

# Linking utilization rates to rules of origin: the case for URs as a public good

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# Utilization Rates (URs) and Rules of Origin

- Utilization rates have been used to monitor the effectiveness of GSP since 1975 according to an agreed formula in UNCTAD and after in WTO
- As Governments are increasingly signing FTAs there is an increasing interest in URs
- Yet, URs are not “politically correct” as they may offer a merciless picture of a FTA
- With the notable exception of few countries, URs are not publicly available
- Given the growing network of FTAs, the lack of URs data, and the poor URs recorded, this is a major challenge for the world.
- With no URs data and studies, reforms of RoO are not undertaken as policy makers are reluctant and firms are not lobbying
- This presentation showcases research on (1) the importance of URs as a public good by showing examples and (2) future research

# The growing importance of Utilization Rates

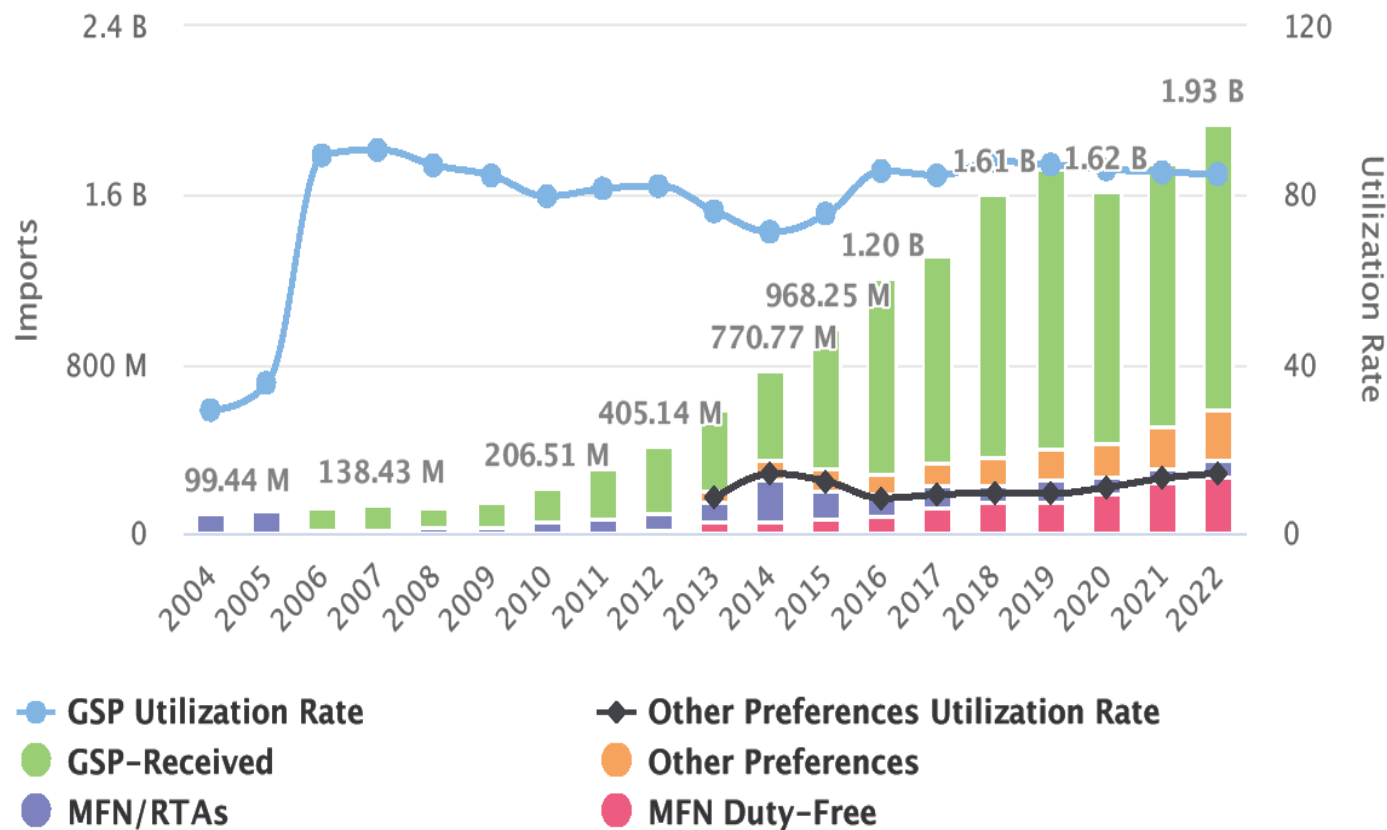
- Research shows that many FTAs, especially South-South records poor UR mainly deriving from stringent RoO and administrative procedures
  - Inama, Crivelli, and Ha (2022) has shown that in 2016-2018, the average utilization rates of ATIGA has been **50% even after introduction of E-COs and an amount of duty savings of 3.6 billion for 2018**
  - In comparison the **LDC URs of trade preferences granted by QUAD countries** (i.e., Canada, the EU, Japan, and the US) **has been 90% in 2018**
  - **A study COMESA-UNCTAD has shown that URs of intra COMESA trade are 42% compared with 77% when trading with the North**
- What the URs of AfCFTA and RCEP will be?

# Cambodia experience as shown at WTO: Overlapping trade preference regimes, Different URs, RoO and Graduation

- LDCs are beneficiaries of various overlapping trade preferences with different coverages, RoO and eligibility requirements.
- The critical issue is to analyze URs data of each trade preferences to identify what trade preference works best for firms
- The experience of Cambodia and Japan trade under GSP LDC scheme and ASEAN-Japan FTA clearly shows how important this differentiation is.

# GSP and AJCEP URs: Japan and Cambodia

Evolution of the GSP and Other Preferences utilization rate (UR, right scale) and imports by tariff treatment (left scale)



Source: unctad.org

- **Blue line:** UR of Japan GSP which is consistently around 80% of utilization from 2006 to 2022
- **Black line:** **AJCEP**, an FTA Cambodia signed with other ASEAN parties(2008): from 2013-22 the UR is less than 20%

## Findings:

- *After LDC graduation Cambodia may lose Japan LDC status and fall back to the standard GSP or AJCEP.*
- *Standard Japan GSP does not grant Duty free nor same coverage of GSP LDC, AJCEP has stringent PSROs*

## Policy conclusions:

Cambodia needs to negotiate better PSRO with Japan under a new FTA or improve PSROs under AJCEP

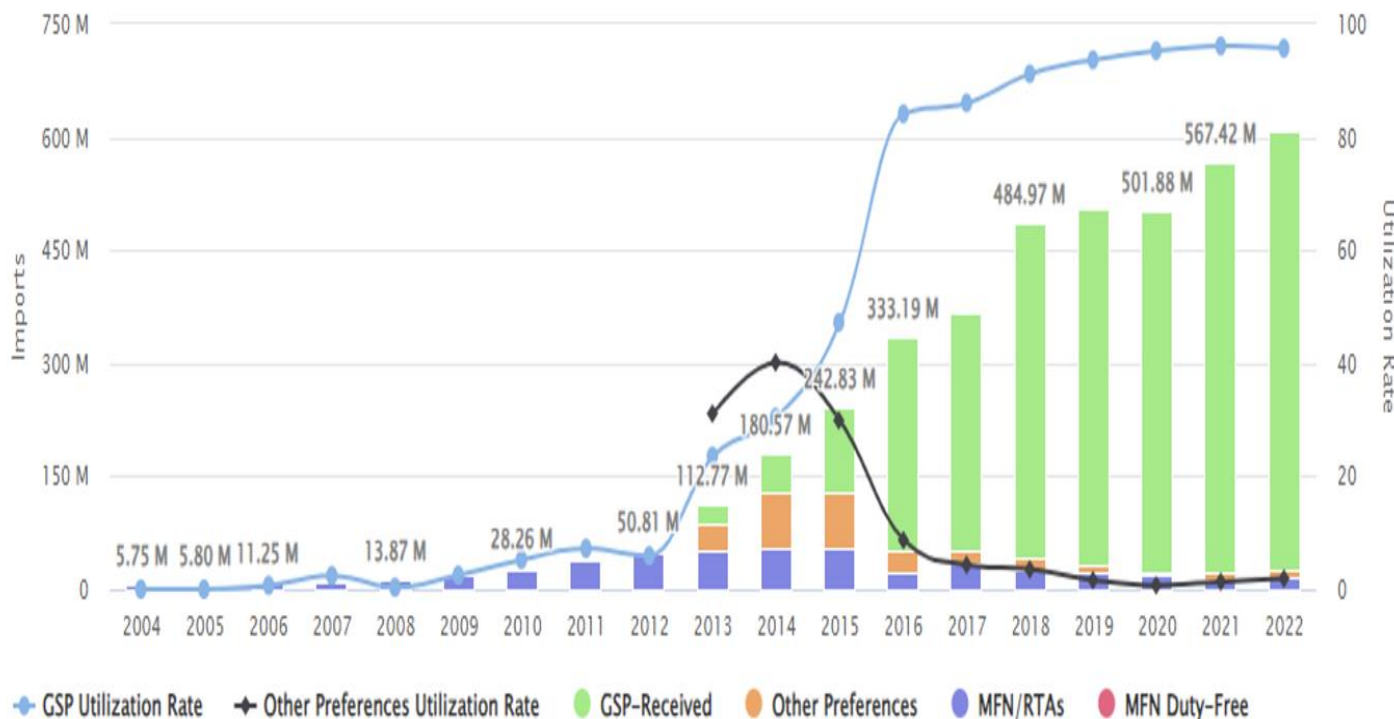
# Comparison of PSROs under GSP scheme and AJCEP by most exported products of Cambodia

HS Subheading	Description	Imp GSP Received	Imp Reg. EPA Received	GSP Utiliz. (%)	Reg. EPA Utiliz. (%)	Imp MFN Received	RoO GSP	RoO EPA
620462	Women's/girls', trousers, bib & brace overalls, breeches & shorts (excl. swimwear; excl. knitted/crocheted), of cotton	134,799,823	85,142	99.6	0.1	437,162	Manufactured from woven fabrics, felt, nonwovens, KoC fabrics or lace of Chapter 50 to 56 or 58 to 60.	CC, s.t., where NOM of heading 50.07, 51.11 through 51.13, 52.08 through 52.12, 53.09 through 53.11, 54.07 through 54.08, 55.12 through 55.16 or chapter 60 are used, each of the NOM is woven entirely in one or more of the Parties.
611030	Jerseys, pullovers, cardigans, waist-coats & similar articles, knitted/crocheted, of man-made fibres	80,227,917	259,928	97.2	0.3	2,034,205	Manufactured from woven fabrics, felt, nonwovens, KoC fabrics or lace of Chapter 50 to 56 or 58 to 60.	CC, s.t., where NOM of heading 50.07, 51.11 through 51.13, 52.08 through 52.12, 53.09 through 53.11, 54.07 through 54.08, 55.12 through 55.16 or chapter 60 are used, each of the NOM is KoC entirely in one or more of the Parties.
610910	T-shirts, singlets & other vests, knitted/crocheted, of cotton	73,247,804	3,657,359	93.0	4.6	1,877,677	Manufactured from woven fabrics, felt, nonwovens, KoC fabrics or lace of Chapter 50 to 56 or 58 to 60.	CC, s.t., where NOM of heading 50.07, 51.11 through 51.13, 52.08 through 52.12, 53.09 through 53.11, 54.07 through 54.08, 55.12 through 55.16 or chapter 60 are used, each of the NOM is KoC entirely in one or more of the Parties.
640399	Other footwear without outer soles of leather, not covering the ankle.	68,162,402	4,321,096	91.0	6.9	2,394,917	Manufactured from products of the different tariff heading (excluding heading 64.06) of the products.	CC
611020	Jerseys, pullovers, cardigans, waist-coats & similar articles, knitted/crocheted, of cotton	55,736,720	2,304,268	90.1	3.7	3,832,960	Manufactured from woven fabrics, felt, nonwovens, KoC fabrics or lace of Chapter 50 to 56 or 58 to 60.	CC, s.t., where NOM of heading 50.07, 51.11 through 51.13, 52.08 through 52.12, 53.09 through 53.11, 54.07 through 54.08, 55.12 through 55.16 or chapter 60 are used, each of the NOM is KoC entirely in one or more of the Parties.

# Japan Imports from Cambodia and URs

## HS 61: Art of apparel & clothing access, knitted/crocheted

Evolution of the GSP and Other Preferences utilization rate (UR, right scale) and imports by tariff treatment (left scale)



- **Blue line:** UR of Japan GSP started to rise in 2013 and UR dramatically doubled from 38% to over 80% in 2016
- **Black line: AJCEP,** in the same period AJCEP UR went down from over 30% to progressively zero from 2017 onwards

### Findings:

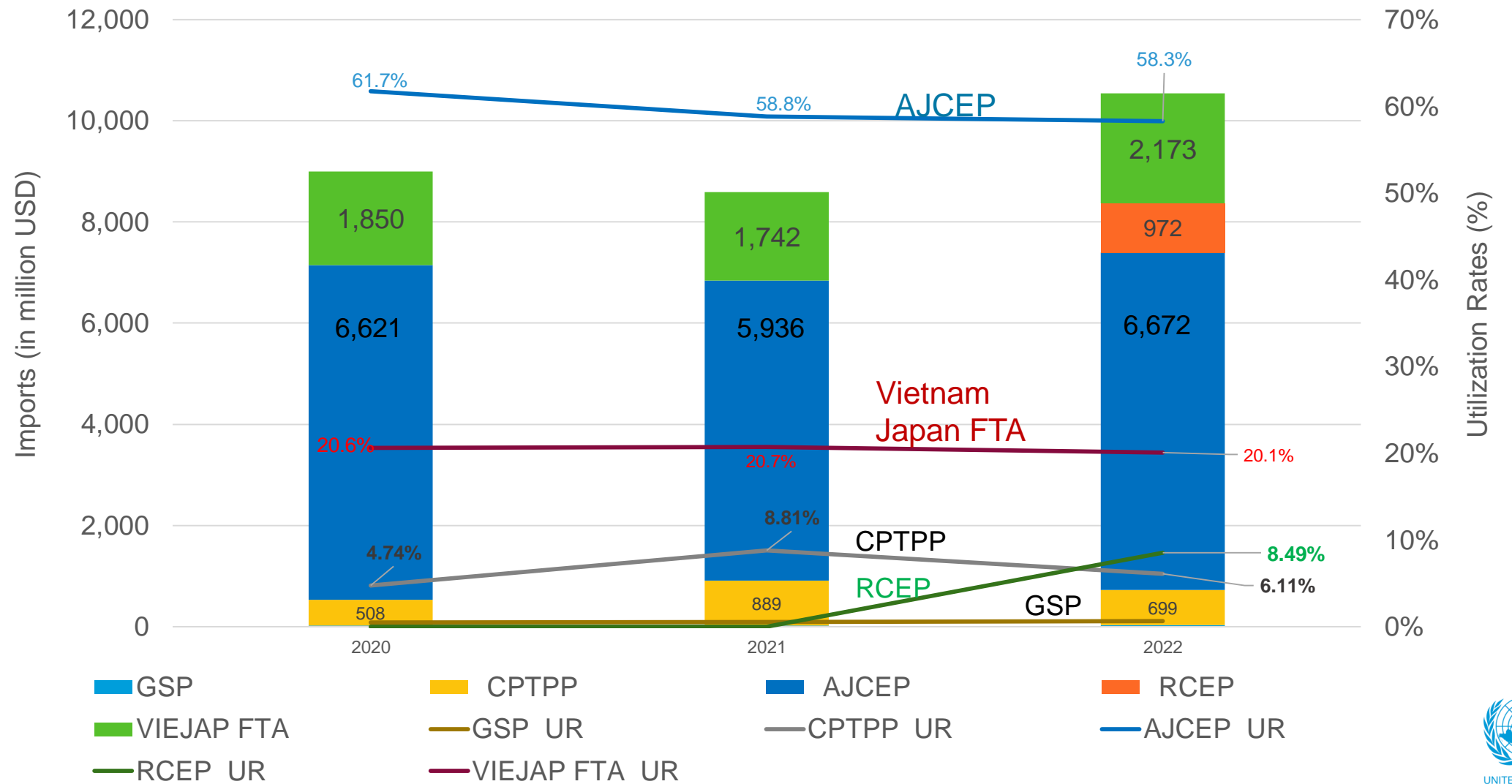
- The Japan RoO reform of 2015 introducing single transformation for HS61 is the cause

### Policy conclusions:

A change of RoO stringency has dramatically helped Cambodia to take advantage of Japan GSP LDC both in terms of URs and trade volumes

Source: unctad.org

# A merciless picture: URs of overlapping FTAs in Vietnam –Japan Trade





# URs as drivers of RoO reforms

- Making publicly available URs respond to multiple legitimate objectives of **transparency and accountability**
  - URs permits a Government to monitor the **efficiency of a FTAs**, to record lessons learned and to improve the outcome of negotiations
  - Firms may have direct access to measure how they perform and may interact with Governments requesting reforms
- Curing low utilization rates by introducing **policy reforms in the area of rules of origin**
  - **Stringency/leniency** of a given PSRO has to be measured against manufacturing requirements rather than codified based on the drafting of PSROs
  - **Convergence** of PSROs
  - **Administrative requirements** COs, direct shipment etc etc.

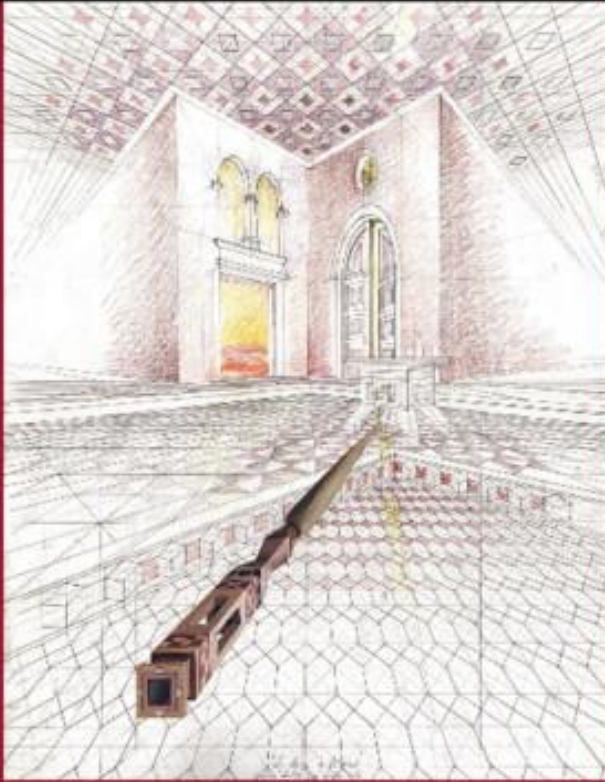
# Challenges

- Low or high URs are like the result of a medical test, need to be read by professionals to identify the correct diagnosis and link to rules or origin considering sectors, firms, and markets involved.
  - **No magic solution** as UR data identify that preference has not been used but not the reason: firms level enquiry is needed
- Link between utilization rates and rules of origin offers a merciless picture of the use of a FTA.
  - **Denial mode:** Governments and trade officials are wary of recognizing such link
- Research and literature on rules of origin have so far paid scarce attention to how rules of origin operate in the real world.
  - **New research** should be actionable, to be used by governments seeking to cooperate on rules of origin to facilitate trade (Hoekman and Inama, 2018)
- Transparency: disaggregated data on utilization rates are often not available
  - URs are a **public good** that should be made widely available and accessible

# Research ahead

- UNCTAD and ADB research aims at provide actionable evidence to **Asian policy makers in addressing the spaghetti bowl of RoO and related administrative requirements**
- Example of website providing user friendly URs data:  
<https://gsp.unctad.org/home>
- Next steps:
  - 1) Identifying best practices on RoO administration of proof of origin
  - 2) List of PSRO where convergence is possible comparing PSROs in different FTAs

# Rules of Origin in International Trade



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## Resources

- **Rules of origin in International Trade** (2022) Stefano Inama, Cambridge University Press. <https://www.cambridge.org/core/books/rules-of-origin-in-international-trade/999ED0B7C1BA1B612CAB1193615369C9>
- Getting to better rules of origin for LDCs using utilization rates - from the WTO Ministerial decision in Hong Kong (2005) to Bali (2013), Nairobi (2015) and beyond, Geneva. UNCTAD/ALDC/2019/3, eISBN: 978-92-1-005550-5  
<https://unctad.org/webflyer/getting-better-rules-origin-ldcs-using-utilization-rates>
- Compendium of technical notes prepared for the LDC WTO group on preferential rules of origin (2020). UNCTAD/ALDC/2020/6  
<https://unctad.org/webflyer/compendium-technical-notes-prepared-least-developed-countries-wto-group-preferential-rules>
- **UNCTAD-COMESA Study:** Utilization rates of African RECs (forthcoming)

# Additional Resources I

- **Crivelli, P. and S. Inama. 2021.** “Improving market for LDCs: The impact of the EU Reform of Rules of Origin on Utilization Rates and Trade Flows under the Everything But Arms Initiative (EBA)”, *UN LDC5 Conference paper*  
[https://www.un.org/ldc5/sites/www.un.org.ldc5/files/t6\\_inama\\_eu\\_reform\\_2021\\_16\\_helsinki\\_final\\_20210816\\_clean.pdf](https://www.un.org/ldc5/sites/www.un.org.ldc5/files/t6_inama_eu_reform_2021_16_helsinki_final_20210816_clean.pdf)
- **Crivelli, P., Inama, S., and J. Kasteng. 2021.** “Using utilization rates to identify rules of origin reforms: the case of EU free trade area agreements”, *EUI RSC*, 2021/21, Global Governance Programme-437 <https://cadmus.eui.eu/handle/1814/70396>
- **Ghetti, PP. and S. Inama, 2020.** The Real Cost of Rules of Origin: A Business Perspective to Discipline Rules of Origin in a Post COVID-19 Scenario, *Global Trade and Customs Journal*, Vol. 15, Issue 10, pp. 479-486, <https://doi.org/10.54648/gtcj2020086>
- **UNCTAD website of utilization rates** of trade preferences granted by QUAD countries available at: <https://unctad.org/topic/trade-agreements/trade-preferences-utilization>

# Additional Resources II

- **UNCTAD-EUI platform of experts**, researchers, practitioners, government officials and the private sector to discuss developments in the area of RoO and URs on an annual basis (June 2019, February 2020, October 2021)
  - Rules of Origin | Interview Series: <https://globalgovernanceprogramme.eui.eu/rules-of-origin-interview-series/>
  - Trade Facilitation and Rules of Origin: <https://globalgovernanceprogramme.eui.eu/trade-facilitation-and-rules-of-origin/>
- Ongoing cooperation with researchers from the **Asian Development Bank** on studying Rules of Origin and URs in the Asian region and especially mega-regionals (CPTPP and RCEP).
  - Crivelli, P. and S. Inama. 2021. Making RCEP Successful Through Business-friendly Rules of Origin. Asian Development Blog. <https://blogs.adb.org/blog/making-rcep-successful-through-business-friendly-rules-origin>.
  - Inama, S., P. Crivelli, and P.M. Ha, 2022. The Low Use by Firms of ASEAN Trade Preferences: Will RCEP Follow the Same Destiny? An Agenda for Rescue to Reform Rules of Origin in the Asian and Pacific Region. Global Trade and Customs Journal, 17(6). <https://doi.org/10.54648/gtcj2022033>
  - Crivelli, P., S. Inama, and M. Pearson. 2022. An Analysis of the Product-Specific Rules of Origin of the Regional Comprehensive Economic Partnership. Manila: Asian Development Bank <https://dx.doi.org/10.22617/TCS220167-2>
  - Crivelli, P., S. Inama, and M. Pearson. 2023. An Assessment of Rules of Origin in RCEP and ASEAN+1 Free Trade Agreements. Manila: Asian Development Bank. <http://dx.doi.org/10.22617/TCS230396-2>



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