

Rules of Origin in FTAs: A World Map

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- **Rules of Origin as Commercial Policy
Instruments: Objectives, Types and Effects**
- **Rules of Origin around the World**
- **Restrictiveness of Rules of Origin**

Objectives of RoO

- **Two types of RoO: non-preferential and preferential**
- **The justification for preferential RoO is to ensure that non-members do not obtain access to regional preferences (avoid trade deflection)**
- **However, RoO can be a powerful trade policy instrument:**
 - RoO effects in the S/R different than in the L/R
 - RoO can fully insulate an industry from the consequences of an FTA
 - RoO can protect intermediate good producers by favoring intra-PTA supply links
 - RoO can be used to attract investment in strategic sectors
 - Very limited theoretical and empirical work

Types of Product-Specific RoO

Wholly obtained or produced

Where only one country enters into consideration in attributing origin

Substantial transformation

Where two or more countries have taken part in the production process

Change in Tariff Classification

Requires the product to change its tariff heading, chapter, heading, sub-heading, or item under the HS system, in the originating country

Domestic Content Rule or Regional Value Content

Requires a MIN % of local value added in the originating country (or a MAX % of value originating in non-member countries)

Technical Requirement

Prescribes that the product must undergo specific manufacturing processing operations in the originating country

- **Provisions adding leniency to RoO:**
 - De minimis
 - Roll-up or absorption principle
 - Cumulation
- **Provisions that may make RoO more restrictive:**
 - Lists of operations insufficient to confer origin
 - No-drawback rule
 - Complex methods of certifying RoO
(self-certification vs. two-step private and public method)
- **Details matter a lot!**
 - RVC Rule: Definition of “cost”
 - CTC Rule: Exceptions to CTC

Some Evidence on the Effects of Rules of Origin

RoO and TRADE DEFLECTION

Rules of Origin as instruments against trade deflection

NAFTA: The greater the difference between MFN tariffs, the higher the incentives for trade deflection and, therefore, the higher the degree of stringency imposed by Rules of Origin.

Some Evidence on the Effects of Rules of Origin

RoO AND ADMINISTRATIVE COSTS

EC-EFTA FTA: Administrative costs of certifying origin range from 1.4 – 5.7 percent value export transactions.

EFTA: Administrative costs of certifying origin range from 3 – 5 percent value export transactions.

Some Evidence on the Effects of Rules of Origin

RoO AND UTILIZATION RATES

Restrictiveness vs. Administrative Costs

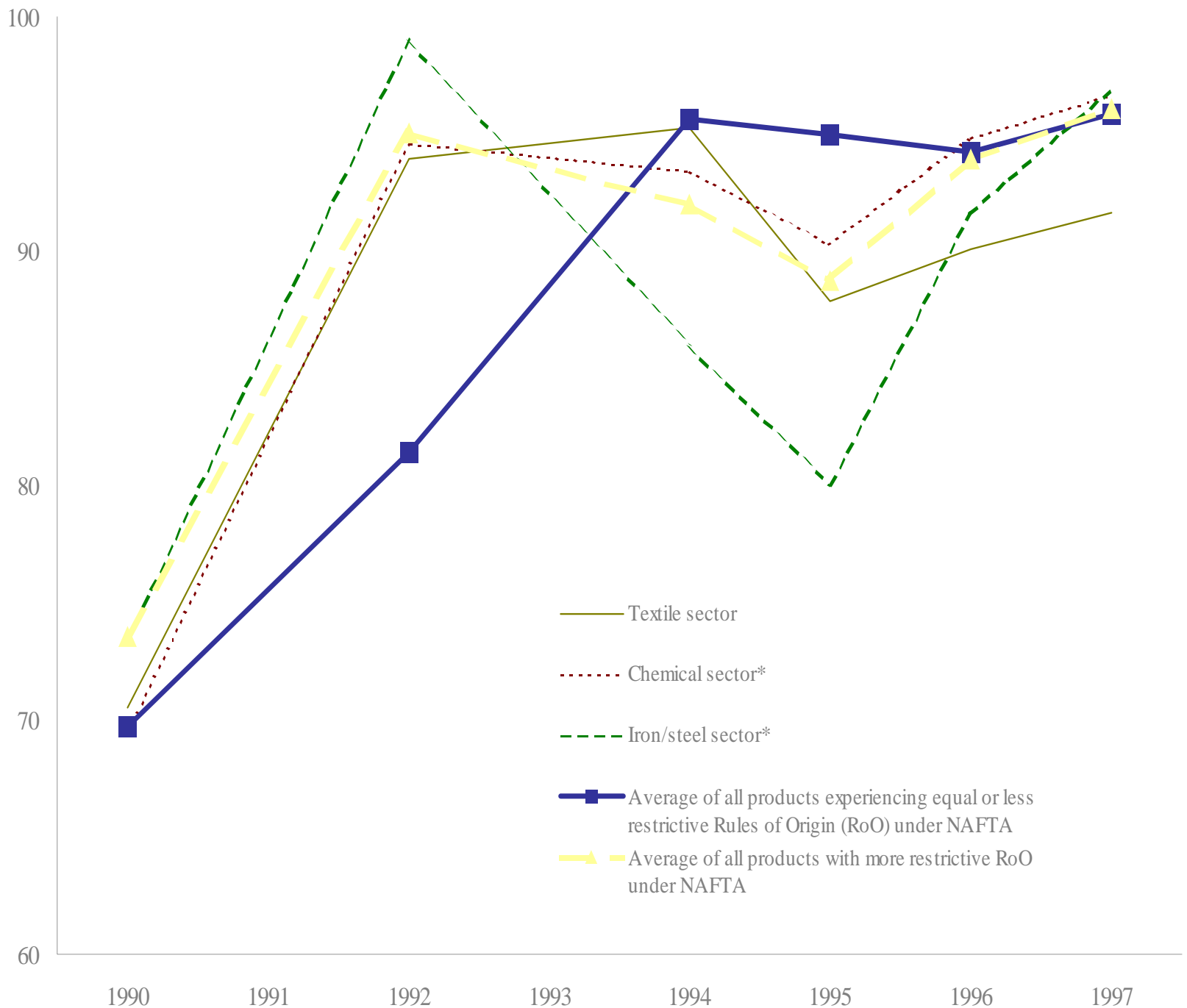
CUFTA and NAFTA: Key Market Access Change from CUFTA to NAFTA was RoO Regime (Preferential Tariff Liberalization from CUFTA was built-in NAFTA agreement):

NAFTA UTILIZATION RATES (Canada exports to US) declined in those sectors with more stringent RoO
[PROTECTION EFFECT vs. ADMINISTRATIVE COSTS EFFECT]

EU Preferences / GSP / AGOA : Similar evidence on low utilization rates due to RoO

Figure 1 – Rules of Origin and Utilization Rates: CUSFTA vs. NAFTA

Percent of total U.S. imports from Canada



* Average of products within the sector with more restrictive Rules of Origin under NAFTA.

Some Evidence on the Effects of Rules of Origin

RoO AS A PRIMARY TRADE POLICY INSTRUMENT

Substitution vs. Complementarity between Tariff Liberalization and RoO

NAFTA: The degree of Preferential Tariff Liberalization is highly and significantly correlated with the degree of stringency of Rules of Origin:

- Sectors with less stringent RoO are also the ones with higher margins of preference (low tariffs) [COMPLEMENTARITY]
- Sectors with more stringent RoO are also the ones with longer phase-out periods for trade liberalization [SUBSTITUTION]

- **Comparative Analysis of the Structure of RoO Regimes in Europe, Americas, Asia, Africa, the Middle East, and of Non-Preferential RoO**
- **Comparisons of the Restrictiveness of RoO across RoO Regimes**

Comparing Structure of RoO Regimes: Types of RoO in Europe

- The product-specific RoO of the EU's PANEURO system cover more than 65 PTAs, both across Europe and in EU's recent extra-regional PTAs with Mexico, Chile, and South Africa
- PANEURO mainly combines CTC (usually CH) with RVC and/or TECH

Four RoO families can be identified:

1. LAIA, Andean Community, Caricom

- across-the-board CH or VC

2. NAFTA, Mexico's FTAs, Can-Chi, US-Chi

- high degree of variation in RoO across products
- different types of CTC in combinations with VC and/or TECH

3. Mercosur and its FTAs with Chile and Bolivia

- mainly CH; also CH and VC or TECH

4. CACM

- between NAFTA and Mercosur models: mainly CTC but also combinations

Types of RoO in Asia, Africa, and the Middle East

- RoO are based on an across-the-board VC criterion (usually RVC of 25-50 percent)
- Alternative, across-the-board RoO usually involves a change in heading or change in subheading

- Harmonization work has been carried out since July 1995 by the WTO and the World Customs Cooperation Council
- Some 135 issues have yet to be resolved on product-specific RoO
- The most common RoO is change in heading

Figure 2 – Distribution of CTC Criteria by Agreement

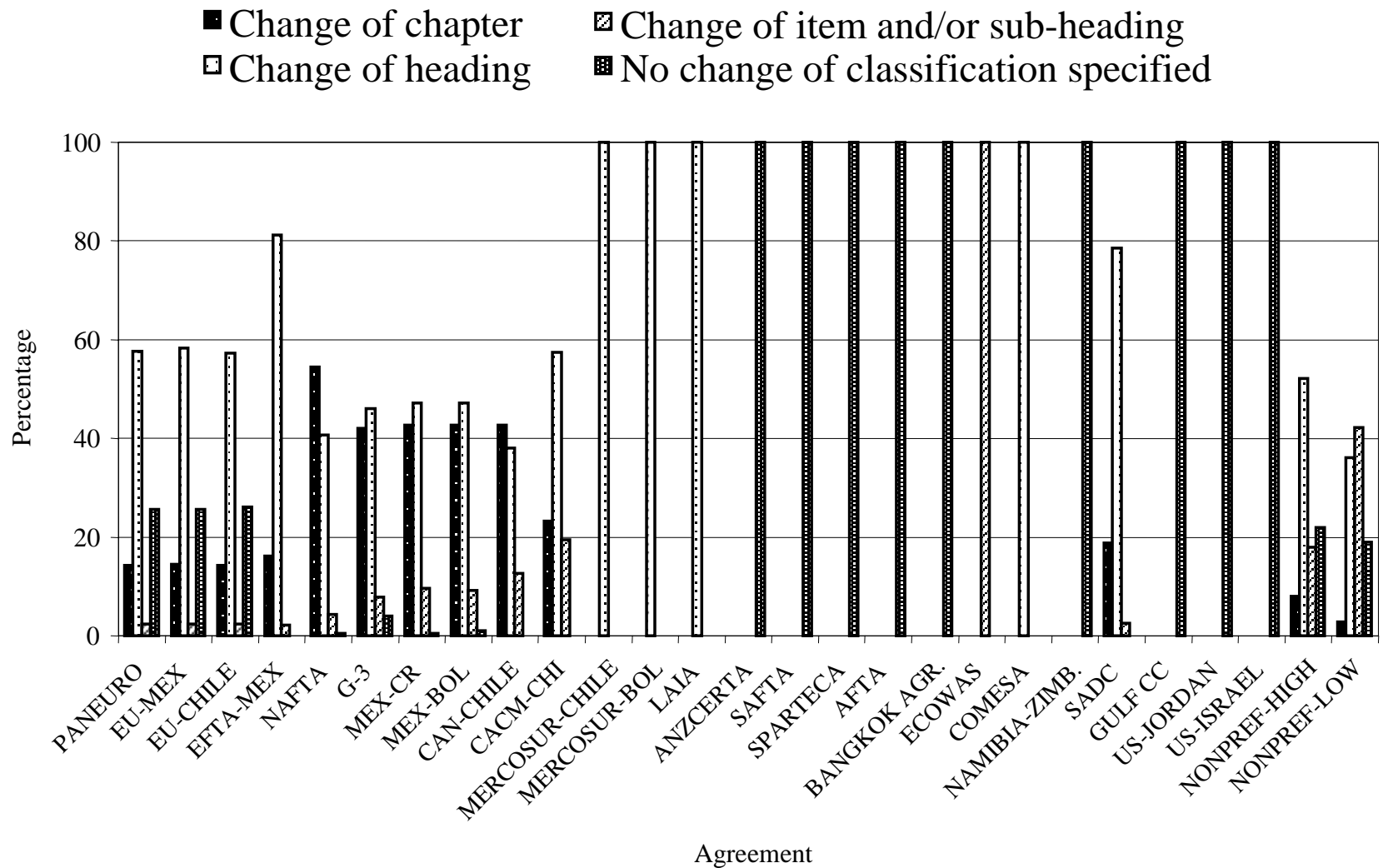


Table 3 – The Type and Height of VC Criteria in Selected FTAs

| PTA | Value Content Criterion | | | Basis for Calculation |
|----------------|-------------------------|----------|-----|--------------------------|
| | MC | RVC | VP | |
| PANEURO (50) | 50-30 | | Yes | Ex-works |
| PE (15) | 50-30 | | Yes | Ex-works |
| EU-SA | 50-30 | | Yes | Ex-works |
| EU-MEX | 50-30 | | Yes | Ex-works |
| EU-CHILE | 50-30 | | Yes | Ex-works |
| EFTA-MEX | 50-30 | | Yes | Ex-works |
| NAFTA | | 60-50 | | 60 fob; 50 cost prod. |
| G-3 | | 55-50 | | fob |
| MEX-CHILE | | 50-41.66 | | 50 fob; 41.66 cost prod. |
| MEX-BOL | | 50-41.66 | | 51 fob; 41.66 cost prod. |
| MEX-CHILE | | 50-40 | | 50 fob; 40 cost prod. |
| CAN-CHILE | | 35-25 | | 35 fob; 25 cost prod. |
| CACM | | N/A | | fob |
| CACM-CHI | | 30 | | fob |
| MERCOSUR | 40 | 60 | | fob |
| MERCOSUR-CHILE | 40 | | | fob |
| MERCOSUR-BOL | 40 | | | fob |
| CAN | 50 | | | fob |
| CARICOM | | N/A | | N/A |
| CARICOM-DR | | N/A | | fob |
| LAIA | 50 | | | fob |
| ANZCERTA | 50-30 | | | factory cost |
| SAFTA | 50-30 | | | factory cost |
| SPARTECA | 50 | | | factory cost |
| AFTA | 60 | | | fob |
| BANGKOK | 50 | | | fob |
| COMESA | 60 | 35 | | 60 cif; 35 factory cost |
| ECOWAS | | 30 | | factory cost |
| NAMIBIA-ZIMB. | | 25 | | N/A |
| SADC | 70-35 | | | ex-works |
| GULF CC | | 40 | | ex-works |
| US-JORDAN | | 35 | | Fob |
| US-ISRAEL | | 35 | | ex-works |
| MEX-ISRAEL | | 45-35 | | 45 fob; 35 cost prod. |
| NONPREF | 60-40 | | | ex-works |

Table 5 - Regime-Wide RoO in Selected PTAs

| PTA | De minimis (percentage) | Roll-Up | Cumulation | | Drawback Allowed? |
|----------------|-------------------------|-----------------------|------------|-------------------------------|-----------------------------------------------------------|
| | | | Bilateral | Diagonal | |
| PANEURO (50) | 10 | Yes | Yes | Yes (full in EEA) | No |
| PE (15) | 10 | Yes | Yes | Yes | No |
| EU-South Af. | 15 | Yes | Yes | Yes with ACP (full with SACU) | Not mentioned |
| EU-Mexico | 10 | Yes | Yes | No | No after 2 years |
| EU-Chile | 10 | Yes | Yes | No | No after 4 years |
| EFTA-Mexico | 10 | Yes | Yes | No | No after 3 years |
| NAFTA | 7 | Yes except automotive | Yes | No | No after 7 years for Mex. |
| G3 | 7 | Yes | Yes | No | Not mentioned |
| Mexico-CR | 7 | Yes | Yes | No | No after 7 years |
| Mexico-Chile | 8 | Yes | Yes | No | Not mentioned |
| Mexico-Bolivia | 7 | Yes | Yes | No | No after 8 years |
| Canada-Chile | 9 | Yes | Yes | No | Not mentioned |
| CACM-Chile | 8 | Yes | Yes | No | Not mentioned |
| CACM | 7 | N/A | Yes | No | Yes |
| Mercosur | No | Yes except automotive | Yes | No | Yes (except automotive imports from Argentina and Brazil) |
| Mercosur-Chile | Not mentioned | Yes | Yes | No | Yes |
| Mercosur-Bol | Not mentioned | Yes | Yes | No | Yes |
| Caricom | Not mentioned | Not mentioned | Yes | No | Possibly |
| Caricom-DR | 7 | Not mentioned | Yes | No | Not mentioned |
| ANZCERTA | 2 | Yes | Yes | Yes (full) | Yes |
| SAFTA | 2 | Yes | Yes | No | Not mentioned |
| SPARTECA | 2 | Yes | Yes | Yes (full) | Yes |
| AFTA | No | Not mentioned | Yes | No | Yes |
| BANGKOK | Not mentioned | Yes | Yes | No | Not mentioned |
| COMESA | No | Yes | Yes | No | Not after 10 years |
| ECOWAS | Not mentioned | Not mentioned | Yes | No | Not mentioned |
| SADC | 10 | Yes | Yes | No | Not mentioned |
| GULF CC | Not mentioned | Not mentioned | Yes | No | Not mentioned |
| US-Jordan | Not mentioned | Not mentioned | Yes | No | Not mentioned |
| US-Israel | No | Yes | Yes | No | Yes |
| Canada-Israel | 10 | Yes | Yes | Yes (with US) | Not mentioned |
| Mexico-Israel | 10 | Yes | Yes | No | Not mentioned |

Table 6 - Certification Mechanisms, Selected PTAs

| PTA | Certification method |
|--------------|-----------------------------------------------------------------------|
| PANEURO | Two-step private and public; limited self-certification |
| PE | Two-step private and public; limited self-certification |
| EU-SA | Two-step private and public; limited self-certification |
| EU-Mexico | Two-step private and public; limited self-certification |
| EU-Chile | Two-step private and public; limited self-certification |
| NAFTA | Self-certification |
| G3 | Two-step private and public |
| Mexico-CR | Self-certification |
| Mexico-Bol | Self-certification (two-step private and public during first 4 years) |
| Canada-Chile | Self-certification |
| CACM-Chile | Self-certification |
| CACM | Self-certification |
| Mercosur | Public (or delegated to a private entity) |
| Mercosur-Chi | Public (or delegated to a private entity) |
| Mercosur-Bol | Public (or delegated to a private entity) |
| CAN | Public (or delegated to a private entity) |
| Caricom | Public (or delegated to a private entity) |
| Caricom-DR | Public (or delegated to a private entity) |
| LAIA | Two-step private and public |
| ANZCERTA | Public (or delegated to a private entity) |
| SAFTA | Public (or delegated to a private entity) |
| SPARTECA | Not mentioned |
| AFTA | Public (or delegated to a private entity) |
| BANGKOK | Public (or delegated to a private entity) |
| COMESA | Two-step private and public |
| ECOWAS | Public (or delegated to a private entity) |
| SADC | Two-step private and public |
| US-Jordan | Self-certification |

Figure 3 - Restrictiveness of RoO, Selected Regimes

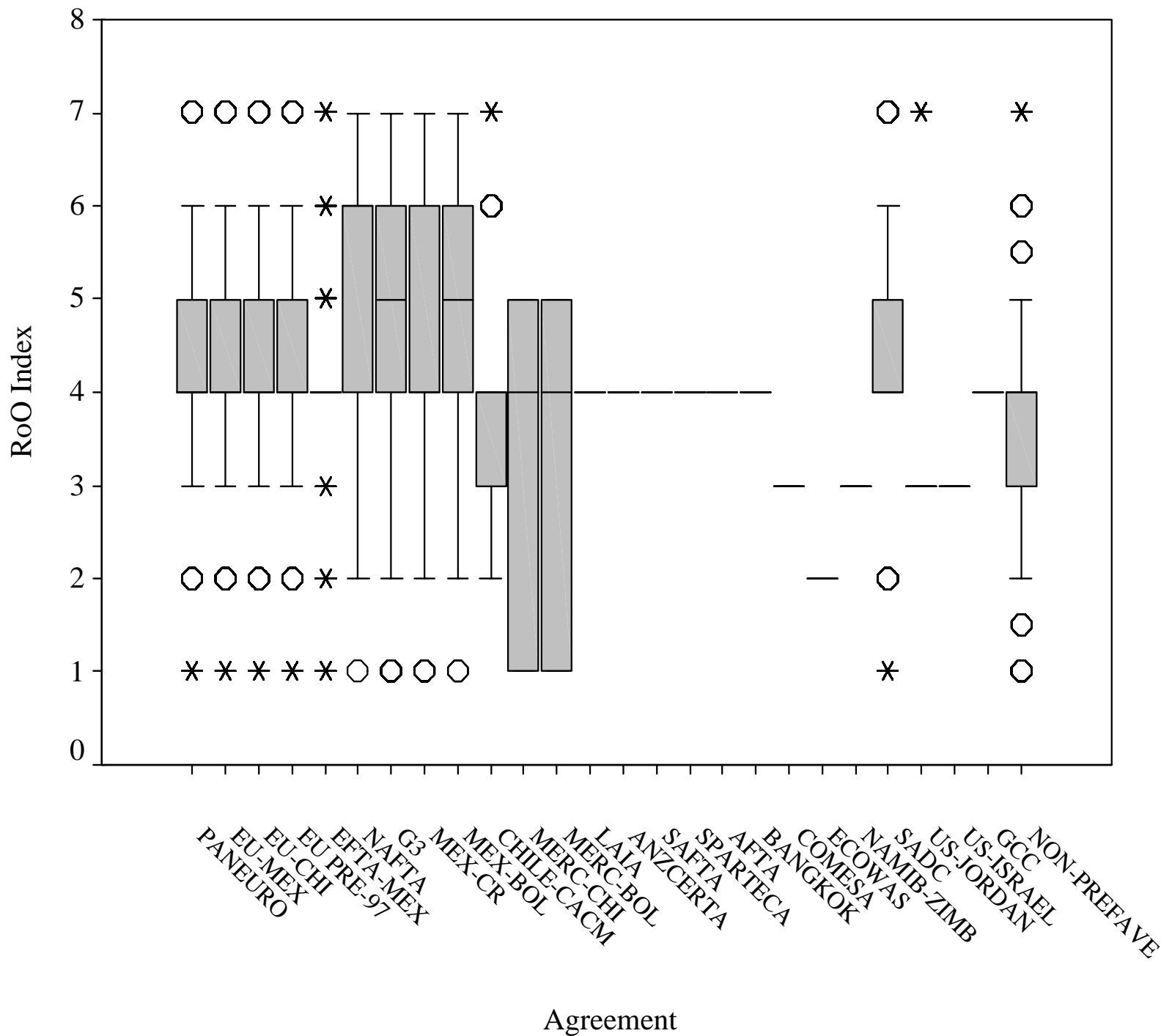


Table 7 - Restrictiveness of Sectoral RoO, Selected RoO Regimes

| HS Section | PANEUR | ONAFTA | EFTA-MEX | Chile-CACM | SADC | Non-Pref. Av. |
|----------------------------------------|---------------|---------------|-----------------|-------------------|-------------|----------------------|
| 1. Live Animals | 7 | 6 | 5.3 | 5.9 | 7 | 6.2 |
| 2. Vegetable Products | 6.6 | 6 | 4 | 5.6 | 6.6 | 6.6 |
| 3. Fats and Oils | 4.7 | 6 | 4 | 3 | 7 | 4 |
| 4. Food, Bev. and Tobacco | 5 | 4.7 | 4.4 | 3.7 | 5.4 | 4.6 |
| 5. Mineral Products | 3.5 | 6 | 3.5 | 5.3 | 4 | 4.8 |
| 6. Chemicals | 3.9 | 5.3 | 3.8 | 2.6 | 4 | 2.5 |
| 7. Plastics | 4.9 | 4.8 | 4.9 | 3.2 | 4.7 | 4 |
| 8. Leather Goods | 3.3 | 5.6 | 3.5 | 3.7 | 3.8 | 3.4 |
| 9. Wood Products | 2.9 | 4 | 2.9 | 3.2 | 4.8 | 3.3 |
| 10. Pulp and Paper | 4.4 | 4.8 | 4.6 | 4.1 | 4.3 | 3.9 |
| 11. Textile and Apparel | 6.1 | 6.9 | 6.1 | 4.5 | 6.1 | 3.4 |
| 12. Footwear | 2.8 | 4.9 | 4.1 | 3.5 | 2.6 | 3.7 |
| 13. Stone and Glass | 3.7 | 4.9 | 3.7 | 4.2 | 3.7 | 3.5 |
| 14. Jewelry | 3.7 | 5.3 | 3.7 | 4 | 3.7 | 3.4 |
| 15. Base Metals | 4.2 | 4.6 | 4.2 | 3.8 | 3.9 | 3.4 |
| 16. Machinery and Electrical Equipment | 4.8 | 3.2 | 4 | 4.3 | 4.1 | 3.6 |
| 17. Transportation Equipment | 4.7 | 4.8 | 4.2 | 3.4 | 3.8 | 3.8 |
| 18. Optics | 5 | 4 | 4.4 | 4 | 3.9 | 3.5 |
| 19. Arms and Ammunition | 4 | 4.7 | 4 | 4 | 3.1 | 4 |
| 20. Works of Art, Misc. | 4.1 | 5.1 | 4.1 | 3.6 | 4 | 3.3 |
| <i>Average</i> | <i>4.5</i> | <i>5.1</i> | <i>4.2</i> | <i>4</i> | <i>4.5</i> | <i>3.9</i> |

Comparing the Restrictiveness of RoO Regimes

- **Sectoral restrictiveness is very similar between the main RoO regimes**
- **Non-preferential RoO echo the PANEURO and NAFTA models**
- **Highest restrictiveness values in sectors with relatively high tariffs especially in EU and the US:**
 - **Agriculture**
 - **Textiles and apparel**
 - **Transportation equipment**

Conclusions: A Future Clash of RoO Regimes?

- **EU- and and NAFTA-based RoO regimes will likely predominate in the future, particularly across Europe and the Americas**
- **Countries' operating in two or more RoO theaters simultaneously will have an impact on:**
 - Firms' supply relations
 - Specialization of production to a certain market(s), particularly in sectors with tight RoO
 - Costs of divergent forms of certification
- **Harmonization of non-preferential RoO at the WTO and the *de facto* harmonization of preferential RoO due to the spread of the PANEURO and NAFTA models can facilitate future *de jure* harmonization of preferential RoO**
- **However future inter-continental agreements can generate diversity to the RoO theater**