

The incorporation of the substantive provisions of the UN ECC in Vietnam's domestic law and evaluating the possibility of Vietnam acceding ECC

Nguyen Dieu Huong
Vietnam E-Commerce and Information Technology Agency
Ministry of Industry and Trade

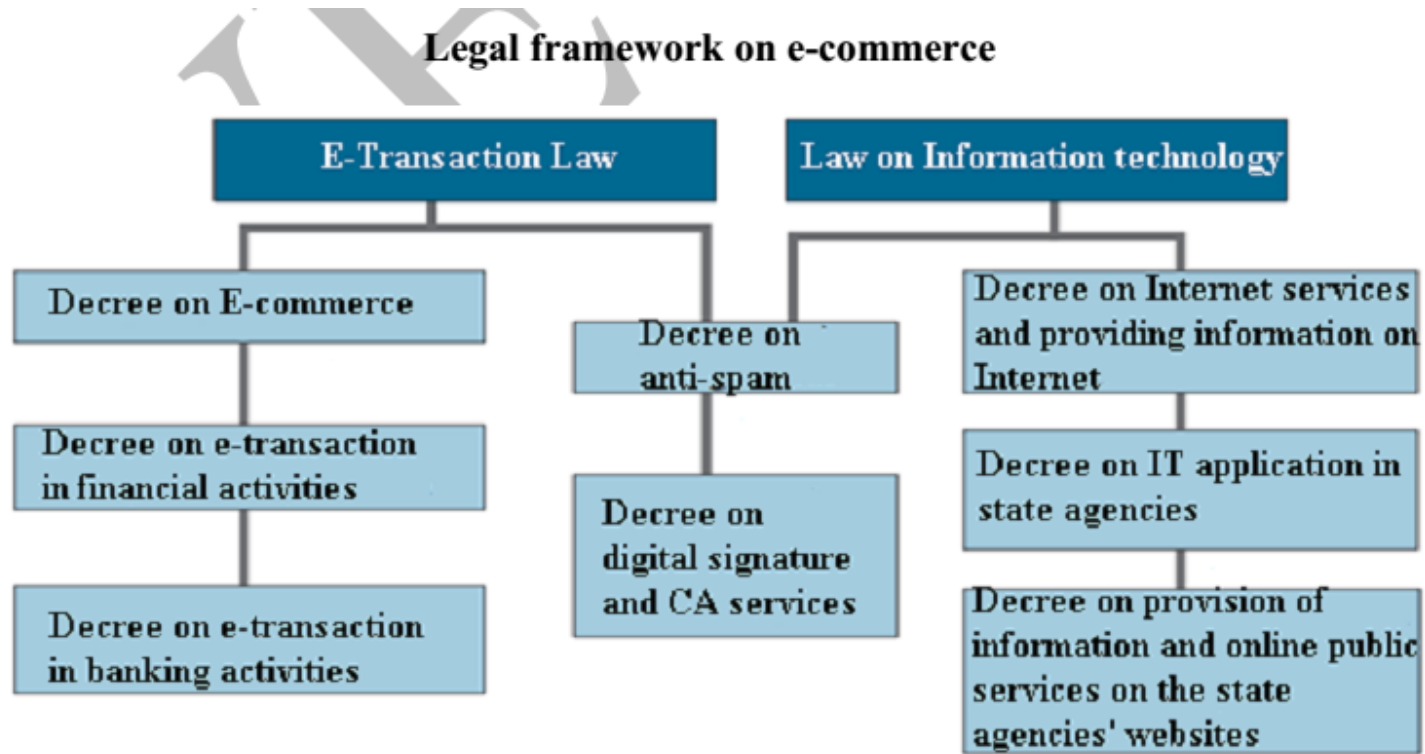


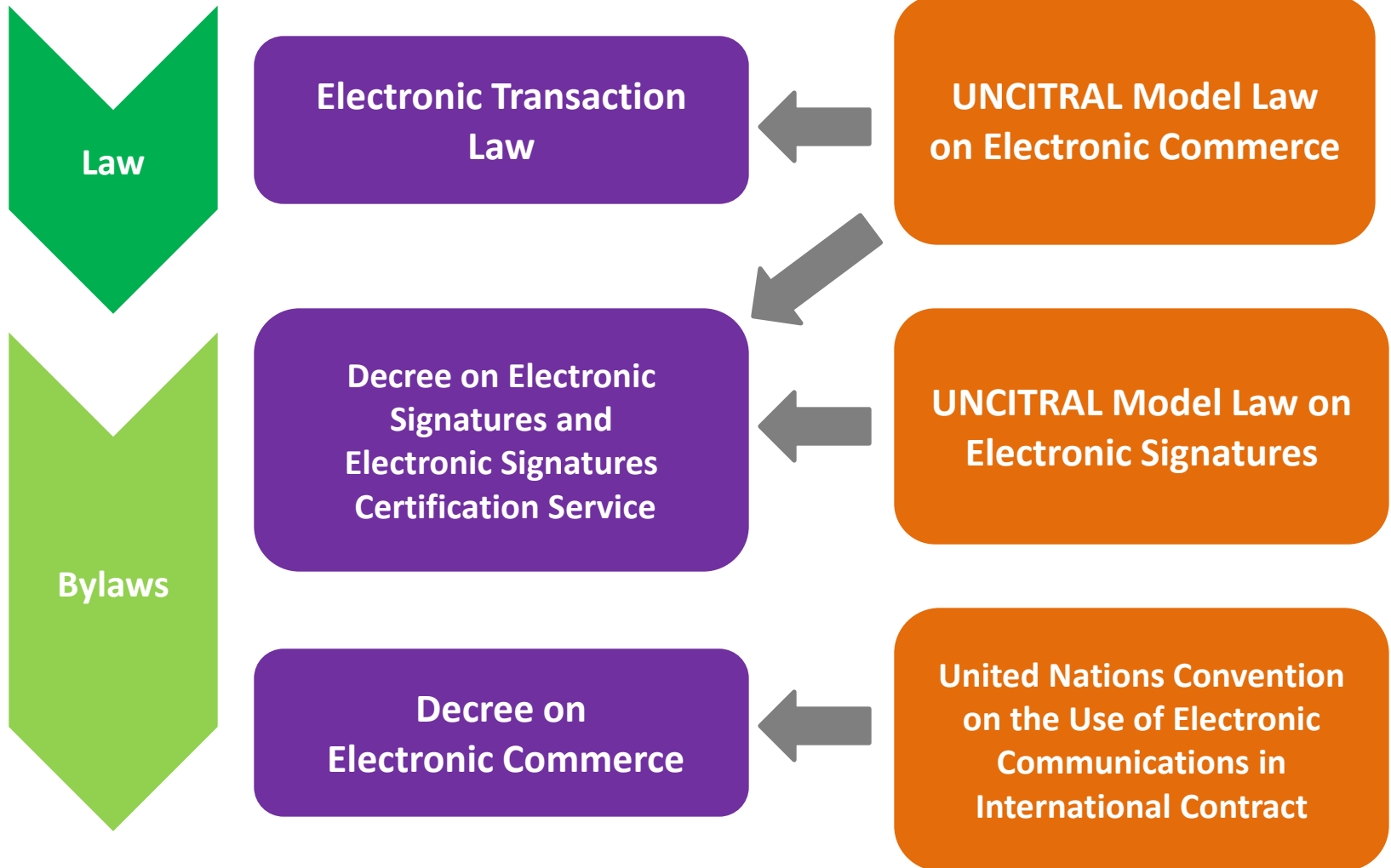
1. The compatibility between Vietnam law and ECC

2. Evaluating the possibility of Vietnam acceding ECC
 - The use of e-contract
 - Benefit of adopting ECC (enterprises; opinions of experts)
 - Advantages and Disadvantages
 - Domestic procedures to accede ECC

The compatibility between Vietnam law and ECC







Provisions	E-Communications Convention	Decree on E-Commerce
Invitations to make offer	Article 11	Article 12
Used of automated message system for contract formation	Article 12	Article 13
Input errors in the use of automated system	Article 14	Article 14
Time and place of dispatch and receive	Article 10	Article 10
Form requirements (Except Article 9, point 3)	Article 9	Article 9

- Comparing Vietnam law on e-contract with ECC
 - Electronic Transaction Law: the difference
 - Time of dispatch
 - Decree on Electronic Commerce: the difference
 - Original form of e-communications
 - Invitations to make offers
- > They are not different in essence but in the way of expression
- > The high compatibility between Vietnam law and ECC

Law on E-Transaction

- Basing on MLEC (15)
- Data Message enters a system outside (17.1)
- Receipt when addressee have actual retrieval (18.2)

Decree on E-commerce

- Basing on ECC (10.1,2)
- E-Communication leaves a system (10.1)
- Receipt when capable to retrieved & recipient is aware (10.2)

E-Communications
Convention
Art 9(3)

Identify the party

Indicate party's
intention

Law on
E-Transaction
Art 24(1)

Identify the party

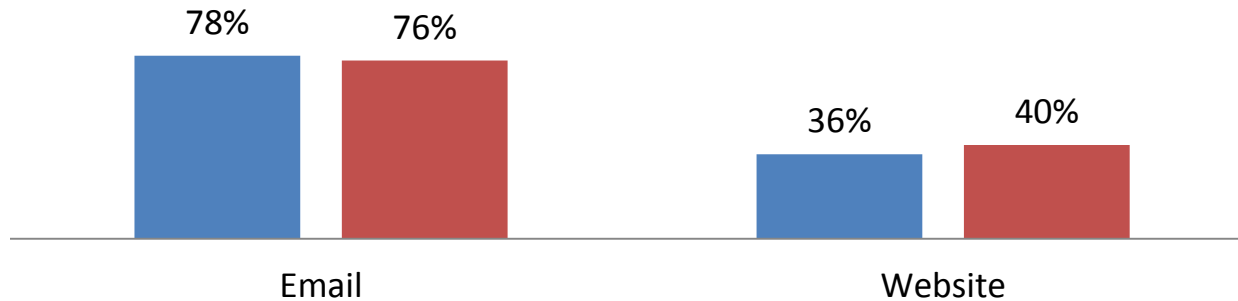
Indicate party's
approval

Evaluating the possibility of Vietnam acceding ECC

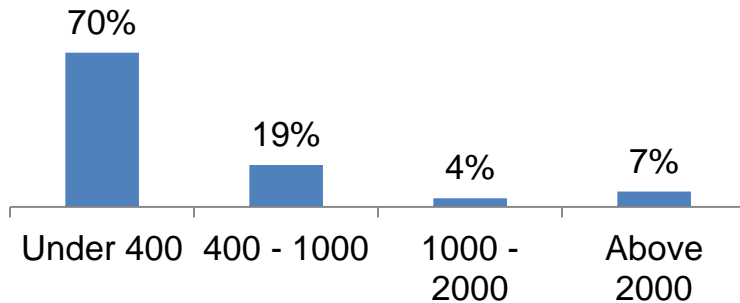


The use of electronic means to enter in and implement contracts

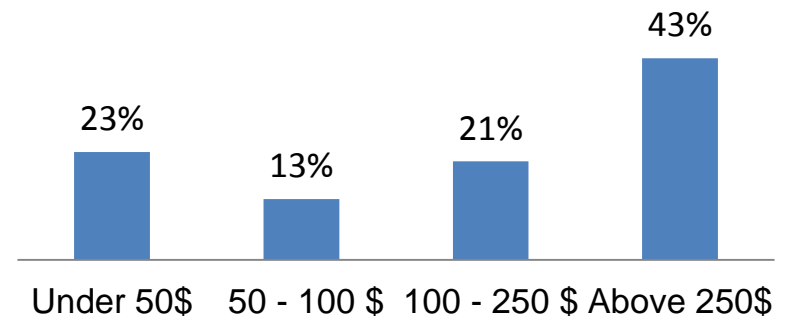
The electronic tools that enterprises use to receive order and order



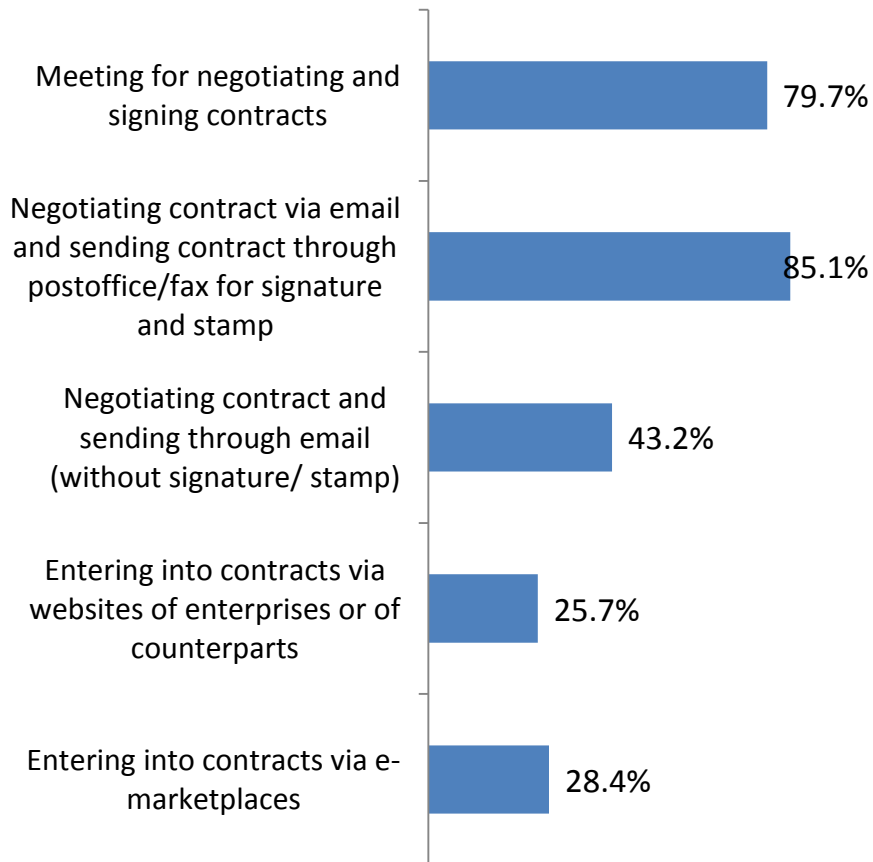
The number of online order received in 2014



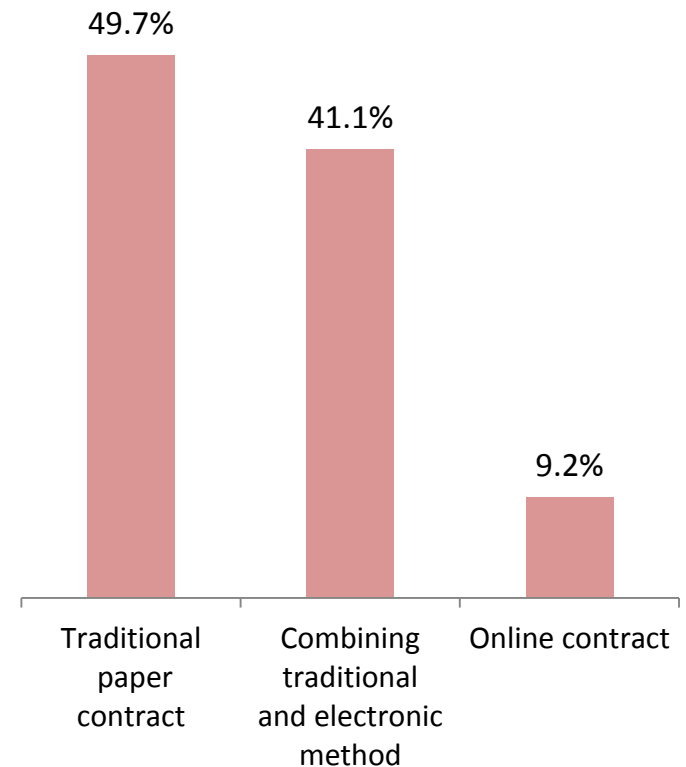
The average value of orders in 2014



The method of signing contract with foreign partner

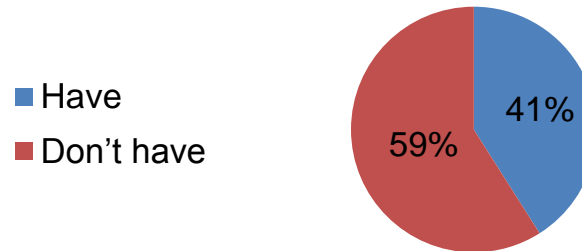


The percentage of signing contract methods/ total value of transactions

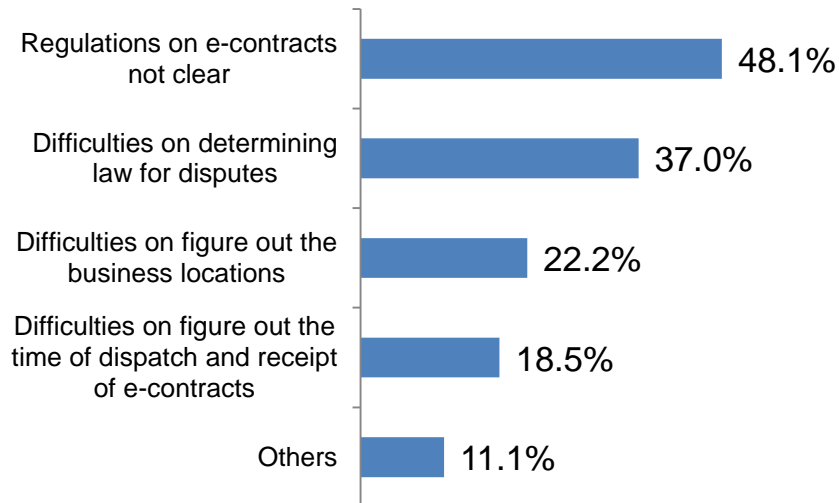


The status of using e-contract in Vietnam Import-Export Enterprises (cont.)

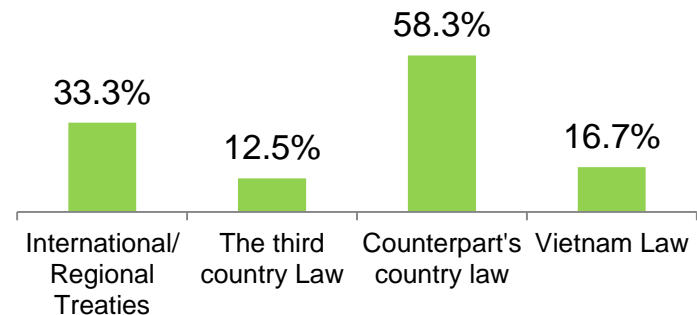
The status of e-contract disputes



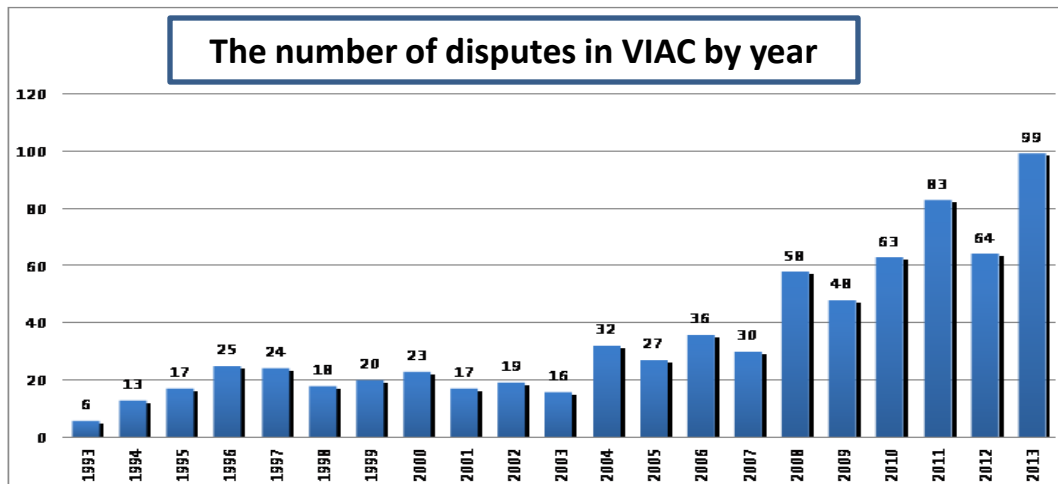
Obstacles of handling disputes



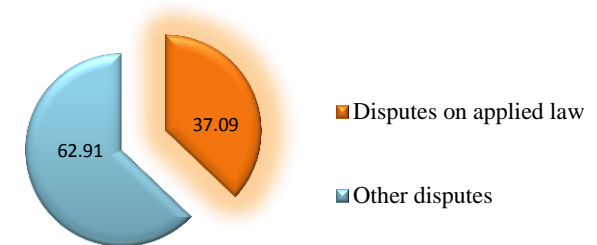
Law applying to handle disputes



- Reducing cost and time of negotiation for law that applied for contract.
- Being the base to handle dispute in international transaction, helping Vietnam to reduce the level of using counterpart's law.



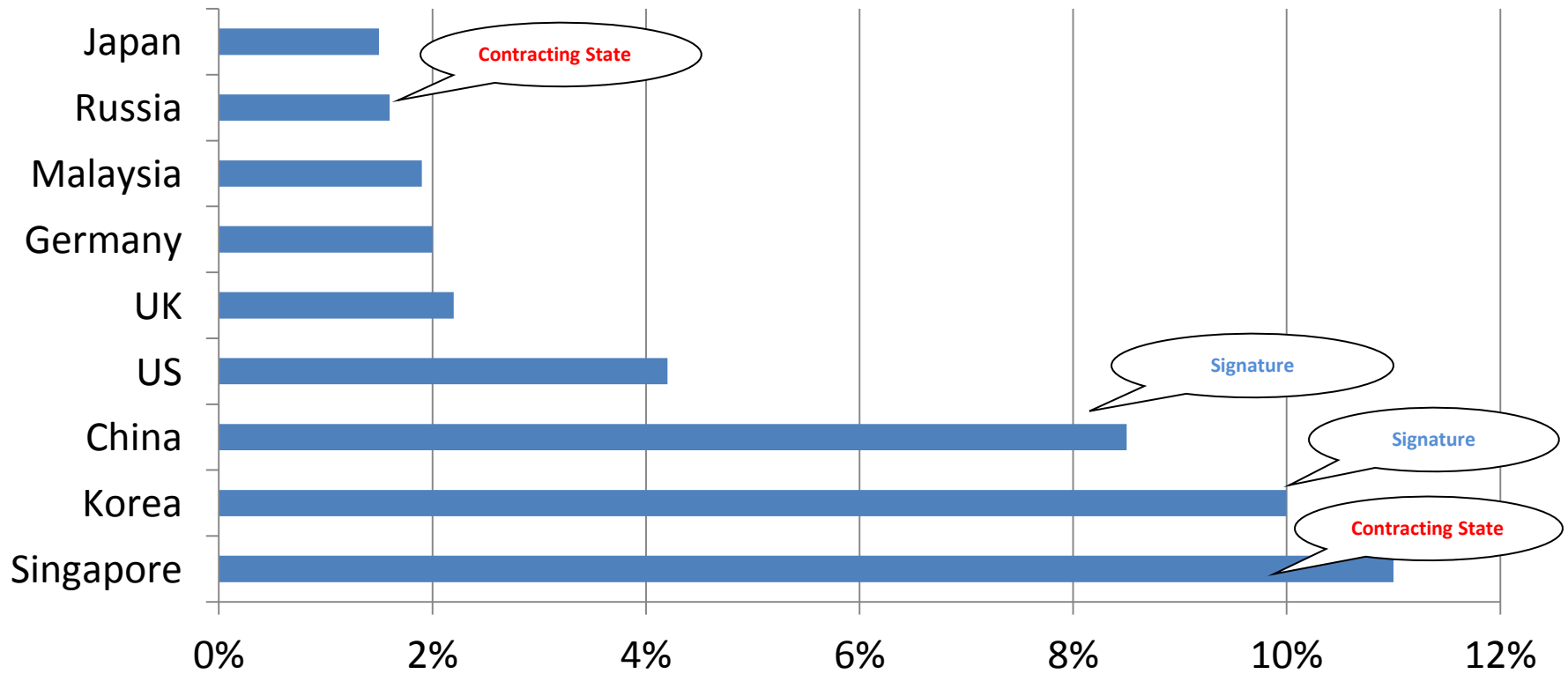
The percentage of disputes on applied law for Import- Export Contract / Total disputes in VIAC



- If Vietnam accede ECC, Vietnam enterprises will be protected by this Convention when trading and contracting with counterparts that their countries are contracting states of ECC (including Singapore and Russia); and will be equal with counterparts when choosing law to handle disputes.

Benefit of adopting ECC for enterprises (cont.)

The percentage of disputes of each country / Total disputes on international contracts in VIAC



- **Objects:** experts on academic, research, business and lawyer community that relating to e-commerce
- **Survey Result:** 4 questions relating to ECC (content of ECC, disputes, comparing with legal documents of Vietnam, should accede or not?)

⇒ **Poorly understand on the content of ECC**

⇒ **Better content than Vietnam's**

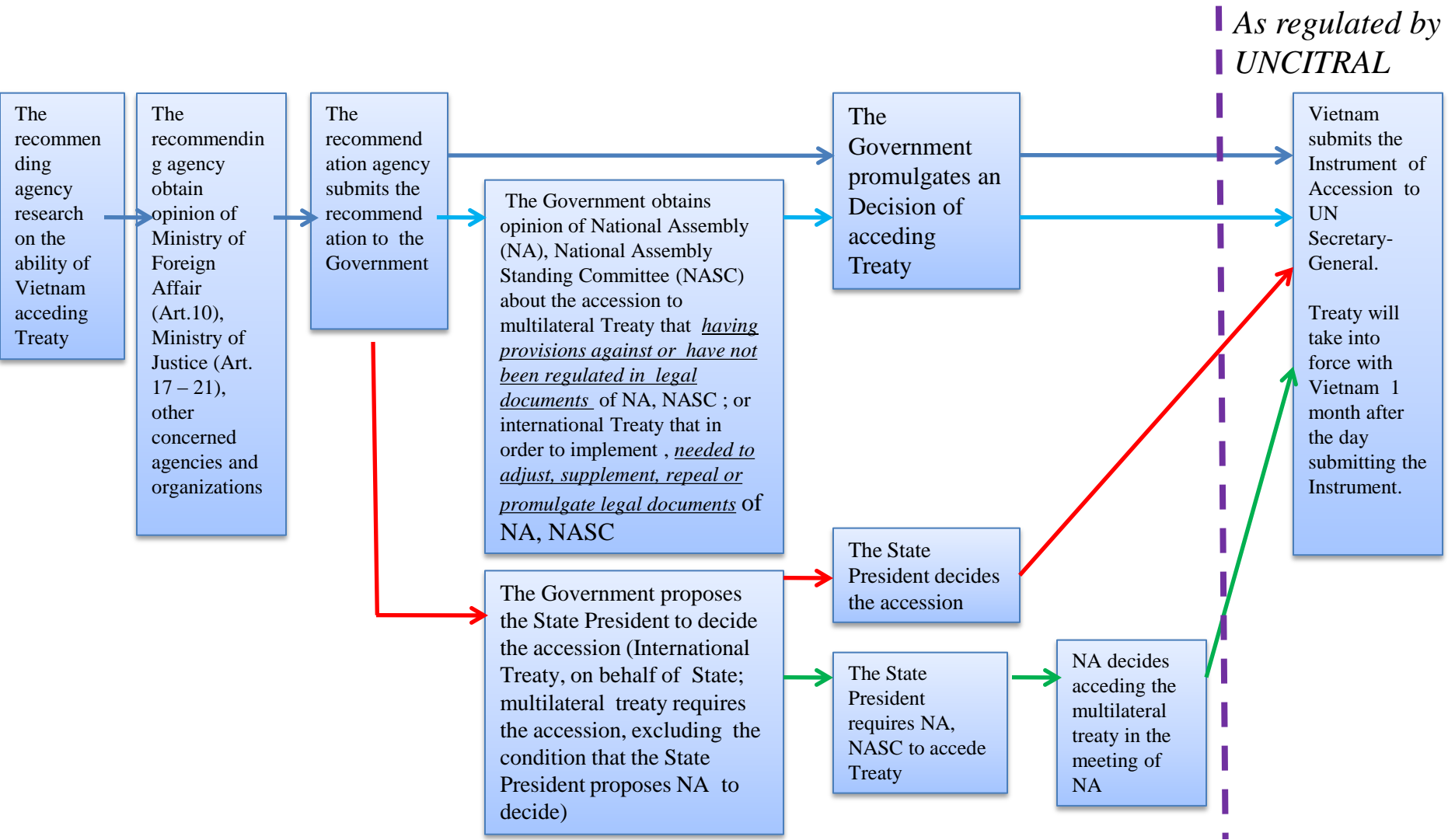
⇒ **Should accede ECC**

Advantages

- Domestic legal system based on UNCITRAL texts (Decree on E-Commerce)
- Fostering the local research, supplement, and amendment activities on e-commerce law

Disadvantages

- Differences between international and domestic contract law
- Human resources to adopt and implement ECC
- Dispute dealing experiences
- Revolution of technology -> arising problems (i.e. cloud computing)



Current phase:

- CISG: Step 3 -> MOIT submitted to Government
- ECC: Step 1 -> MOIT researched and held workshops to collect opinions of researchers & enterprises





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