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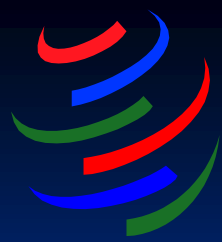
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# RTAs and the WTO in Today's Trading Environment

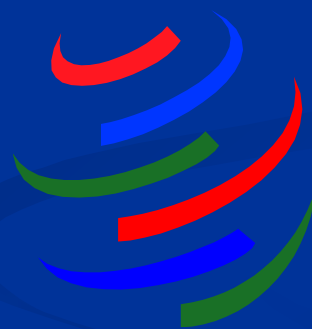
IATRC Theme Day  
San Diego 9 December 2012

*Rohini Acharya*  
*Regional Trade Agreements Section*  
*Trade Policies Review Division*  
*World Trade Organization*

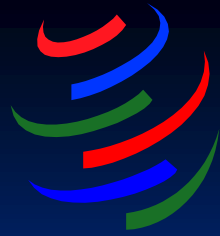
# RTAs and the WTO

Do RTAs matter to the multilateral trading system?

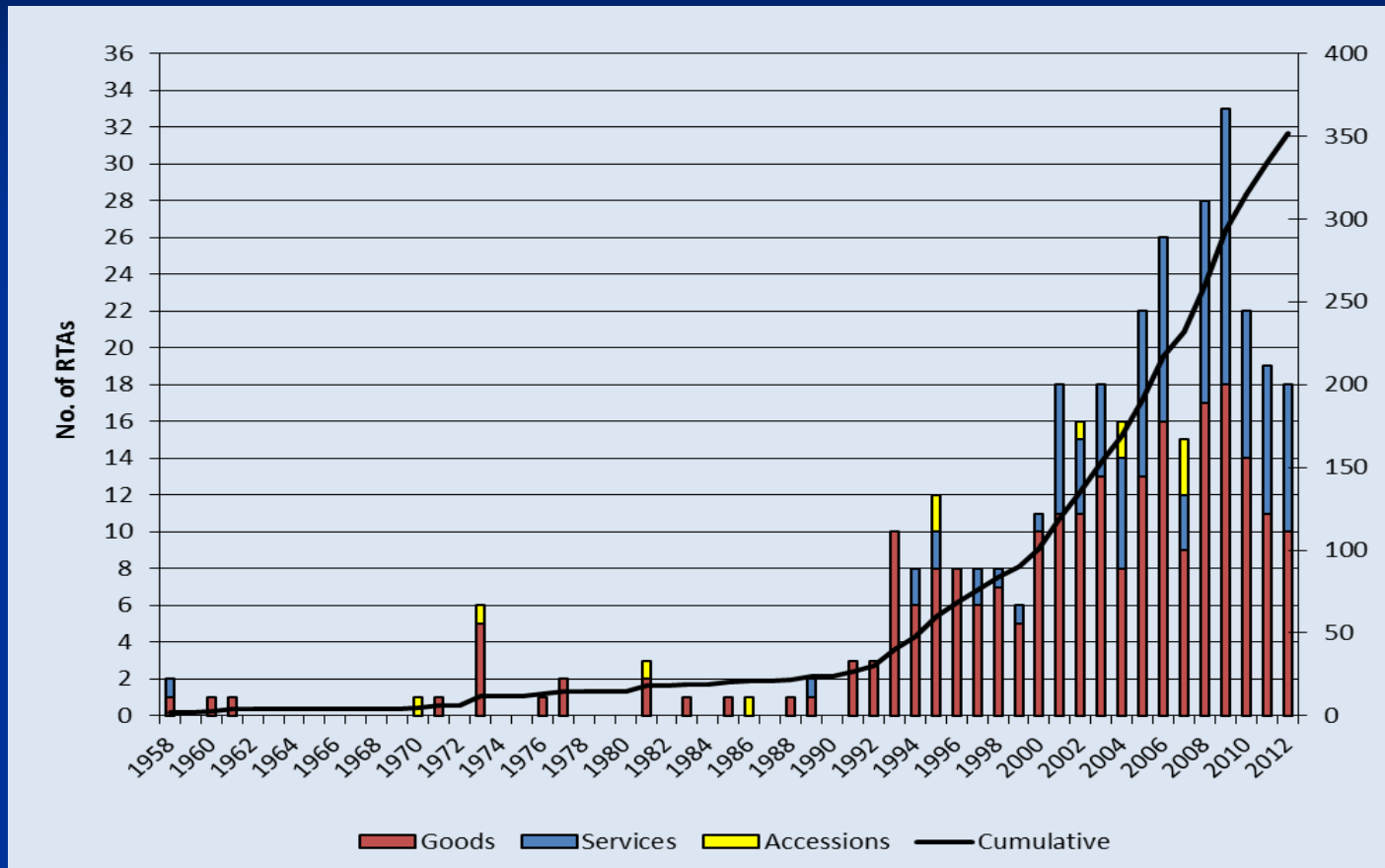
- **RTA Proliferation**
- **Systemic impact**



# Proliferation of RTAs



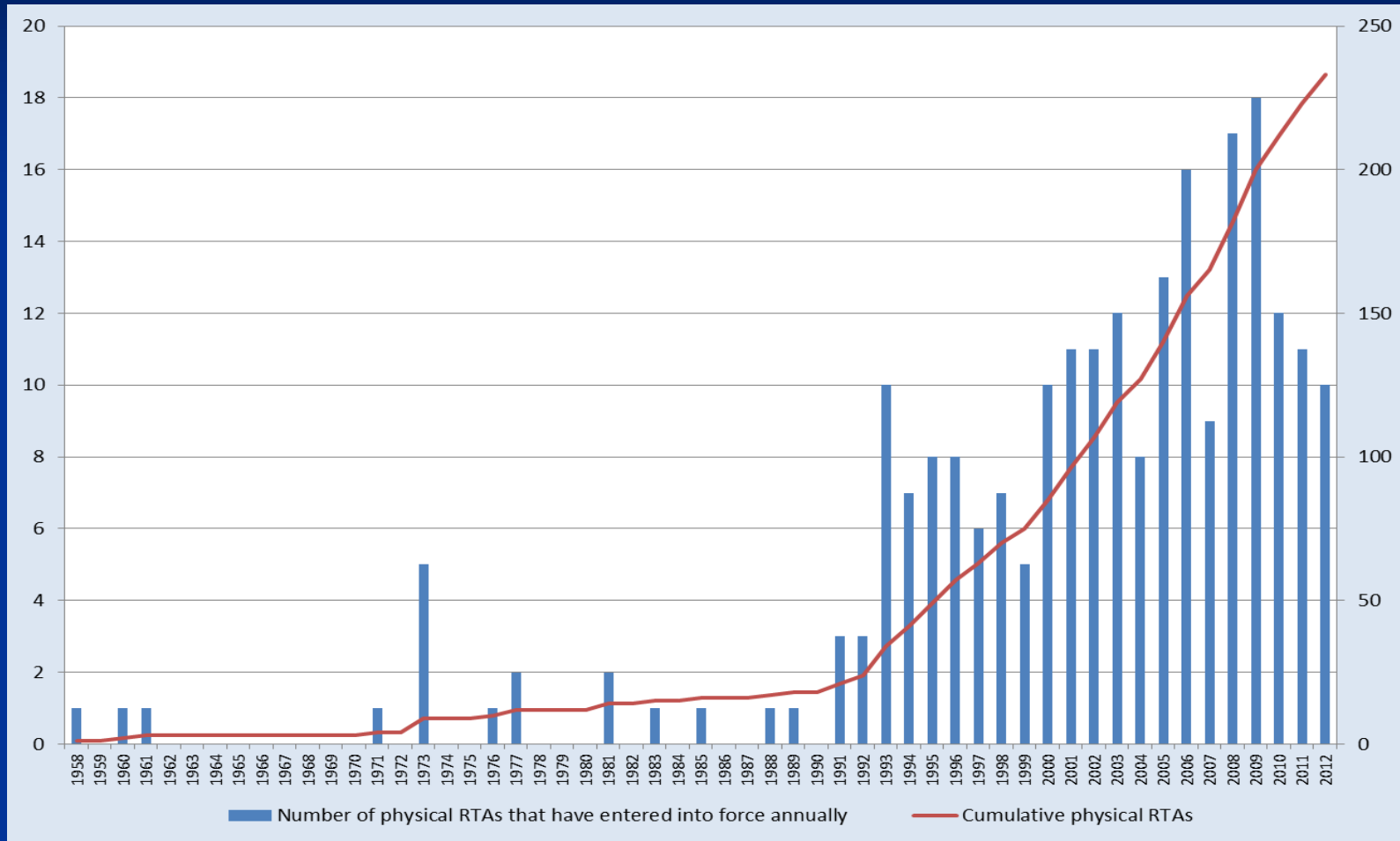
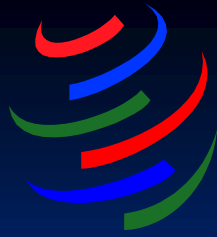
Evolution of RTA Notifications, by year of entry into force



- As of 25 November 2012, 352 notifications of RTAs have been received by the GATT/WTO and are currently in force
- Approximately 100 RTAs in the pipeline (signed, not yet in force/under negotiation) – Unaccounted number of RTAs in force but not yet notified

# Proliferation of RTAs

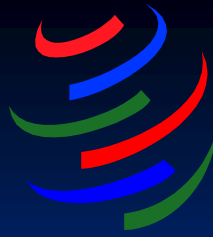
Evolution of Physical RTAs, by year of entry into force



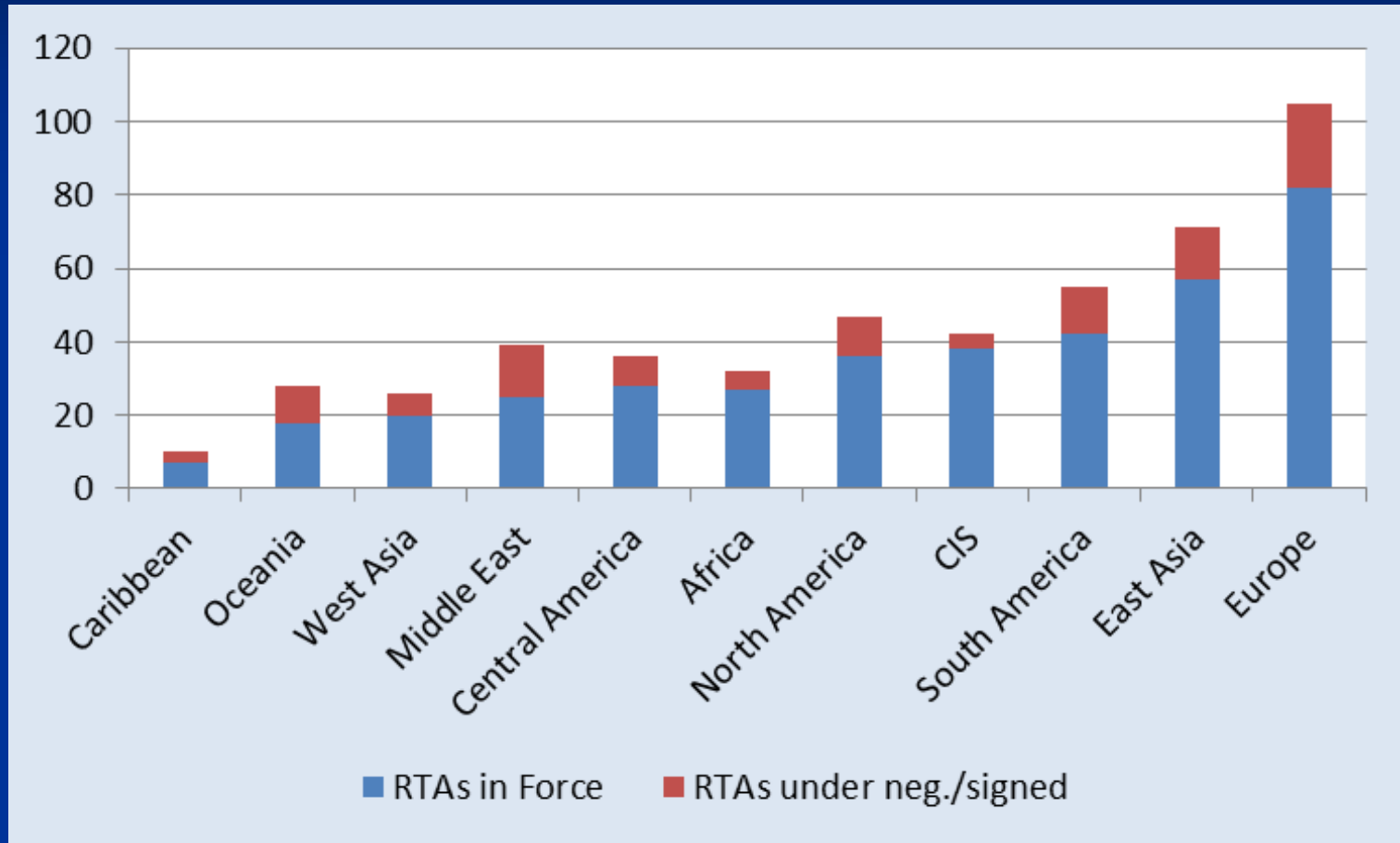
WTO statistics on RTAs are based on notification requirements rather than on physical number of RTAs.

Total number of physical RTAs in force to date is : 233

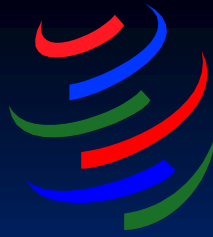
# Proliferation of RTAs



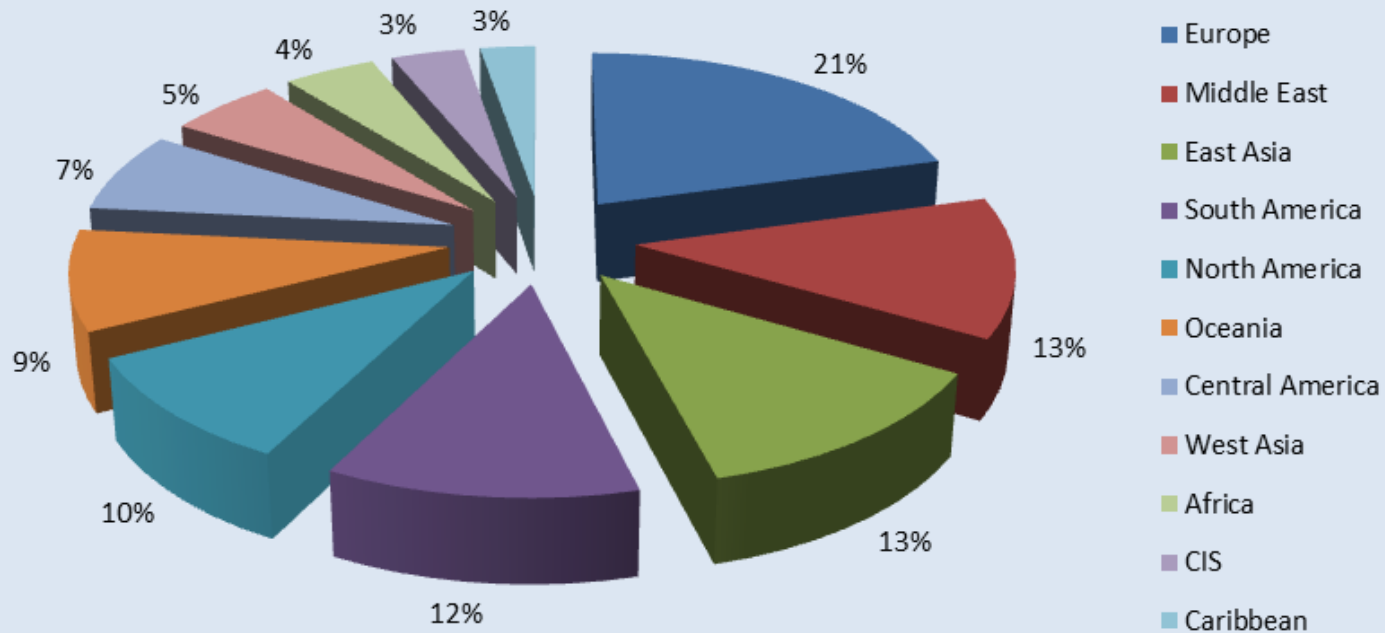
Physical RTAs in force and current negotiations, by region



# Proliferation of RTAs



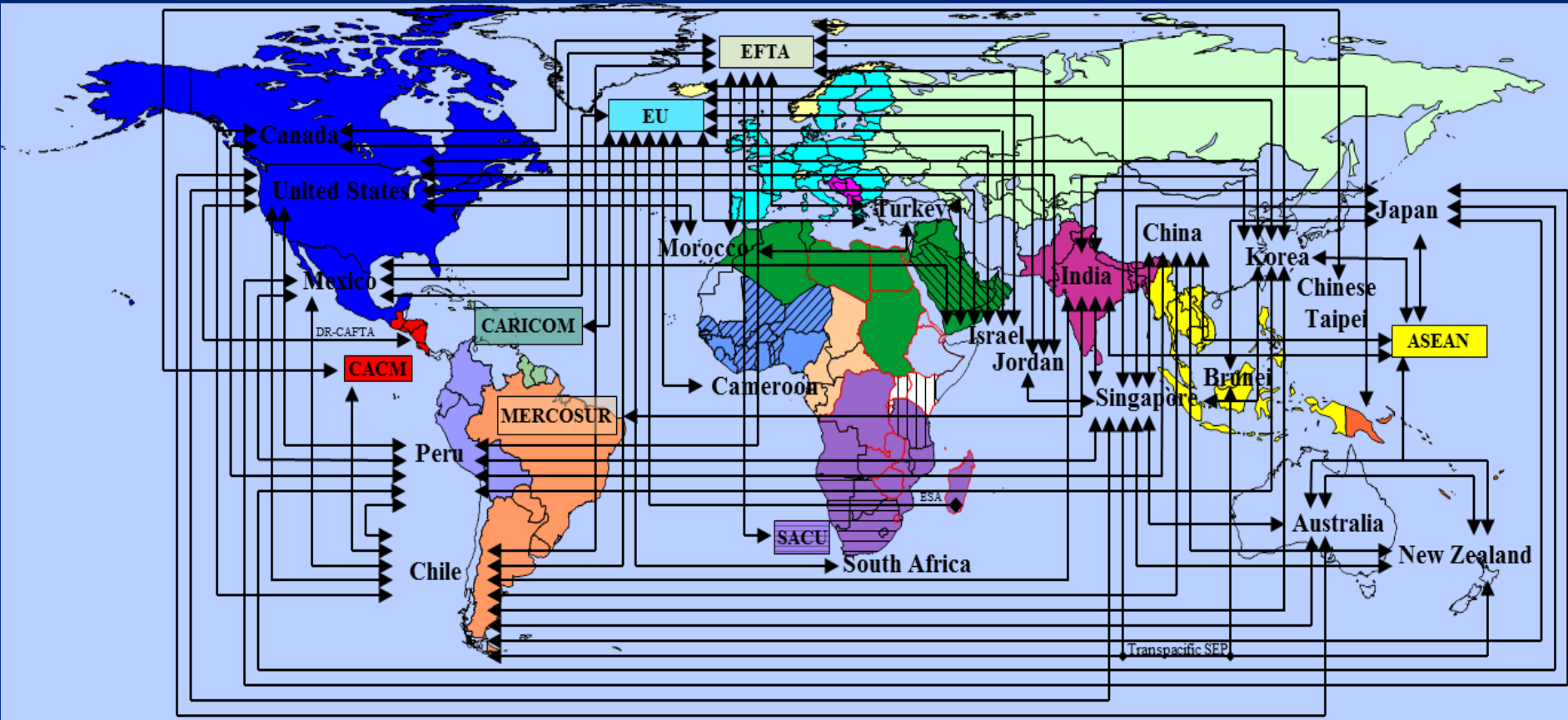
RTAs under negotiations, by region



# Global & Regional Developments



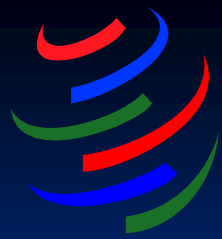
The spaghetti bowl effect...



- |         |                  |         |         |          |        |         |
|---------|------------------|---------|---------|----------|--------|---------|
| ■ NAFTA | ■ EUROPEAN UNION | ■ EFTA  | ■ PAFTA | ■ ECOWAS | ▨ EAC  | ■ SAFTA |
| ■ CACM  | ■ CARICOM        | ■ CEFTA | ▨ GCC   | ■ CEMAC  | ▨ SADC | ■ ASEAN |
| ■ CAN   | ■ MERCOSUR       | ■ CIS   | ▨ WAEMU | ▨ COMESA | ▨ SACU | ■ PICTA |



# Systemic impact...



## The RTA phenomenon

- Sustained RTA proliferation
- Expanding trade policy scope and reach of RTAs
- Shift from regional to cross-regional RTAs. Main indicators:
  - Very significant increase of number of cross-regional RTAs
  - Predominance of bilateral RTAs
  - Preference of FTAs over customs unions and PTAs
- Overlap in RTA membership adding to complexity
- Emergence of hubs and spokes

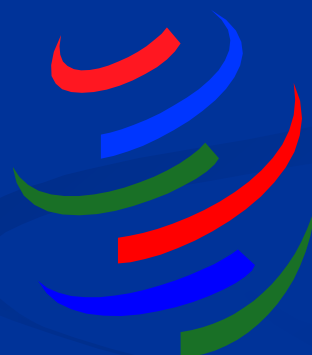
## The MTS landscape

- Multiple layers of preferential trading regimes
- Trade discrimination, complexity, lack of transparency
- Systemic implications for the MTS/WTO

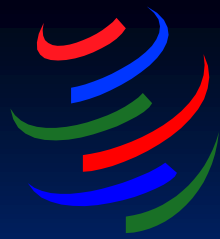
# RTAs and the WTO

What is the role of the WTO?

- Rules
- Surveillance
- Negotiations



# The Rules on RTAs in the WTO



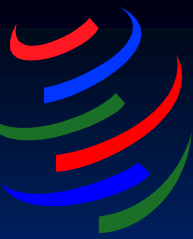
- RTAs are permitted exceptions to the MFN principle
- The System itself has developed a series of conditional exceptions that Members can invoke when departing from their MFN commitment:
  - Since 1947 → GATT Article XXIV – FTA & CU
  - Since 1979 → Para. 2(c) “Enabling Clause” – developing countries
  - Since 1994 → Understanding on GATT Art. XXIV
  - Since 1995 → GATS Article V – trade in services
- Preferences other than RTAs & GSP require a waiver!



# Common Principles

1. The purpose of an RTA is to facilitate trade among the parties through the reduction (Enabling Clause) or elimination of tariffs and other barriers on substantially all the trade (substantial sectoral liberalization in services with all four modes of supply covered).
2. The RTA must provide for mutual/reciprocal trade concessions
3. The attainment of the internal objective of trade liberalization must not entail placing barriers towards non-RTA parties higher than those existing before the formation of the RTA

# The Negotiations on RTAs: Mandate



The Doha Ministerial Declaration (14 Nov 2001) contains two references to RTAs:

§4 Recognize the WTO as unique forum for global trade rule-making and liberalization

... and RTAs' role in trade liberalization and development

Preamble

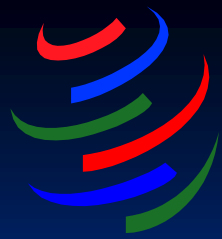
§29 Calls for negotiations to clarify and improve WTO rules and procedures on RTAs

... taking into account RTAs' developmental aspects

Negotiating

Mandate

# Why such negotiations?



## Lack of transparency:

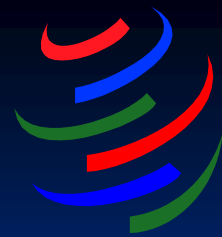
- Failure to comply with notification obligations
- Where notified, inadequate information provided

## Systemic concerns:

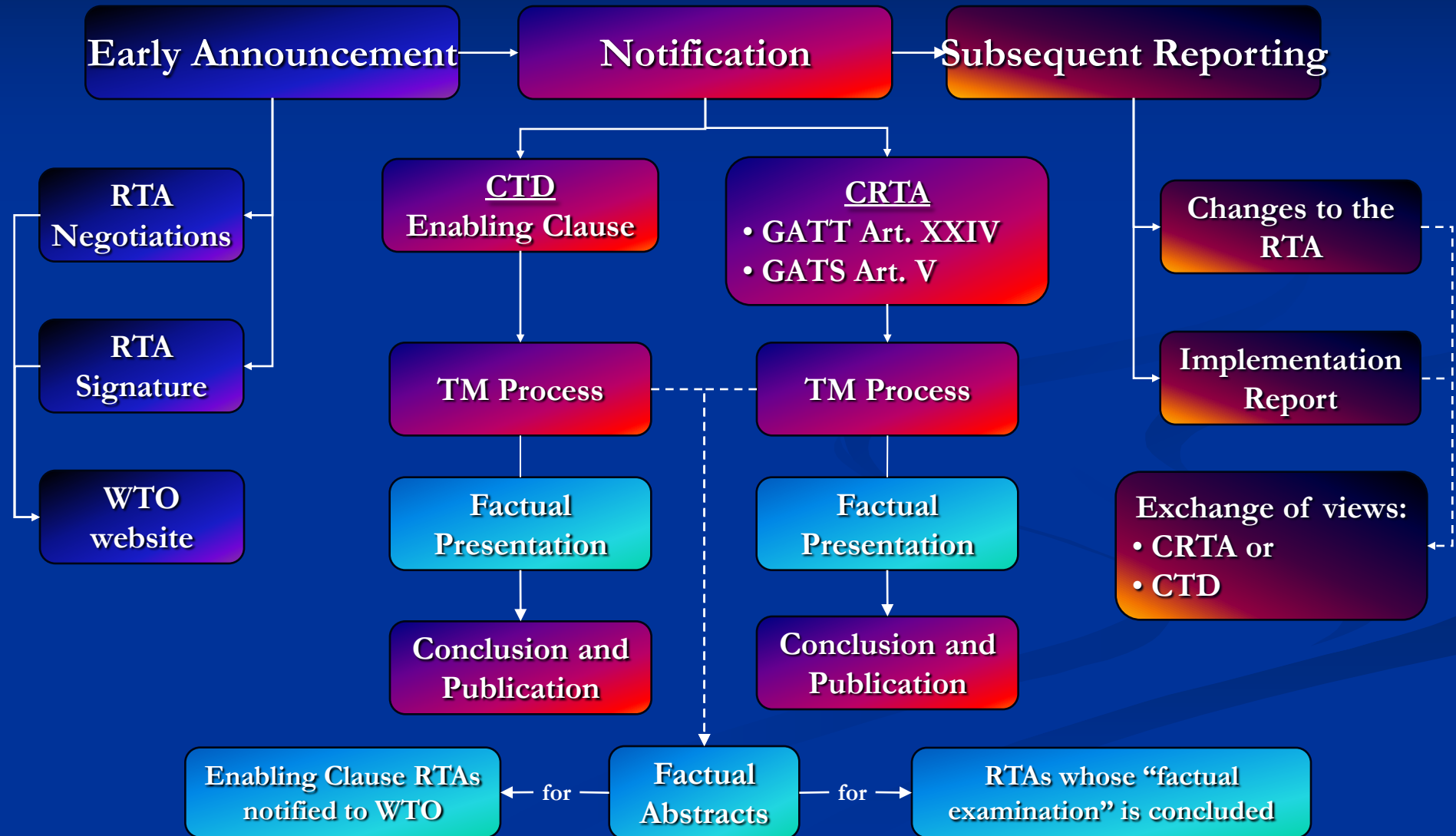
- Proliferation of RTAs
- Divergent interpretation of WTO provisions on RTAs

## Institutional deadlock:

- No effective WTO surveillance mechanism of RTAs
- No consistency assessment of the RTAs in force

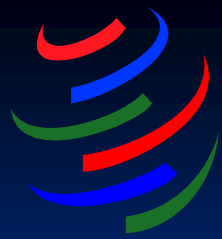


# Transparency Mechanism





# Notification Requirements



According to the Transparency Mechanism:

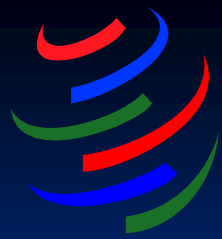
- “The required notification of an RTA... shall take place as early as possible. As a rule, it will occur no later than directly following the parties’ ratification...and before the application of preferential treatment between the parties.” (para. 3).

However:

- **Non-notified agreements** remain in force: Secretariat estimates that there are around 100.
- Efforts to **improve notification record**:
  - Decision to circulate list of agreements that have been confirmed as being in force but not notified.
  - Most recent list (WT/REG/W/72) circulated currently contains over 50 RTAs
  - List will be updated before each CRTA meeting.



# State of play (as of November 2012)



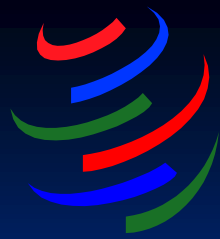
## ■ Factual Presentations completed (132)

RTA			
Armenia - Moldova (G)	EFTA - Serbia (G)	Japan - Viet Nam (G&S)	Peru - Korea, Rep. Of (G&S)
Armenia - Ukraine (G)	EFTA - Tunisia (G)	Jordan - Singapore (G&S)	Peru - Singapore (G&S)
Australia - Chile (G&S)	Egypt - Turkey (G)	Korea, Rep. of - Chile (G)	SACU (G)
Brunei Darussalam - Japan (G&S)	EU - Albania (G&S)	Korea, Rep. of - Singapore (G&S)	SADC (G)
Canada - Colombia (G&S)	EU - Chile (S)	Kyrgyz Republic - Ukraine (G)	MERCOSUR (S)
Canada - Peru (G&S)	EU - Croatia (S)	Mexico - El Salvador (G&S)	Thailand - Australia (G&S)
Chile - China (G&S)	EU - Egypt (G)	Mexico - Guatemala (G&S)	Thailand - New Zealand (G)
Chile - Colombia (G&S)	EU - FYROM (S)	Mexico - Honduras (G&S)	Trans-Pacific SEP (G&S)
Chile - India (G)	EU - Montenegro (G&S)	Mexico - Nicaragua (G)	Turkey - Albania (G)
Chile - Japan (G&S)	EU - Rep. of Korea (G&S)	New Zealand - Malaysia (G&S)	Turkey - Chile (G)
China - New Zealand (G&S)	EU - Serbia (G)	Nicaragua - TPKM (G&S)	Turkey - Jordan (G)
Colombia - Mexico (G&S)	EU - South Africa (G)	Pakistan - China (G&S)	Turkey - Georgia (G)
Costa Rica - Mexico (G&S)	Georgia - Ukraine (G)	Pakistan - Malaysia (G&S)	Turkey - Montenegro (G)
EC (25) Enlargement (S)	Hong Kong, China - New Zealand (G&S)	Pakistan - Sri Lanka (G)	Turkey - Morocco (G)
EC (27) Enlargement (G&S)	India - Singapore (G&S)	Panama - Chile (G&S)	Turkey - Serbia (G)
EFTA - Albania (G)	Japan - Indonesia (G&S)	Panama - Costa Rica (G&S)	Turkey - Tunisia (G)
EFTA - Canada (G)	Japan - Malaysia (G&S)	Panama - El Salvador (G&S)	Ukraine - FYROM (G)
EFTA - Chile (G&S)	Japan - Mexico (G&S)	Panama - Singapore (G&S)	Ukraine - Moldova (G)
EFTA - Egypt (G)	Japan - Philippines (G&S)	Panama - TPKM (G&S)	US - Australia (G&S)

## ■ Factual Presentations to be done (115)

## ■ Factual Presentations on hold (4)

# A WTO Database on RTAs



## ■ Mandate – *(Para 21 of WT/L/671)*

- The aim is to provide an RTA Information System (RTA-IS), to store, maintain, analyse and disseminate factual and analytical information on RTAs

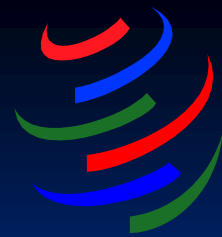
## ■ Objectives

- Standardize, store, verify and maintain RTA-related textual information and RTA tariff and trade data
- Provide statistical indicators for RTA analysis
- Enhance the transparency and accessibility of information on RTAs through its dissemination on the WTO web site

## ■ Timeframe

- January 2009 available to the public (<http://rtais.wto.org>)
- Long term goal to provide up to date information, including data on trade and tariffs covered by individual agreements.

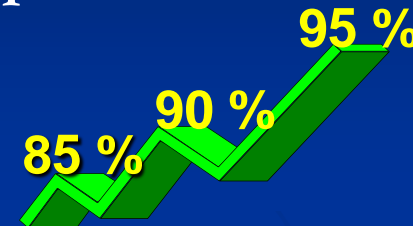
# Systemic issues



## A. Substantially all the Trade

The Group's work has focused mainly on the interpretation of the disciplines contained in GATT Article XXIV:

«Substantially all the trade»



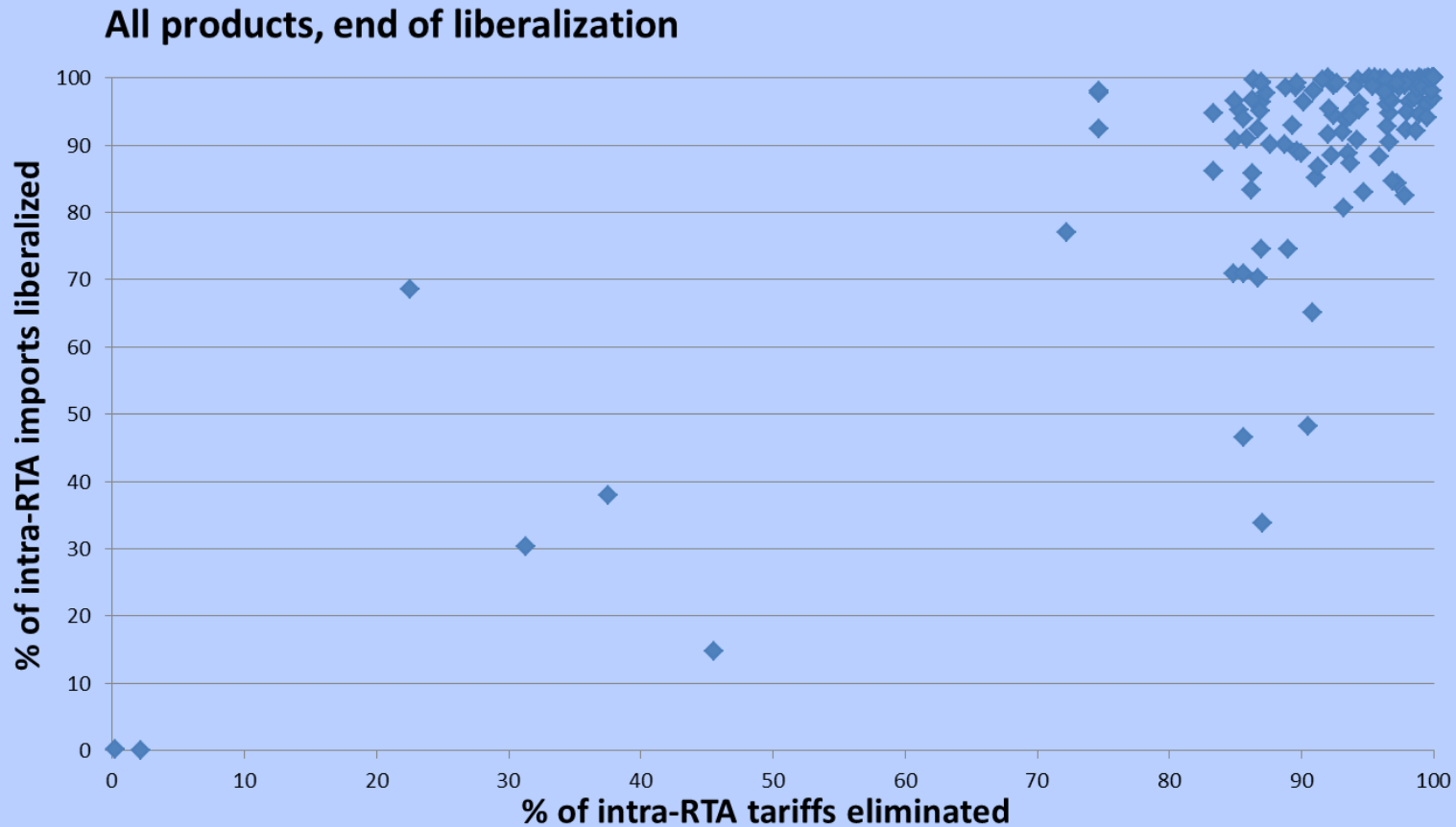
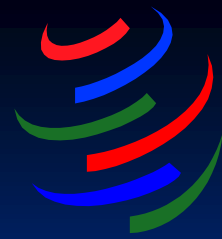
### ■ Defining:

- “substantially all the trade”
- “major sectors”
- “other restrictive regulations of commerce”

### ■ Developing a methodology to assess the concept of SAT that would account for the elements listed above

# Substantially all the Trade

Overall tariff liberalization is generally high

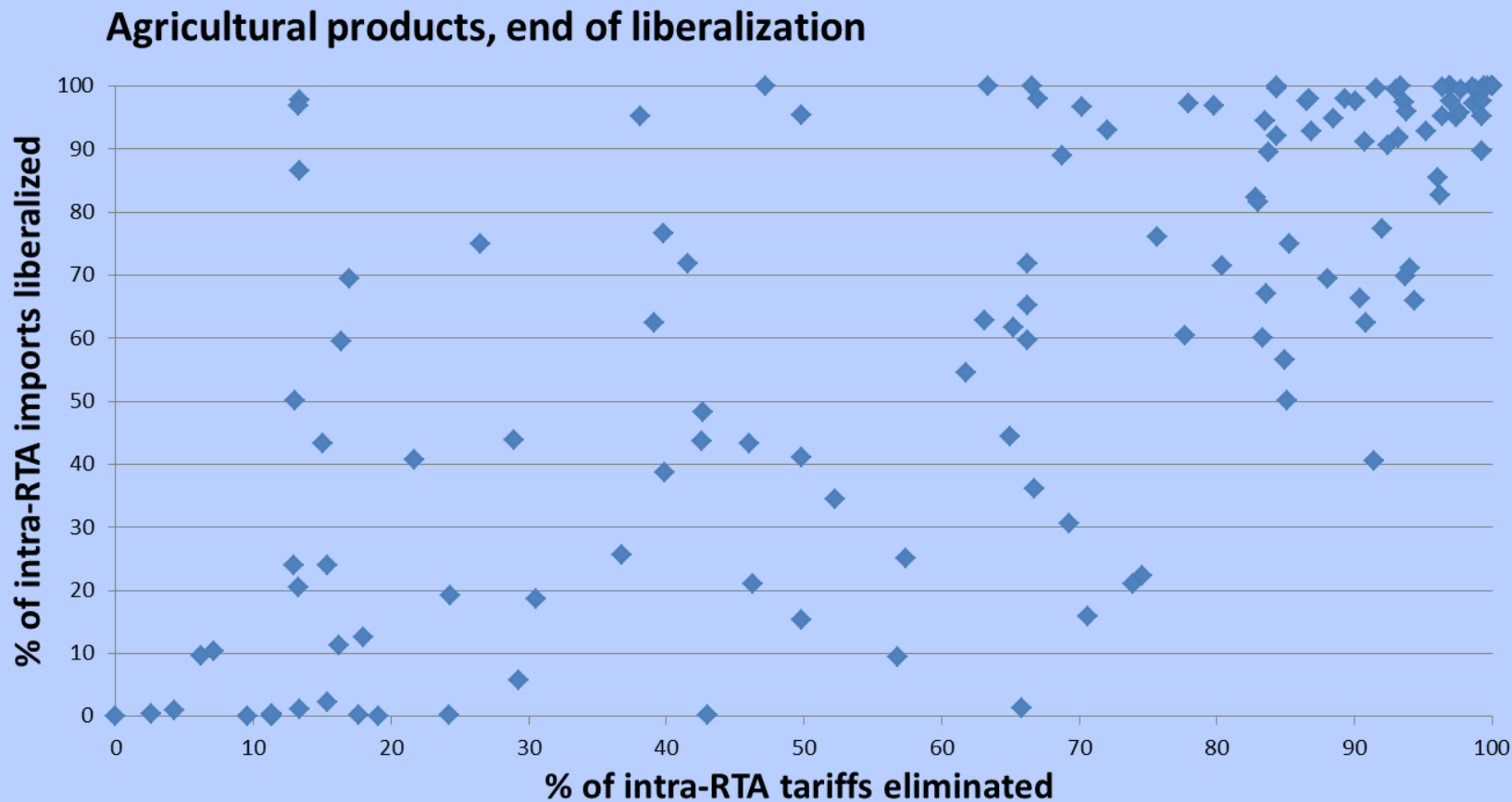


Source: WTO Secretariat. (WTO Staff Working Paper , ERSD-2012-20)

# Substantially all the Trade

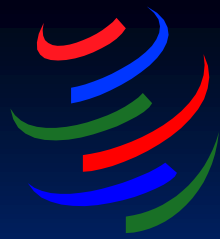


But not in agriculture



Source: WTO Secretariat. (WTO Staff Working Paper , ERSD-2012-20).

# B. Transition Periods

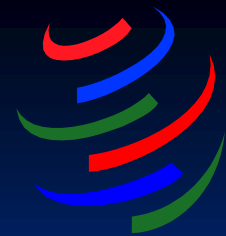


«Transition periods»

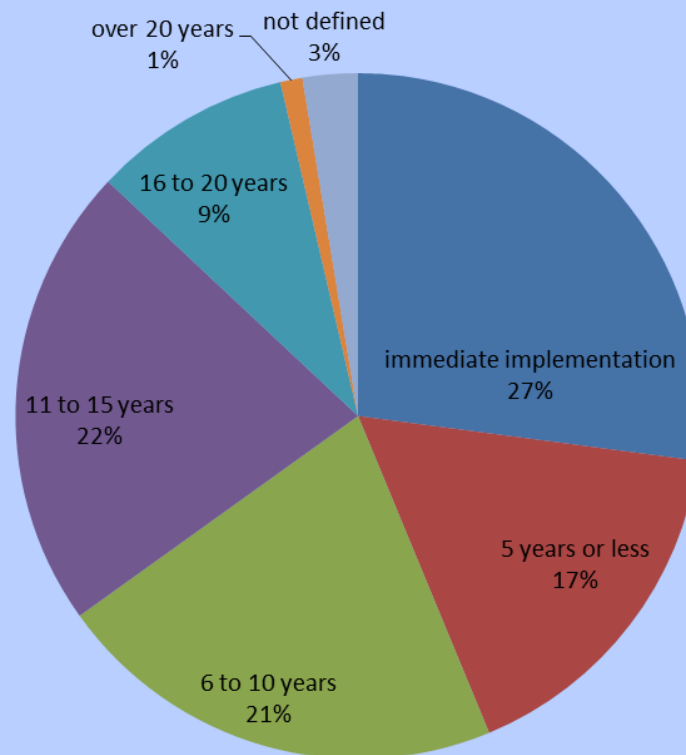


- To which RTAs do transition periods apply?
- What should be the maximum length allowed?
- What is the relationship between transition periods & SAT?
- Definition and scope of application of “exceptional cases”

# Transition periods in RTAs

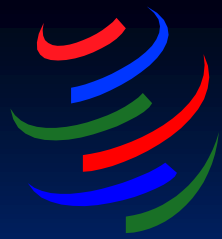


**Length of the Transition Period in 192 RTAs surveyed**



Source: WTO Secretariat . (WTO Staff Working Paper , ERSD-2012-20).

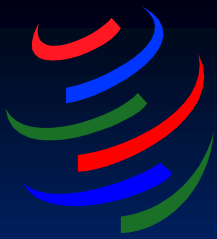
# C. Development Aspects



## «Development aspects»

- Special and differential (S&D) treatment in Article XXIV of the GATT 1994
- How much S&D?
- Scope of application of S&D?





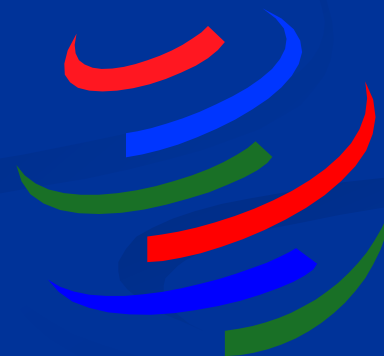
# Current status of negotiations

- Review of TM launched in December 2010
- Based on inputs from Chairs of CRTA and CTD (JOB/RL/1 and JOB/RL/2) and Secretariat (JOB/RL/4).
- Proposal by the United States (TN/RL/W/248) and Ecuador (TN/RL/W/249).
- Informal meetings held in first part of 2011 on mainly procedural elements of review.
- No further progress on systemic issues

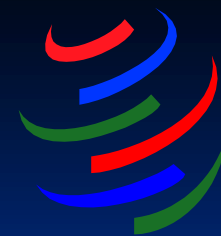
# RTAs and the WTO

## The way forward?

- Systemic risks
- From preferential to MFN trade



# RTAs and the WTO



## Systemic risks

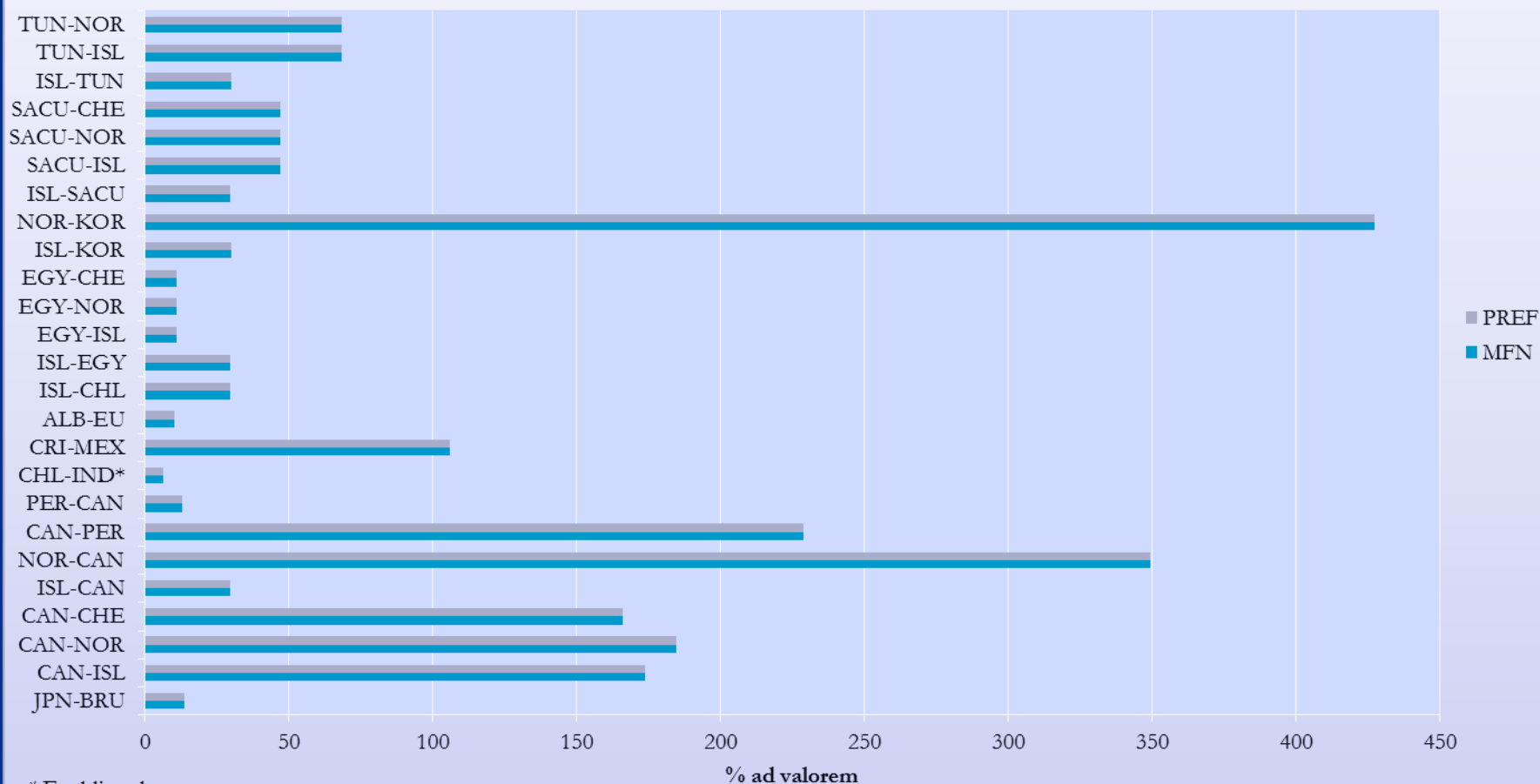
- Preference erosion potential threat to further multilateral trade liberalization
- Rising complexity in rules/implementation costs especially for developing and Least-developed countries.
- Costly for countries left outside the preferential network

# RTAs and the WTO



Continued resistance to liberalization of sensitive products: RTA tariff peaks=MFN tariff peaks

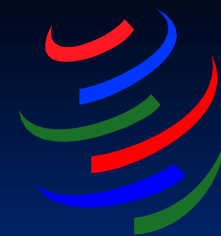
HS Section I, MFN versus remaining dutiable preferential rates



\* Enabling clause

Source: WTO Secretariat.

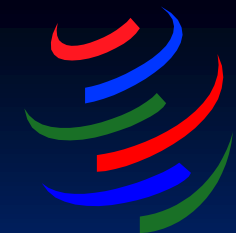
# RTAs and the WTO



## Potential **synergies with the MTS**

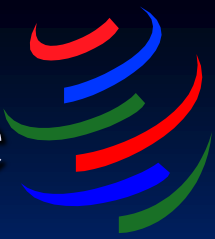
- Behind the border provisions (services rules, IPRs, competition etc.) are generally non-discriminatory
- Affirmation of WTO rights and obligations (eg. TBT/SPS, anti-dumping)—status quo
- Third-party MFN provisions are found in some agreements (around 22% of 192 agreements examined) although most are conditional.

# RTAs and the WTO



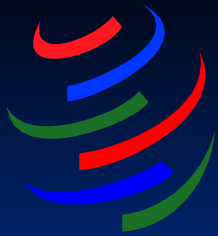
- **Enlargement:** Some agreements permit accession (22% of all notified RTAs to any party and 16% to some parties in a recent study)
  - From SEP (4 parties) to TPP (currently 11 parties and growing)
  - ASEAN + 6, Tripartite Agreement
- **Harmonization,** eg. Pan-European System of Cumulation of origin

# From preferential to MFN trade



## The WTO Agenda:

- Complete the Doha Round of negotiations
  - As MFN tariffs fall, preference margins fall (incentive for RTAs lowered).
  - Certain issues such as subsidies best tackled at the multilateral level
  - Best option for developing and least-developed economies who are left out of preferential networks.
- On RTAs: from transparency to non-binding **best practices/critical mass approach**
  - Regional efforts include APEC best practices (eg. rules of origin, trade facilitation, coverage etc.)



# Thank you

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