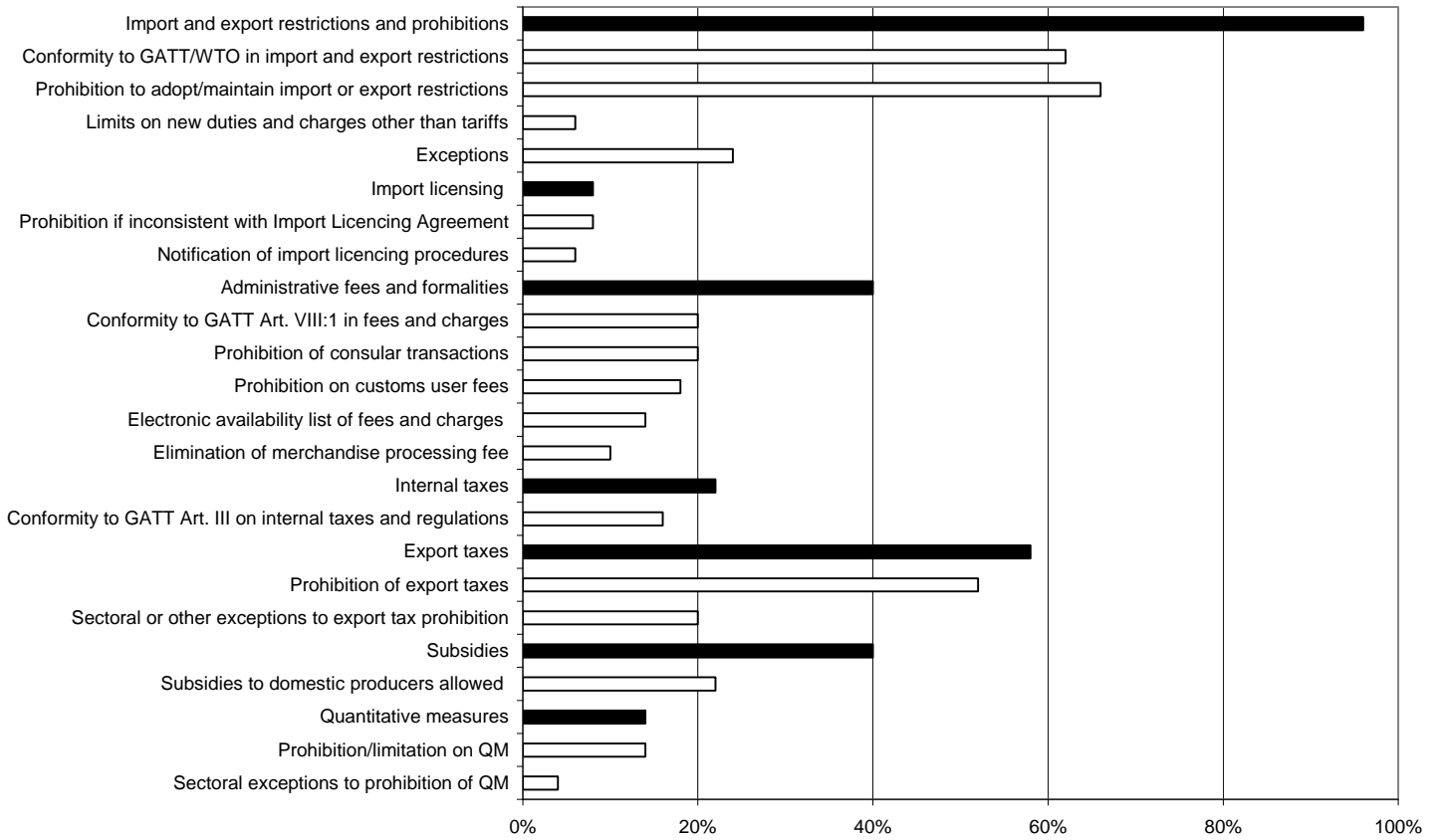
In RoO, the opposite is the case: most of the main provisions are covered in most RTAs. *De minimis* as well as cumulation, certification, and verification of origin are addressed in nearly all of the RTAs. Most RTAs also have clauses for reviews of the origin regime—something that has recently enabled the NAFTA parties to renegotiate origin requirements in certain sectors to provide regional producers greater latitude in sourcing. To be sure, RTAs differ in the content of the RoO provisions. For instance, most of EU’s RTAs prescribe a *de minimis* of 10 percent and require government-issued certificates; US RTAs have a *de minimis* between 7 percent (NAFTA) and 10 percent (CAFTA) and rely on self-certification by the exporter or importer.

Customs procedures tend to be similarly well-covered. Nearly 60 percent of the RTAs include provisions on confidentiality, advance rulings, penalties, and review and appeal mechanism; most RTAs (particularly US, Canadian and Chilean agreements and agreements in Asia) contain customs cooperation provisions, and about one-half provide for technical assistance, transparency, and sharing of information. Box 2 focuses on one case of particularly comprehensive coverage in this area—the recently concluded FTA between Brunei, Chile, New Zealand and Singapore. CAFTA and the EU-Chile, US-Chile, and US-Morocco FTAs contain similarly comprehensive coverage of customs procedures and trade facilitation disciplines.<sup>28</sup> US agreements stand out also for particularly high level of precision.

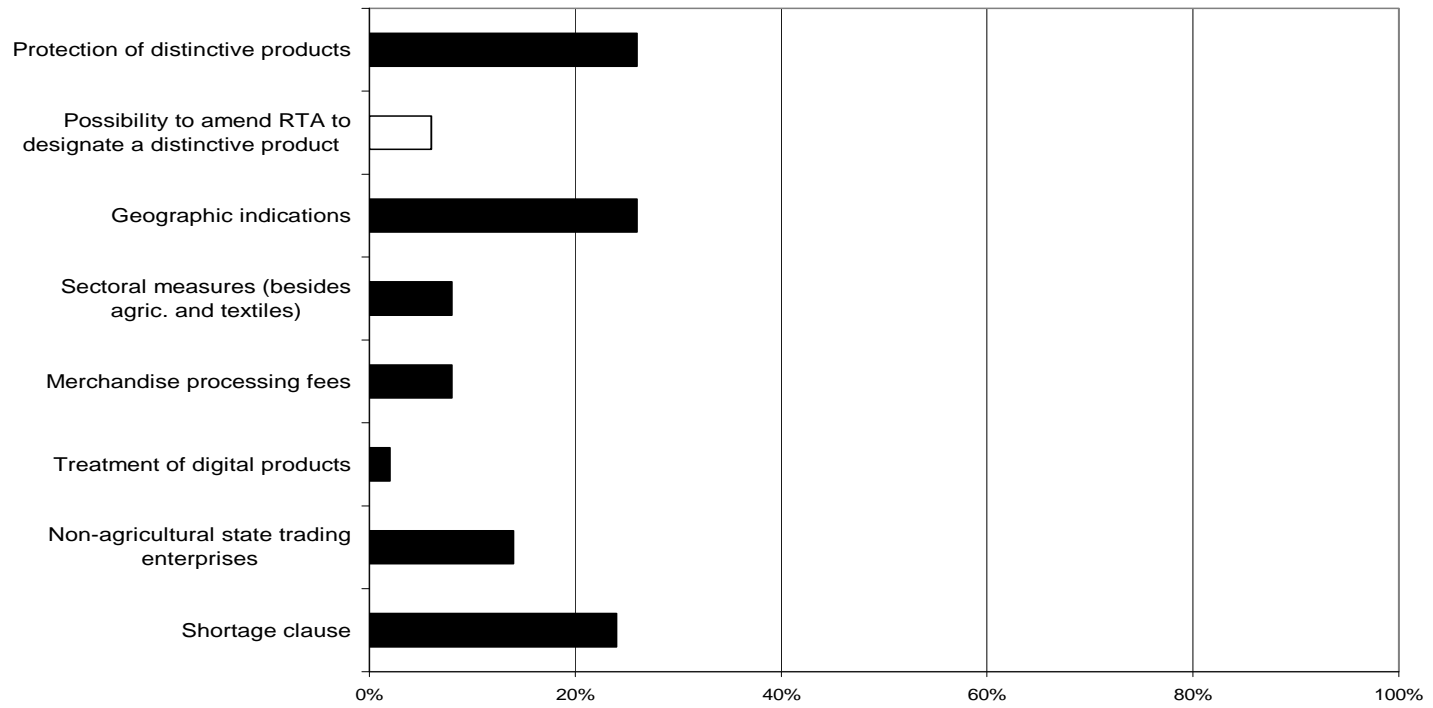
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<sup>28</sup> It could be argued that although there are already guidelines for customs procedures and trade facilitation provisions at the WCO (per the Revised Kyoto Convention), including these provisions in RTAs and in the WTO’s legal framework could have the advantage of making them more binding for the signatories.

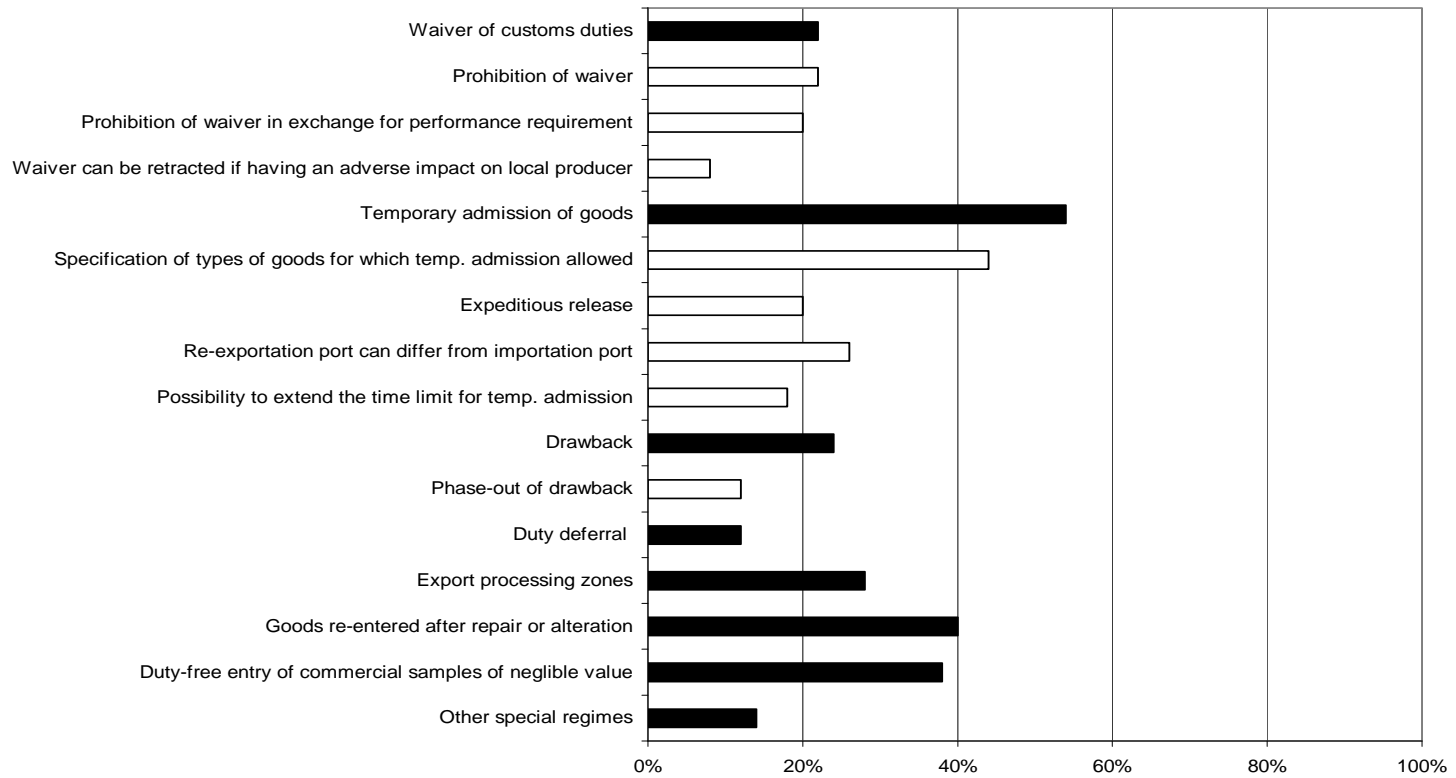
**Figure 14 - Coverage of Selected RTAs, by NTM Provision**



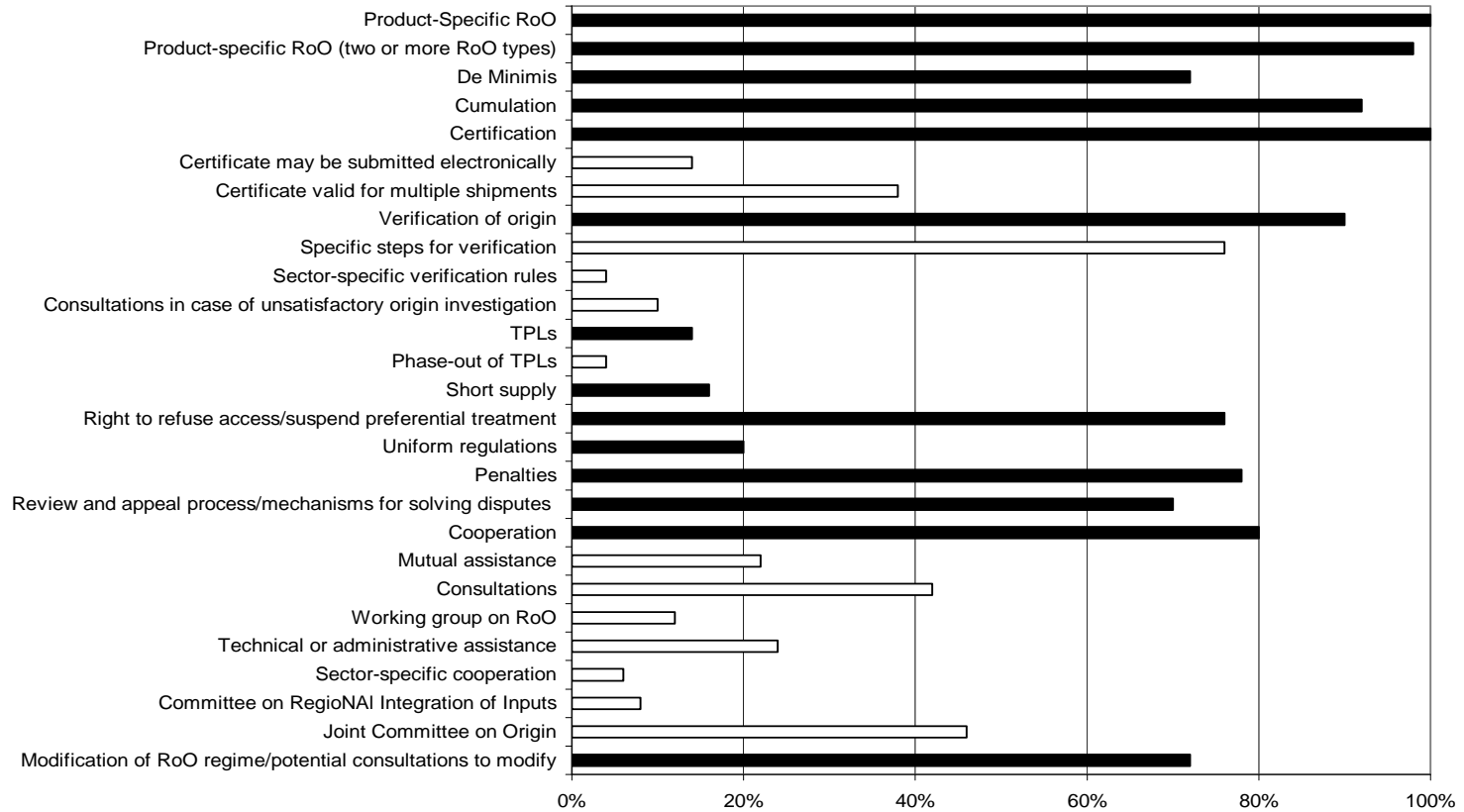
**Figure 15 - Coverage of Selected RTAs, by Other Measure Provision**



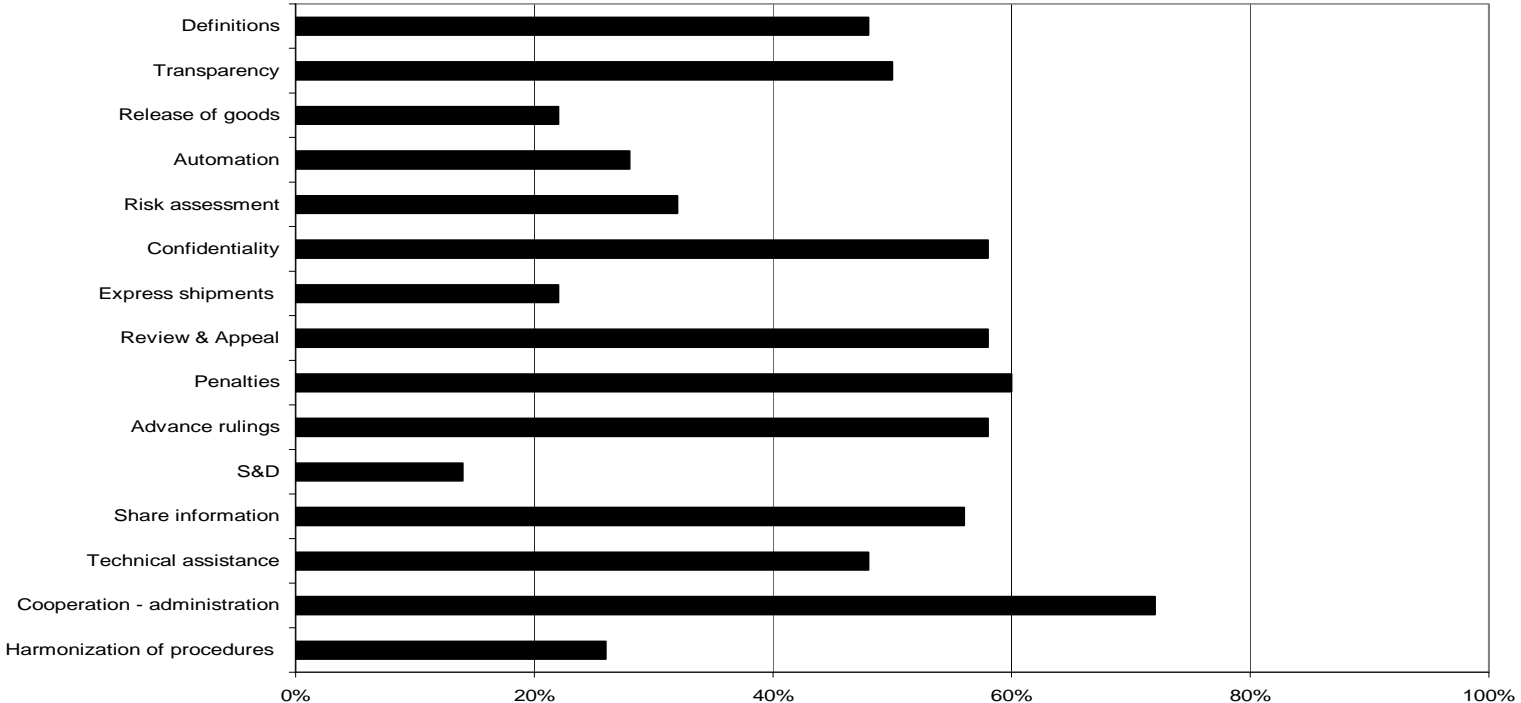
**Figure 16 - Coverage of Selected RTAs, by Special Regime Provision**



**Figure 17 - Coverage of Selected RTAs, by RoO Provision**



**Figure 18 - Coverage of Selected RTAs, by Customs Procedure Provision**



**Box 2: Customs Procedures and Trade Facilitation in the Trans-Pacific Strategic Economic Partnership Agreement (SEP)**

The Trans-Pacific Strategic Economic Partnership Agreement (SEP) formed by Brunei, Chile, New Zealand and Singapore has a comprehensive list of provisions regulating customs procedures and trade facilitation between the parties. Some of the key provisions on customs procedures include:

**Customs Cooperation (Art 5.5):** The parties' customs administrations are to cooperate on issues pertaining to the implementation of the agreement, movement of goods, investigation and prevention of customs offences, the application of the WTO Customs Valuation Agreement, and the improvement of procedures through such measures as best practices and risk management techniques, technical skills and technologies.

**Advance Rulings (Art 5.7):** The parties are to put forth procedures for advanced rulings on the origin of goods traded between them. The article allows the application for a ruling to be made prior to the importation of a good, and requires the advance ruling to be issued expeditiously (within 60 days of the receipt of the information).

**Review and Appeal (Art 5.8):** Importers in each country are to be provided access to independent administrative and judicial reviews.

**Paperless Trading/Automation (Art 5.10):** The article strives to increase efficiency of customs procedures through the introduction of modern techniques and new technologies. The parties are also to seek to use electronic procedures that support business transactions.<sup>29</sup>

**Express Shipments (Art 5.11):** Parties are to implement procedures aimed at ensuring an efficient clearance of shipments, including pre-arrival processing of information and coverage of all goods in the shipment with a single document (that can be issued electronically).

**Risk Management (Art 5.13):** The article refers to customs procedures that facilitate clearance and movement of low-risk goods and focus attention to high-risk goods.

**Release of Goods (Art 5.14):** The parties pledged to simplify the release of goods and to release goods at the point of arrival and within a period not exceeding 48 hours. This stands in clear contrast to many other RTAs, which have very few and only general rules governing the release of goods.

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<sup>29</sup> Notably, the NAFTA countries are developing a concept of trade automation (NATAP) that implies introducing standardized trade data elements, harmonizing customs clearance procedures and promoting electronic transmission of standard commercial data using UN/EDIFACT MESSAGES and advance processing by governments.



## 4. Main Findings and Hypotheses

The above findings allow for making preliminary conclusions about the relationship between the regional and multilateral trade rules, and about the complexity of the system of RTAs—on the “distances” between the RTAs—across the two axes of analysis, coverage and liberalization. The analysis of the tariff-line data yields four main results:

- As illustrated by the discussion on the basket, sector, and preferential tariff approaches, the overall set-up of tariff liberalization programs varies notably across agreements. Agreements differ from each other in the number of product groups that are subjected to liberalization, as well as in the final year of liberalization: in some cases all tariffs are eliminated upon the entry into force of the agreement, while in others, tariff provisions are spread over transition periods as long as 20 years.
- RTA parties differ in their tariff reduction trajectories. Some parties use a linear trajectory, while others employ a non-linear trajectory that often involves some backloading, with larger reductions left to the latter part of the transition period. In some cases a grace period is provided before the reductions begin.
- Despite these differences, most RTAs attain the one interpretation of SAT and “reasonable length of time”—liberalisation of 90 percent of tariff lines by year 10 into the agreement. As such, the coverage of products in RTAs tends to become rather homogeneous by the end of the first decade. However, there are a number of outlier RTA parties (in general developing countries) and product categories (particularly sensitive sectors—agriculture, textile and apparel, and footwear) that fail to reach the benchmark. Also the age of the RTA appears to matter: newer agreements tend to carry greater sectoral selectivity.
- Measurements based on trade data introduce further distinctions across RTAs. They reveal that measures based on counts of tariff lines alone often markedly over- or underestimate the actual trade that flows free of duty, particularly in the earlier years of the RTA. The bottom line remains—most RTA partners liberalize 90 percent or more of their trade-weighted tariff lines and their imports from their RTA partners by year 10. However, again, exceptions make the rule: for instance, one RTA partner fails to liberalize even 60 percent of its trade-weighted tariff lines by year 10, and six RTA

partners free fewer than 80 percent of their imports from their respective partners by year 10.

The message arising from the aggregate data is more mixed. Two main results can be highlighted.

First, there is marked variation across RTAs in the coverage of main market access disciplines. Yet, the data also communicate clustering of RTAs by the main world regions—Asia, Europe, and the Americas—and, in particular, by global trade hubs—the United States, EU, and Singapore, for instance. A close inspection of the data also suggests the exportation of RTA models from one region to the next through trans-continental RTAs, such as “borrowing” of some of the US-Chile FTA’s market access provisions to the Chile-Korea FTA. A finer analysis that exploits the third level measures will allow for a more thorough assessment of the extent to which RTAs do cluster in distinct families.

Second, most RTAs appear by and large aligned with (and/or explicitly call for adherence to) GATT and WTO provisions in market access. However, many an RTA also carries provisions that could potentially be classified as “other restrictive regulations of commerce”, such as tariff rate quotas, special safeguards, and demanding rules of origin. As such, the exercises at the tariff-line level provide only a partial handle on whether RTAs actually do comply with interpretations of SAT; after all, as noted above, Article XXIV requires that besides tariffs, RTAs also eliminate “other restrictive regulations of commerce” on “substantially all trade.” Yet, there may be potential trade-offs between these instruments and the extent of product coverage at the tariff-line level: governments may be more willing to engage in across-the-board liberalization if they know that TRQs, safeguards, and other instruments are available as defensive measures. A similar political economy argument can be made in the case of restrictive RoO.

Many RTAs could be viewed as WTO+ in terms of incorporating a larger number and/or more specific provisions than are present in the multilateral regime. RTAs are clearly WTO+ in the case of RoO, since there are thus far no meaningful multilateral disciplines governing preferential RoO. As discussed above, many RTAs appear to be WTO+ in the area of safeguards and emergency measures. In the case of RoO, one way of assessing the compatibilities of RTAs with the multilateral rules (but not necessarily RTAs’ compliance with the “other restrictive regulations of commerce” clause) is to operationalise the product-specific non-preferential rules

of origin that have been under a multilateral process of harmonisation since the Uruguay Round, and contrast them with product-specific RTA rules.<sup>30</sup>

In customs procedures and trade facilitation, RTAs appear by and large compatible with the main international instruments [the Arusha Declaration and the UN/EDIFACT Initiative that center on the uses of technology and data processing; the existing GATT/WTO trade facilitation instruments embedded in articles V (freedom of transit), VIII (fees and formalities on imports and exports), and X (publication and administration of trade regulations) that are currently under renegotiation;<sup>31</sup> and WCO's Revised Kyoto Convention of 1999, which contains an extensive list of specific provisions related to customs and trade facilitation in such areas as review and appeal procedures, customs clearance, and uses of new technologies]. Indeed, trade facilitation and customs procedure measures in RTAs seem to have paralleled the development of the international instruments: RTAs that entered into force after 1999 tend to include such provisions as the release of goods, automation, risk assessment, and express shipments—elements also included in the 1999 Revised Kyoto Convention. RTAs are providing value added to efforts to address customs procedures and trade facilitation issues at the multilateral level, starting from the fact that RTA provisions are binding while the WCO instruments are not (box 3).

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<sup>30</sup> This is a meaningful exercise given that the Common Declaration with Regard to Preferential Rules of Origin annexed to the Uruguay Round's Agreement on Rules of Origin calls for a multilateral process for harmonizing preferential RoO following the harmonization of non-preferential RoO, and using the harmonized non-preferential RoO as the blueprint in the process. Estevadeordal and Suominen (2006) and Suominen (2004) carry out such an exercise, finding that the harmonized non-preferential RoO are in general less restrictive and complex than the major preferential RoO models. This could potentially be taken to imply the presence of a large number of outliers from the global benchmark in the area of RoO.

<sup>31</sup> In July 2004, WTO members agreed to launch negotiations in the context of the Doha Round to improve and clarify provisions set out in Articles V, VII and X. The negotiation mandate is largely aligned with the provisions of the Revised Kyoto Convention, which is indicative of the desire to make the Kyoto provisions binding.

### **Box 3 - Adding Value to Customs Procedures and Trade Facilitation**

#### **Measures through RTAs**

RTA provisions on customs procedures and trade facilitation can serve as important tools for fostering the members' competitiveness and ability to reap the benefits from trade liberalization. They can also help members promote the necessary cooperation to implement new standards and carry out institutional trade facilitation-related reforms. But are customs procedures and trade facilitation compatible with multilateral disciplines? And if so, what is the value added of including these disciplines in RTAs?

RTAs' customs procedure and trade facilitation disciplines complement the GATT and Kyoto Convention provisions in these areas by promoting transparency, harmonization, simplification of procedures and even the adoption of new technologies that could significantly improve the trading environment. For example, RTAs often include provisions on transparency and due process as consistent with GATT Article X. Like the Kyoto Convention, RTAs contain clauses on the simplification of procedures and documentation and on the use of modern technologies. Particularly US agreements also tend to incorporate provisions on express shipments and release of goods. While harmonization of customs procedures is more limited in RTAs, many EU and US agreements in particular call for common procedures and coordination among customs authorities.

Including customs procedures and trade facilitation disciplines in RTAs adds value in four ways to dealing with these issues at the multilateral level. First, unlike the WCO provisions, RTA provisions are binding and enforceable via an RTA's dispute settlement mechanism. Second, RTAs serve as a training ground: they can provide a head-start for the members to absorb and implement the multilateral customs and trade facilitation instruments. Third, given that customs procedure and trade facilitation disciplines are relatively similar across RTAs, RTAs can facilitate and accelerate convergence in these disciplines around the world. Fourth, to the extent that RTAs streamline customs procedures and facilitate trade, they are inherently good for the multilateral trading system: the resulting lowered trade costs boost trade with all trade partners.

## 5. Agenda for Future Research

The exercises and findings of this paper are only preliminary. However, the data examined here open five avenues for further exercises and research.

First, the data allow for a more extensive and deeper examination of the system of RTAs—such as quantifying “distances” among RTAs and between RTAs and the multilateral trade rules in order to define policies for bridging the clearest gaps. The tariff line level data can be examined more extensively; one of the first approaches could be to draw more detailed comparisons in the treatment of sensitive products across RTAs.

Second, whereas the exercises of this chapter have thus far centered on assessing the coverage and liberalization of RTAs among the RTA members, further iterations will take a step further to examine preferential margins—the depth of RTA liberalization vis-à-vis the treatment that the RTA parties offer their MFN trading partners. Such an exercise will help illuminate the implications of RTAs to non-member countries, and inform policy discussions on the meaning of the Article XXIV phrase that RTAs are “not to raise barriers” toward third parties. Also the other instruments examined here—RoO and customs procedures—can provide information on the effects of RTAs on third parties. Indeed, (Estevadeordal and Suominen 2005b) and (Suominen 2004) find that restrictive RoO in final goods encourage trade in intermediate goods between the RTA partners, which may imply that RoO can engender trade diversion in inputs to the RTA area, and hence undercut trade flows between the RTA parties and the rest of the world.

Third, further research could explore the relationship between the product coverage of RTAs and the comparative advantages of the member countries, which could be accomplished, for instance, by comparing the product coverage (in terms of percentage of tariff lines covered) for each sector or chapter with the computed revealed comparative advantages of the same sectors or chapters. This would help break into analyzing the potential for RTAs to expand trade—assess the extent to which the products of greatest export interest to the parties are covered by the market access provisions of the agreement.

Fourth, the set of RTAs can be expanded in order to obtain a more generalisable sample. For one, a larger sample will allow for complementing the distinctions between Northern and Southern countries with further categories, such as “less developed countries,” which, in turn, can help guide discussions on the potential need for including to the RTA examinations conducted by the WTO Committee on Regional Trade Agreements (CRTA) also the agreements

that are notified under the Enabling Clause. Furthermore, incorporating aspiring CUs in the study will help pave the way to a clearer discussion on whether the same multilateral standards should apply to CUs as govern FTAs.<sup>32</sup>

Fifth, there is also room for relating the tariff-line and aggregate data across the agreements. This is of particular importance given that meeting the SAT requirement depends not only on the eradication of tariffs but also of “other restrictive regulations on commerce”, which may often be embedded in the aggregate provisions. Box 4 discusses a way of combining the two sets of indicators in the case of RoO.

#### **Box 4 - How Restrictive Are RoO?<sup>33</sup>**

Making meaningful cross-product comparisons across the great many RoO types requires a parsimonious tool. The restrictiveness index developed in Estevadeordal (2000) is such a tool. Its observation rule of the index is based on the length of “jumps” over the Harmonized System’s tariff lines required by RoO: a change of chapter is more restrictive than change of heading, change of heading more restrictive than change of subheading, and so on. Value content and technical requirements add to the rule’s restrictiveness.

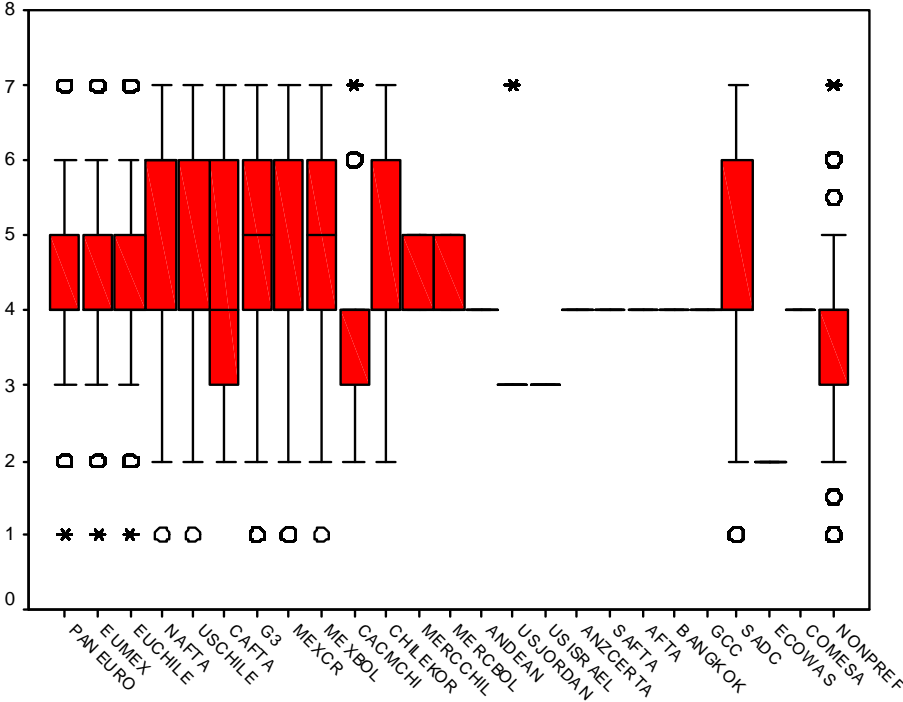
Figure 29 reports the restrictiveness of RoO as calculated at the six-digit level of disaggregation in selected RTAs.

Much like the restrictiveness of the product-specific RoO, the “facilitation” provided by regime-wide RoO to the application of product-specific RoO can be accessed through an index. The “Facil” index developed in Estevadeordal and Suominen (2006) and Suominen (2004) incorporates *de minimis*, diagonal cumulation, full cumulation, and drawback (all of which can be expected to cut producers’ production costs by amplifying their pool of low-cost inputs), and self-certification (which can keep producers’ administrative costs lower than the other methods). Figure 30 shows the operation of the index in selected RTAs. Combining the measures of restrictiveness and Facil in a gravity model exercise, Estevadeordal and Suominen (2005b) find that while restrictive RoO dampen the trade flows between RTA parties, the various facilitation measures encourage trade between them—and, as such, can counter the negative effects of restrictive product-specific RoO.

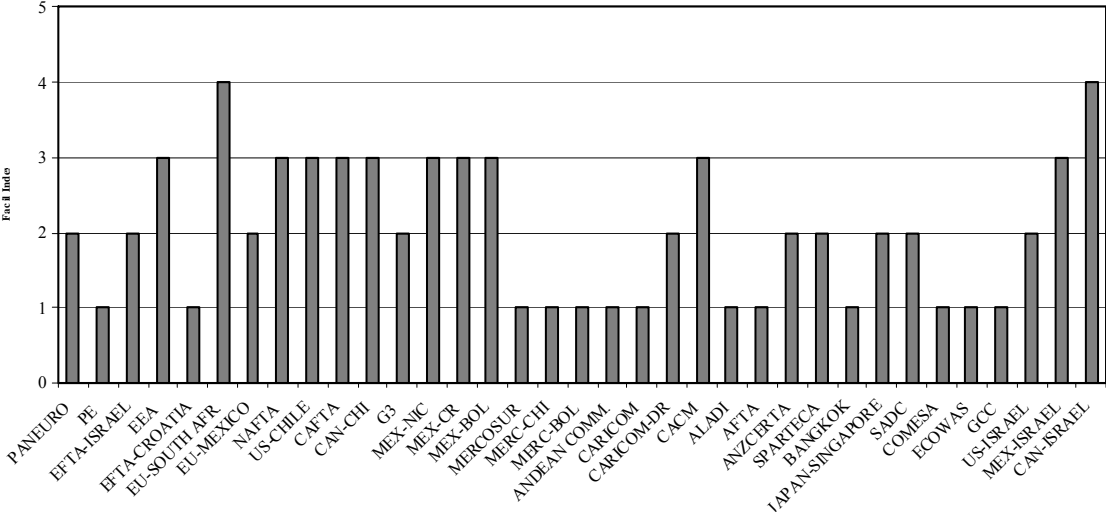
<sup>32</sup> WTO (2002c) points out that “While language therein is largely symmetrical, it contains some differences: subparagraph 5(a) states that the duties and other regulations of commerce ‘imposed’ by a customs union are to be compared to those ‘applicable’ by its parties prior to the institution of the union; paragraph 2 of the 1994 Understanding clarifies the meaning of these expressions with respect to duties, by specifying that, in the context of the general incidence calculation, ‘... the duties and charges to be taken into consideration shall be the applied rates of duty’; subparagraph 5(b) provides that the corresponding comparison for FTAs should be based on the duties and other regulations of commerce ‘maintained in each of the constituent territories and applicable at the formation’ of the FTA and those previously «existing in the same constituent territories’. Such differences in wording shed doubts on whether ‘applicable’ duties for FTAs refer to bound rates or to applied rates.” The document also notes that “Another issue raised relates to the definition of the expression ‘other regulations of commerce’ itself. It has been observed that, under Article XXIV:5, it might have a wider scope for FTAs than for customs unions, especially if, as it has been argued sometimes, FTA rules of origin should be considered as a regulation of commerce in that context.”

<sup>33</sup> This box draws on Estevadeordal and Suominen (2006) and Suominen (2004).

**Figure 29 – Restrictiveness of RoO in Selected RTAs**



**Figure 30 – Facilitation of Regime-Wide RoO in Selected RTAs**



## **6. Conclusion**

This paper has sought to shed new light on some key market access provisions in a number of RTAs around the world. We have focused on both aggregate and tariff-line data, and compared RTAs vis-à-vis each other as well as against the multilateral trade rules. The preliminary findings indicate that while RTAs do differ from each other in some important respects, including in the set-up of the tariff liberalization programs, the speed and trajectory of tariff liberalization, and the employment of TRQs, they also share several features, such as similar overall coverage of the main general tariff, RoO, and, increasingly so, customs procedure and trade facilitation provisions. RTAs also tend to converge in their extent of tariff liberalization by the end of the first decade of operation regardless of the measurement that is employed: the bulk of the RTAs examined here meet certain interpretations of the requirements of GATT Article XXIV. To be sure, the legal and economic significance of these findings has yet to be established; that is the task of further iterations of this paper.



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**Appendix I – 1: Three-Level Matrix for Mapping Market Access Provisions in RTAs and Definitions**

**Table I – 1 - Three-Level Matrix for Mapping Market Access Provisions in RTAs**

<b>Non-Tariff Measures</b>
Import and export restrictions and prohibitions
Conformity to GATT/WTO in import and export restrictions
Prohibition from adopting or maintaining
Limits on new duties and charges other than tariffs
Exceptions
Import Licensing
Prohibition if the measure is inconsistent with Import Licencing Agreement
Notification of the existence of import licensing procedures and new procedures
If there is no notification, import licensing procedure is not allowed
Administrative fees and formalities
Conformity to GATT/WTO (Art. VIII:1) in fees and charges
Prohibition of consular transactions, including related fees and charges
Prohibition on customs user fees
Availability by Internet of current list of the fees and charges on importation and exportation
Elimination of merchandise processing fee on originating goods
Internal taxes
Conformity to GATT Art. III on internal taxes and regulations
Export taxes
Prohibition on export taxes
Sectoral or other exceptions to export tax prohibition
Subsidies
Subsidies to domestic producers allowed
Quantitative measures
Prohibition/limitation
Sectoral exceptions to prohibition of quantitative measures (1=one party; 2=all parties)
Non-discriminatory administration of quantitative measures
<b>Other-Measures</b>
Protection of distinctive products
Possibility to amend the Agreement to designate a good as a



distinctive product
Geographic indications
Sectoral measures (besides agric. and textiles)
Merchandise processing fees
Treatment of digital products
Non-agricultural state trading enterprises
Shortage clause
<b>Special Regimes</b>
Waiver of customs duties
Prohibition
Prohibition to making in exchange for performance requirement
Waiver can be retracted if having an adverse impact on local producer
Temporary admission of goods
Specification of types of goods for which allowed regardless of their origin
professional equipment
Goods intended for display of demonstration
commercial samples and advertising
Goods admitted for sport purposes
Expeditious release
Re-exportation port can differ from importation port
Possibility to extend the time limit for temporary admission
Requirement for the goods to be subject to the duty free temporary admission
Drawback
Share of countries for which allowed infinitely
Share of countries for which allowed for a period of time
Years of phase-out (years during which can be used)
Duty deferral
Export processing zones
Goods re-entered after repair or alteration
Prohibition to apply customs duty if a good re-enters after repair or alteration
Prohibition to apply a customs duty to a good admitted temporarily from another party for repair or alteration
Definition of repair and alteration

Duty-free entry of commercial samples of negligible value shall be granted
Party may require importation solely for solicitation of orders of goods or no larger consignment than one copy of ad material per packet
Other special regimes
<b>Rules of Origin</b>
Product-Specific RoO
Sector-specific definition (use of two or more types)
Method of Calculation of VC
Alternative method/list specified (1=for some goods; 2=for all goods)
Share of parties with phase-in
Share of parties with permanent deviations from RoO regime
De Minimis
Percentage level
Cumulation
Type (1= bilateral; 2=diagonal but only in a few sectors; 3=diagonal; 4=full)
Certification
Type (1=two-step public; 2=two-step public with some exemptions; 3=public; 4=private)
Certificate may be submitted electronically
Valid for multiple shipments
Months valid
Verification of origin
Specific steps for verification
Years certificate to be maintained
Party with burden of proof (target of verification missions) (1=certifying agency; 2=certifying agency and exporter; 3=exporter; 4=importer; 5=exporter or importer)
Sector-specific verification rules
Potential future facilitation of reciprocal external audits
Consultations in case of unsatisfactory conclusions of origin investigation
TPLs
Percentage of parties with a TPL
Phase-out of TPLs

Short supply
Right to refuse to grant access/suspend preferential treatment
Uniform regulations
Penalties
Review and appeal process/mechanisms for solving disputes
Cooperation
Mutual assistance
Consultations (1=regular; 2=frequency not defined)
Working group
Technical or administrative assistance (mutual or unilateral)
Sector-specific cooperation
Committee on Regional Integration of Inputs
Joint Committee on Origin
Modification of RoO regime/potential consultations to modify
<b>Customs Procedures and Trade Facilitation</b>
General issues
Definitions
Transparency and dissemination
Requirement to publish customs laws, regulations, and administrative Procedures (1=some public documentation; 2=publication on the Internet)
Release of goods
Recommended specific timeline for the release of goods
Clause on rapid release (without temporary warehousing)
Control and release systems (release of goods prior to customs' final determination of duties/taxes)
Automation (use of IT/paperless trading)
Risk assessment/management
Clause for facilitating flow of low-risk goods
Confidentiality
Express shipments (1=some provision; 2=obligation to adopt)
Review and appeal
Scope (1=covers rules of origin only; 2=covers all customs procedures)
Obligation to provide (domestic) importers access to review
Obligation to provide exporters and producers of other party the same access as to domestic importers to review and challenge
Penalties
Advance rulings
Obligation to issue/publish within a pre-defined period of time (or expeditiously")
Clause for mechanisms for revoking

Obligation to revoke within a pre-defined period of time
Years of application
SDT
Sharing Information
Technical assistance
Administrative assistance/cooperation on administration
Mechanisms to solicit administrative assistance
Mechanisms to deny administrative assistance
Share of parties with phased-in implementation
Cooperation – administration
Requirement to share information (e.g. on best practices)
Regular meetings
Cooperation on trade facilitation
Capacity-building/technical assistance (1=potential; 2=commitment)
Group/working group/subgroup
Joint Committee
Harmonization of procedures

## Definitions for Second-Level of Provisions<sup>34</sup>

### A. NTMs

- Import and export restrictions and prohibitions: a prohibition on adopting or maintaining any restrictions on the importation of any good of another party or on the exportation or sale for export of any good destined for the territory of another party (in general with the exception of the provisions of GATT Article XI).
- Administrative fees and formalities: provision that each party will ensure (often in accordance with Article VIII:1 of GATT 1994 and its interpretive notes) that all fees and charges (other than customs duties, charges equivalent to an internal tax, and antidumping and countervailing duties) imposed on importation or exportation are limited to the approximate cost of services rendered, and that they do not represent an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.
- Internal taxes: provision that usually prohibits the imposition on imported products from an RTA party of internal taxes or other internal charges of any kind (in excess of those applied, directly or indirectly, to like domestic products).

<sup>34</sup> The definitions here are authors' elaboration based on WTO Agreements, various trade dictionaries, and RTA texts.

- Export taxes: provision that is usually phrased to prohibit a party from adopting or maintaining any duty, tax, or other charge on the export of any good to the territory of another party (unless, for instance, if such duty, tax, or charge is adopted or maintained on any such good when destined for domestic consumption).
- Subsidies: financial contribution by a government (that could be a direct transfers of funds or a government revenue that is otherwise due is foregone or not collected) to producers or exporters that confers a benefit.
- Quantitative measures: explicit limits, usually by volume, on the amount of a specified commodity that may be imported into a country (sometimes also the amounts that may be imported from each supplying country are indicated).
- Other non-tariff measures: any further measures included in the set of NTM provisions, such as measures regulating the imposition of luxury taxes or the market access of such goods as chewing gum, distilled spirits, broadcast apparatus, for instance.

## **B. Other Measures**

- Protection of distinctive products: requirement that a party to the agreement recognize certain good(s) as distinctive products of the other party/parties. (“Distinctive” refers, for instance, to marks that present a “unique commercial impression.”)
- Geographic indication: requirement that parties to the agreement identify a certain good as originating in the territory of a country (or a region or locality in that territory), where a given quality, reputation, or other characteristic of the good is attributable to its geographical origin.
- Sectoral measures (besides agriculture and textiles): provisions regulating any sectors, such as steel, vehicles, or fisheries.
- Treatment of digital products: provisions referring to the market access of a defined set of digital products in the RTA.
- Non-agricultural state trade enterprises: entities established by governments to import, export, and/or produce certain products. Examples include government-operated import/export monopolies and marketing boards or private companies that receive special or exclusive privileges from their governments to engage in trading activities.

- Shortage clause: provision allowing a party to adopt export restrictions or export customs duties under certain circumstances of shortage or threat of shortage, such as in the face of a shortage of foodstuffs or essential materials to an industry of the party.

### **C. Special Regimes**

- Waiver of customs duties: a measure that waives otherwise applicable customs duties on any good imported from any country, including the territory of another party. RTAs generally phrase the provision as prohibiting a party to waive customs duties (usually so if the waiver is conditioned on the fulfillment of a performance requirement and/or if a waiver can be shown by another party to have an adverse impact on the commercial interests of a person of that party).
- Temporary admission of goods: a customs procedure under which certain goods can be brought into a customs territory temporarily and relieved from the payment of import duties and taxes; such goods must be imported for a permitted purpose and must be intended for exportation within a pre-defined period.
- Drawback: provision for a total or partial refund of import duties and taxes paid for the final goods or inputs that may be obtained upon the exportation or destruction of certain goods under certain conditions.
- Duty deferral: any import scheme that includes provisions to allow the deferral of payment of import rights such as the ones applied in free zones, temporary admission, warehouses, or maquiladoras.
- Export processing zone: industrial parks or facilities which provide free trade zone benefits and usually offer additional incentives, such as exemption from normal tax and business regulations. Export processing zones are sometimes referred to as Special Economic Zones or Development Economic Zones.
- Export taxes: taxes applied to export products. These can be collected directly from the exporters or indirectly through a governmental trading agency that pays producers a price lower than the world price.
- Goods re-entered after repair or alteration: a customs procedure under which goods that were exported may be taken into home use free of import duties and taxes after being repaired or altered.

- Duty-free entry of commercial samples of negligible value and printed advertising materials: provision that the parties will grant duty-free entry to commercial samples of negligible value and to printed advertising materials that are imported from the territory of another party (usually under certain requirements, such as that commercial samples be imported solely for the solicitation of orders for goods of another party or non-party).

#### **D. Rules of Origin**

There are two types of rules of origin, non-preferential and preferential RoO. Non-preferential RoO are used to distinguish foreign from domestic products in establishing anti-dumping and countervailing duties, safeguard measures, origin marking requirements, and/or discriminatory quantitative restrictions or tariff quotas, as well as in the context of government procurement. Preferential RoO, meanwhile, define the conditions under which the importing country will regard a product as originating in an exporting country that receives preferential treatment from the importing country. RTAs, in effect, employ RoO to determine whether a good qualifies for preferential treatment when exported from one member state to another.

- Product-specific RoO: refers to regimes that assign divergent RoO for the various products that the RTA cover, rather than ascribing an across-the-board RoO that would cover all products.
- De minimis: provision allowing for a specified maximum percentage of non-originating materials to be used without affecting origin.
- Cumulation: provision allowing producers of one RTA party to use materials from another party/parties (or, in some cases, from non-members) without losing the preferential status of the final product.
- Certification of origin: the documentation that the RTA mandates the exporter, importer, or producer of a good to prepare in order for the good to qualify for the RTA-provided preferential treatment.
- Verification of origin: procedures that exporting and/or importing RTA partner can undertake to ensure that a good meets the RTA rules of origin, such as a verification mission to an exporter that claims to have met the origin requirements.

- Tariff preference level: provision that goods that do not satisfy the RoO protocol qualify for preferential treatment up to some pre-specified annual quotas. Above these levels, non-originating goods become subject to the importer's MFN tariff.
- Short-supply clause: provision usually applicable to textile and apparel products. It allows producers of apparel requiring yarns, fibers, and fabrics that are not adequately supplied in the RTA market to use non-originating inputs.
- Uniform regulations: provision that the parties will establish and implement through their respective laws or regulations uniform regulations regarding the interpretation, application, and administration of the RoO chapter by the agreement's entry into force.
- Penalties: provisions for when a party may (and/or may not) impose penalties for the lack of proof of origin and whom the party may and may not penalize.
- Review and appeal process: provision governing the procedures of review and appeal of country of origin determinations. (Can, for instance be worded to require a party to grant the same rights of review and appeal of country of origin determinations and advance rulings by its customs administration as it provides to importers in its territory to any person).
- Modification of RoO regime/potential consultations to modify: provision that any party that considers that the RoO regime of the RTA requires modification may submit a proposed modification for the consideration to the other party (usually with supporting rationale and background studies).
- Cooperation: any of the various mechanisms that the RTA puts in place to encourage or mandate collaboration between the RTAs partners in the administration of the RoO regime. For example, cooperation may refer to provisions on consultations, technical or administrative assistance, and/or a joint committee on origin.

#### **E. Customs Procedures and Trade Facilitation**

- Advance rulings: provisions for advanced ruling on the origin of goods traded between the parties. May include obligation to issue a ruling within a pre-defined period of time, for example.
- Automation: provisions that promote the use of technology that facilitates procedures for the release of goods. These may include the use of information technology and



paperless trading, and the development of common data elements and processes or electronic systems aimed at facilitating the exchange of information and supporting business transactions.

- Cooperation on administration: provisions to facilitate cooperation and administrative assistance between the parties on customs procedures and trade facilitation. May include mechanisms to solicit assistance, cooperation on issues related to the application of the WTO Customs Valuation Agreement, or clauses on the implementation of the customs chapter, for instance.
- Definitions: list of definitions of concepts that are relevant only to the customs procedures chapter.
- Express shipments: procedures to expedite express consignments, such as a possibility of deferring payment of duties, taxes and fees with guarantees; and submission and processing information before the shipment arrives.
- Release of goods: provisions regulating the procedures for efficient release of goods, such as a recommended timeline for the release of goods and a clause on rapid release.
- Review and appeal: provisions that ensure that importers have access to independent administrative and judicial reviews.
- Risk assessment: use of risk management systems to facilitate the flow of low-risk goods, including systems to allow the processing information prior to the arrival of the imported goods.
- Sharing of information: any provisions that mandate or encourage the exchange of information between the parties; such information may pertain to administrative procedures or best practices, for example.
- SDT (special and differential treatment): transitional periods granted to developing countries in the implementation of the provisions on customs procedures and trade facilitation.
- Technical assistance: provisions for actual or potential capacity building activities (may include a Mutual Assistance Agreement, for example).

- Transparency: provisions that mandate the publication and notification of customs law, regulations, and administrative procedures and the establishment of an inquiry point.