BENCHMARKING AND SYSTEMATIZATION OF THE RESULTS OF THE FIRST 18 PAPERLESS TRADE READINESS ASSESSMENTS (2019 – 2023)

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Bangkok, 23 June 2023

Plan

- 18 counries assessed + benchmarking methodolody
- Technical readiness to cross-border paperless trade: main and selected detailed findings
- Legal readiness to cross-border paperless trade: main and selected detailed findings
- Key recommendations made

A quick deep dive…

Countries assessed

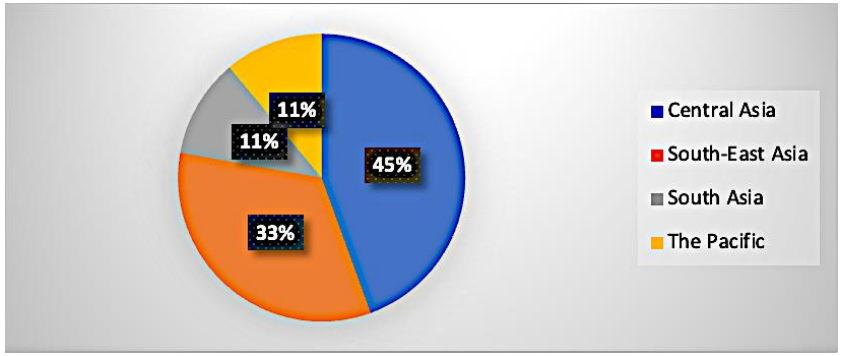
Central Asia (8 countries: Armenia, Azerbaijan, Georgia, Kazakhstan, Mongolia, Tajikistan, Turkmenistan, Uzbekistan);

South-East Asia (6 countries: Cambodia, Lao PDR, Myanmar, Philippines, Timor Leste, Viet Nam);

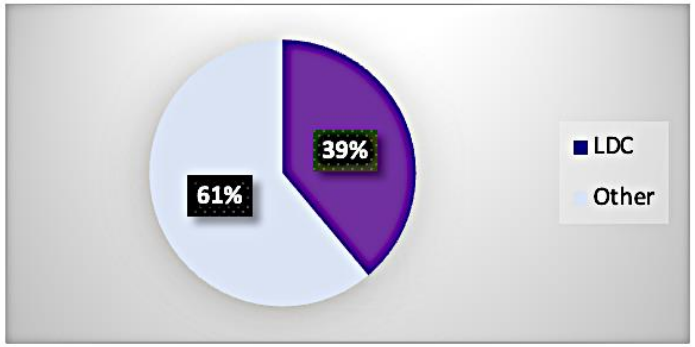
South Asia (2 countries: Bangladesh and Nepal); and

the Pacific (2 countries: Tonga and Tuvalu)

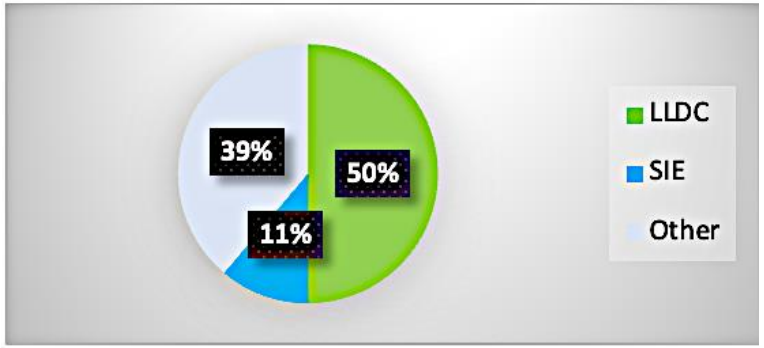
Regions



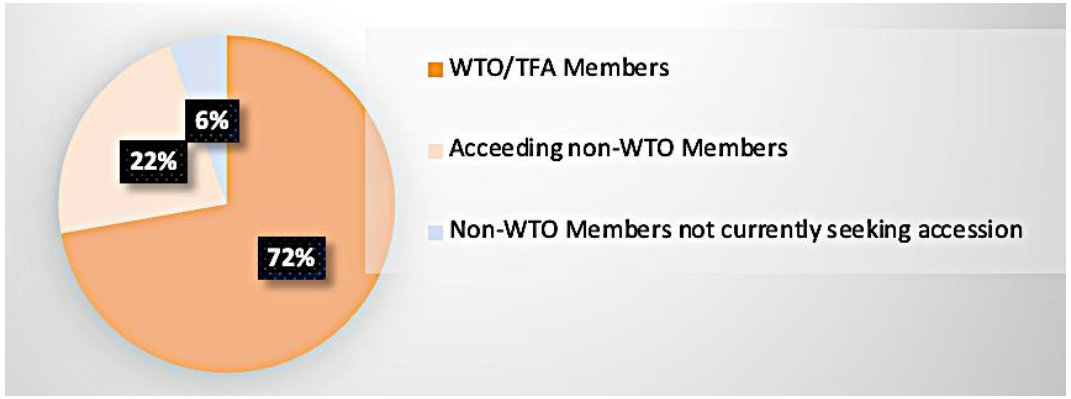
LDC status



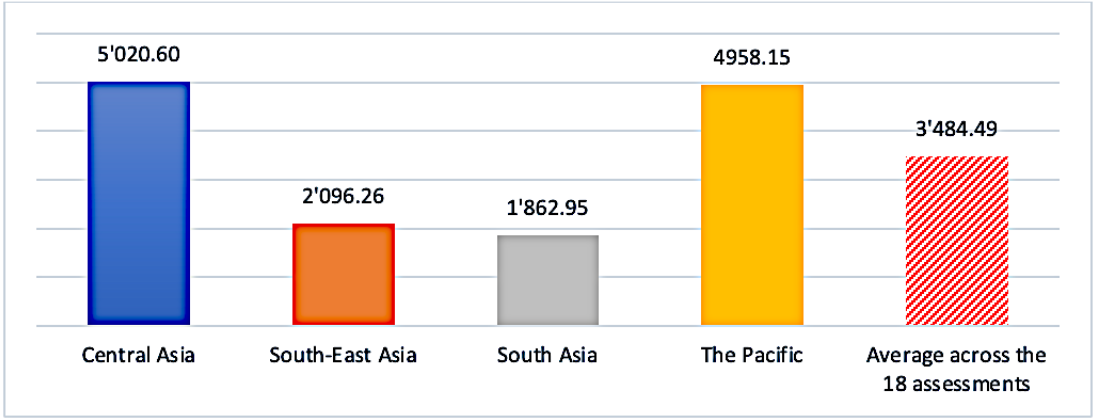
LLDC and SIE status



WTO Membership



GDP per capita (US $ / year)



Benchmarking

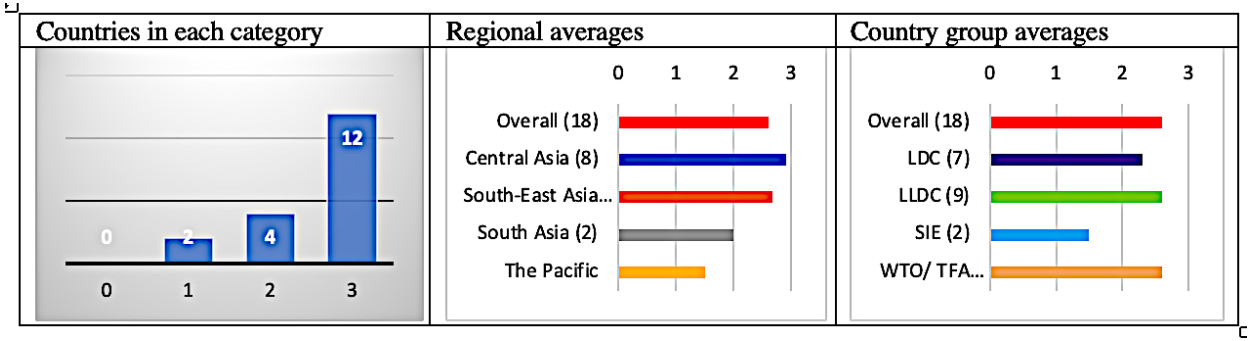
The “main” approach

Score	Description of the benchmark
3	• the solution assessed is reported to be fully implemented nationally (containing all or most of the elements assessed by the checklist, where relevant);
2	• the implementation is partial, i.e. advanced, but not yet completed (meeting some, yet not all identified elements, carried out by many, but not all relevant agencies, etc.);
1	• the implementation either has started but has not yet advanced far enough; or was piloted, or was imminent judging from the preparatory efforts paid (such as national planning or legal drafting efforts);
0	• the implementation was either not yet envisaged; or was envisaged in a temporary distant perspective; OR • no relevant information was provided in the report (and this could not be remedied by sourcing the information from different sources).

NB particular benchmarking details / elements in each of the sections!

+ occasional deep dive into the identified elenents of the relevant performance

Presentation of the results – example [Compute literacy, estimated]

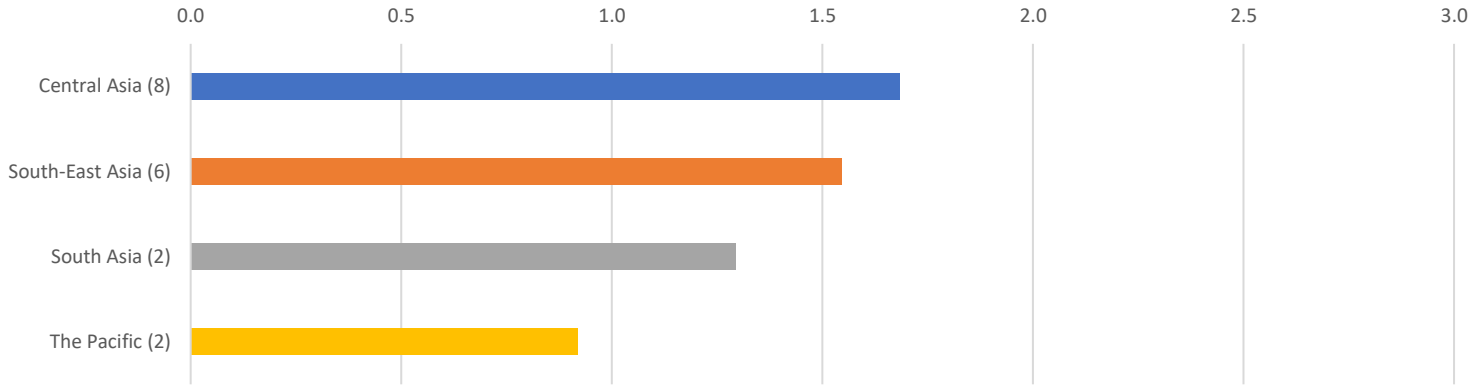


Technical readiness assessments: key results

Most-implemented areas (*overall*):

- Computer literacy
- Availability of network service
- Stakeholder readiness
- E-customs
- Security

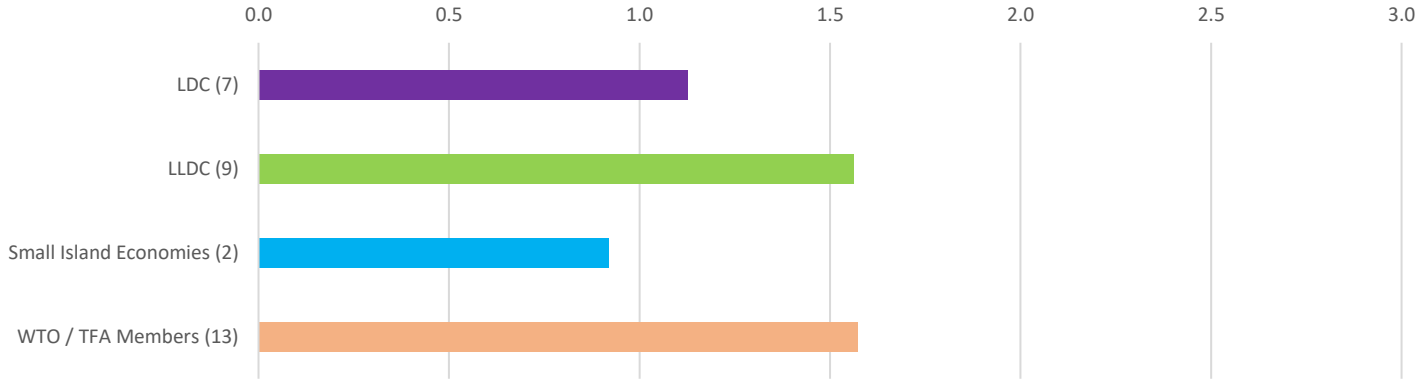
Overall technical readiness performance benchmarks: subregions



Least-implemented areas (*overall*):

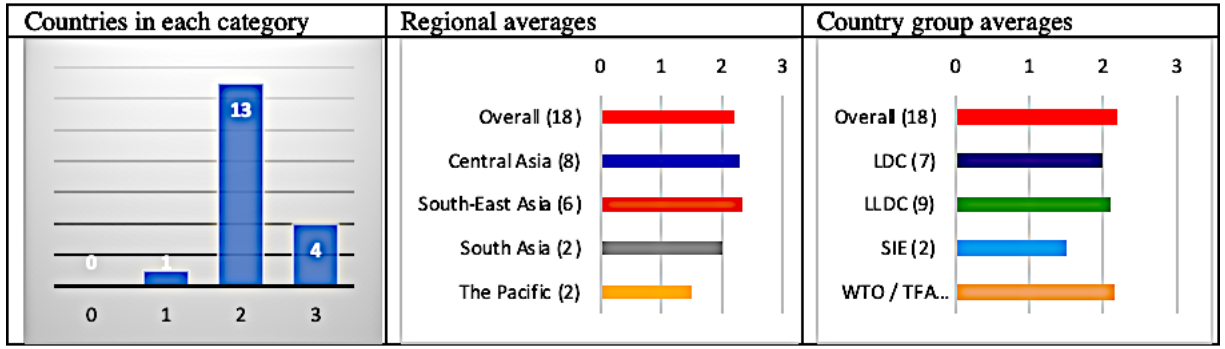
- AEO Implementation & Mutual recognition of AEO
- Business continuity
- Budget for paperless trade
- E-ports
- Data harmonization

Overall technical readiness performance benchmarks: country groups

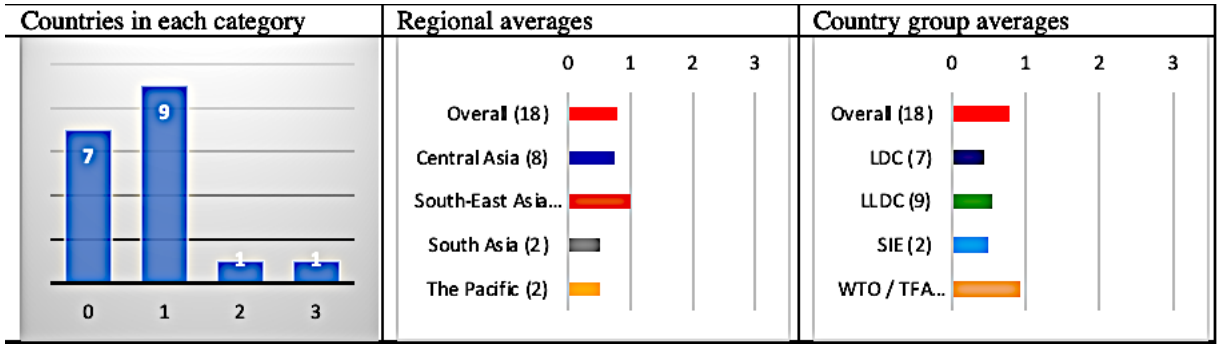


Automation: E-customs and E-ports

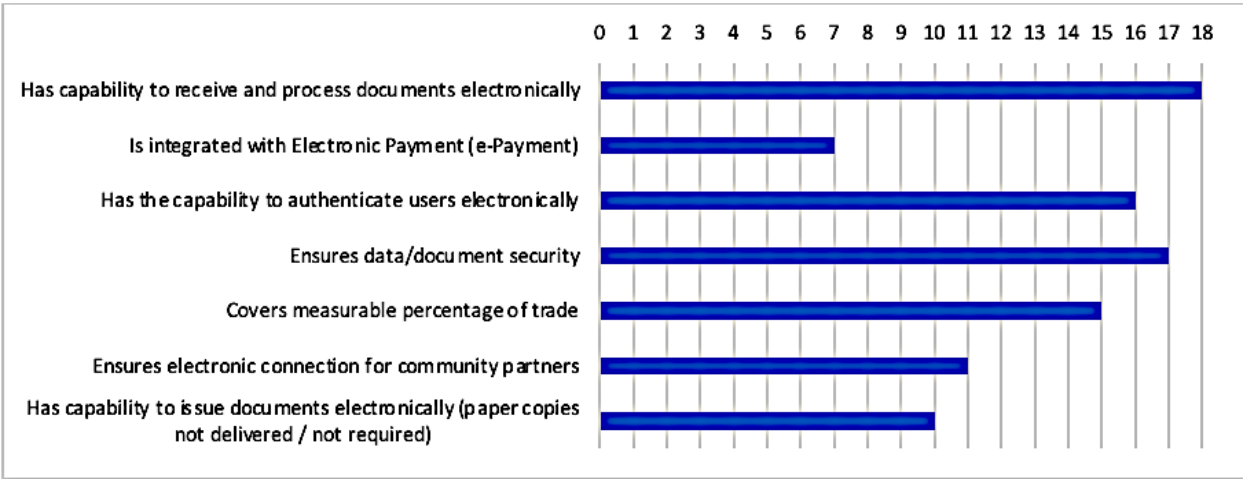
E-customs [Almost "there"]



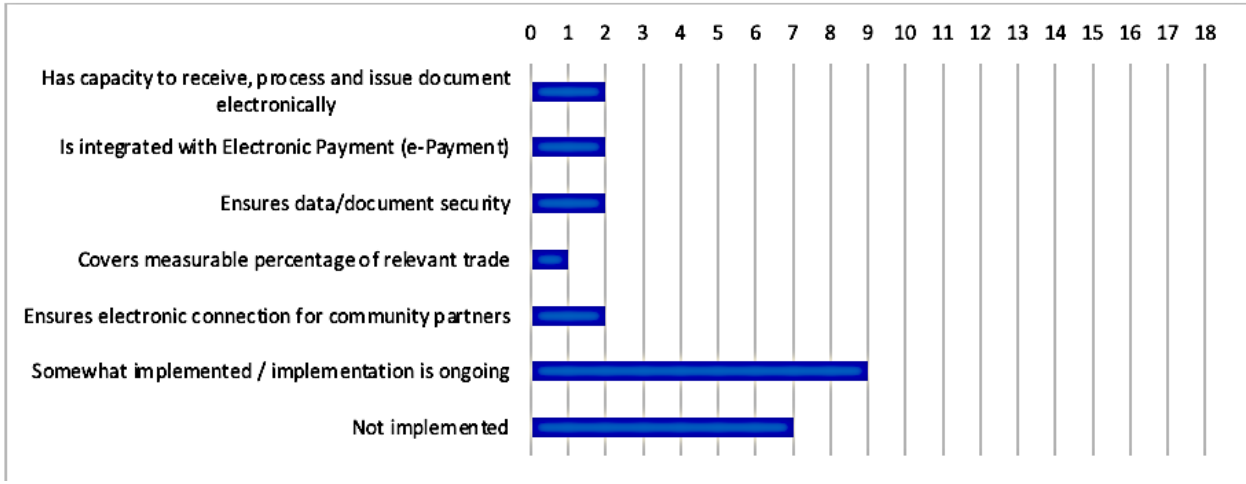
E-ports [Early stages]



E-customs: particular implementation benchmarks

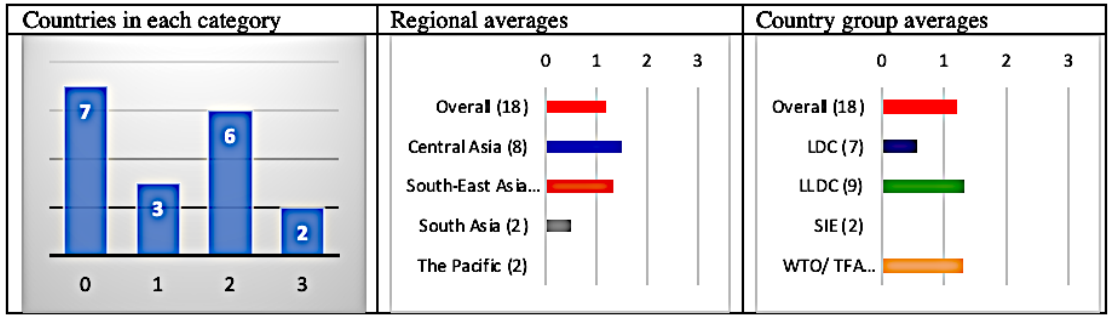


E-ports: particular implementation benchmarks

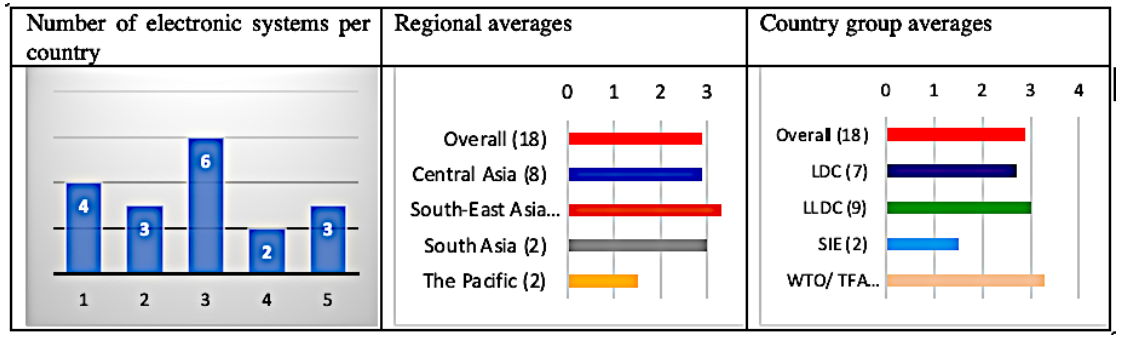


Automation: Electronic Systems (incl. NSW)

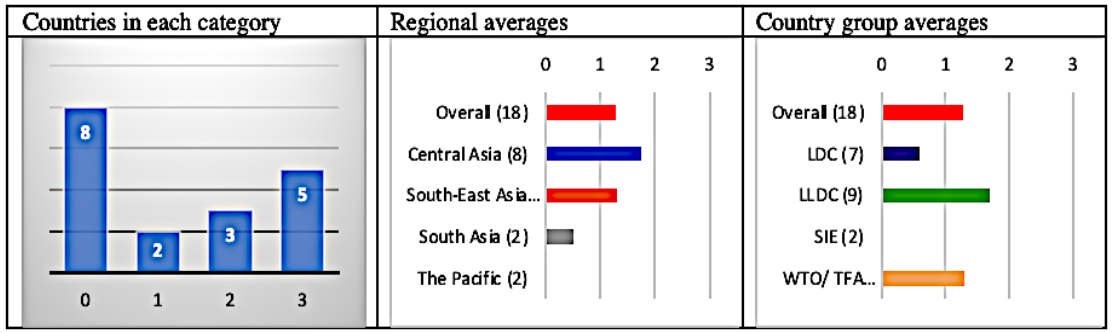
Overal NSW implementation [early stages]



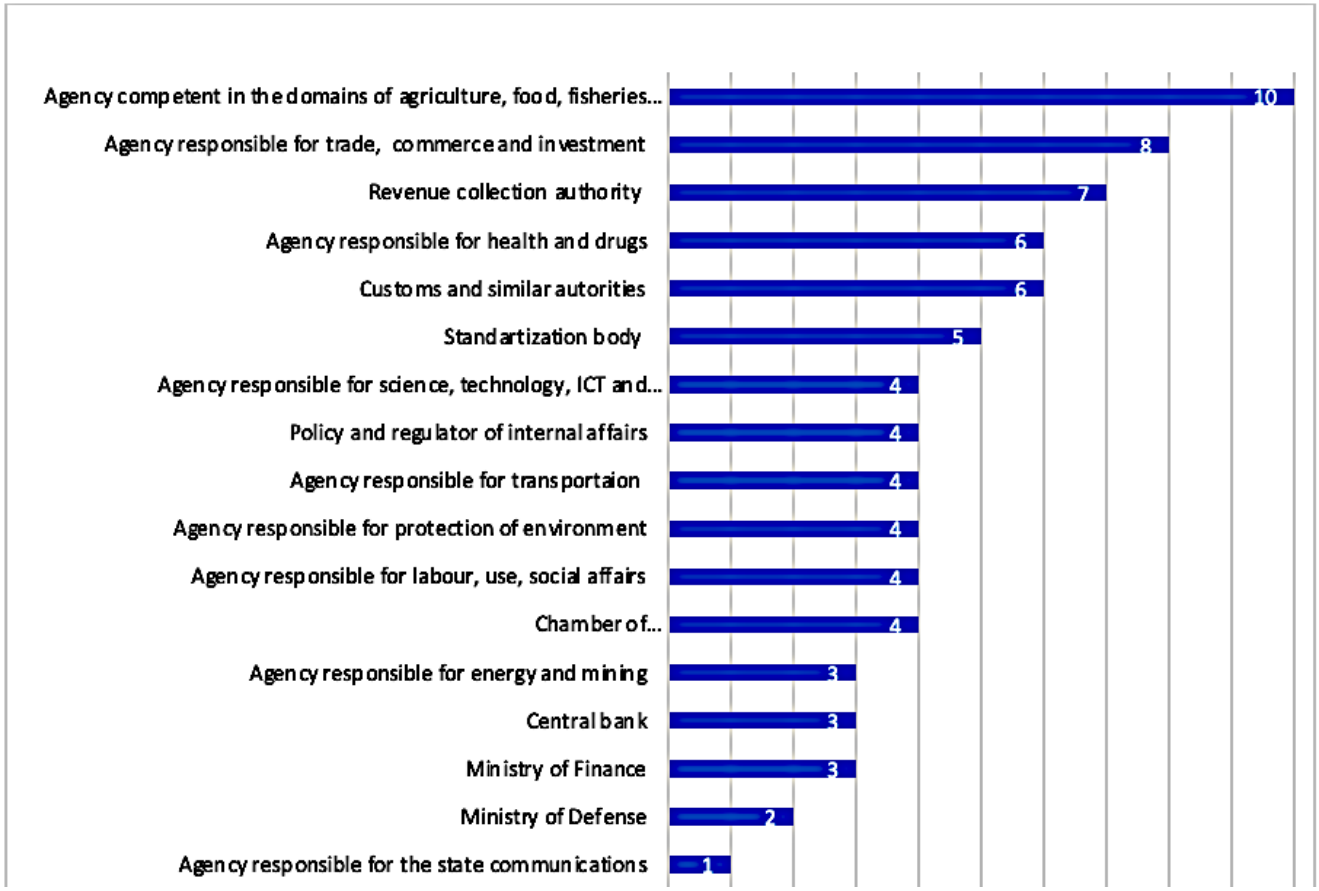
Electronic systems (NSW and beyond) [aveage of 3 systems!]



NSW interoperability [NSWs are still often siloed]

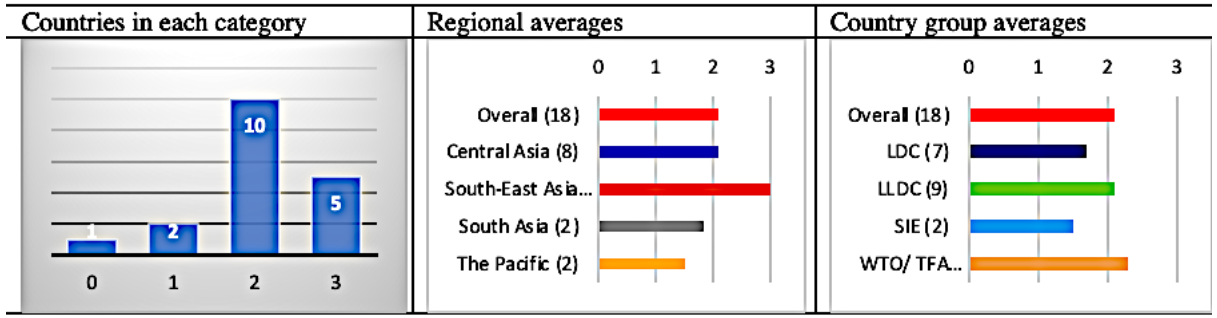


Connected agencies [not all the OGAs are onboard]

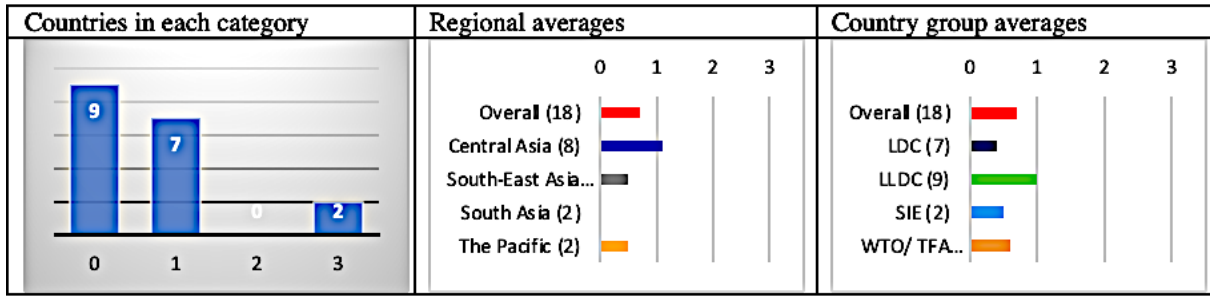


Awareness and Capacity Building

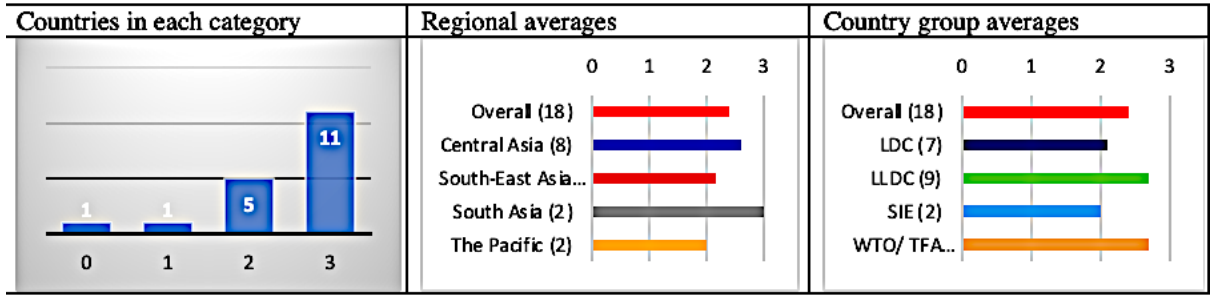
Capacity building: implementation [big effort is reported]



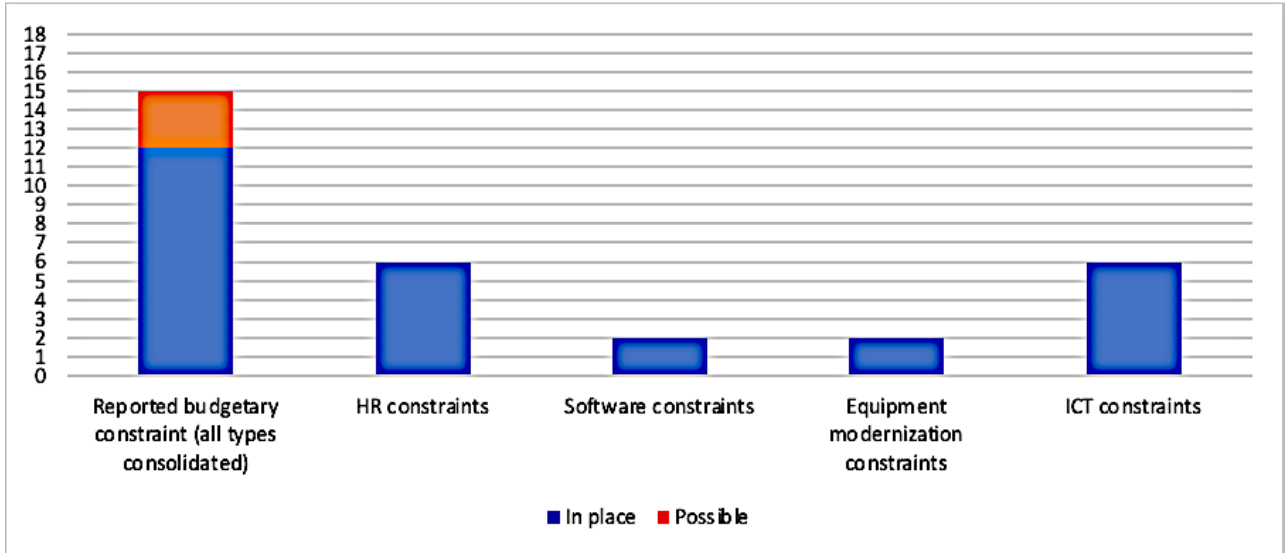
Available budgetary outlays [the budget is very scarce]



Stakeholder readiness to paperless trade [high interest]

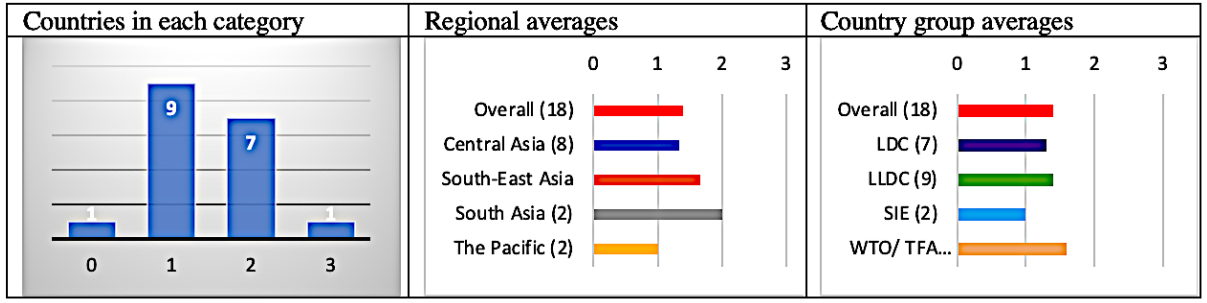


Major constraints to the development of paperless trade

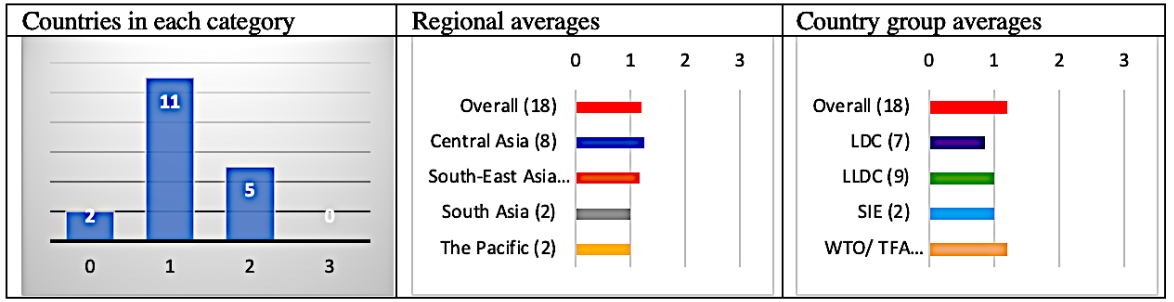


Business Continuity, Disaster Recovery, Security, BPR, Data Harmonization

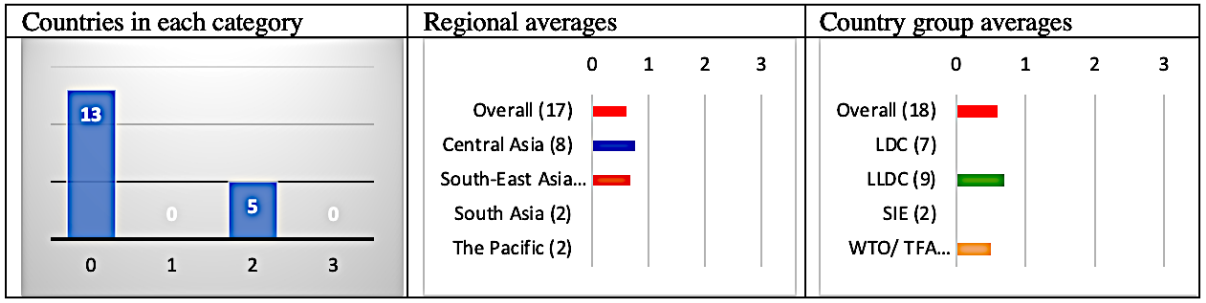
Disaster recovery measures [Some, not paperless trade specific]



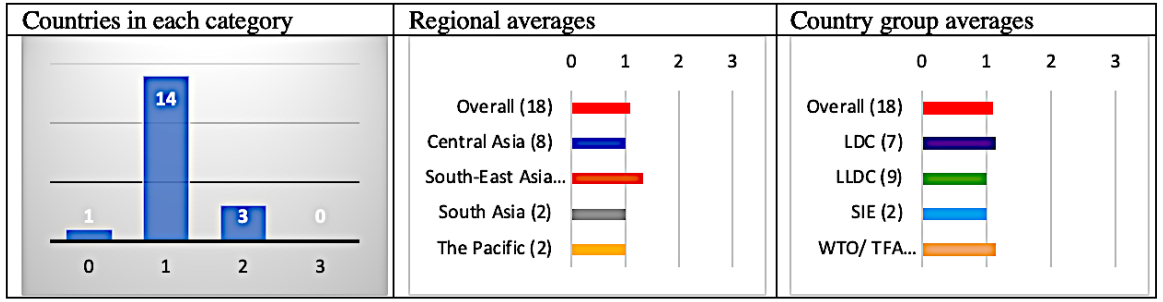
BPR [Nascent]



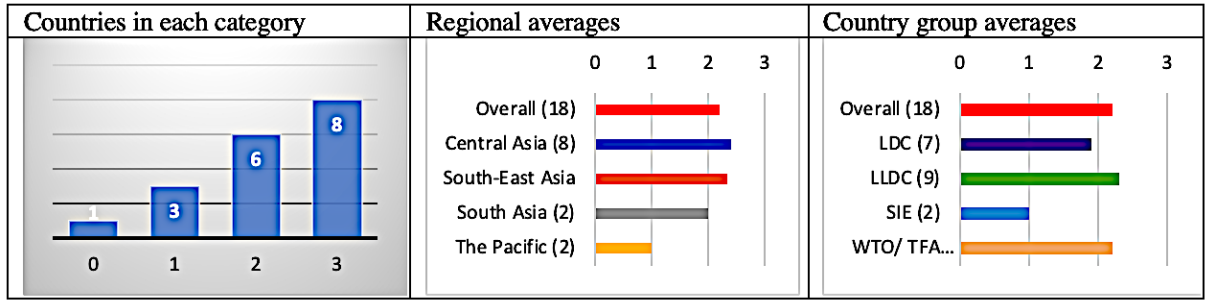
Business continuity planning [Almost none]



Data harmonization [Limited]

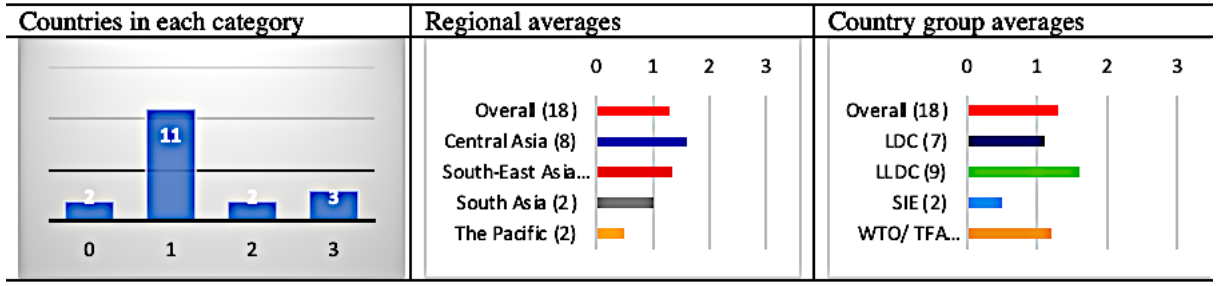


Security [Depth? Overoptimism?]

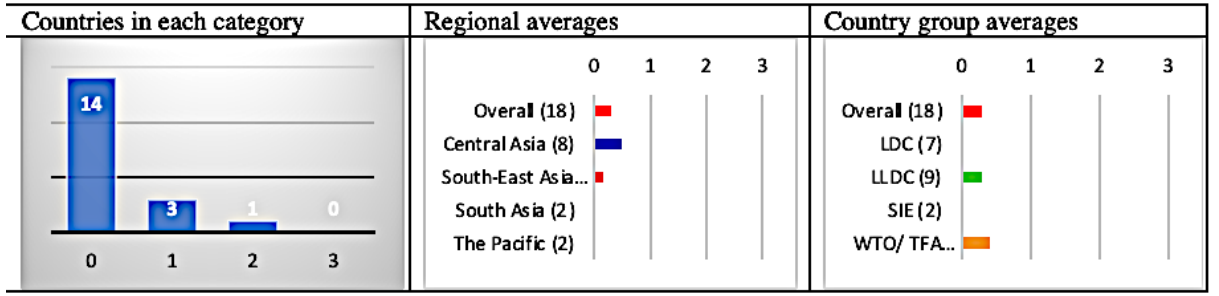


Cross border aspects

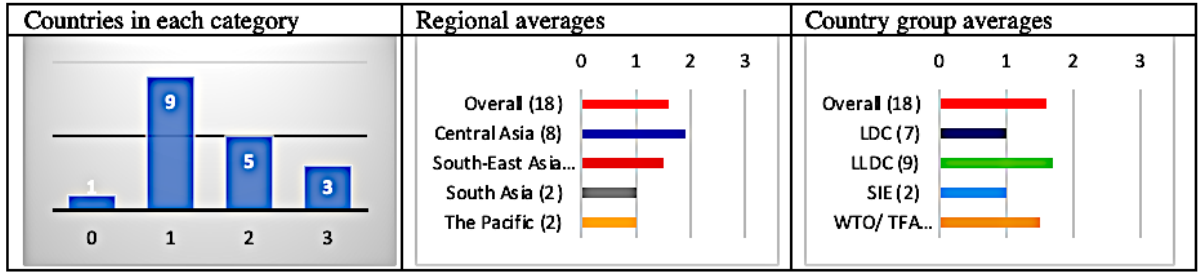
Cross-border enabling of electronic systems [Early stages]



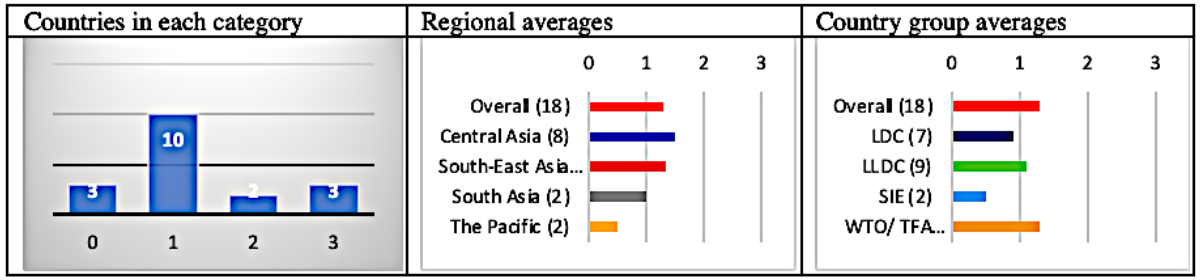
Mutual recognition of AEO [almost no plans [yet]]



Cross-border enabling of NSW [Early stages]

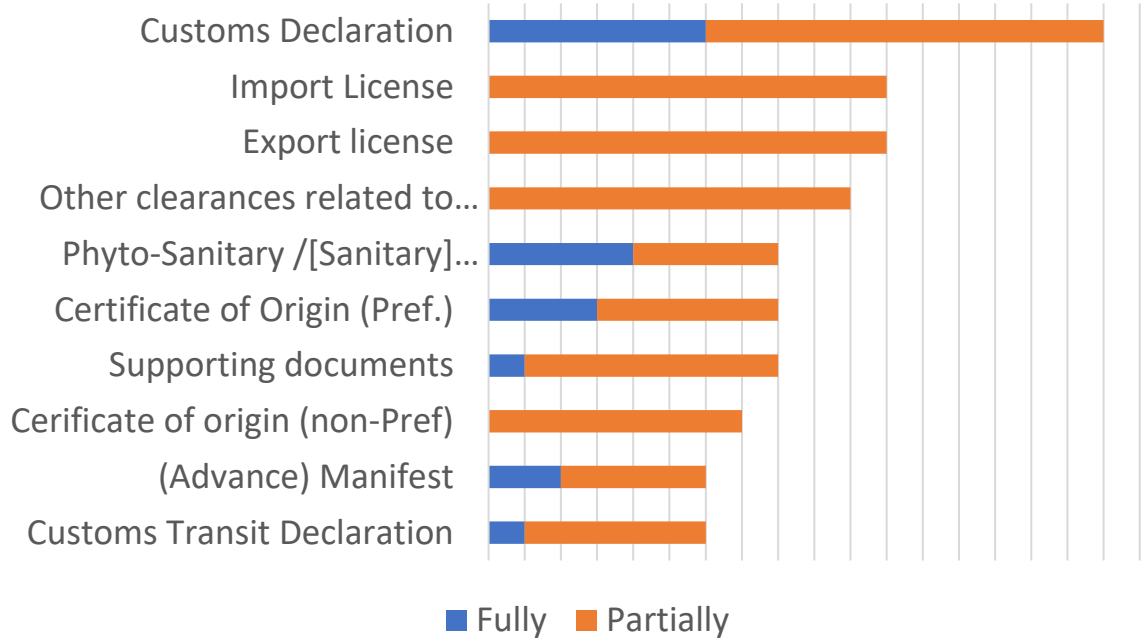


Business Process Reingeneering for CBPT [Early stages]



Enabled and prioritized documents

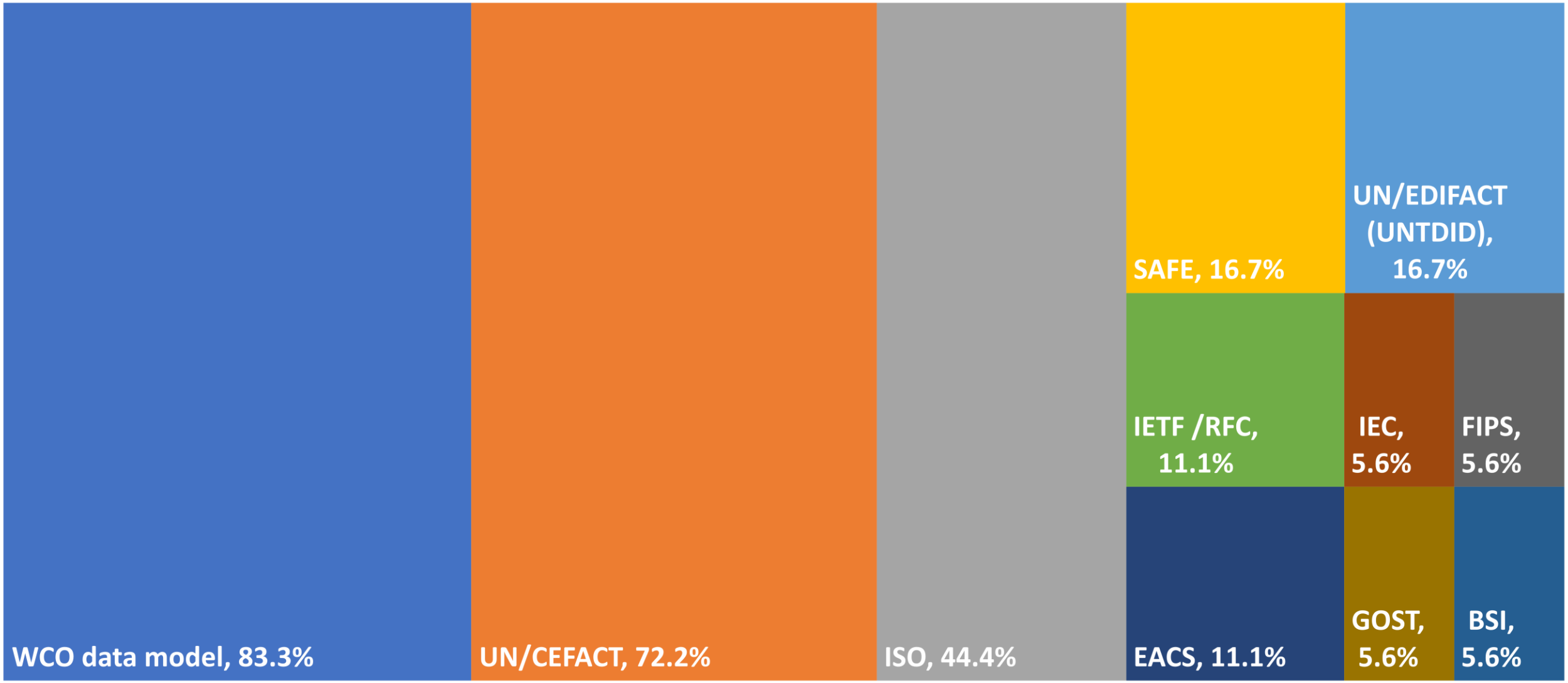
Enabled documents



Prioritized documents



International standards *[awareness / adoption]*

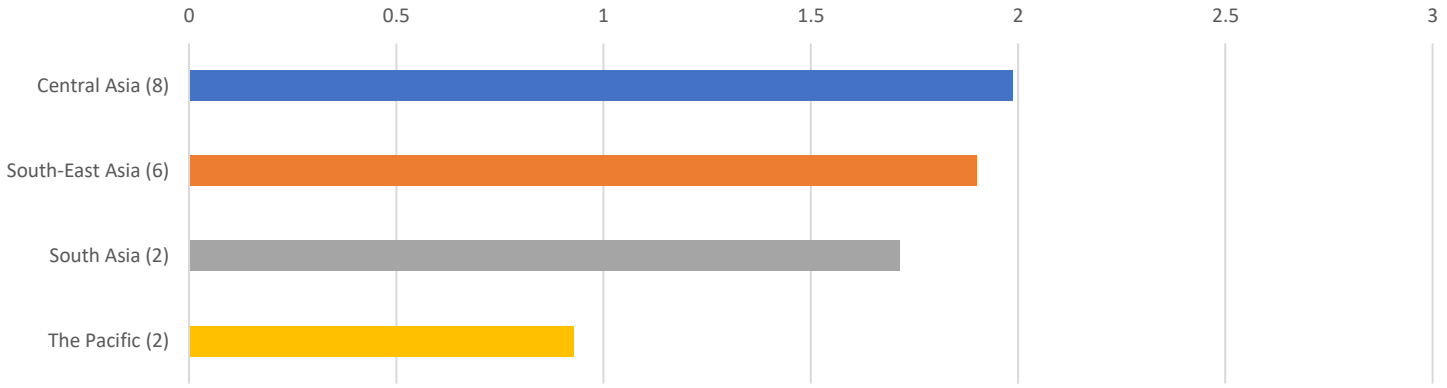


Legal readiness assessments: key results

Most-implemented areas (*overall*):

- Recognition of electronic evidence
- Data protection rules
- Recognition of foreign electronic evidence
- E-transactions regulation (overall)
- Liabiity of the paperless trade participants

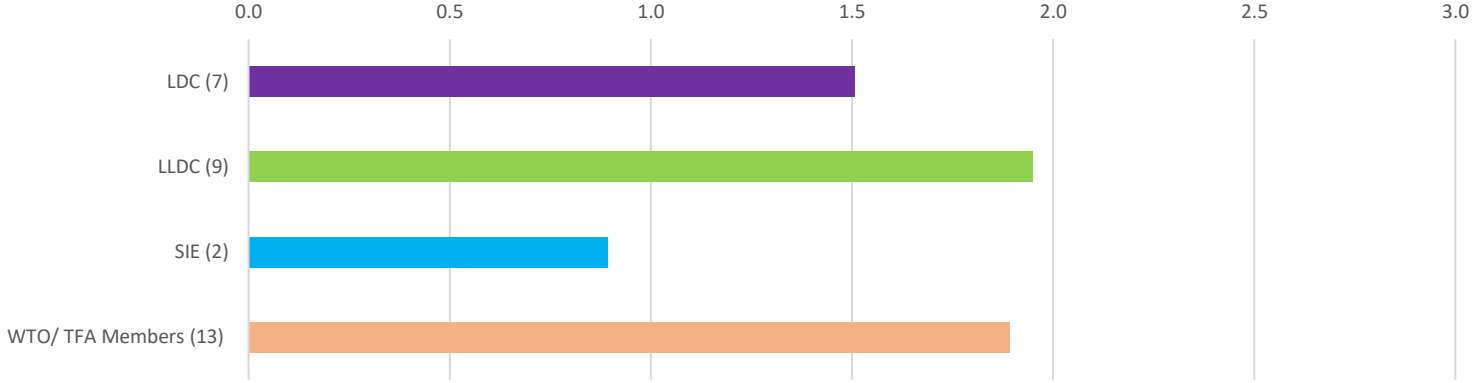
Overall legal readiness performance benchmarks: subregions



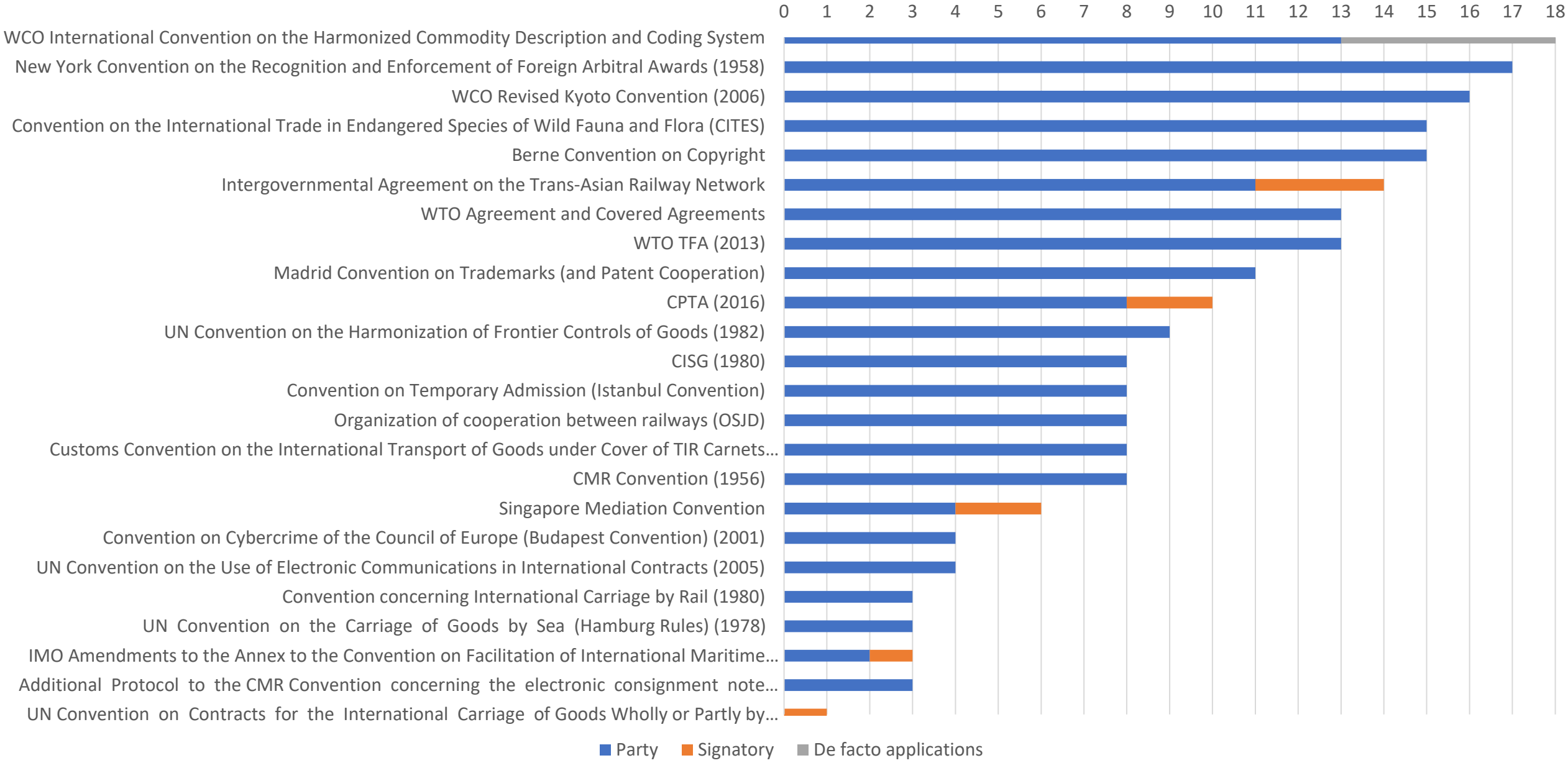
Least-implemented areas (*overall*):

- Alternative Dispute Resolution (ADR) of relevance to paperless trade
- Recognition of foreign electronic signatures
- Choice of forum and law
- Legal embedding of the NSWs
- Data sharing

Overall legal readiness performance benchmarks: country groups

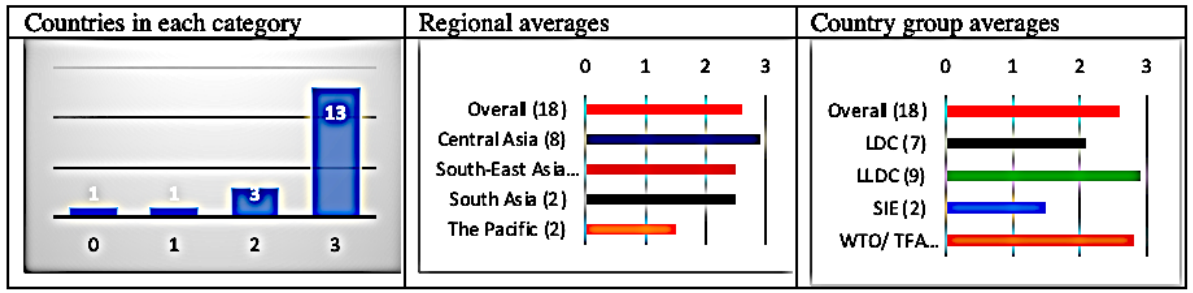


State of adoption of the relevant international instruments

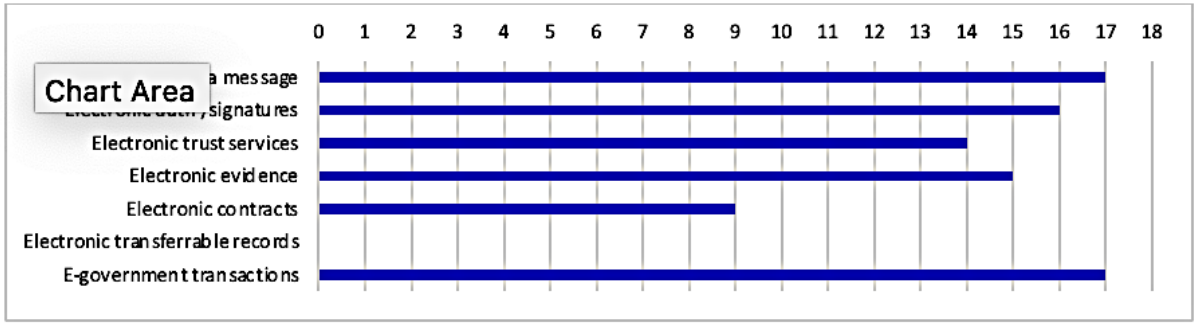


Electronic transactions

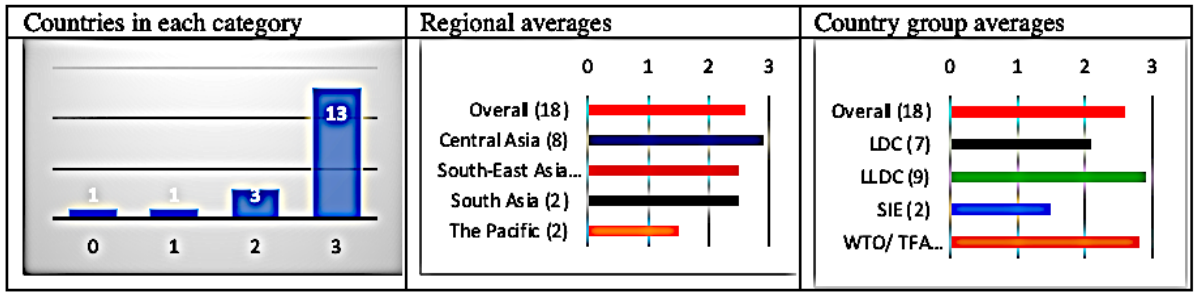
Availability of electronic transactions laws [single/ many acts]



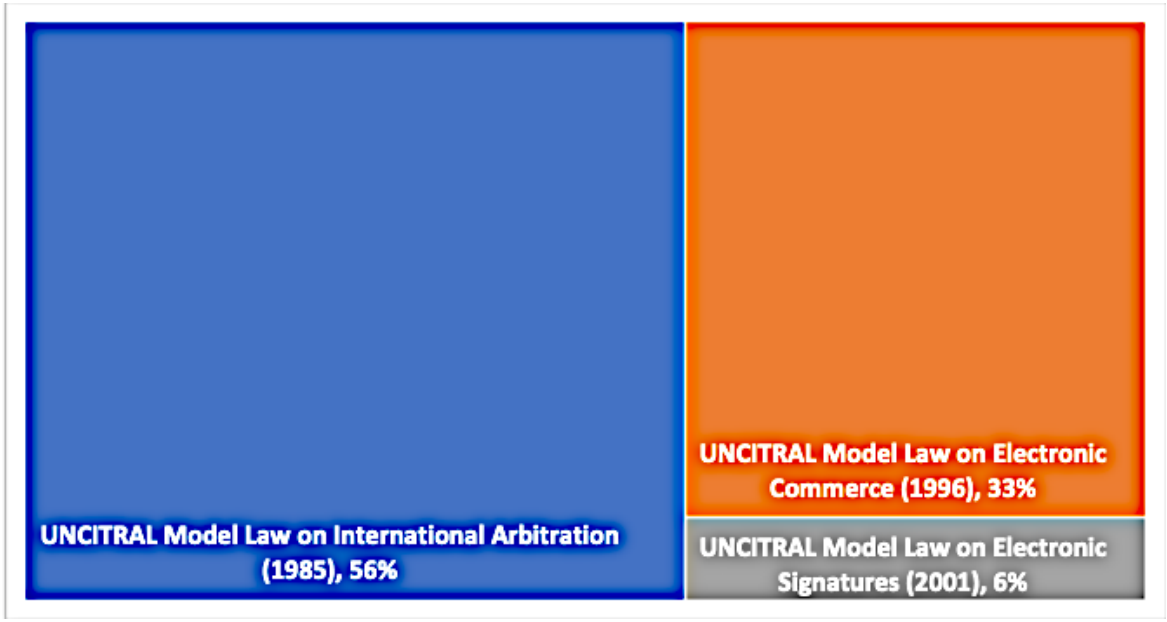
Electronic transactions – elements assessed [non-exhaustive]



Scope of e-transaction laws [sufficiently wide]



Reliance on the UNCITRAL models [some]

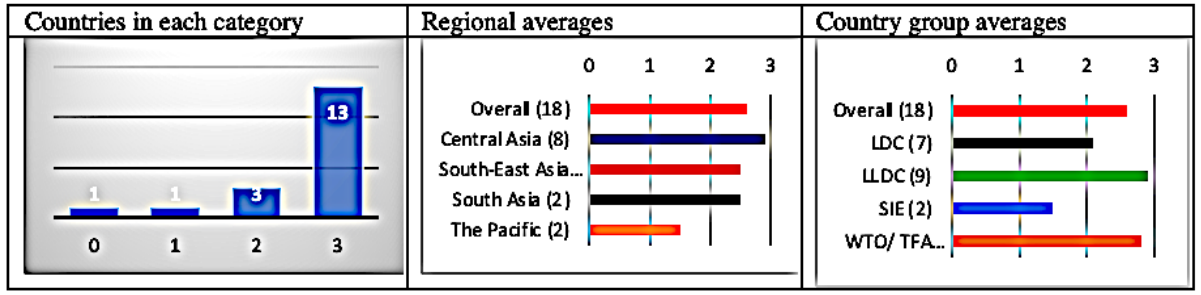


NB: [Yet] no adoptions of:

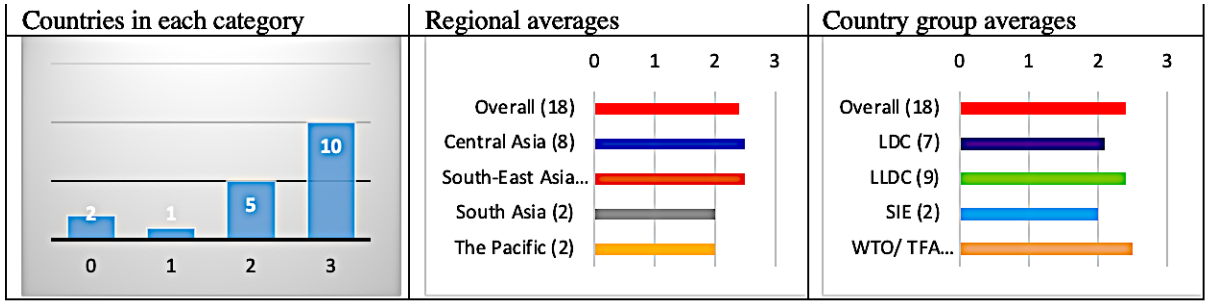
- The UNCITRAL Model Law on Electronic Transferrable Records (MLETR, 2017)
- The UNCITRAL Model Law on Cross Border Recognition of e-ID and Trust Services (MLIT, 2022)

Electronic signatures and electronic evidence

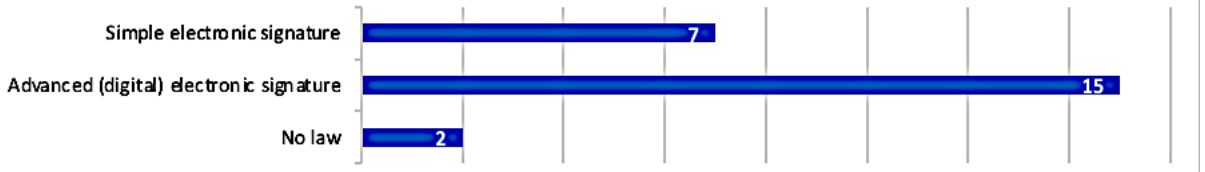
Overall implementation of electronic signatures [reportedly high]



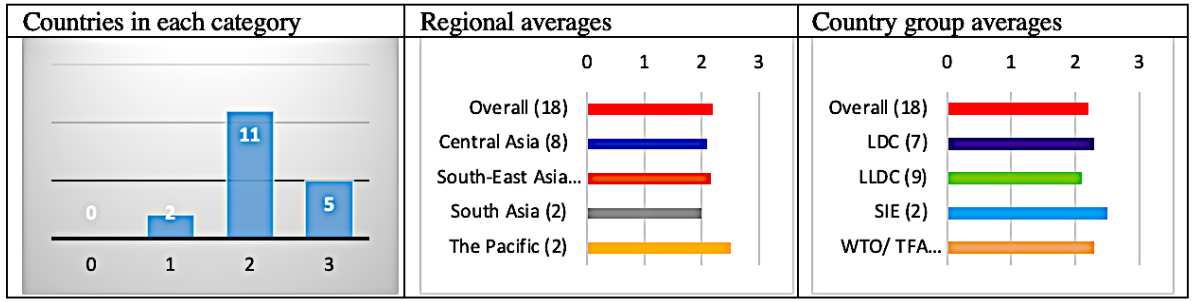
Addmissibility of e-evidence [“just so happens”]



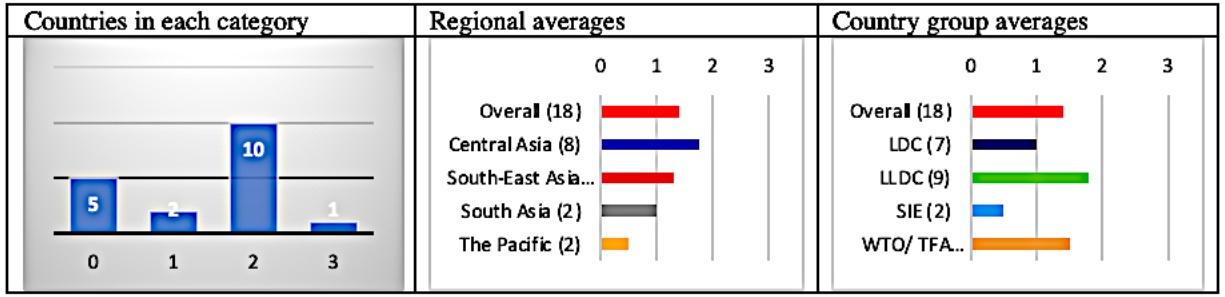
Types of electronic signatures [mostly digital signatures]



Addmissibility of foreign e-evidence [id.]

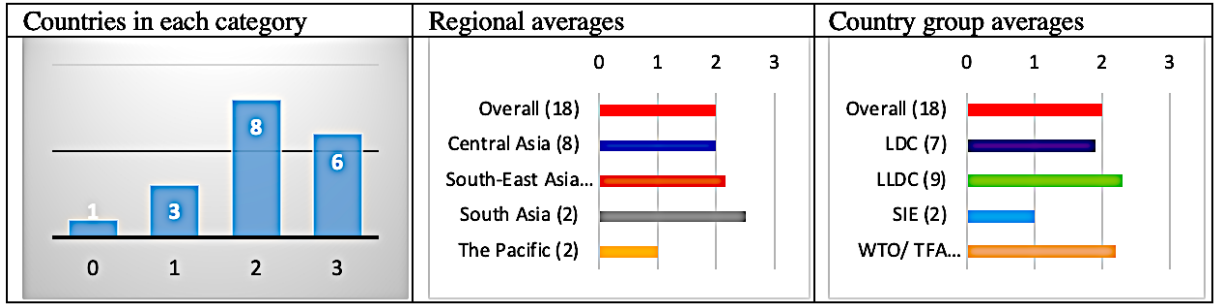


Recognition of foreign electronic signatures [mostly planned]

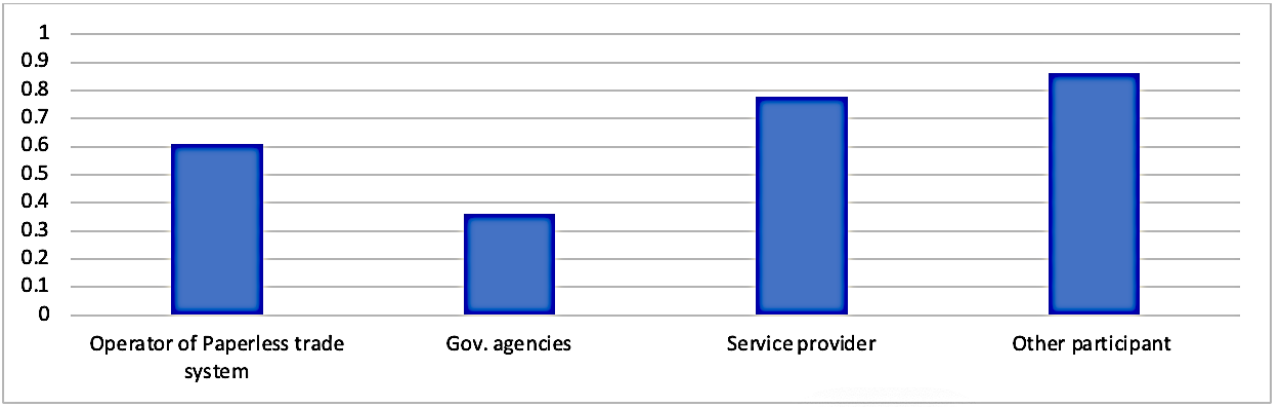


Liability in the paperless trade

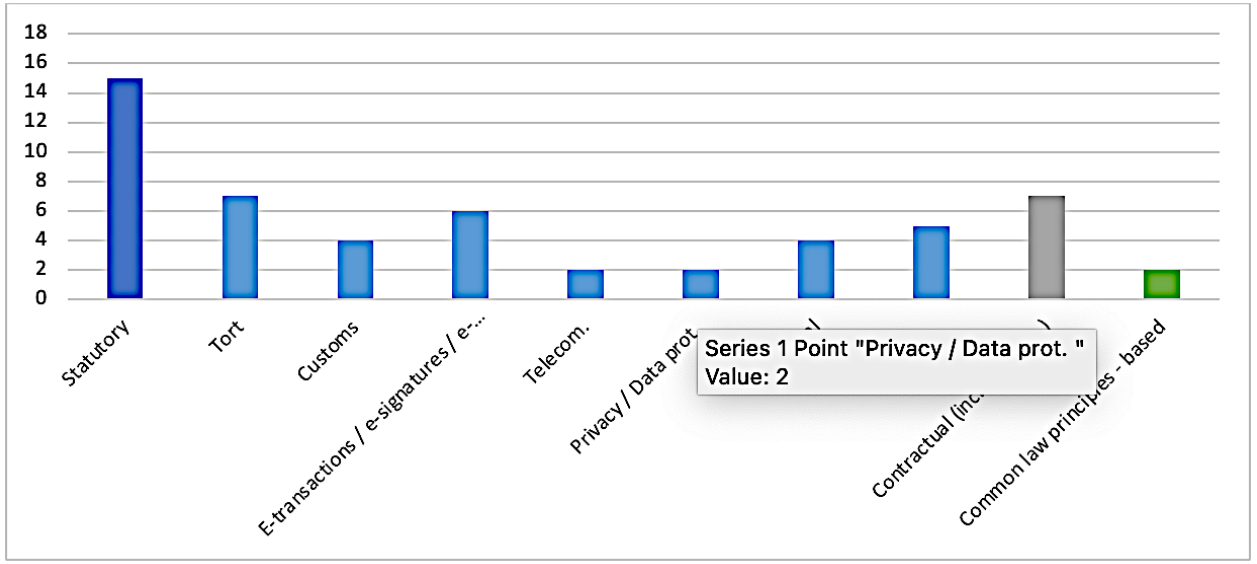
Implementation of liability [benefits from the cross-cutting rules]



Liability trend by stakeholder [the Government is rarely liable]

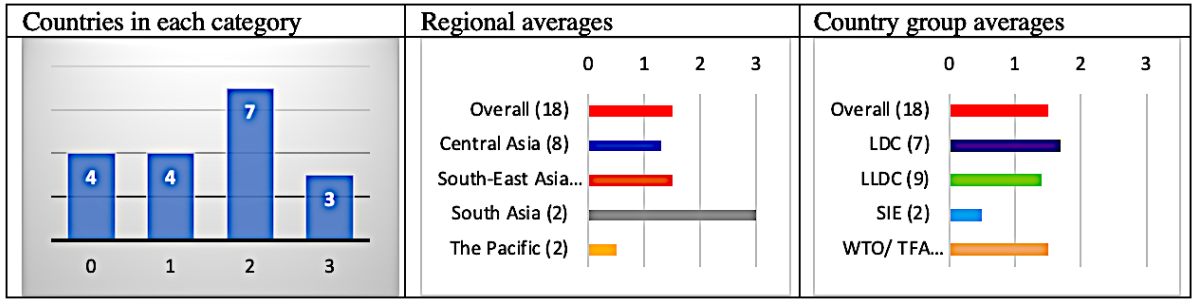


The source of liability [predominantly the law]

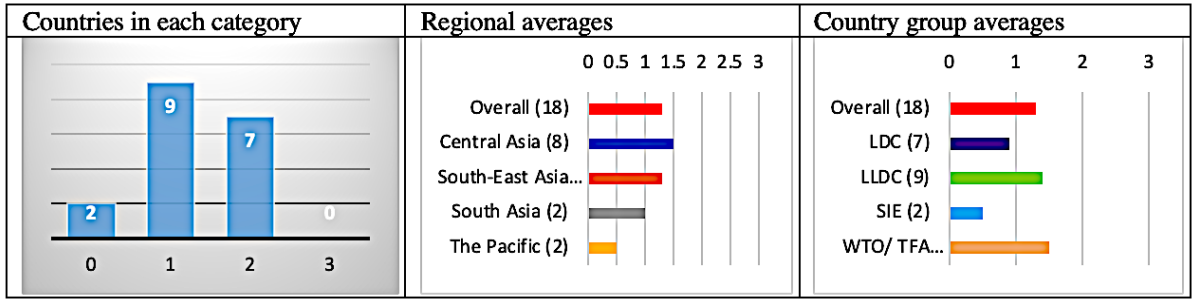


Choice of law and forum

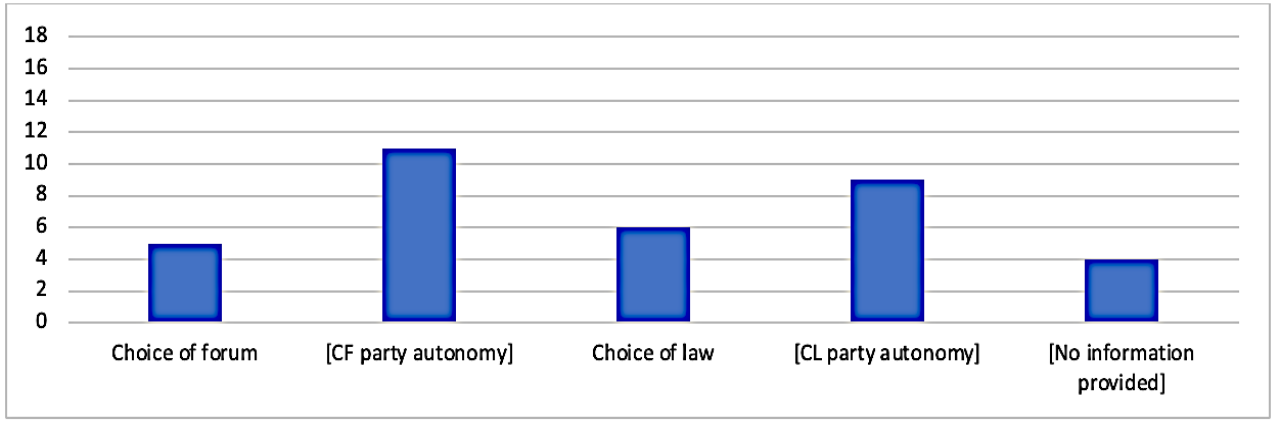
Overall regulation of the choice of law and forum [partial]]



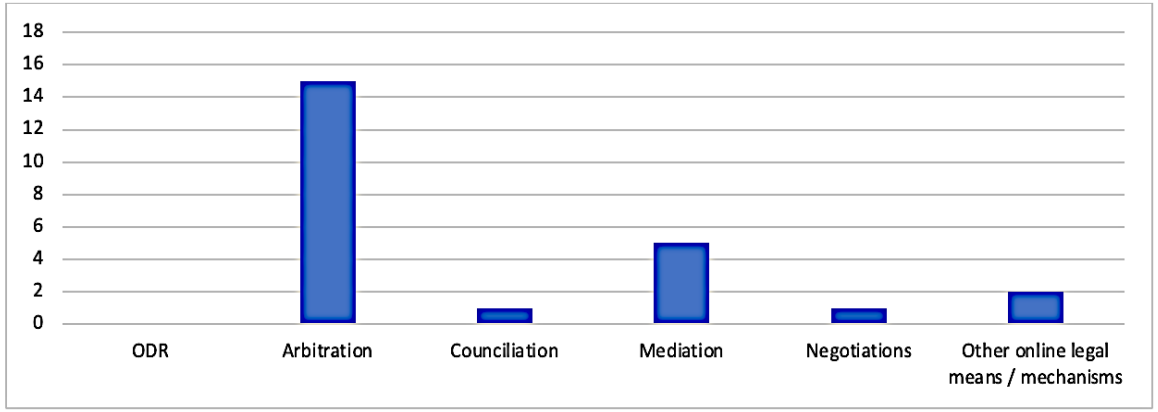
Implementation of the ADR [limited]]



Areas where the rules exist

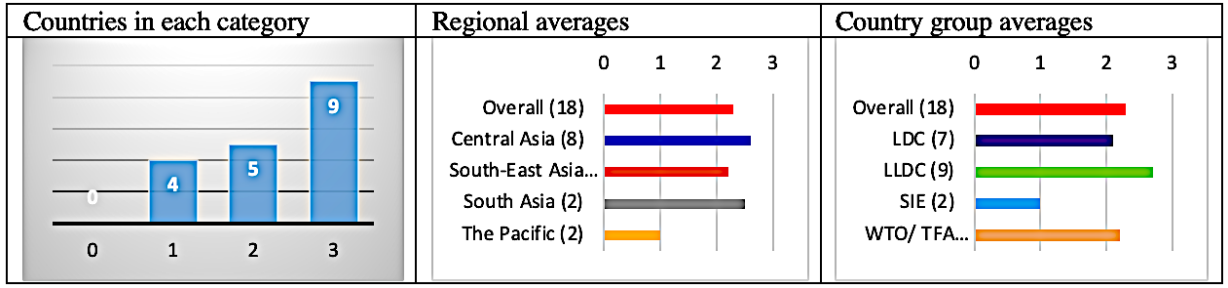


Exact ADR available

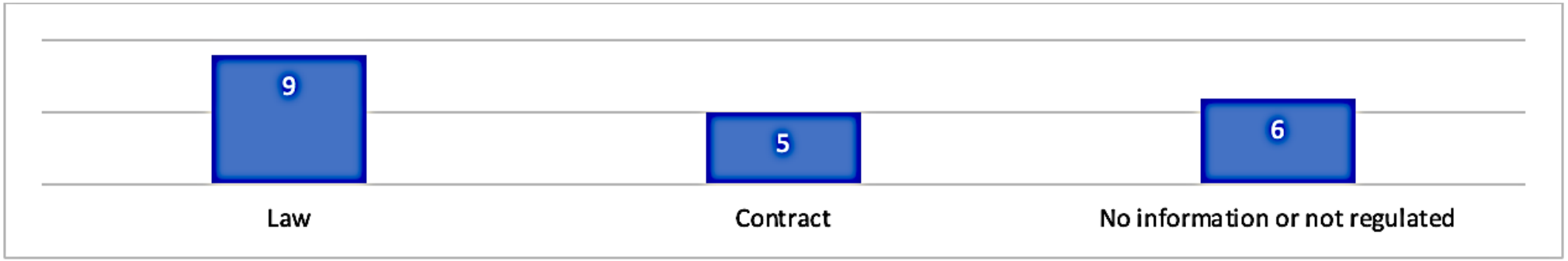


Data policies

Overall implementation of the data policies [optimistic feedback?]



Sources of data ownership rules



Issues to note:

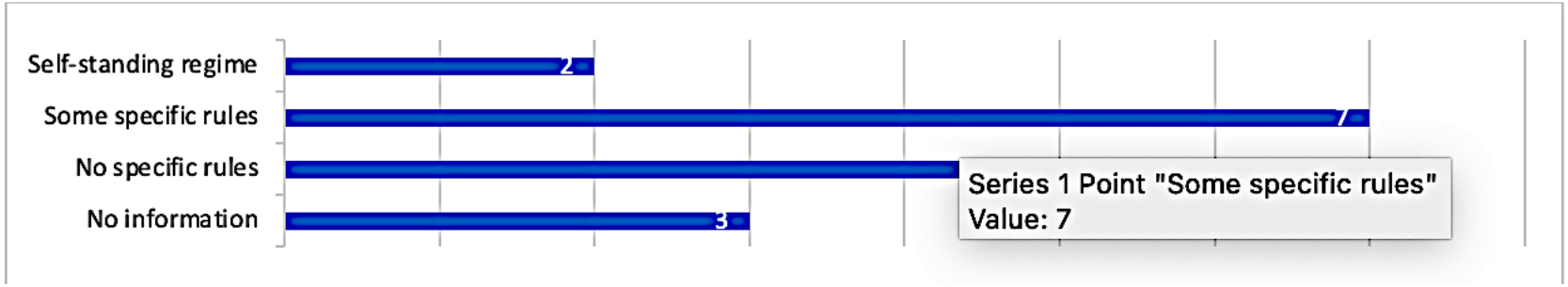
Depth of the assesment?

Cross-border data flows?

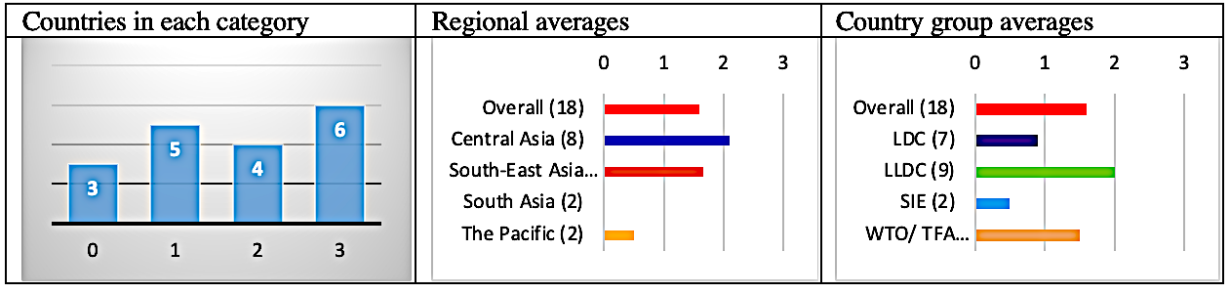
Deeper dive into privacy? (different national definitions, institutional mechanisms, etc.)

Laws regulating paperless trade systems

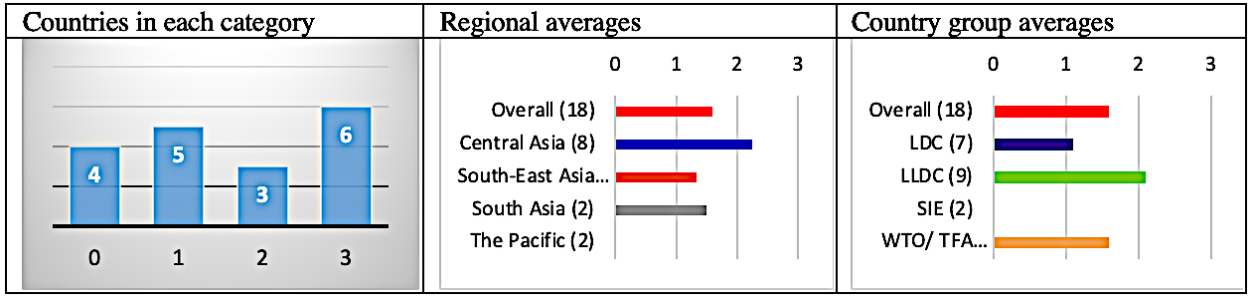
Integration of the paperless trade regime with others [mostly not siloed]



Legal embedding of the NSW [partial]



Legal embedding of inter-agency data sharing [partial]



Recommendations

Technical (over 60 in total)

- Enchance awareness and conduct capacity building on cross-border paperless trade
- Establish or strengthen institutional mechanism for stakeholder coordination
- Establish / enhance / implement business continuity and disaster recovery for the ICT systems
- Conduct data harmonization in line with international standards
- Conduct business process re-ingeneering in the trade-related regulatory agencies

Legal (over 60 in total)

- Adopt / modernize / and/or simplify laws and regulations governing electronic transactions (+ implement them)
- Establish / refine legal basis for operating the NSW, iincluding in cross-border paperless trade
- Ensure strong legal protection of privacy and confidentiality
- Conduct awareness and capacity building for paperless trade for ALL groups of stakeholders (includinhg public sector)
- *Proactively* consider incorporation of international and regional legal standards and guidelines into the national legal frameworks