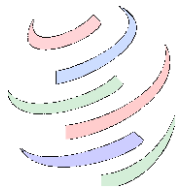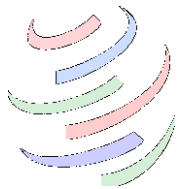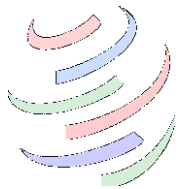# RTA Systemic and Cross-Cutting Issues

Preferential Rules of Origin in GATT 1994

☐ Very few disciplines in the WTO:

■ Annex 2 Agreement on Rules of Origin:
  ▪ Basically, a transparency provision

■ Article XXIV of the GATT 1994 does not refer to them specifically …
  ▪ disciplines on "other regulations of commerce" ?

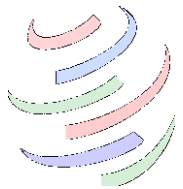# Study on Preferential Rules of Origin

☐ Half of world trade is under MFN 0!

☐ Preferences only on what remains
  ■ MFN unbound x "bound" nature of RTA-preferences

☐ Study: 192 RTAs / MOPs for 68 RTAs, 160 bilateral relations
  ■ 20 bilateral relations in DD RTAs
  ■ 73 bilateral relations in DD/DG RTAs
  ■ 61 bilateral relations in DG

☐ MOPs ≥5% offset compliance costs
  ➡ stimulus to comply with PROs

Study on Preferential Rules of Origin

☐ Origin in RTAs: a combination of methods

■ CTH most commonly used

☐ Some basics from the mapping of PROs:

■ "alternative" / co-equal

■ Absorption principle

■ Tolerance/*de mininimis*

■ Other flexibilities: lower thresholds for DG, soft rules, etc.

RTAs Regimes of PRO	
Intra-Europe	50
of which EU family	*50*
Intra-America	26
of which NAFTA family	*21*
Intra-CIS	27
of which CIS family	*27*
Others	89
Total	192

Some Elements of Modern PROs

☐ Providing Preferences through PROs ?

  ■ Cumulation provisions

  ■ Dual thresholds, e.g.
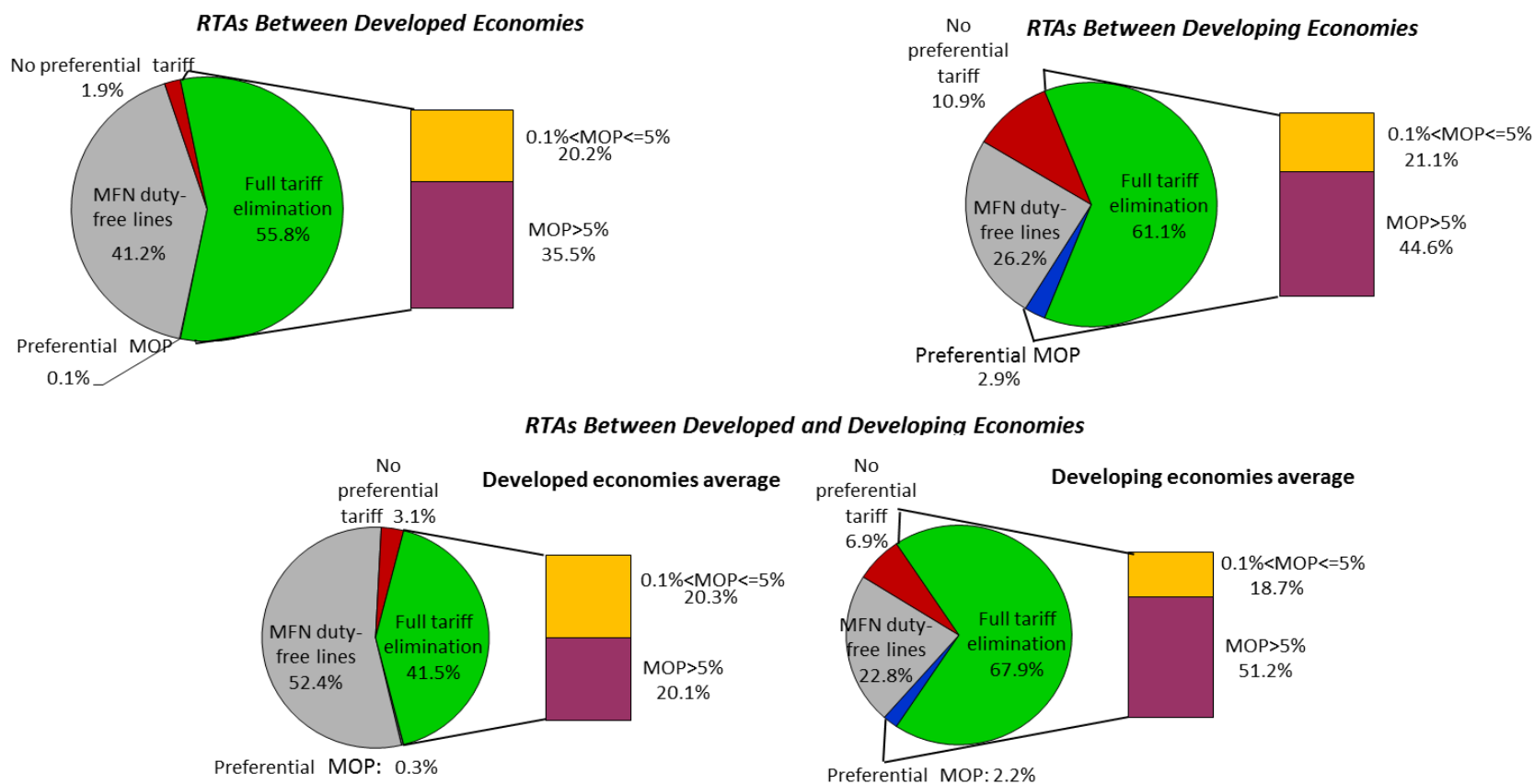
    ☐ e.g. temporary "TPLs" in LA

    ☐ "soft" PROs subject to a QR

☐ Integrating third-Parties into PROs ?

  ■ Outward-processing

  ■ Integration of Production
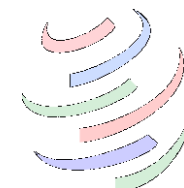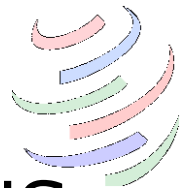
Preferential Rules of Origin and MOPs

Relative and Absolute Average MOP by Categories of RTA Partners
(% tariff lines)

RTAs Between Developed Economies

No preferential tariff 1.9%
MFN duty-free lines 41.2%
Full tariff elimination 55.8%
Preferential MOP 0.1%

0.1%<MOP<=5% 20.2%
MOP>5% 35.5%

RTAs Between Developing Economies

No preferential tariff 10.9%
MFN duty-free lines 26.2%
Full tariff elimination 61.1%
Preferential MOP 2.9%

0.1%<MOP<=5% 21.1%
MOP>5% 44.6%

RTAs Between Developed and Developing Economies

Developed economies average

No preferential tariff 3.1%
MFN duty-free lines 52.4%
Full tariff elimination 41.5%
Preferential MOP: 0.3%

0.1%<MOP<=5% 20.3%
MOP>5% 20.1%

Developing economies average

No preferential tariff 6.9%
MFN duty-free lines 22.8%
Full tariff elimination 67.9%
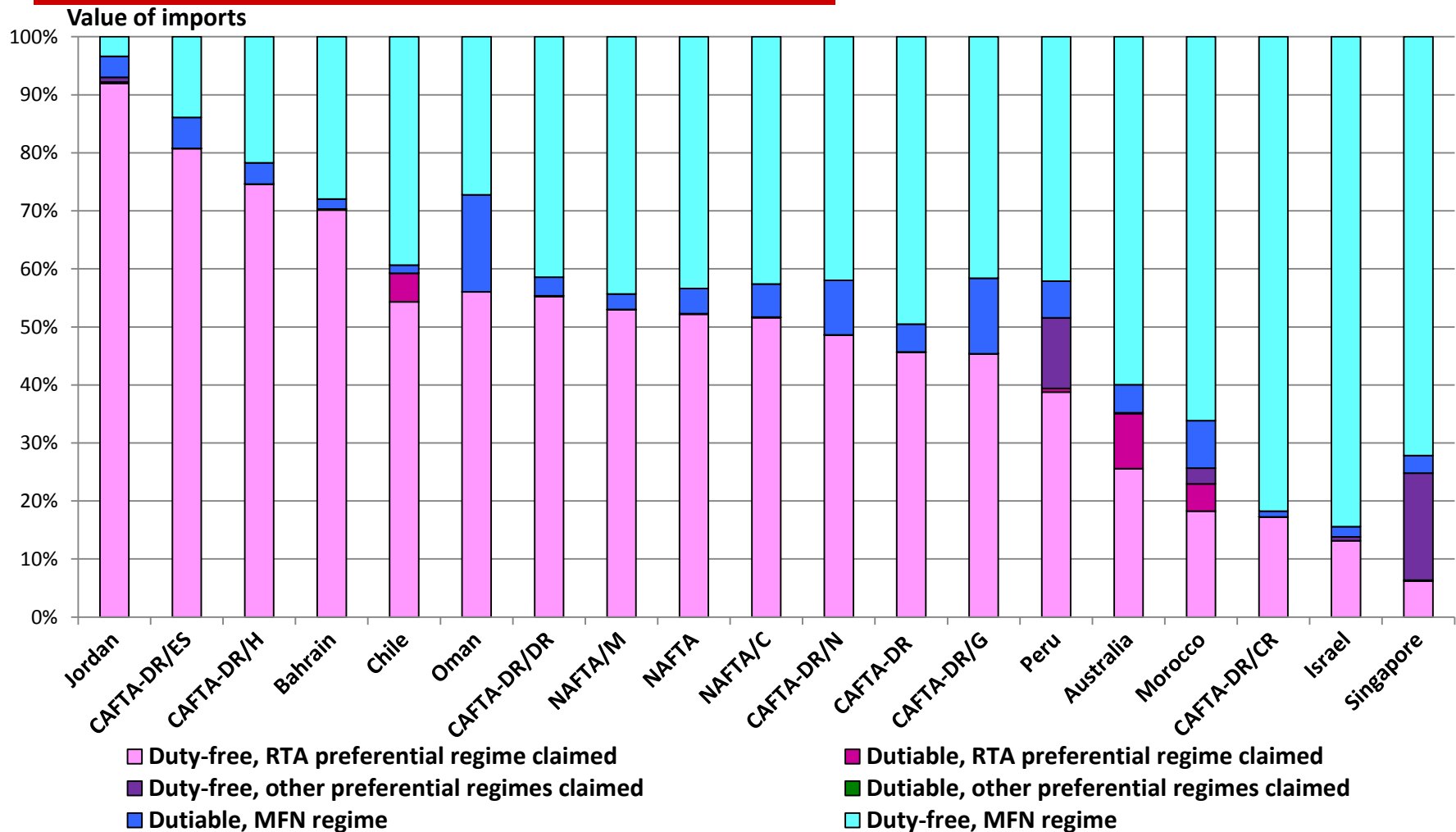Preferential MOP: 2.2%

0.1%<MOP<=5% 18.7%
MOP>5% 51.2%

MOP at EOI, MFN duty-free lines at EIF. Pie charts: relative MOP; bar charts: absolute MOP.
Excludes tariff-lines subject to in-quota and non *ad valorem* duties without AVEs.
Source: WTO RTA database.

Rules of Origin and Use of Preferences: US

Value of imports

Legend:
- ☐ Duty-free, RTA preferential regime claimed
- ☐ Dutiable, RTA preferential regime claimed
- ☐ Duty-free, other preferential regimes claimed
- ☐ Dutiable, other preferential regimes claimed
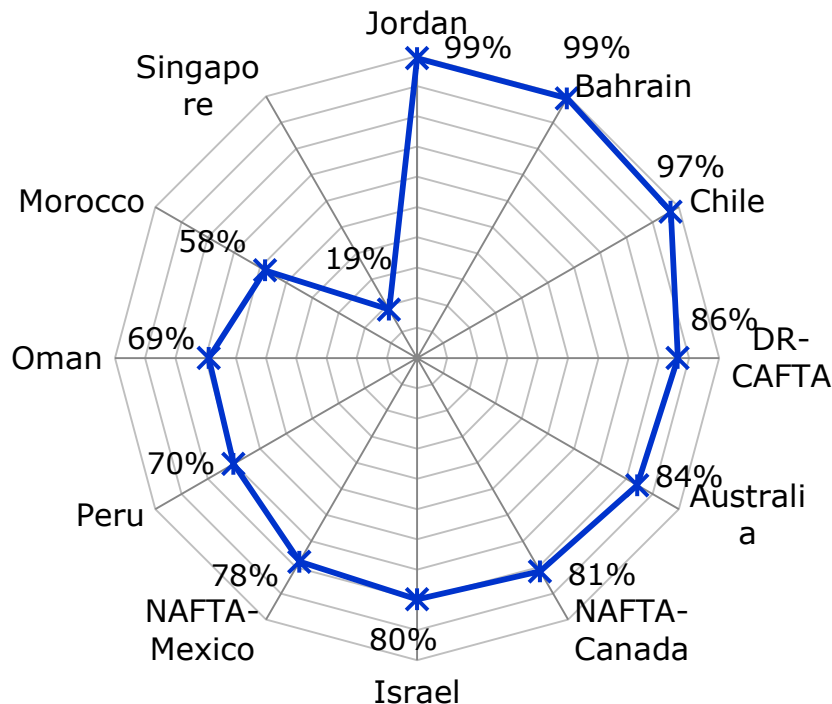- ☐ Dutiable, MFN regime
- ☐ Duty-free, MFN regime

Other preferential regimes include GSP, pharmaceuticals, civil aircraft, Andean Act, etc.
Source: USITC, on the basis of statistics by "import program" and "rate provision".
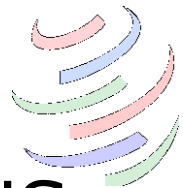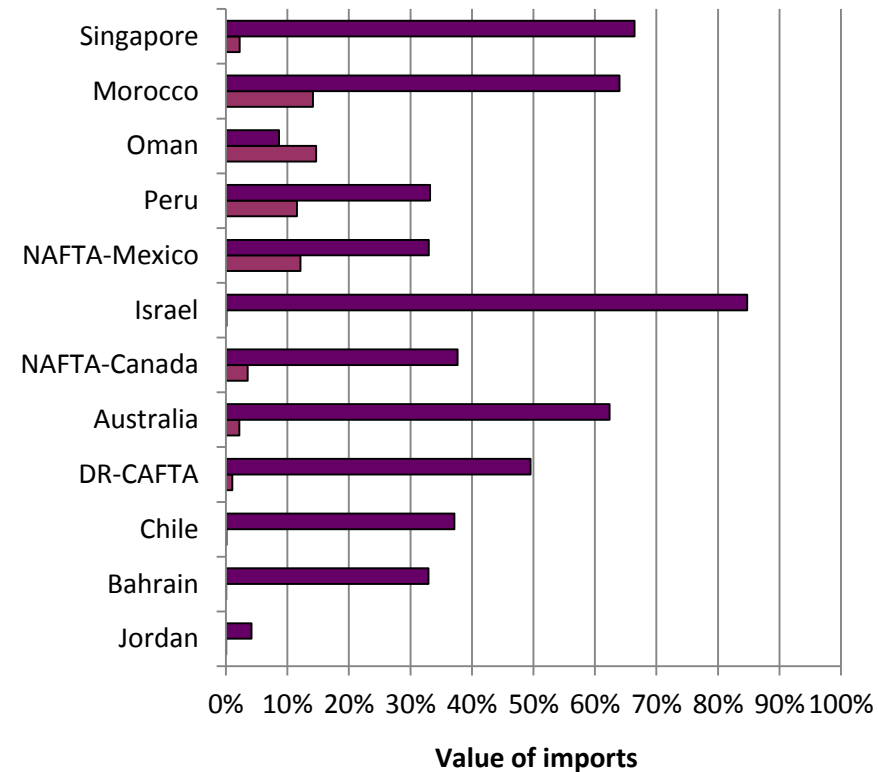
Rules of Origin and Use of Preferences: US

Utilization rates of dutiable imports (% of import value) — radar chart with values: Jordan 99%, Bahrain 99%, Chile 97%, DR-CAFTA 86%, Australia 84%, NAFTA-Canada 81%, Israel 80%, NAFTA-Mexico 78%, Peru 70%, Oman 69%, Morocco 58%, Singapore 19%

Duty-free imports and imports into warehouses and FTZ — bar chart for Singapore, Morocco, Oman, Peru, NAFTA-Mexico, Israel, NAFTA-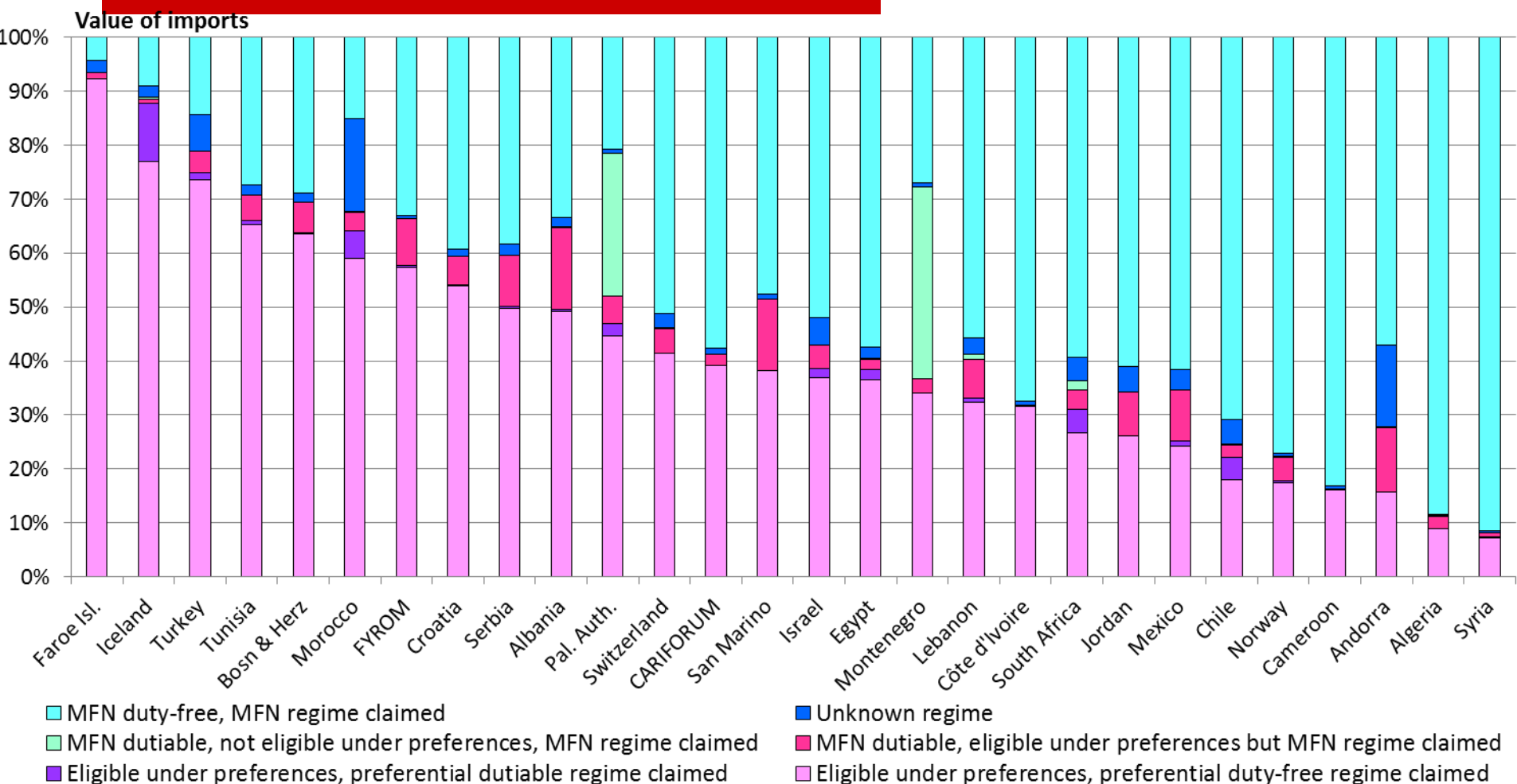Canada, Australia, DR-CAFTA, Chile, Bahrain, Jordan; legend: MFN duty-free imports; Duty-free imports into warehouses & FTZ

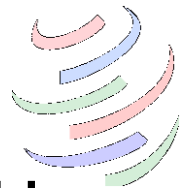Utilisation rates are calculated only on the basis of products covered by the RTA.
Source: WTO own calculations on the basis of USITC import statistics and US 2011 harmonized tariff schedule.

Rules of Origin and Use of Preferences: EU

Value of imports

Legend:
- MFN duty-free, MFN regime claimed
- Unknown regime
- MFN dutiable, not eligible under preferences, MFN regime claimed
- MFN dutiable, eligible under preferences but MFN regime claimed
- Eligible under preferences, preferential dutiable regime claimed
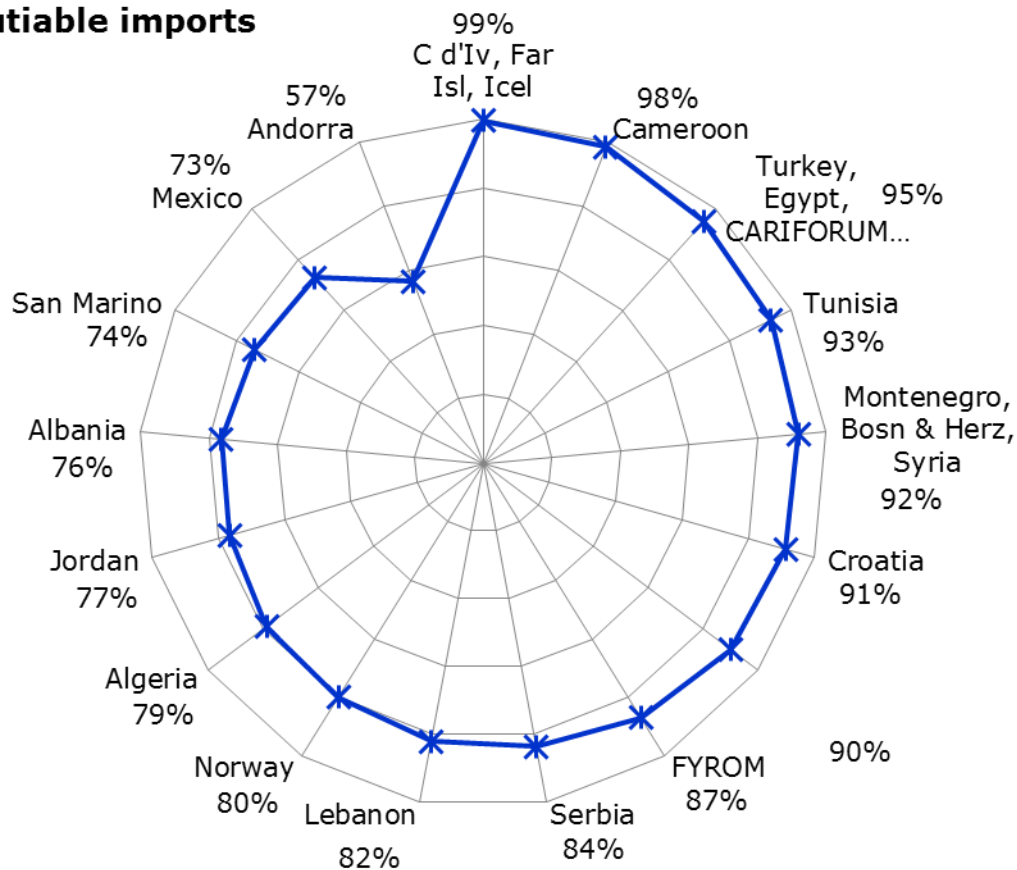- Eligible under preferences, preferential duty-free regime claimed

Note: HS Chapters 1-97.
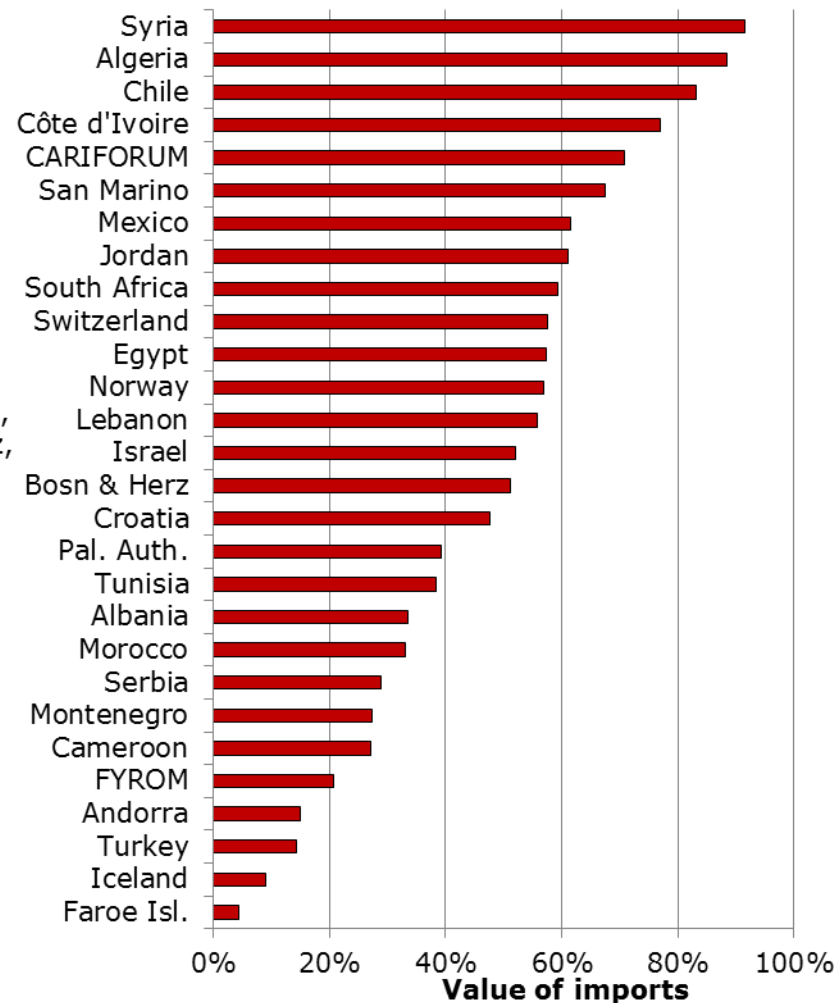*Source*: Eurostat database.

Rules of Origin and Use of Preferences: EU
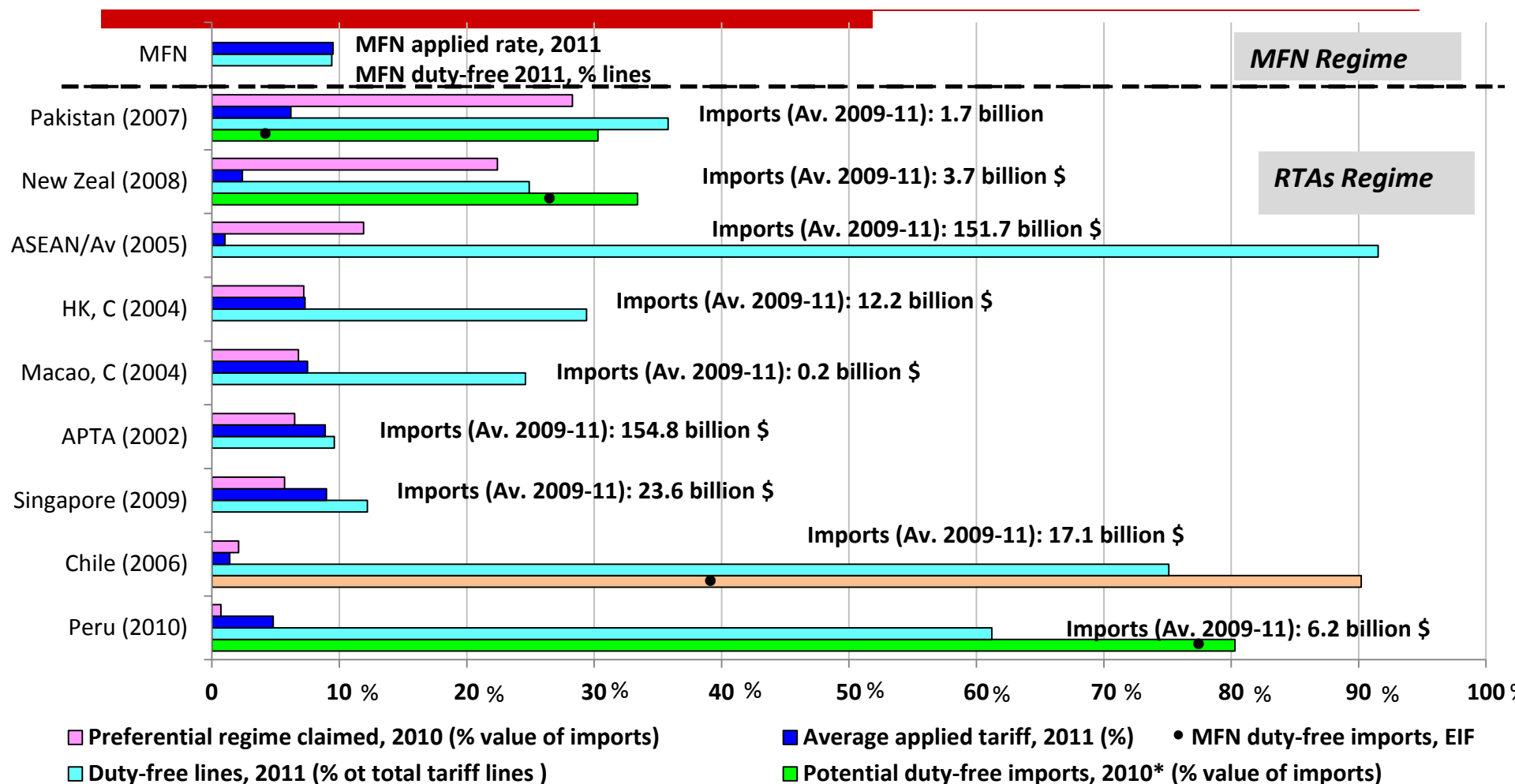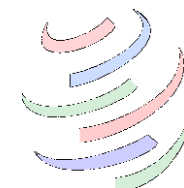
Utilization rates of dutiable imports

MFN Duty-free imports
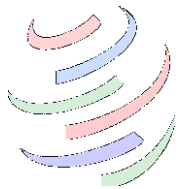

Source: EU Eurostat database and WTO own calculations.

Rules of Origin and Use of Preferences: China (2010)

MFN
MFN applied rate, 2011
MFN duty-free 2011, % lines
MFN Regime

Pakistan (2007)
Imports (Av. 2009-11): 1.7 billion

New Zeal (2008)
Imports (Av. 2009-11): 3.7 billion $
RTAs Regime

ASEAN/Av (2005)
Imports (Av. 2009-11): 151.7 billion $

HK, C (2004)
Imports (Av. 2009-11): 12.2 billion $

Macao, C (2004)
Imports (Av. 2009-11): 0.2 billion $

APTA (2002)
Imports (Av. 2009-11): 154.8 billion $

Singapore (2009)
Imports (Av. 2009-11): 23.6 billion $

Chile (2006)
Imports (Av. 2009-11): 17.1 billion $

Peru (2010)
Imports (Av. 2009-11): 6.2 billion $

0   10 %   20 %   30%   40 %   50 %   60%   70%   80 %   90 %   100 %

☐ **Preferential regime claimed, 2010 (% value of imports)**   ■ **Average applied tariff, 2011 (%)**   ● **MFN duty-free imports, EIF**
☐ **Duty-free lines, 2011 (% ot total tariff lines)**   ☐ **Potential duty-free imports, 2010* (% value of imports)**

In parenthesis: year of the RTA entry into force.
* Data extrapolated on the basis of bilateral import data for the three years preceding the RTA's entry into force.
Source: WTO, China TPR 2012 and Factual Presentations, and UN Comtrade.

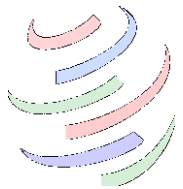# Study on PROs: Conclusions

☐ *Raison d'être* : avoidance of trade deflection
  ➡ BUT in practice: PROs are increasingly becoming, *per se*, an economic, political and trade instrument

☐ In modern RTAs: <u>stricter</u> rules of origin
  ➡ BUT concomitantly the inclusion of <u>flexibilities</u> providing, through the PROs themselves :
    ☐ a preference beyond the lower tariff rate and
    ☐ integration of third-parties into PRO regimes

☐ Beyond the <u>coverage</u>, it is the effective <u>implementation</u> of RTAs that poses a challenge to economic operators.
  ■ Dual reality: high/low use of preferences

Study on PROs:
Suggestions for Further Action

- ☐ Launch in the WTO an exploratory work on PRO:
  - ■ unique global body with a <u>statutory relation</u> to the vast majority of the RTAs in force; information on all RTAs notified to the WTO are already available;
  - ■ way to implement declarations of "open regionalism": exploring opportunities of improved market access for both parties and third-parties to RTAs
  - ■ expertise is available in the two bodies of the WTO

- ☐ Value chains: rethink the design of rules of origin?

- ☐ WTO work:
  - ■ rule-making approach: minimum requirements for PROs
  - ■ "hands-on" approach: convergence of PROs, elimination of PROs for all products bound at "low" MFN rate, enlarging the scope of diagonal cumulation and OPs, etc.