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ATLAS NETWORK

INSTITUTE FOR ECONOMIC RESEARCH AND POLICY CONSULTING

TRADE FACILITATION IN UKRAINE :

TOPIC 2: CUSTOMS PROCEDURES, APPEALS, DIGITAL PRODUCTS

according to the results of the VI wave of the annual survey of Ukrainian exporters and importers

Project "Support of the Civil Society Initiative
"For Fair and Transparent Customs"

Kyiv 2021

ABOUT THE PROJECT

The overall goal of the project is to increase the capacity of civil society to participate in economic policy development in Ukraine.

Expected results:

(1) strengthening the capacity and effectiveness of the initiative;

(2) intensification of political dialogue between civil society and the state on the implementation of customs reform

Project implementation period : 36 months, from January 1, 2020.

With the financial support of the European Union, the International Renaissance Foundation and the ATLAS Network (USA).

The initiative is an informal network of CSOs from different regions of Ukraine that care about improving the business climate.

25 members as of October 2021

The activities of the initiative are aimed at monitoring the implementation of customs reform and promoting dialogue on the implementation of institutional reform of customs in accordance with the principles of good governance and the principles of free trade.

The public initiative was created in 2018 in the process of implementing the Trade Facilitation Dialogue project, which was implemented by the IER with the support of the EU and the Renaissance Foundation.

Annual survey of Ukrainian exporters and importers: the basis of advocacy and analytical work of the Initiative

The IER has developed and has been implementing since 2015 a special national tool for “Trade Facilitation Monitoring” policy monitoring and evaluation.

It is a tool for measuring progress in facilitating and simplifying international trade and customs procedures, based on the assessments of the direct participants in the policy implementation process - business representatives.

The monitoring is based on the results of the annual survey of 1000 enterprises of exporters / importers throughout Ukraine.

There were 6 annual surveys: 2015, 2016, 2017, 2018, 2020, 2021

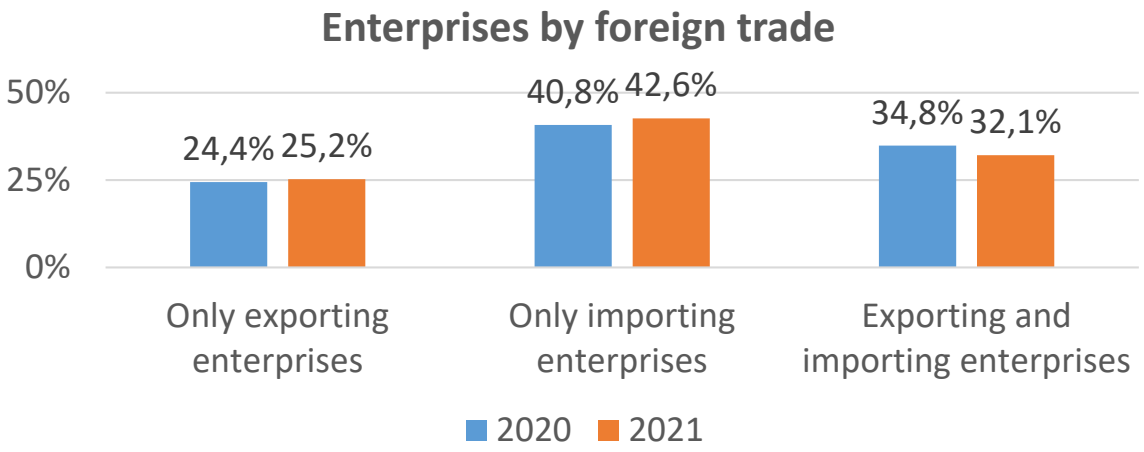
6th Annual Survey: Topics

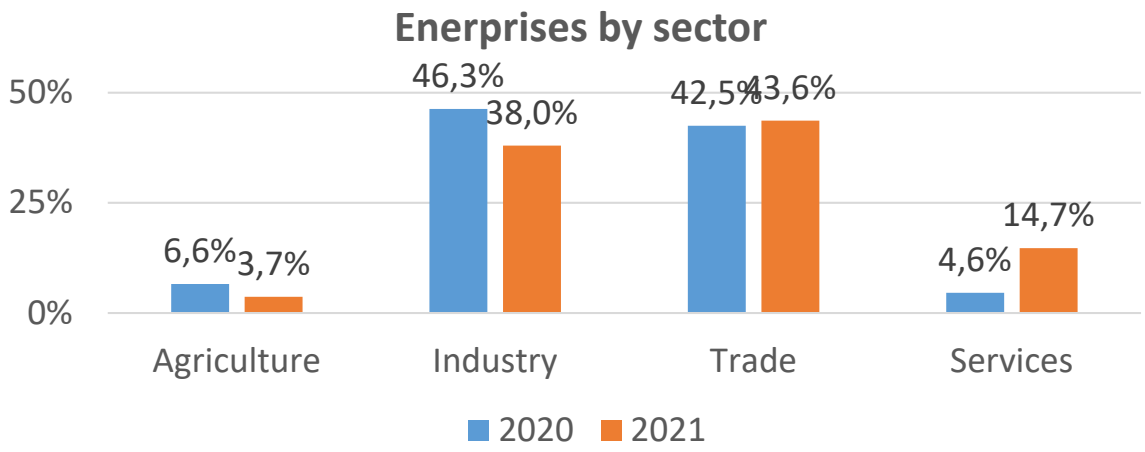
How the business assesses the activities of customs authorities and the implementation of reforms in the customs sector	What are the quantitative and qualitative estimates of the cost and duration of foreign trade procedures	How business assesses different customs procedures	Using the NCTS system and obtaining the status of the AEO
Customs clearance through the "single window" and using digital products	Why are cargoes delayed during customs control	Is it easy for companies to appeal the actions of customs authorities	What are the obstacles for importers and exporters
How the Association Agreement affected business activities	Where do companies get information; the role of business associations	What's with the corruption at customs	What do businesses think about "smuggling" and "gray imports"

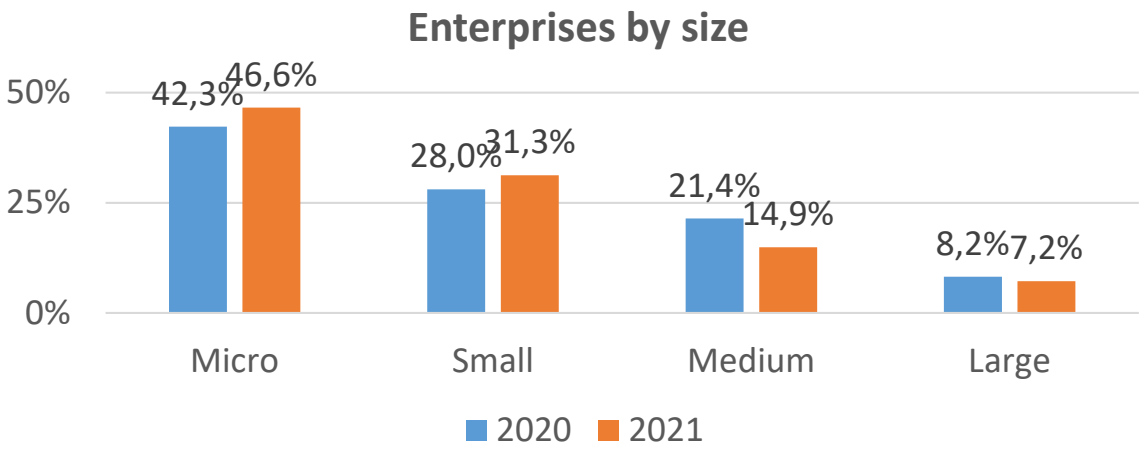
WHO WAS INTERVIEWED: SAMPLE

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Sampling: what are the surveyed companies







- 1000+ surveyed representatives of enterprises engaged in export and / or import
- Business of all sizes was surveyed: from micro-enterprises to large enterprises. The majority were micro and small enterprises
- Most of the respondents are representatives of industry and trade

DIFFICULTIES IN CUSTOMS CLEARANCE PROCEDURES

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Customs procedures: assessment by exporters and importers

- Exporting and importing companies reported what customs procedures they go through and what difficulties they face when going through these procedures
- Specifically, exporters assessed the following procedures:

Advance customs clearance

Material and commodity sampling

Receiving certificates of origin for goods at the customs

Customs inspection of goods

Post-customs audit

- While importers assessed these procedures:

Advance customs clearance

Deciding on classification of goods

Deciding on customs value of goods

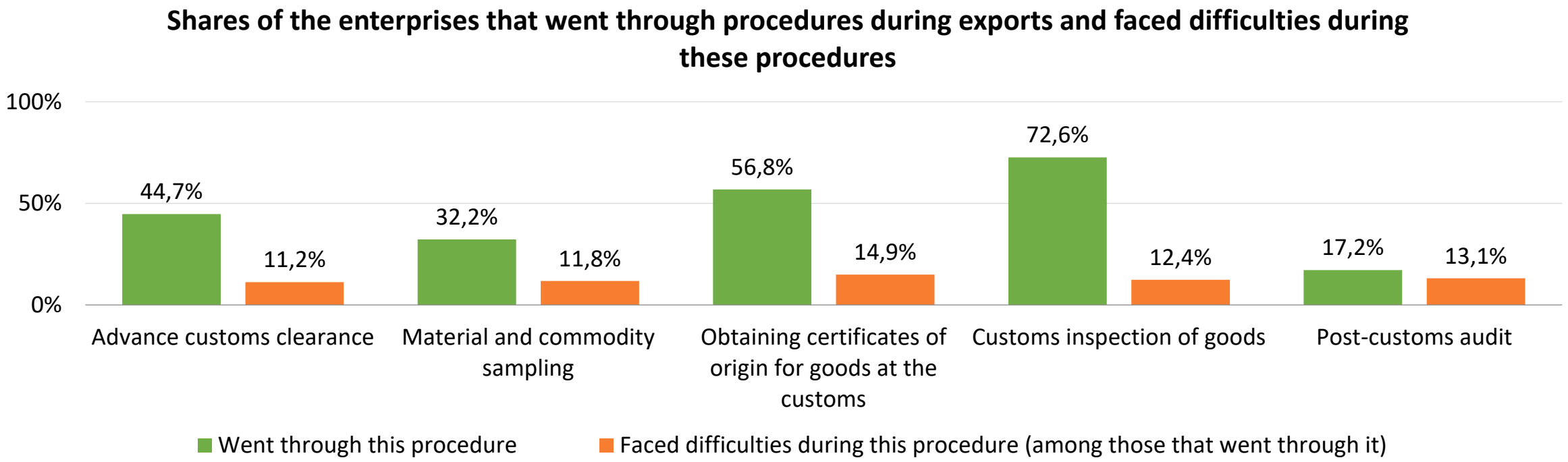
Material and commodity sampling

Provision of certificates of origin for goods at customs clearance

Customs inspection of goods

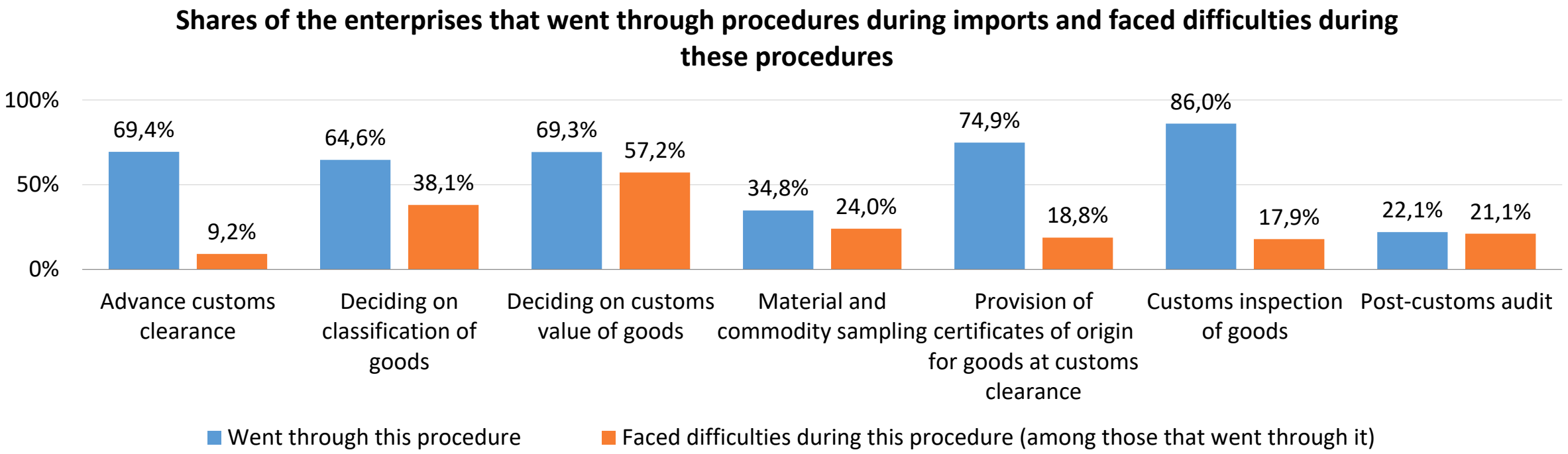
Post-customs audit

Customs procedures and difficulties: exports



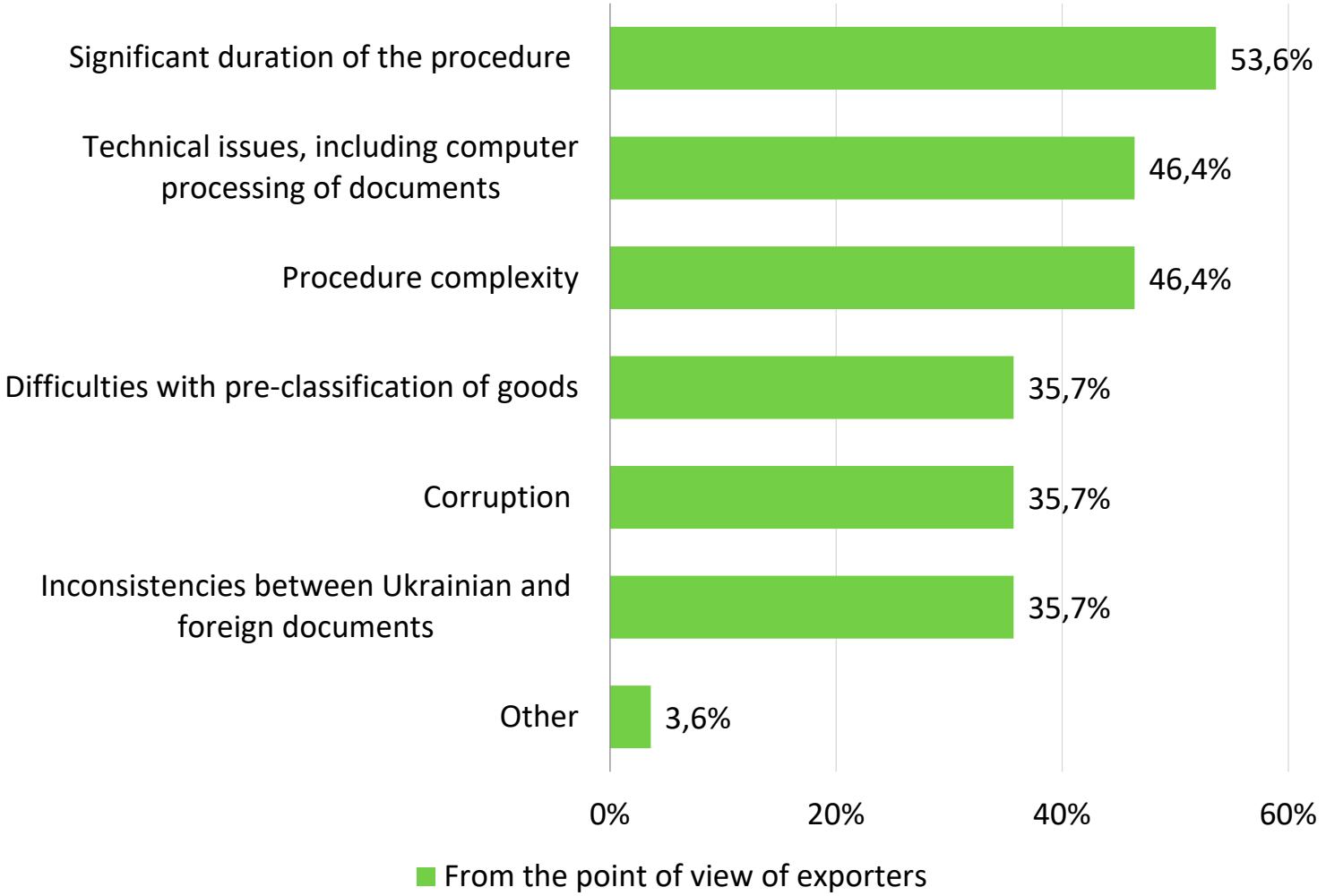
- **Customs inspection** is the most common procedure for exporters, although it should only be carried out on certain grounds. The next most common procedures are **obtaining certificates of origin** and **preliminary customs clearance**
- Difficulties with each procedure were experienced by 11% to 15% of exporters who underwent these procedures.

Customs procedures and difficulties: imports



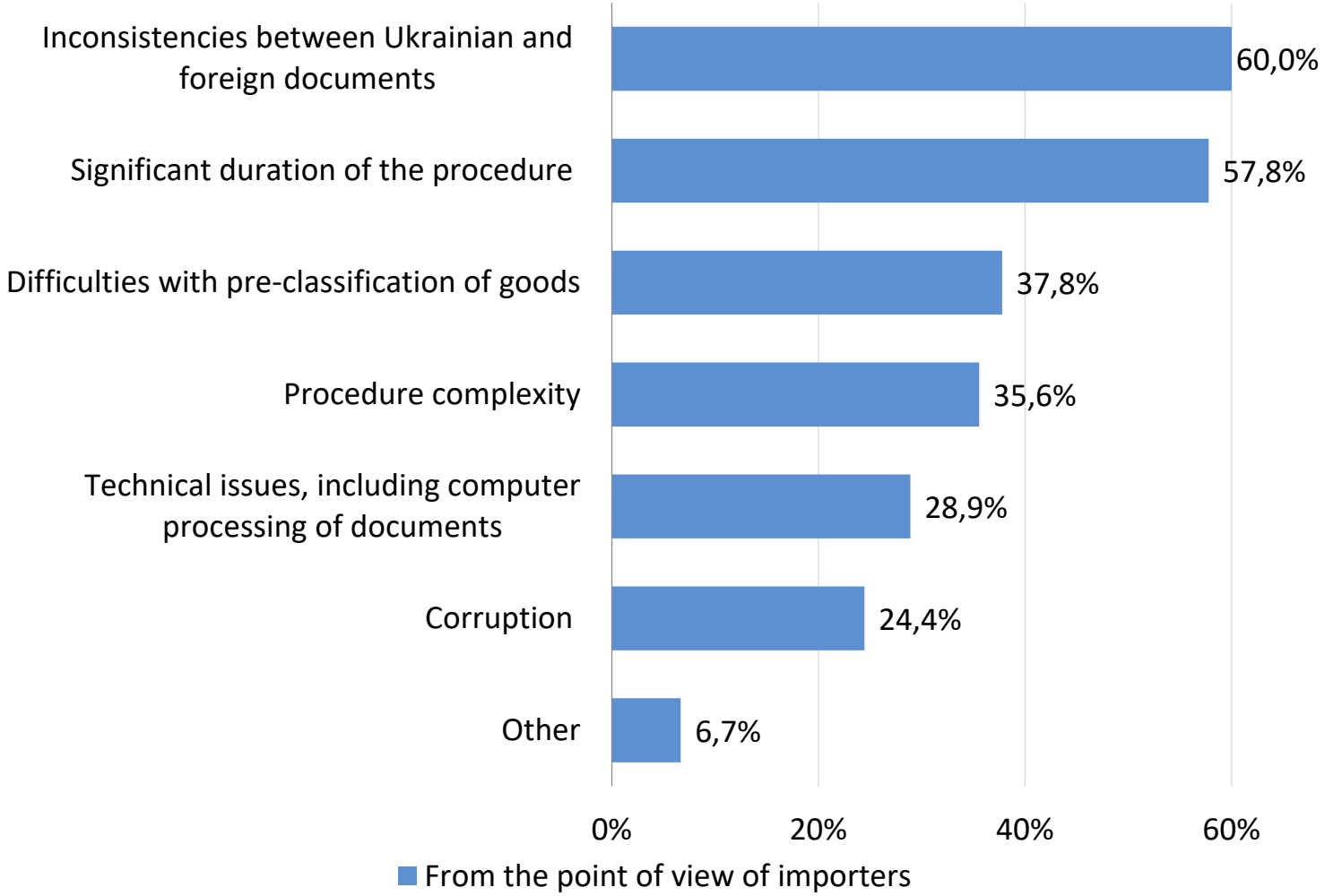
- The most common procedures for importers are **customs inspection** and **provision of certificates of origin for goods**. Next in prevalence are **decisions on the customs value of goods** and **advance customs clearance**
- The procedures of **deciding on the customs value of goods** and **deciding on the classification of goods** cause the most difficulties for importers.

Advance customs clearance: difficulties from the point of view of exporters



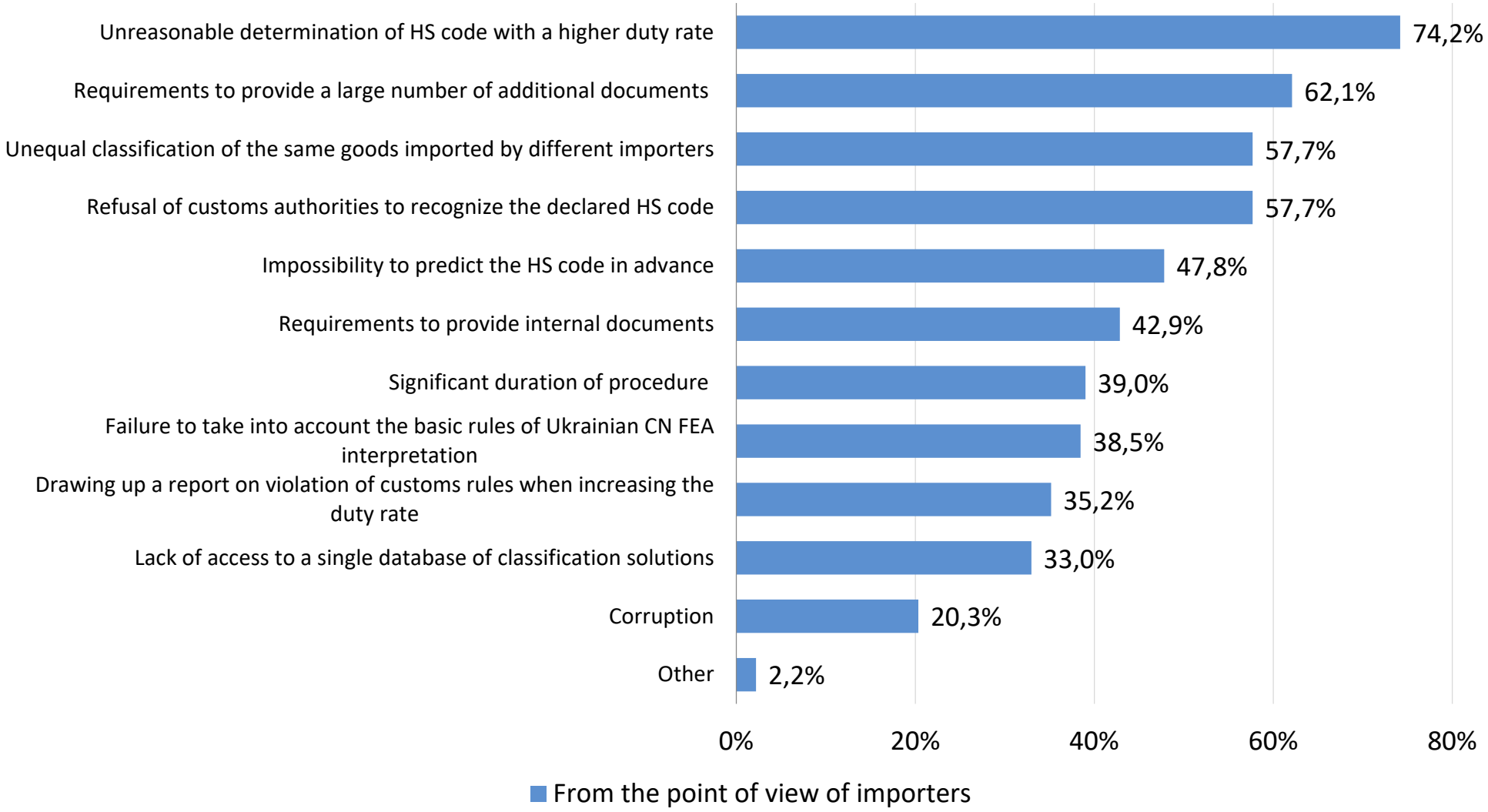
- The biggest problem at the stage of preliminary customs clearance, according to exporters, is **the significant duration** of this procedure.
- The next most important problems are **technical problems,** in particular **with computer processing of documents and the complexity** of this procedure

Advance customs clearance: difficulties from the point of view of importers



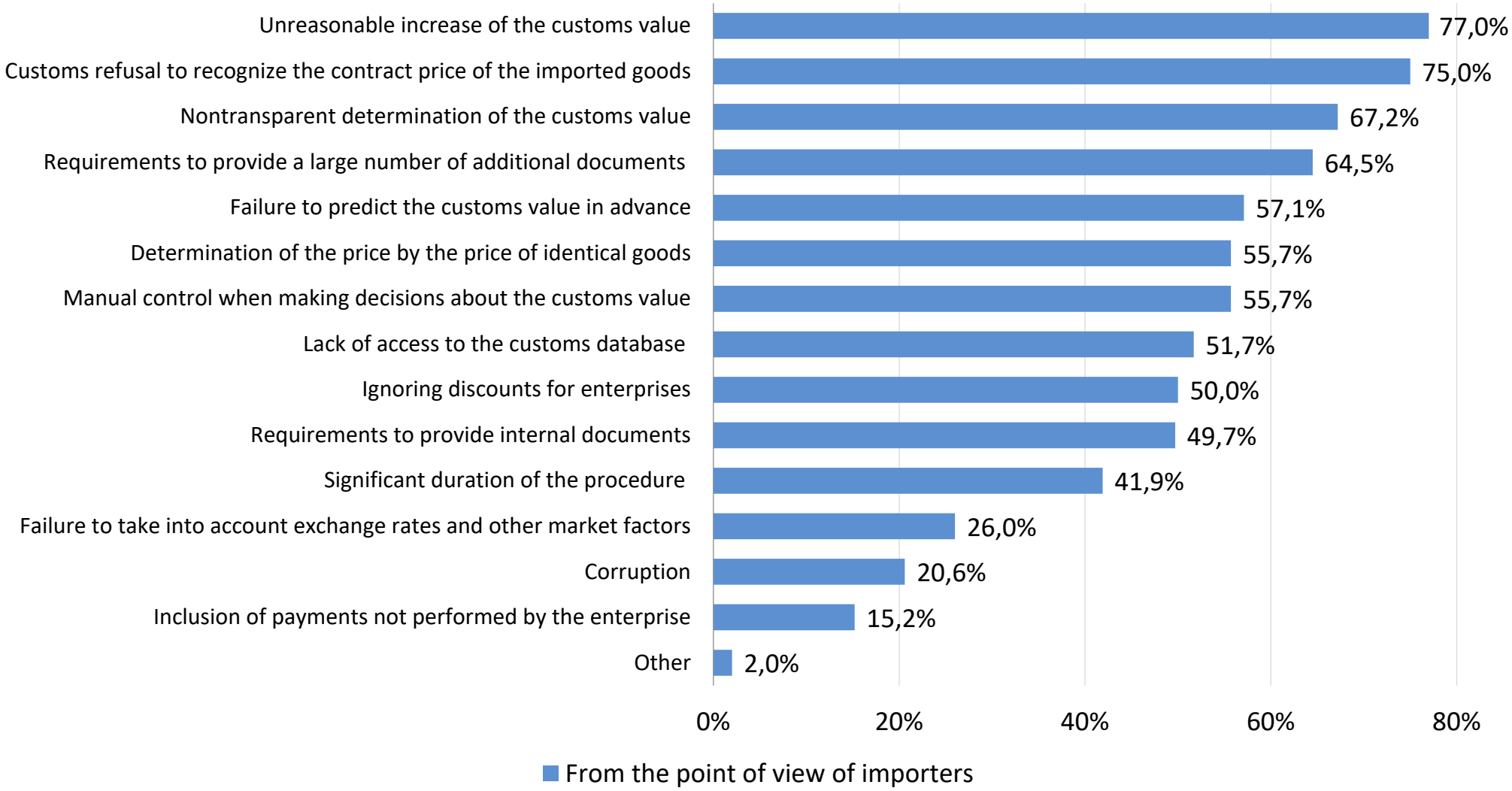
- The two main problems for importers in advance customs clearance are **the inconsistency of Ukrainian and foreign documents** and **the considerable duration** of this procedure.
- Importers more often than exporters point to **inconsistencies between Ukrainian and foreign documents**, while the problem of **significant duration** of advance is important for both exporters and importers.

Decisions on the classification of goods: difficulties from the point of view of importers



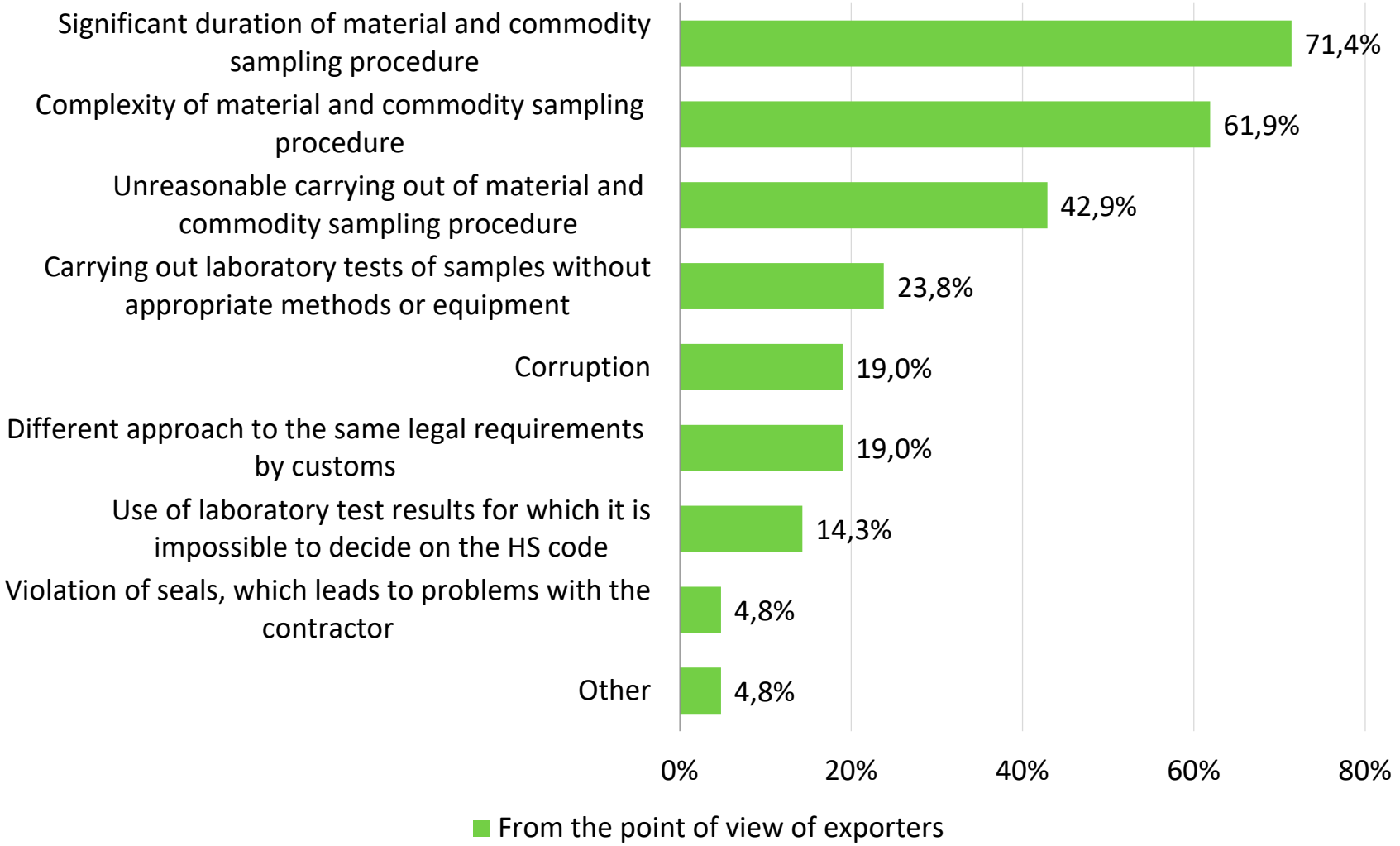
- The most common problem from the point of view of importers is the unreasonable **identification of a product code with a higher duty rate**.
- **The requirement of customs to provide a large number of additional documents** is on the second place among the problems with this procedure

Deciding on customs valuation: difficulties from the point of view of importers



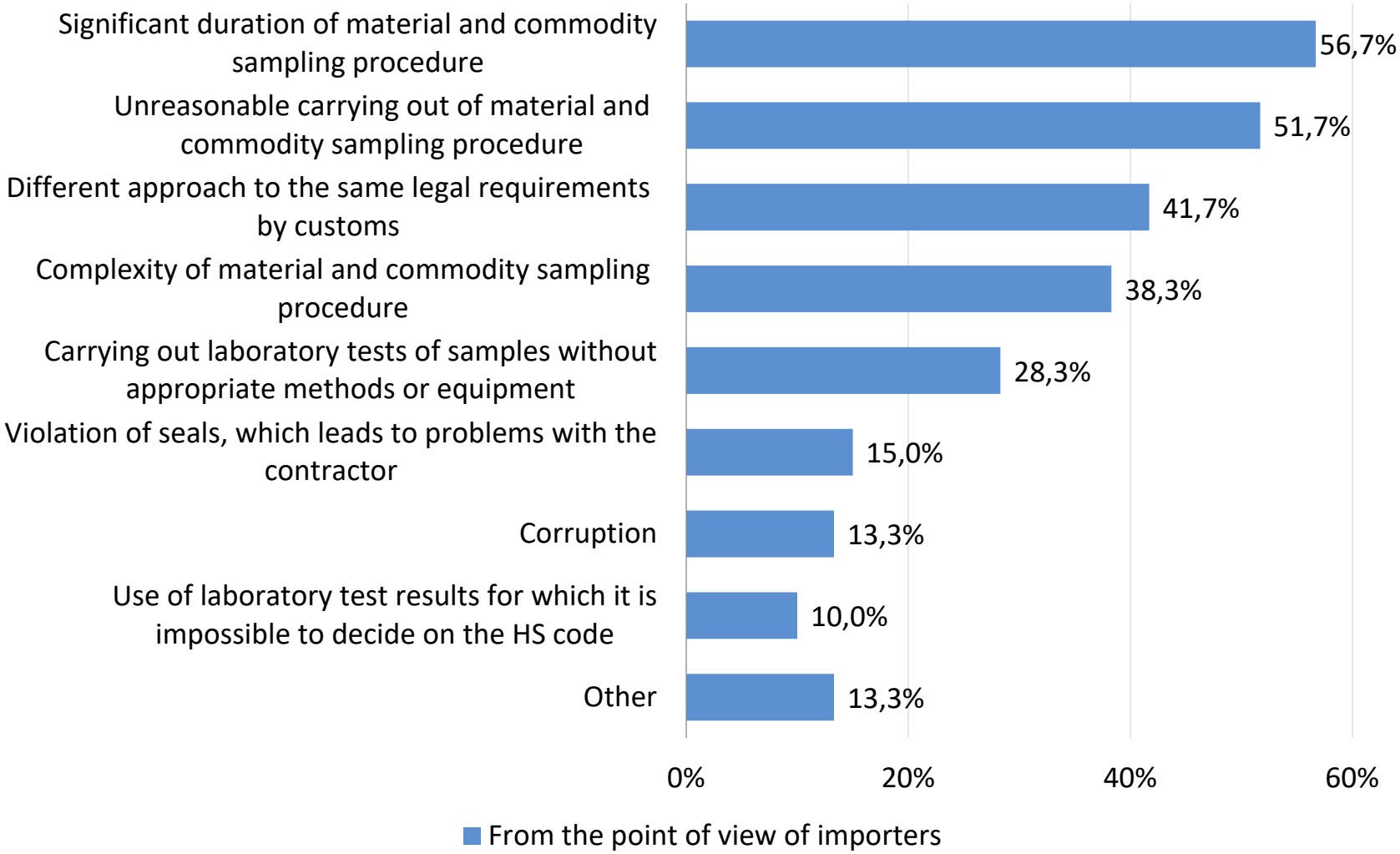
- More than 70% of importers report **unreasonable increases in the customs value of goods** and **the refusal of customs to recognize the contract price of goods**
- More than 60% report **non-transparent customs valuation of goods** and **requirements to provide many documents**

Material and commodity sampling: difficulties from the point of view of exporters



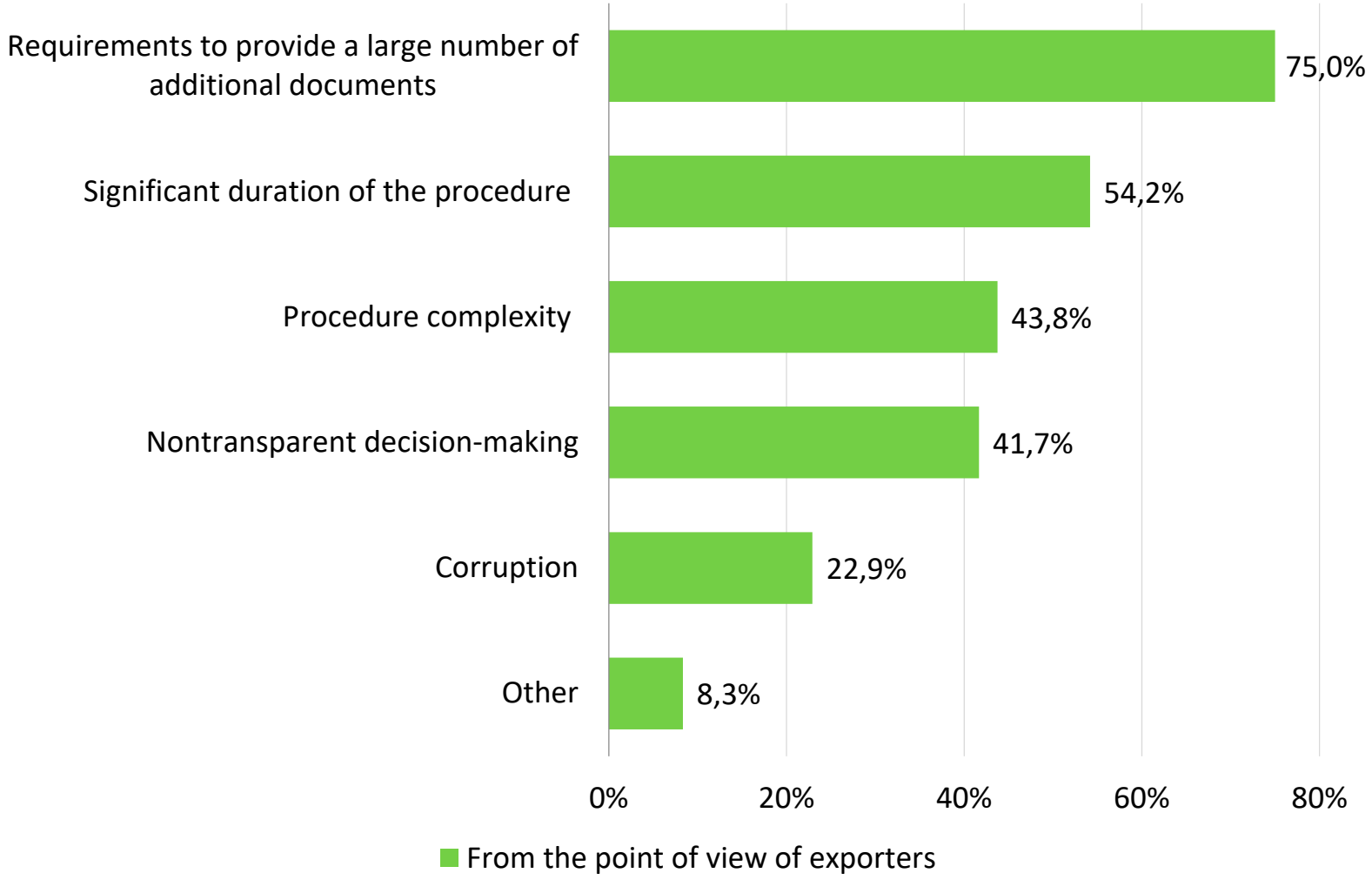
- The main difficulties from the point of view of exporters are the **considerable duration** and **complexity** of this procedure
- Exporters report these problems more often than importers
- **The unreasonable carrying out of the material and commodity sampling procedure** occupies the third place among the problems for exporters

Material and commodity sampling: difficulties from the point of view of importers



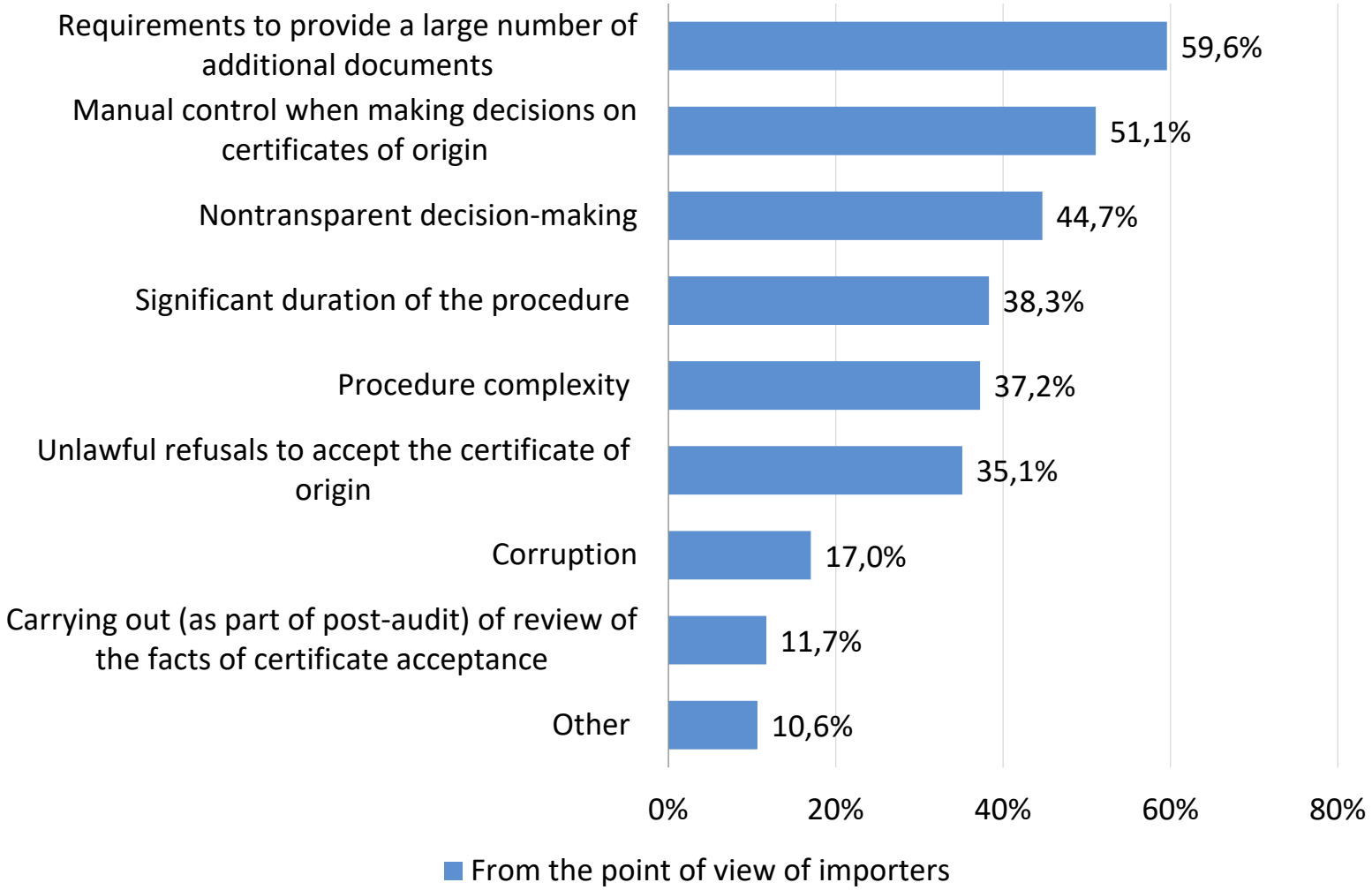
- The main problem for importers is the **considerable duration** of the material and commodity sampling procedure
- In the second and third places are **unreasonable carrying out** of this procedure and a **different approach** to the same legal requirements by customs
- Importers report the different approach to legislation by the customs more often than exporters

Obtaining certificates of origin for goods at the customs: difficulties from the point of view of exporters



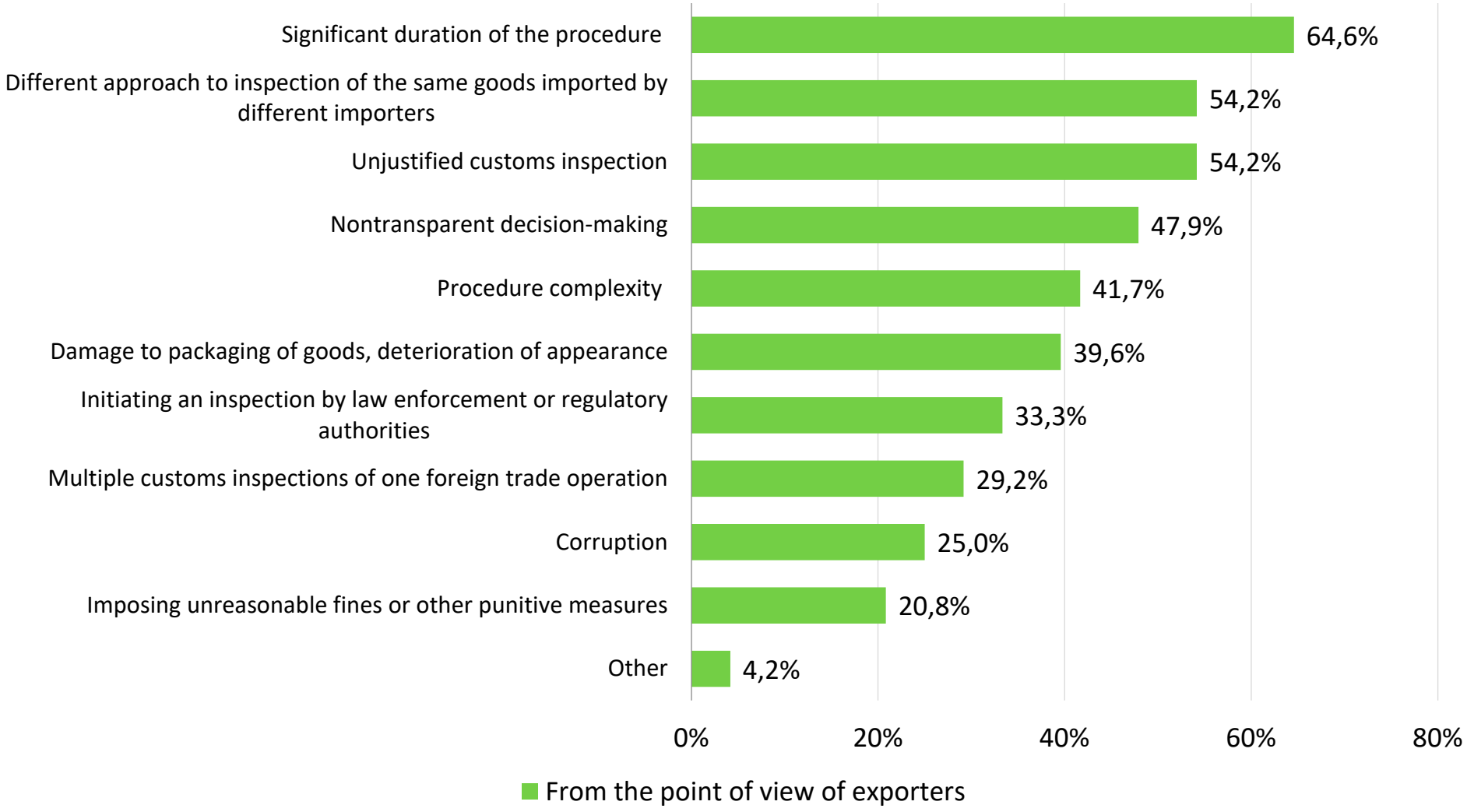
- The main problem pointed out by exporters is the requirement to provide **many additional documents**
- The problem of the **considerable duration** of this procedure is on the 2nd place

Provision of certificates of origin for goods at customs clearance: difficulties from the point of view of importers



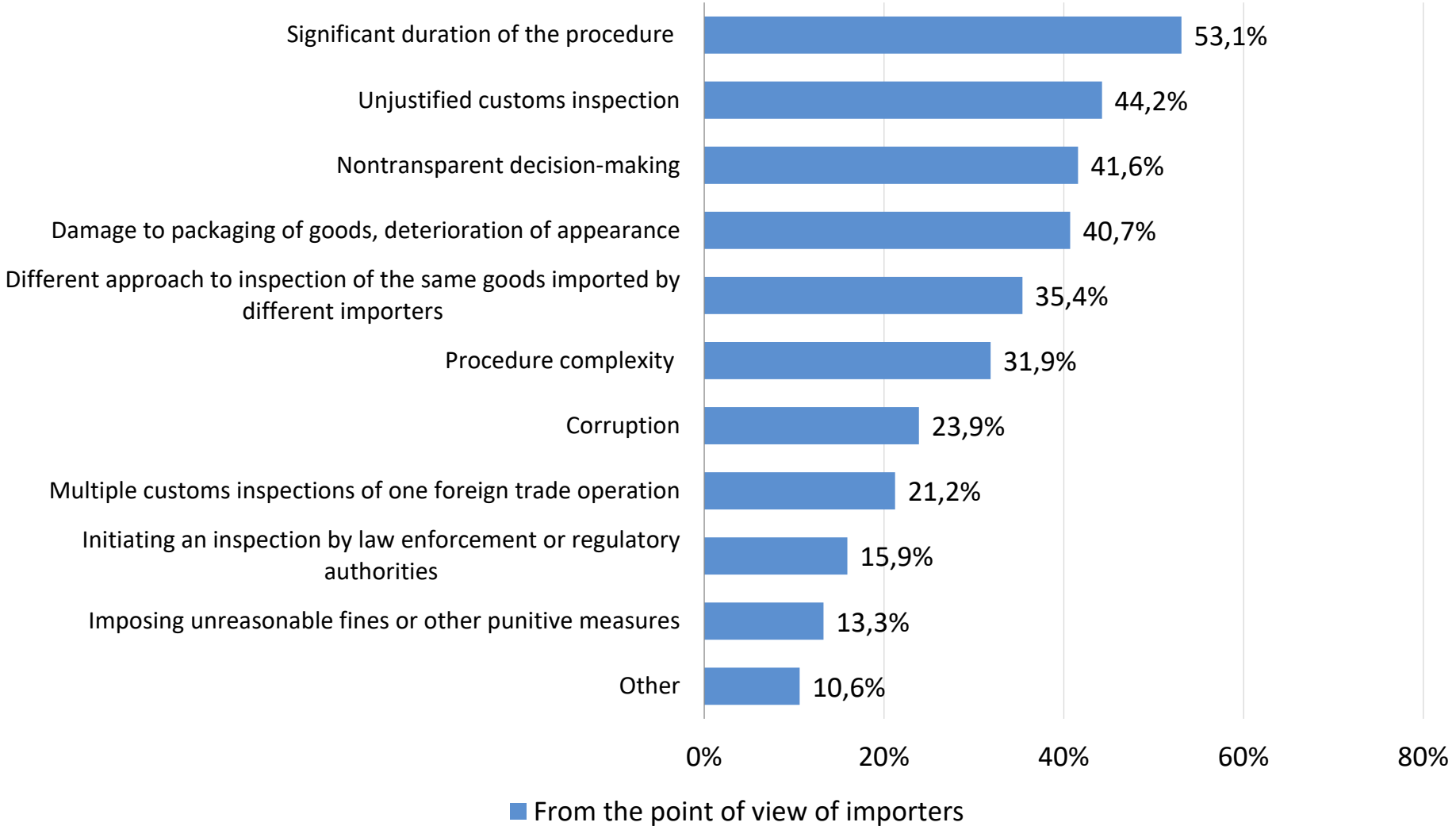
- Importers often report a problem such as customs requirements to provide **many additional documents**
- Half of importers report **manual management** when deciding on certificates of origin
- In third place among the problems - the opacity of decision-making in this procedure

Customs inspection: difficulties from the point of view of exporters



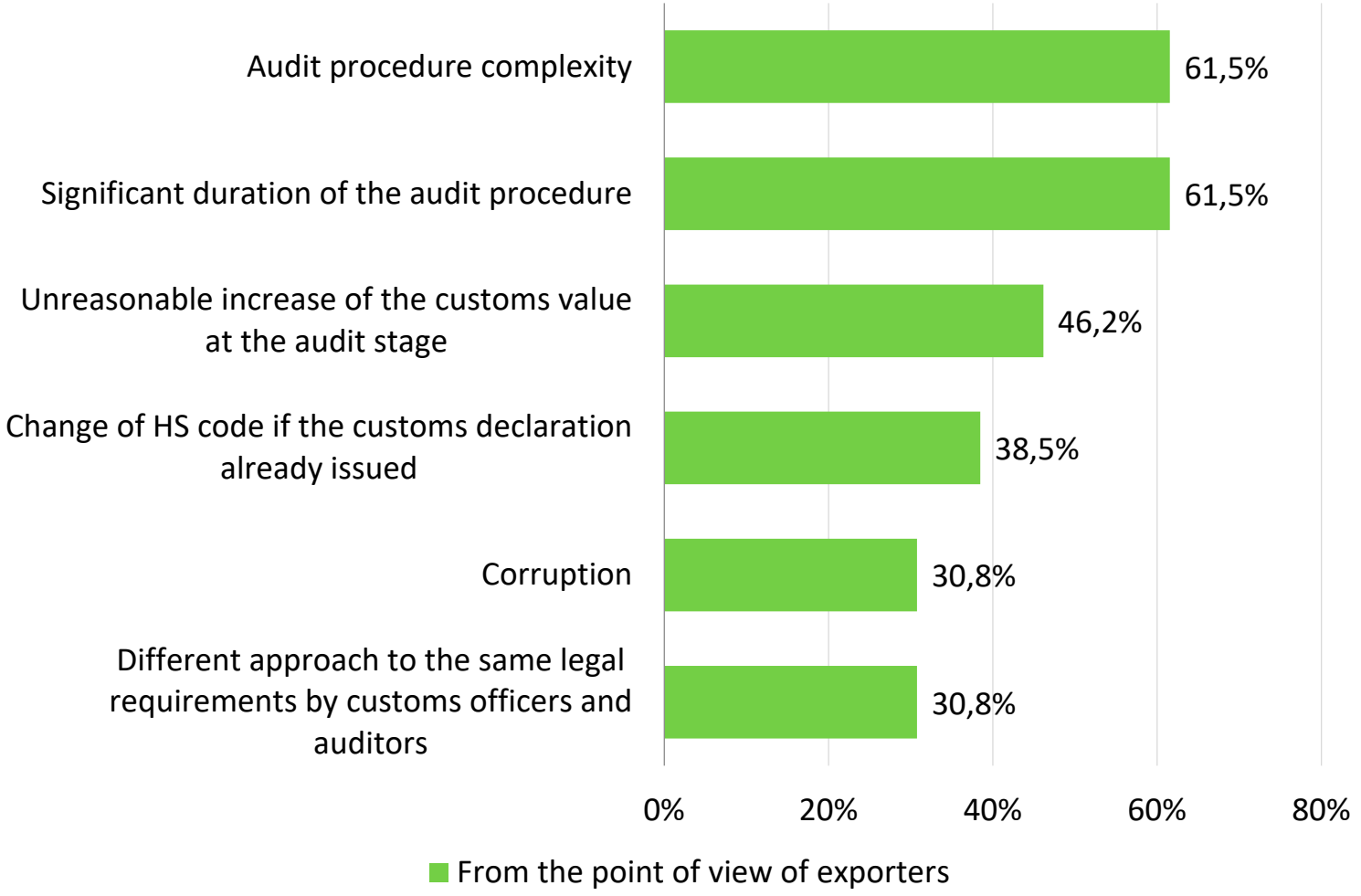
- **The considerable duration** of the customs inspection ranks first among the problems with this procedure from the point of view of exporters
- The second place is shared by such problems as **unequal approach to inspection of identical goods by different enterprises** and **unjustified customs inspection**

Customs inspection: difficulties from the point of view of importers



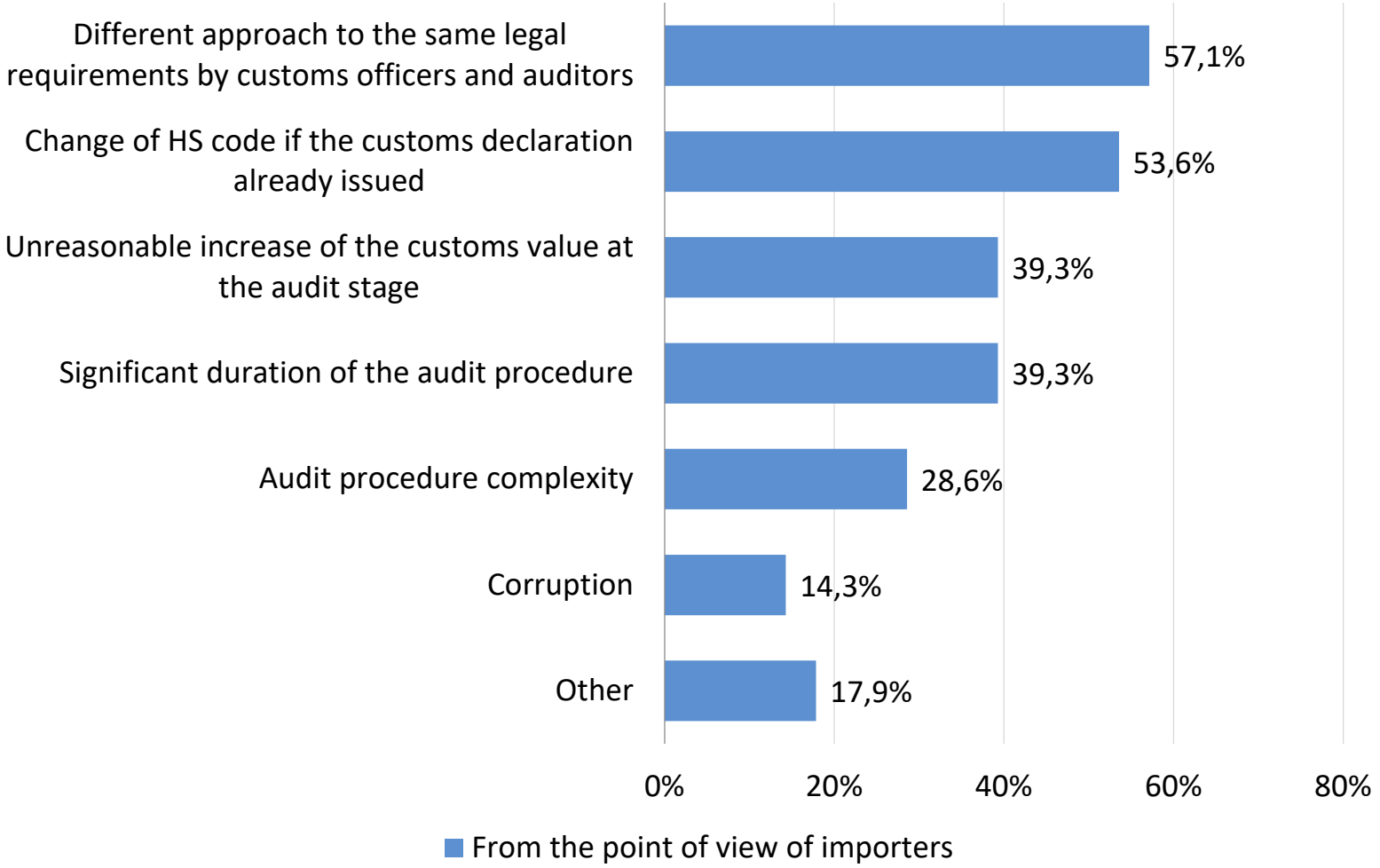
- **The long duration** of the customs inspection is the main problem for importers
- The problem of **unfounded customs inspection** is on the second place
- The third and fourth places are occupied by **non-transparent decision-making** and **damage to the packaging of goods and deterioration of their appearance**

Post-customs audit: difficulties from the point of view of exporters



- **The complexity and duration** of the post-audit procedure are the main problems for exporters
- Exporters report these problems more often than importers
- The third place is occupied by **the unreasonable increase in the customs value of goods at the stage of post-customs audit**

Post-customs audit: difficulties from the point of view of importers

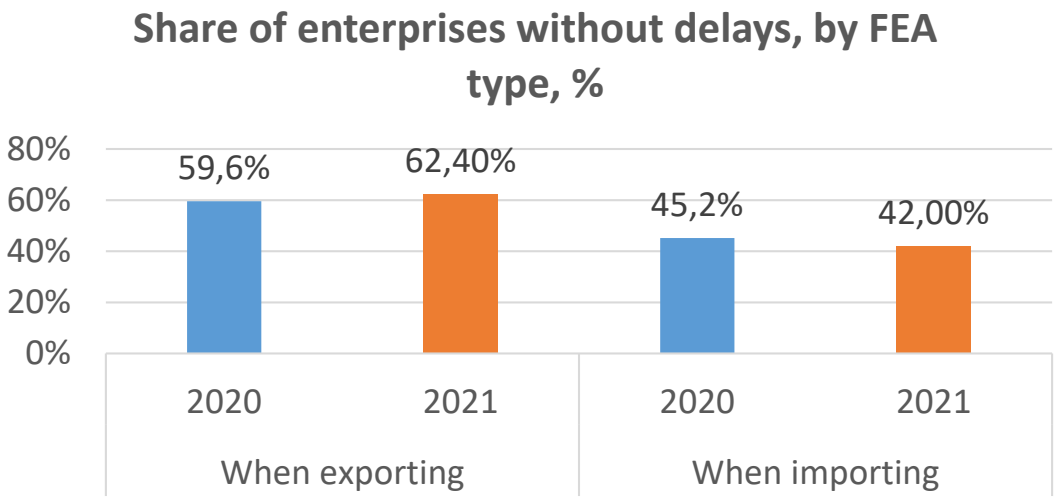


- The main problem with post-customs audit for importers is the **different approach** to the same legal requirements by customs officers and auditors
- For exporters, this problem is in the **last place** in the ranking and is reported by almost half as many exporters
- The second most important problem for importers is **changes of the product code** when the declaration has been already issued

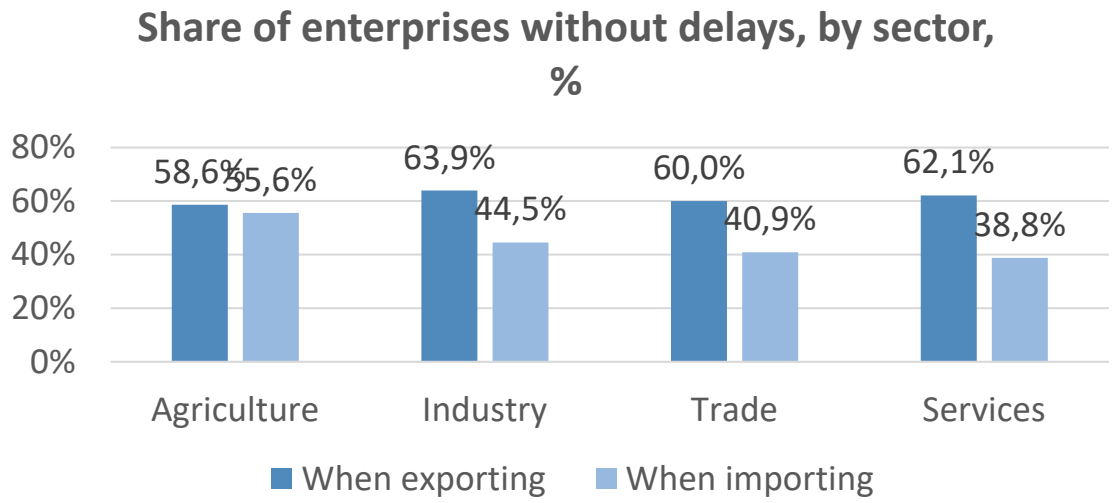
DELAYS OF CARGO DURING CUSTOMS CONTROL

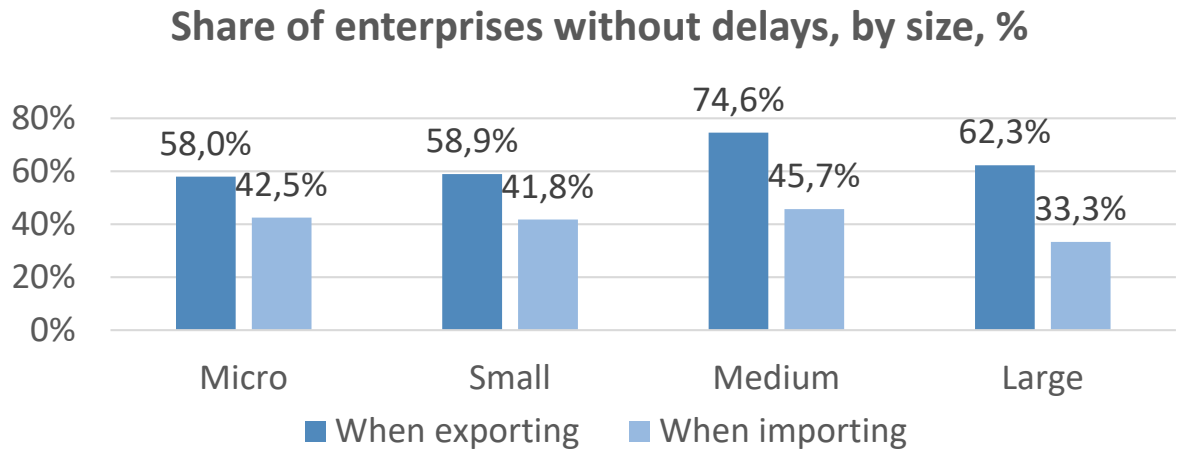
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Delays of cargoes during customs control

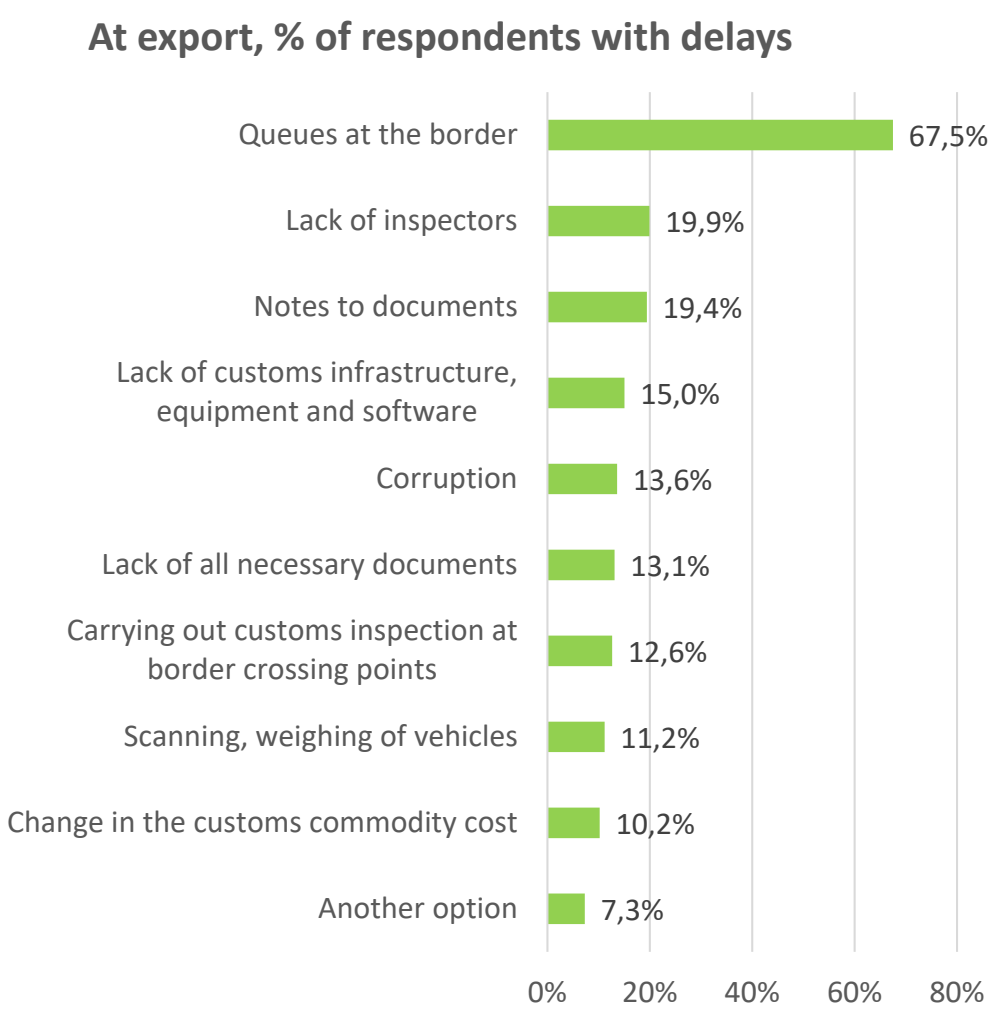


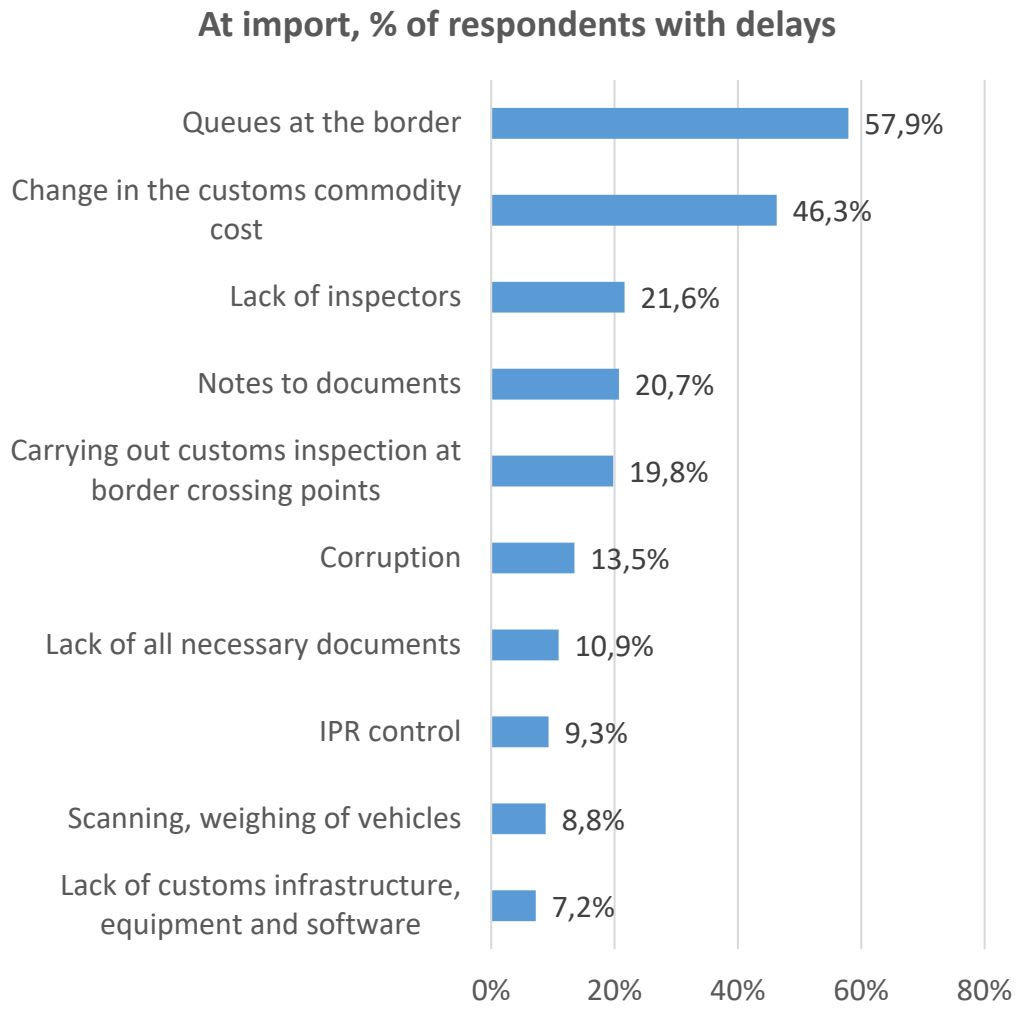
- Almost **2/3 of exporters did not face** cargo delays compared to **less than half of importers**
- Medium business suffers **the least** at the border
- **Agriculture has the least delays** in imports, and industry has the least in exports





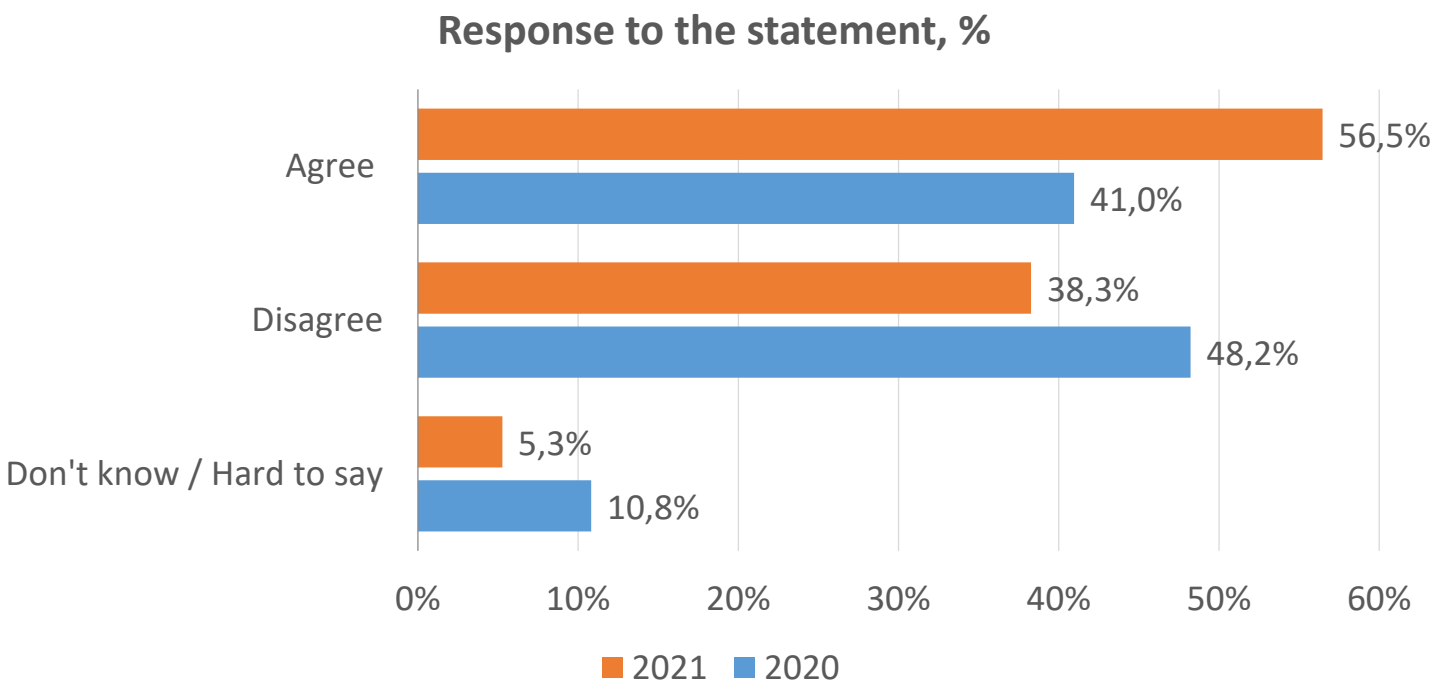
Reasons for cargo delays during customs control





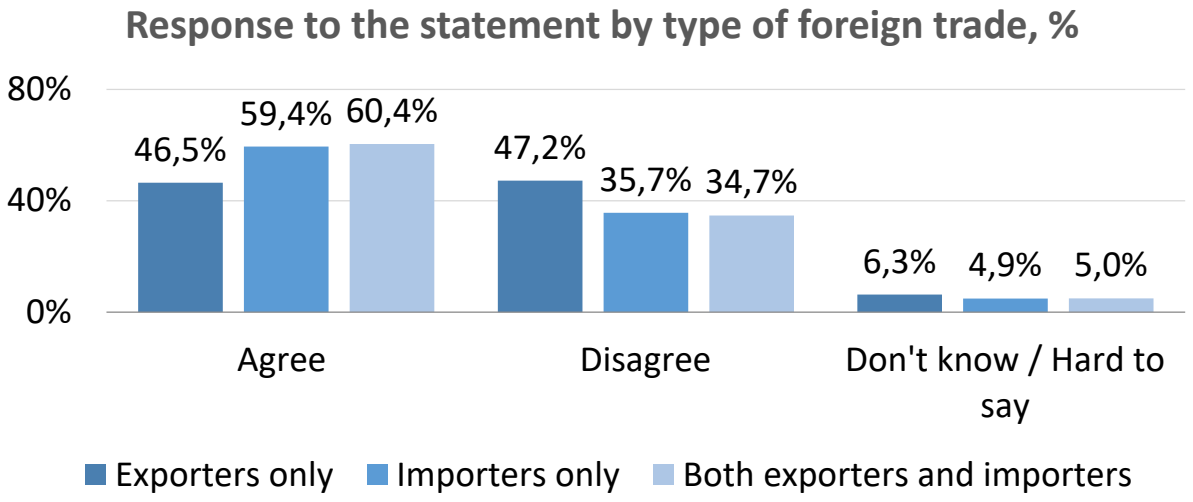
Is it worth giving in to customs so that the goods do not stand idle?

Business representatives were asked whether they agreed with the statement that in order to avoid downtime of goods, it is better to agree with illegal or excessive, in their opinion, customs requirements, than to challenge them legally.

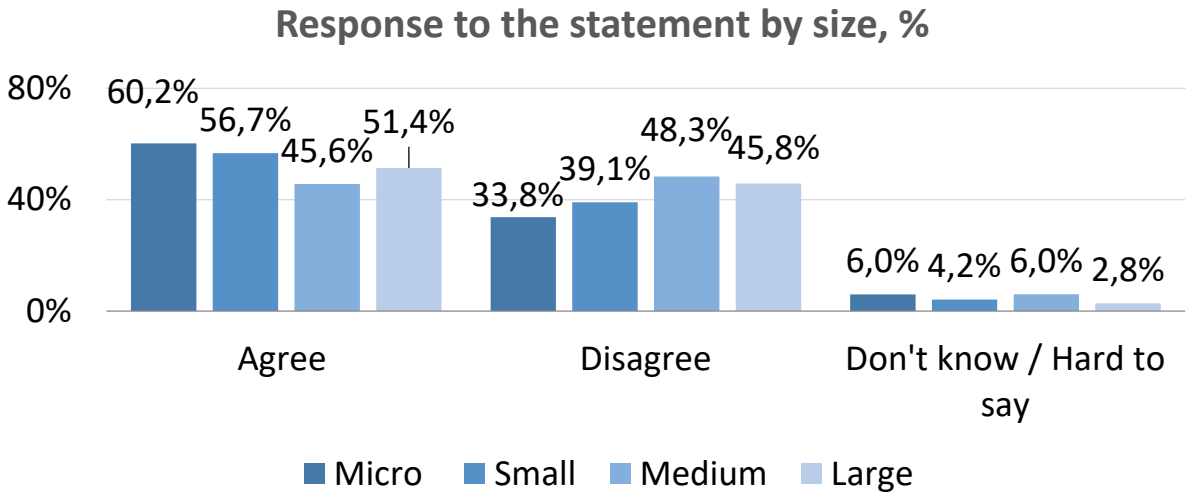


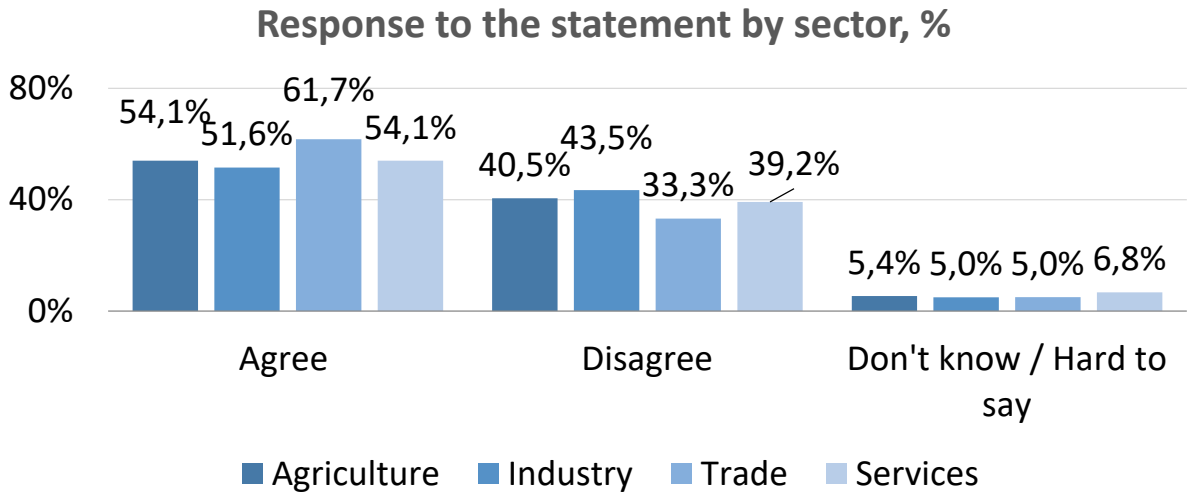
- 56.5% of respondents **agreed** with this statement. This is more than in 2020 (41%)
- This suggests that lengthy and complicated customs procedures create an opportunity for corruption and violations of the law.
- More than a third of respondents (38.3%) **do not agree** with this statement (in 2020 - 48.2%)

Is it worth giving in to customs so that the goods do not stand idle? (2)

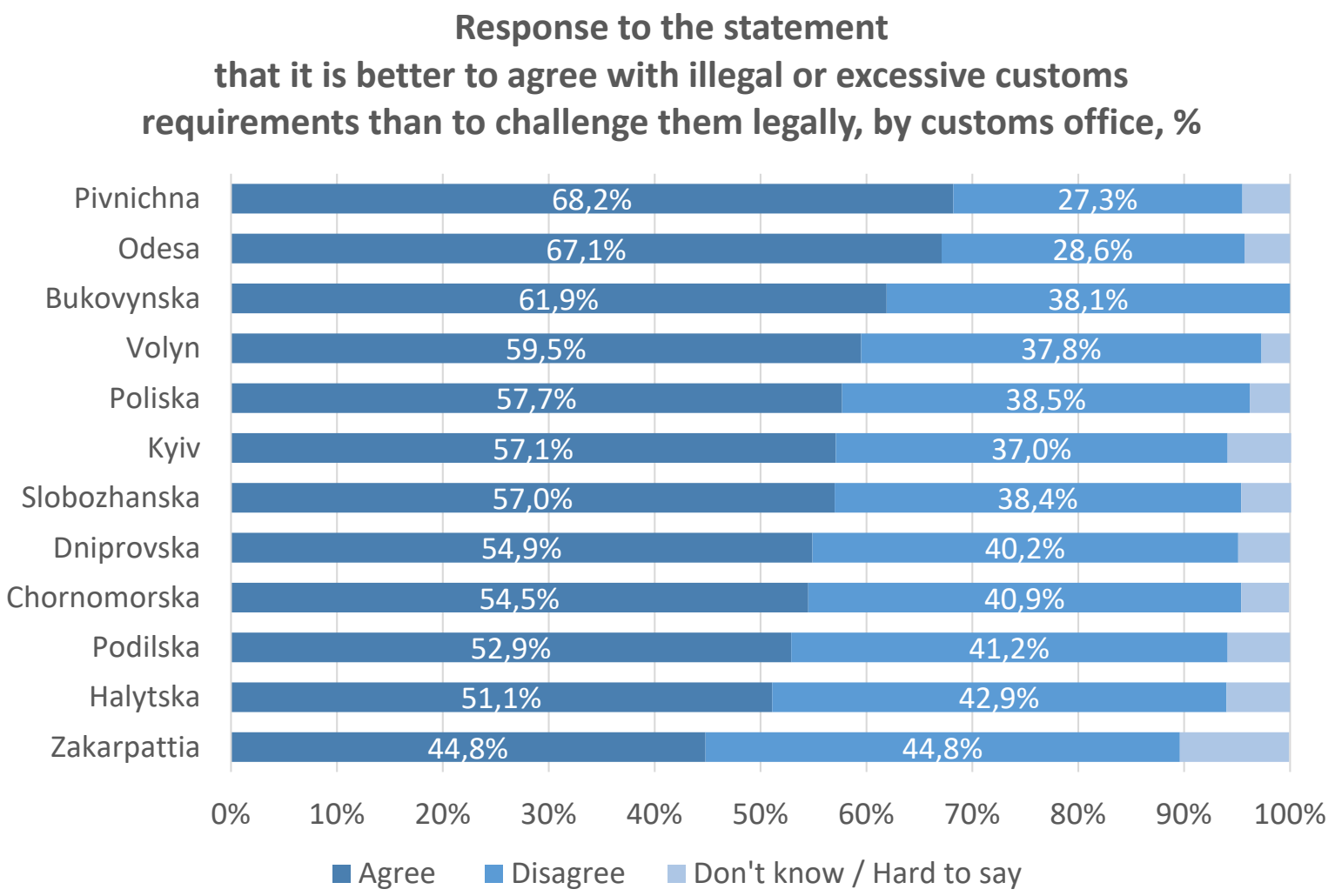


- **Only importers** and **importing and exporting companies** more often than only exporters agree with this statement
- Therefore, importers may be **more vulnerable** to the threat of downtime due to illegal or excessive customs requirements.
- **Micro and small** enterprises are more likely than medium and large enterprises to agree with this statement





Is it worth giving in to customs so that the goods do not stand idle? (3)



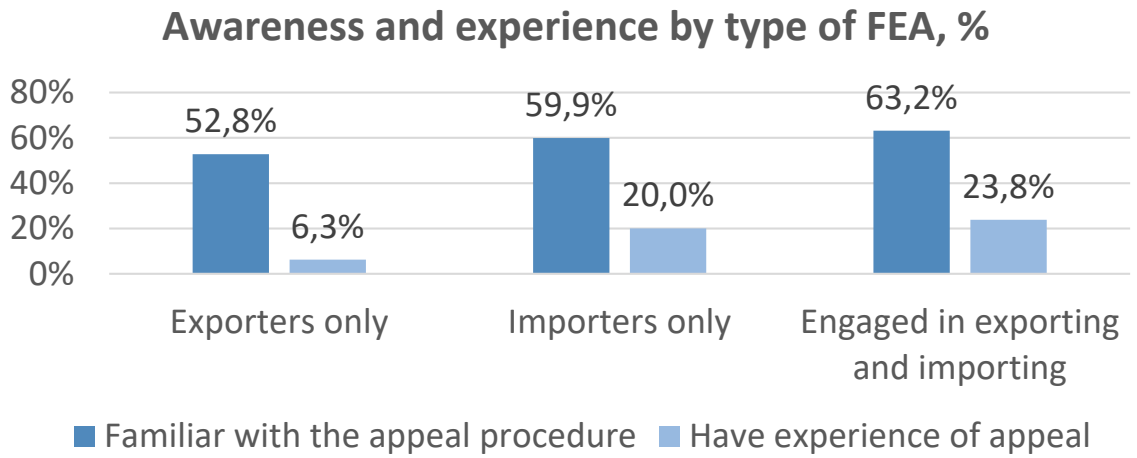
- The enterprises that carry out customs clearance at the Northern and Odessa customs offices agree with this statement **most often**
- **Most** rarely, those who carry out customs clearance at the Zakarpattia customs office
- The Zakarpattia customs office also recorded the largest share of respondents who **could not answer this question (10.3%)**
- At Bukovyna customs office, **all respondents answered this question**

Answers of enterprises at the Azov and Skhidna customs are not taken into account in the analysis due to insufficient number of respondents

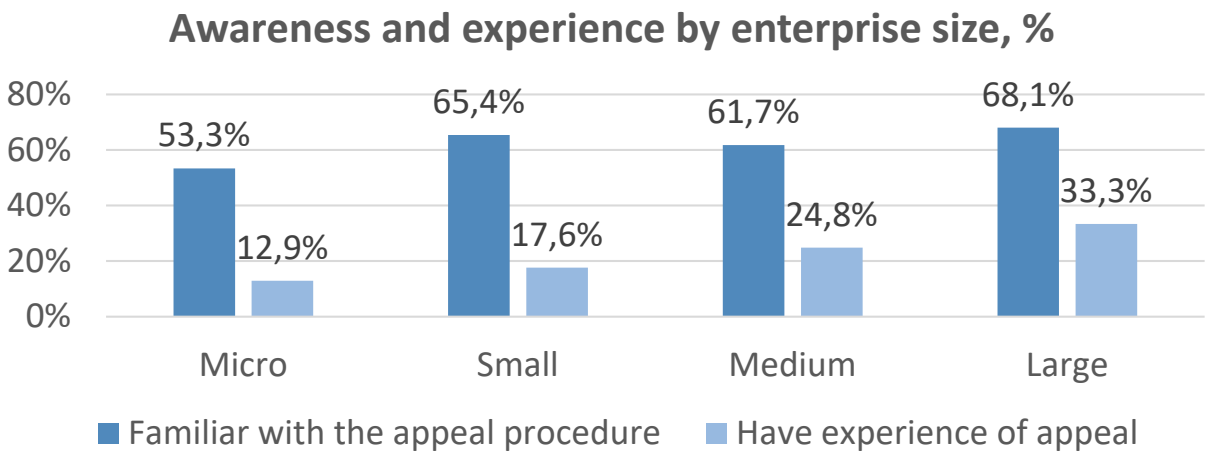
APPEALS AGAINST THE ACTIONS OF CUSTOMS AUTHORITIES

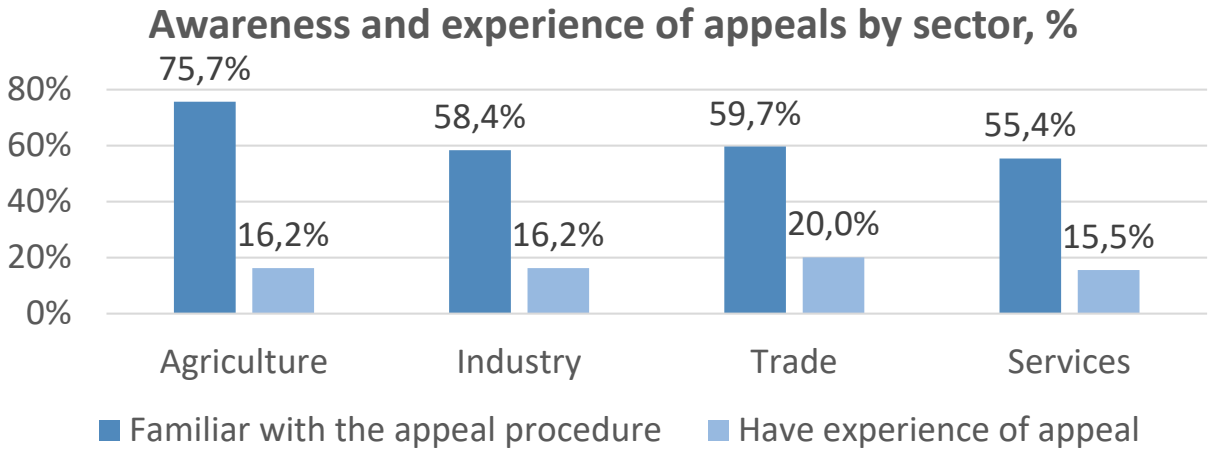
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Do businesses know about the customs appeal and do they have such an experience?

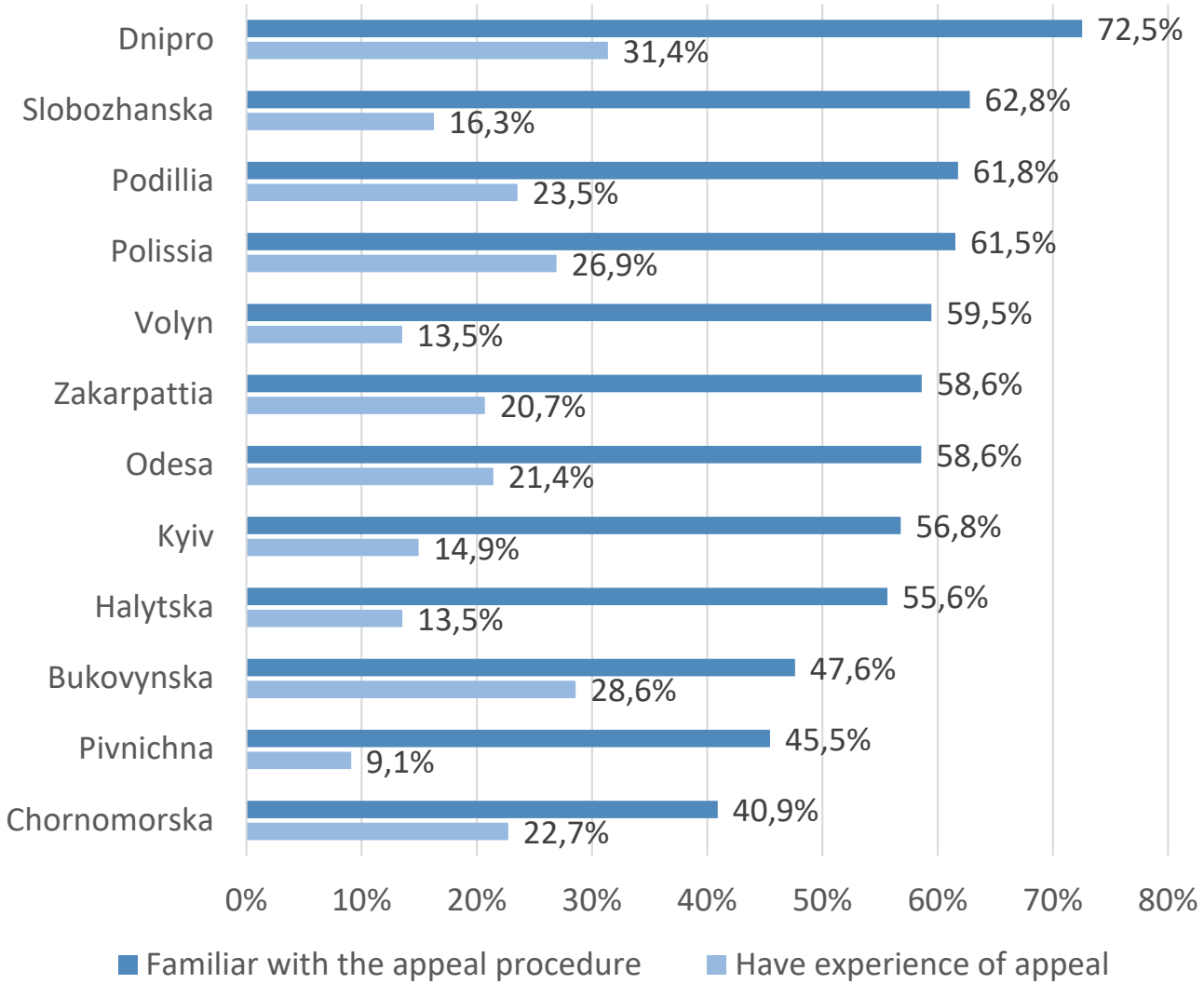


- **59.1%** of respondents are **familiar** with the possibility and procedure of administrative and judicial appeals against the actions of customs authorities (**53.5% in 2020**)
- **17.8%** of respondents **had the experience** of appealing (**18% in 2020**)
- Exporting and importing businesses, as well as large enterprises, are better acquainted with the possibility of appeal and more often have such experience.





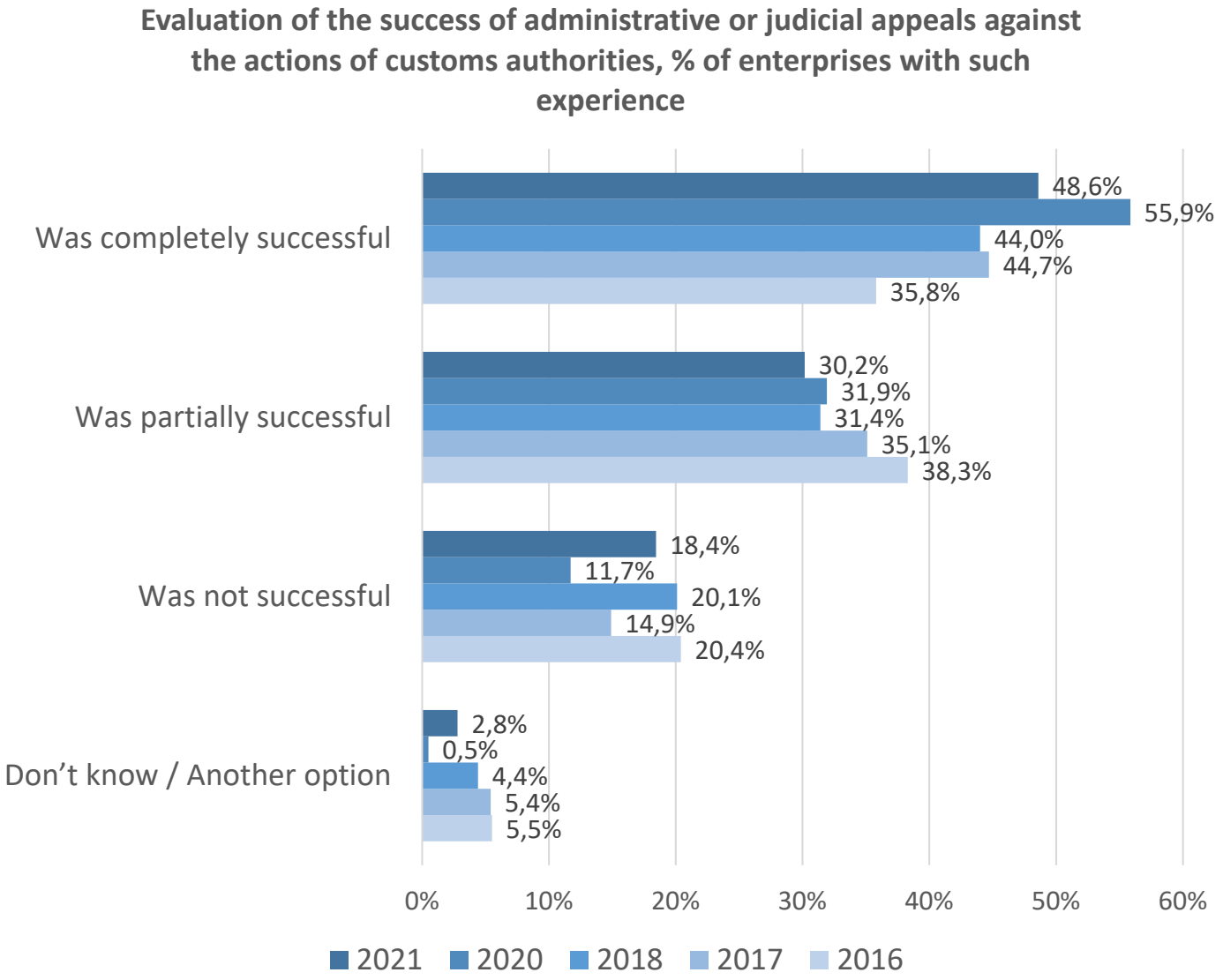
Awareness of appeals and experience with customs



- Respondents at the Dnipro Customs Office are **best** acquainted with the possibility and procedure of administrative or judicial appeal against customs actions, and **the worst** at the Chornomorska Customs Office.
- The enterprises of the Dniprovska Customs Office **most often** had the experience of such an appeal**, the least** – at the Pivnichna Customs Office

Answers of enterprises at the Azov and Skhidna *Customs Offices are not taken into account in the analysis due to insufficient number of respondents*

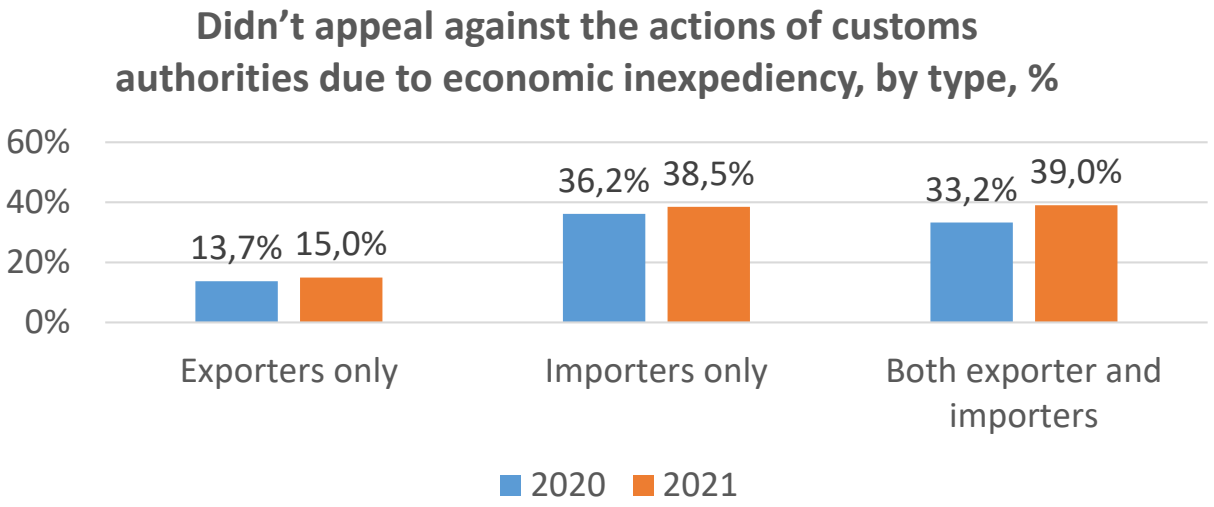
Success of business appeals against customs actions



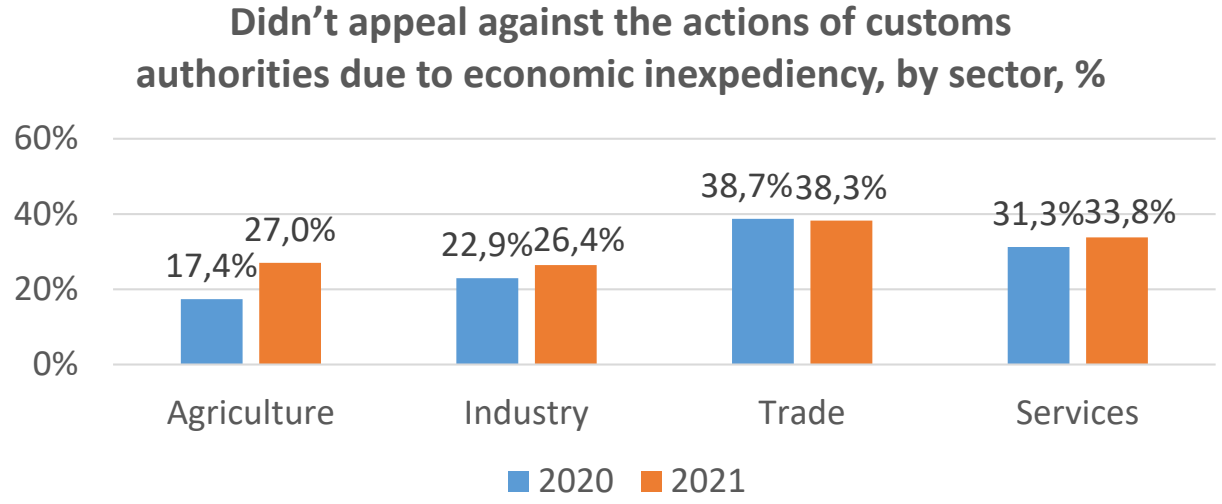
- Appeals against customs actions were partially or completely successful for **78.8%** of enterprises that had such experience. This is **less than in 2020 (87.8%)**
- Only **55.3%** of companies that challenged the actions of customs authorities indicated that they were guaranteed **the right to be heard** (51.1% in 2020)
- Only **32.4%** of enterprises that had experience in customs appeals consider the **response** of the customs authority to the **complaint justified** (36.2% in 2020)

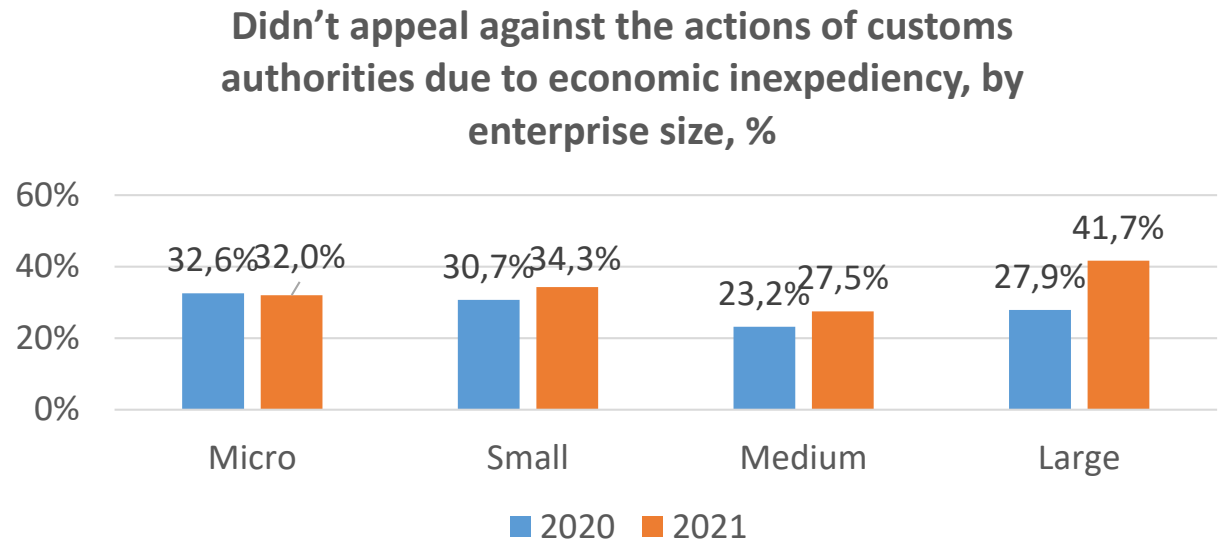
Note: Another option, in particular, may include complaints that are still pending

Economic expediency of customs appeal (1)

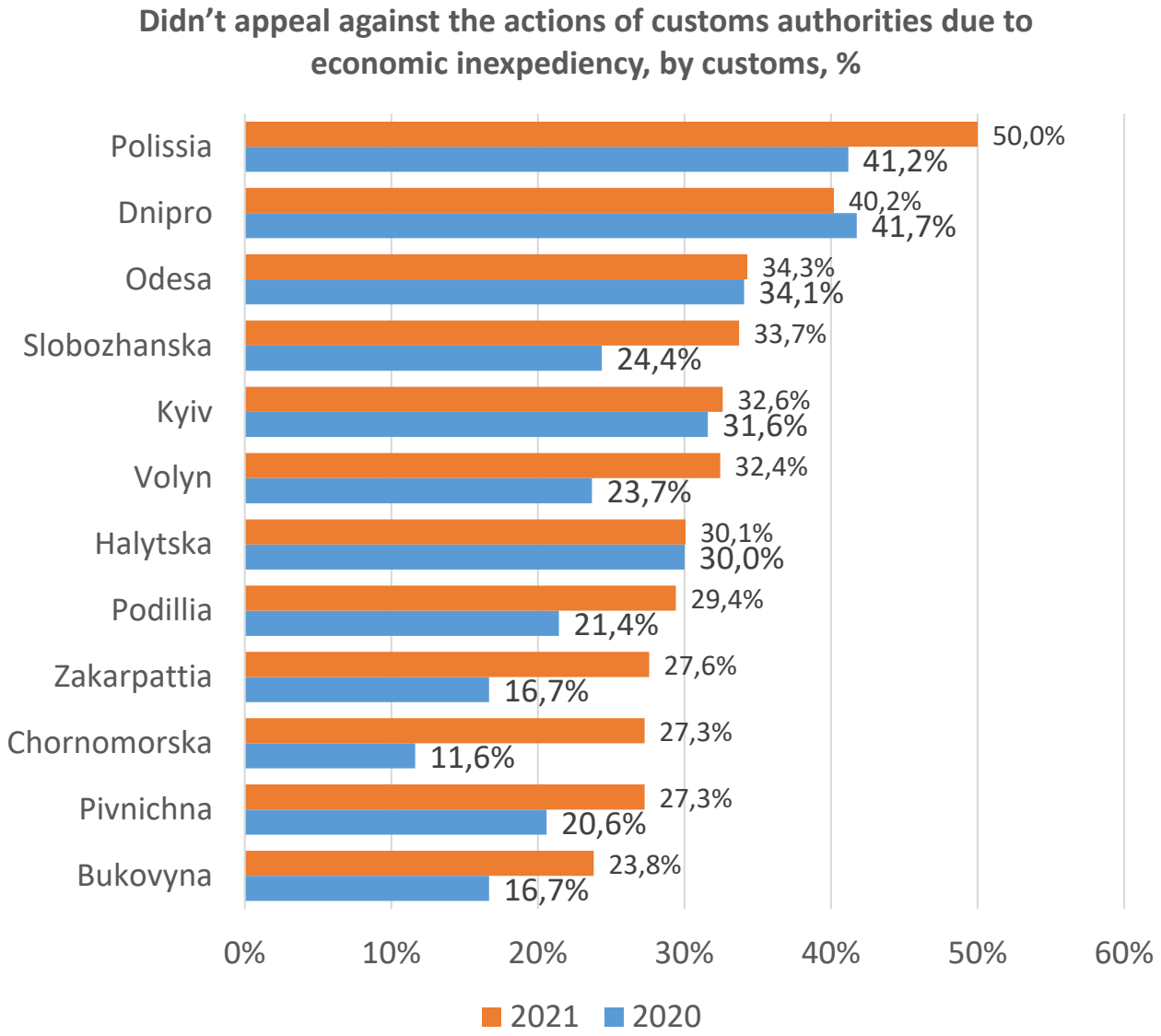


- **32.7%** of enterprises reported that they **did not appeal against the actions** of the customs authorities due to economic inexpediency (due to simple transport, legal aid costs, etc.), although they considered the decisions and / or actions of the customs illegal (**29.7% in 2020**)
- This is **mainly** reported by **importers**, **large** enterprises and **trade** companies





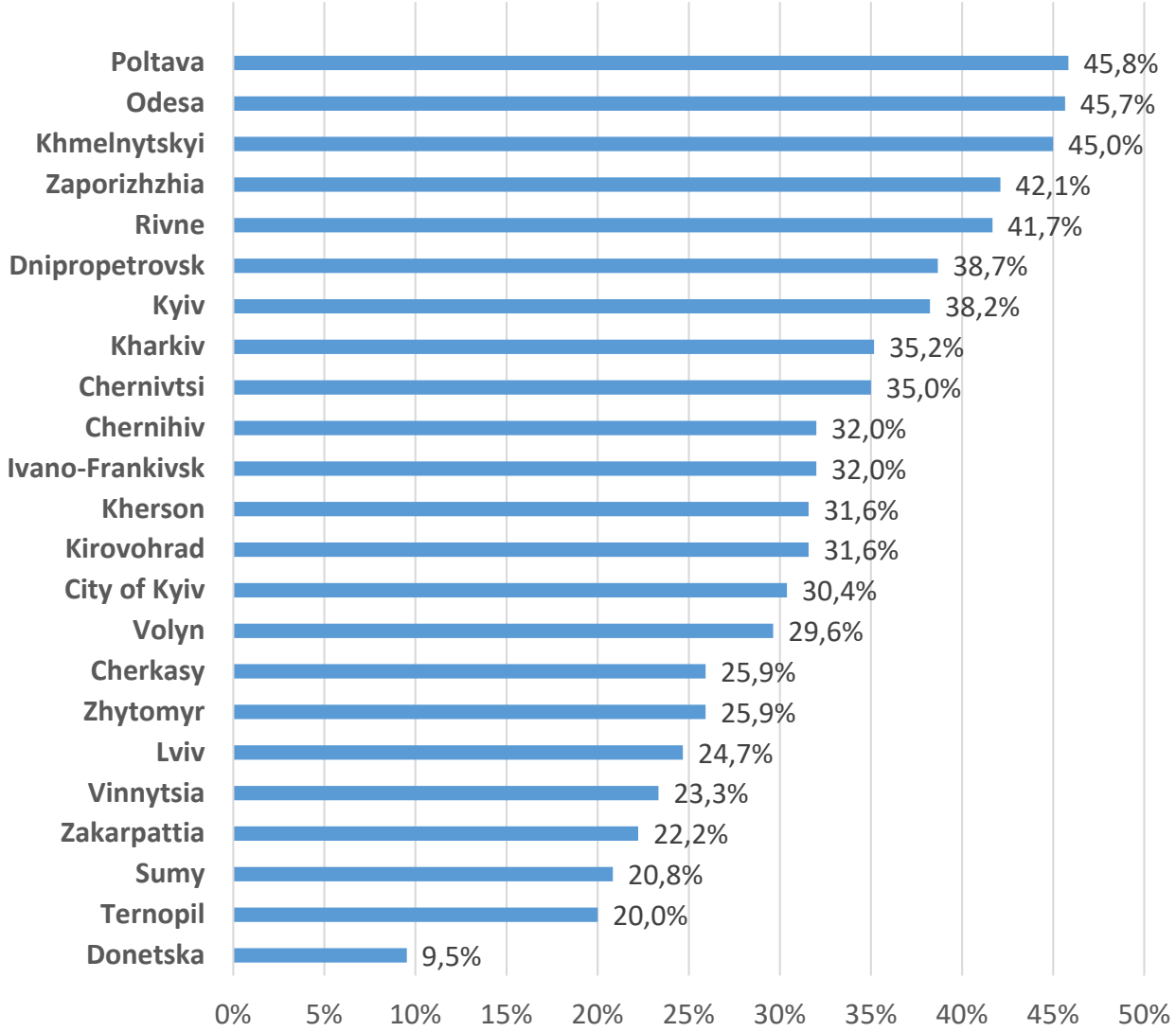
Economic expediency of customs appeal (2)



- **Most often,** the actions of customs authorities were not appealed due to economic inexpediency at Polissia and Dnipro Customs Offices
- **Rarely** – at Bukovyna, Pivnichna and Chornomorska Customs Offices

The answers of the enterprises at the Azov and Skhidna customs are not taken into account in the analysis due to insufficient filling of subsamples

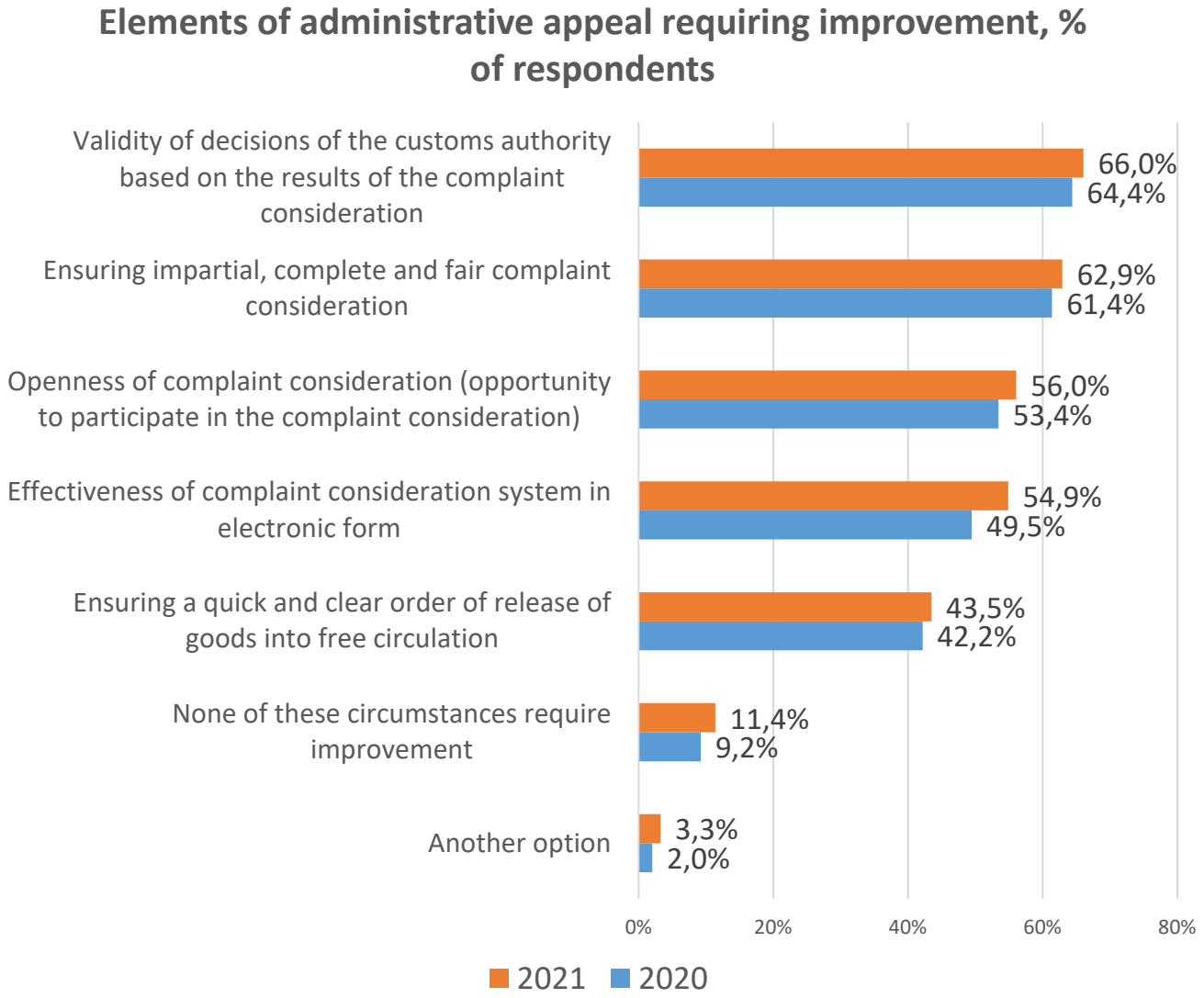
Economic expediency of customs appeal (3)



- Cases of economic inexpediency of customs appeal are **most often** reported by enterprises of Poltava and Odesa regions
- **The least reported** are in Donetsk, Ternopil and Sumy regions
- **In nine regions,** the share of enterprises that did not challenge the actions of customs authorities due to economic inexpediency is a third or more of the respondents

Answers of the enterprises of the Luhansk and Mykolaiv areas are not considered in the analysis because of insufficient filling of subsamples

What needs to be improved in an administrative appeal?

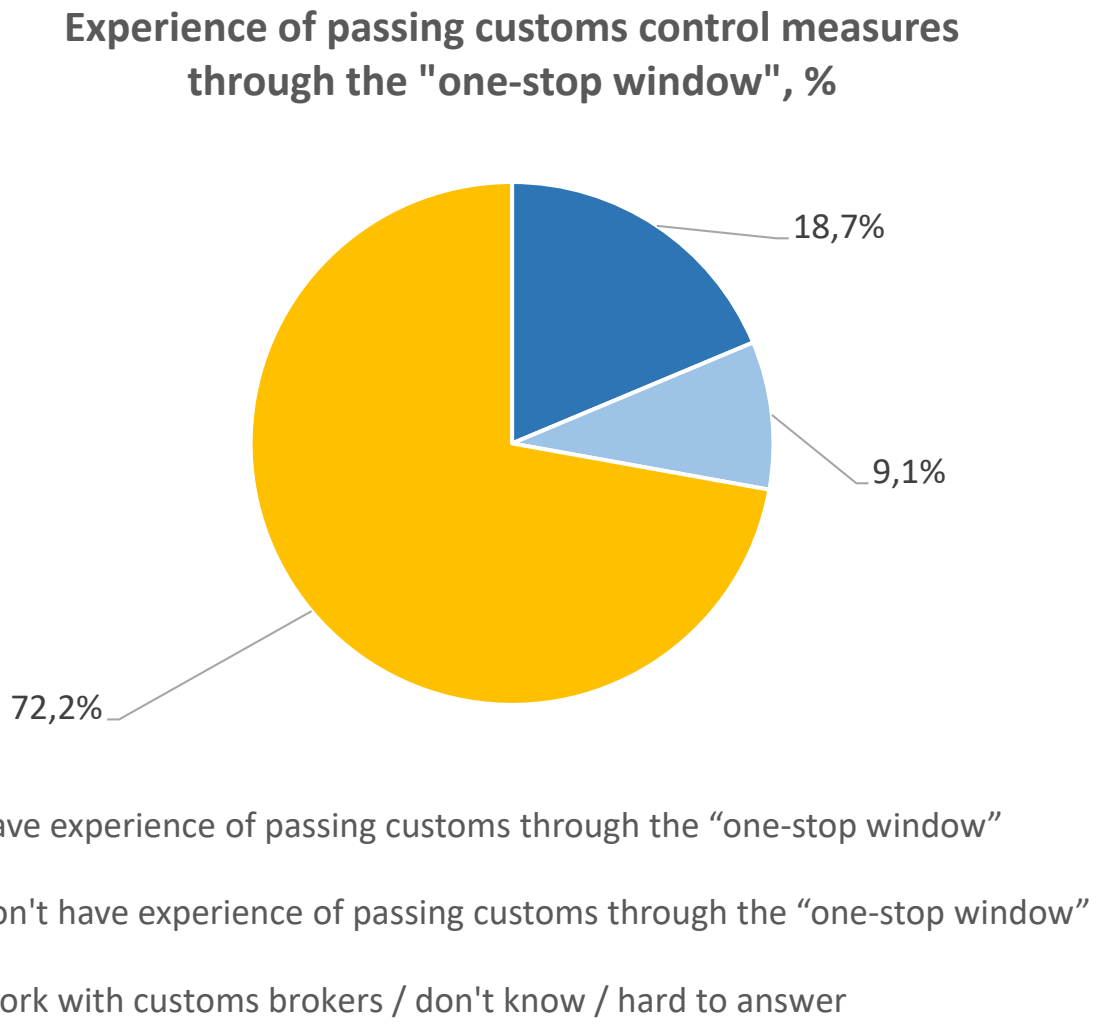


- The validity of decisions, and ensure impartial, complete and fair consideration of the complaint **need to improve the most**
- **The ranking** of desired changes **has not changed compared to 2020**
- **Only about 10%** of respondents believe that none of the aspects **of the appeal needs to be improved**
- **SMEs more often** than large enterprises point to the need for open complaints and improved validity of decisions (the same in 2020)
- **Large** enterprises are **more likely** to express the need for rapid and clear release of goods for free circulation (the same in 2020)

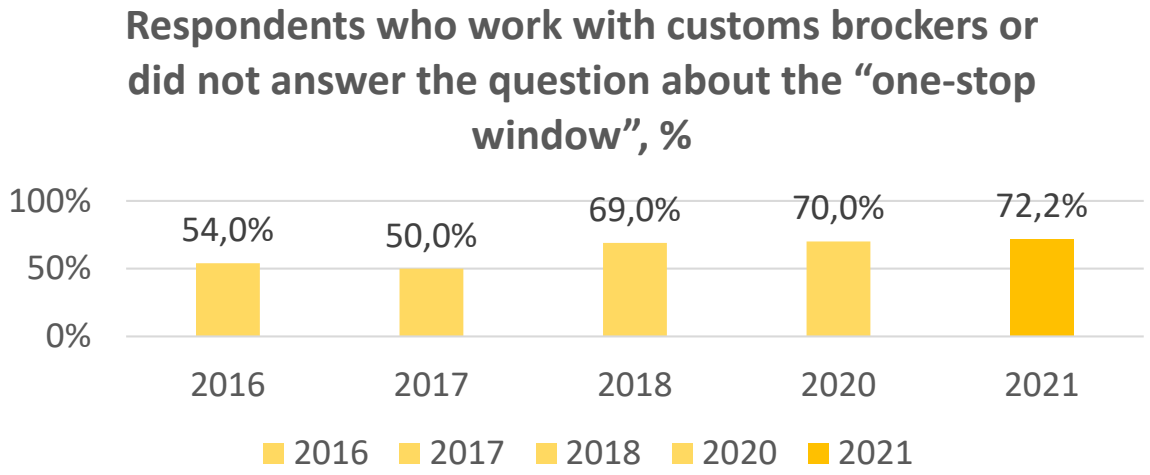
INNOVATION AT CUSTOMS: SINGLE WINDOW

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Experience of passing customs through the "single window"



- In 2021, **18.7%** of surveyed companies reported that they **passed** customs control through a "single window"
- The majority of respondents (72.2%) **work through customs brokers or could not answer this question**. This is more than in previous waves of the survey
- Excluding these respondents, the share of enterprises that used the "single window" **is 67.1%**, which is much less than required by law

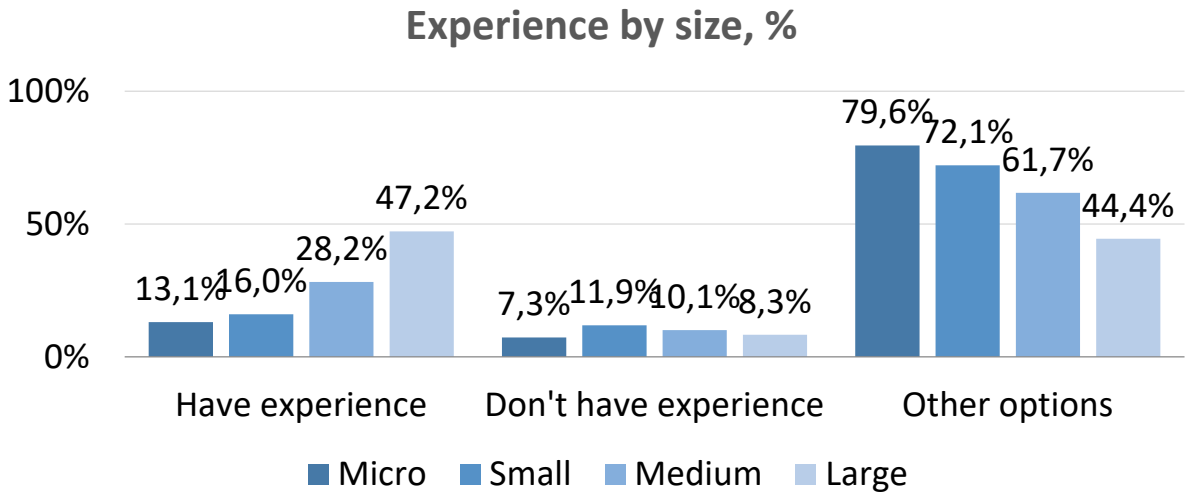


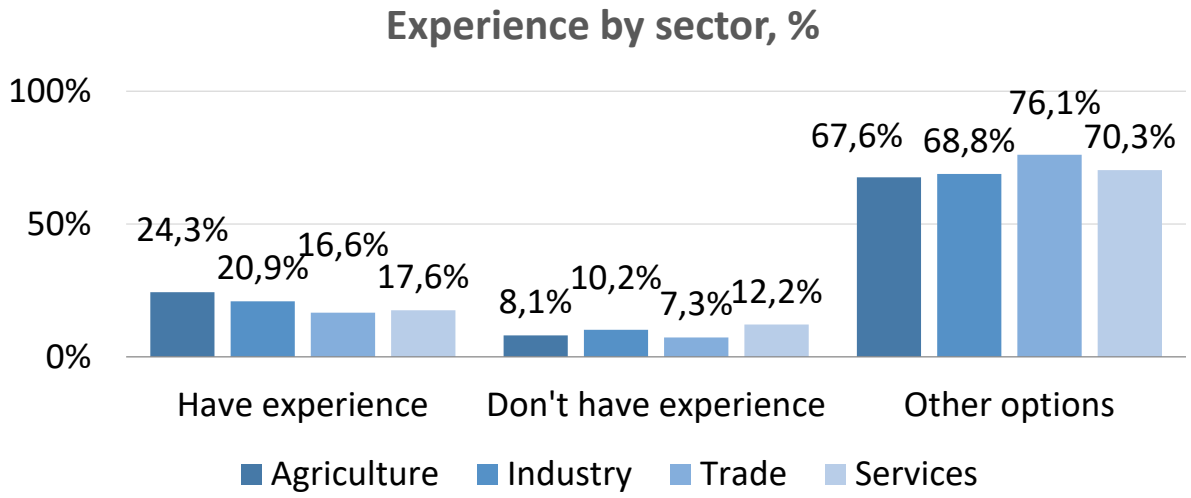
Experience of passing customs through the "single window" (2)



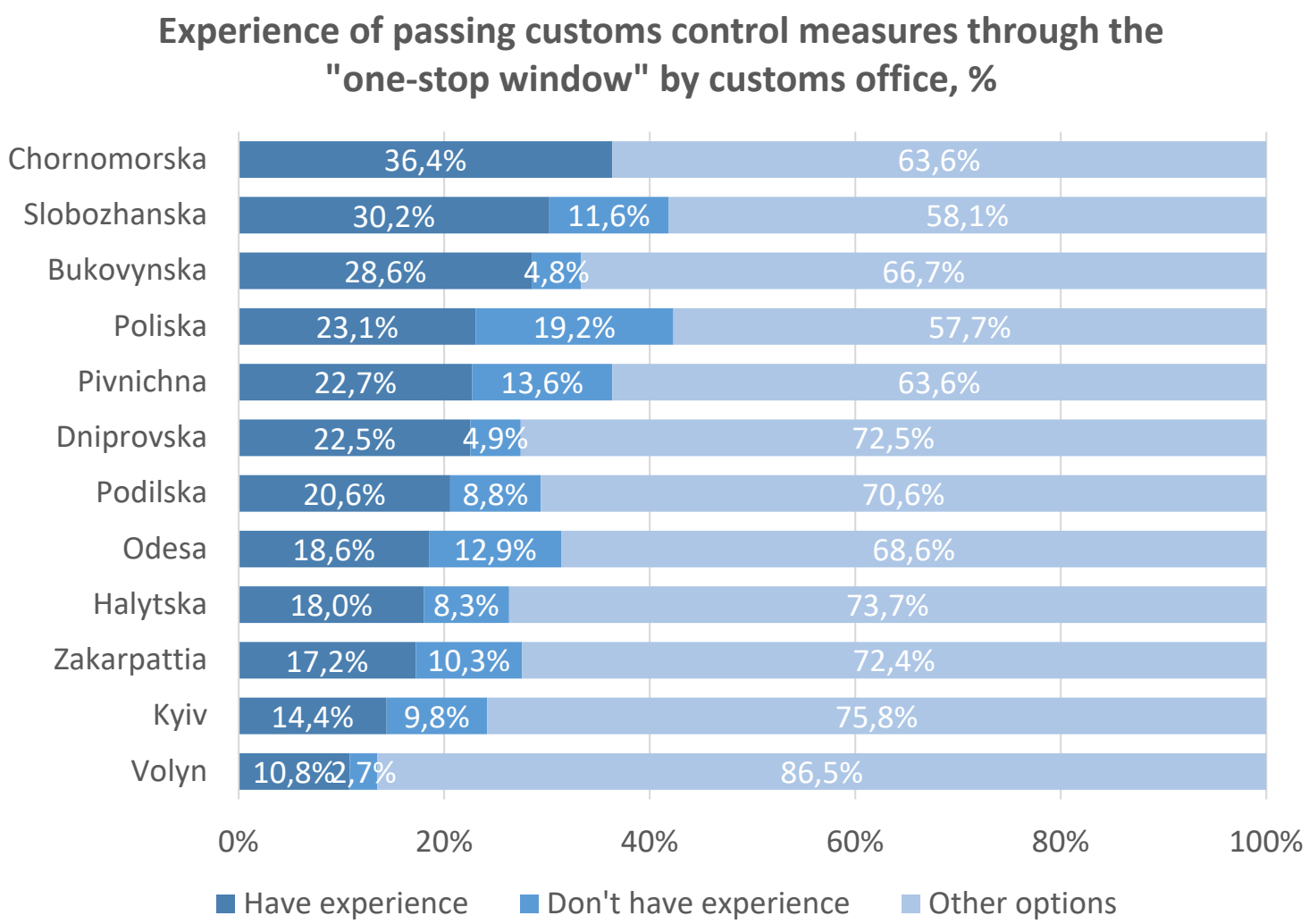
- **Exporters and importers** often report that they have experience of passing customs procedures through a "single window"
- **The larger the size of enterprises, the more** they use the "single window": the share of enterprises operating through customs brokers decreases

Note: The "Other" option combines the answers "We work through customs brokers", "I don't know" and "Hard to answer"





Experience of passing customs through the "single window" (3)



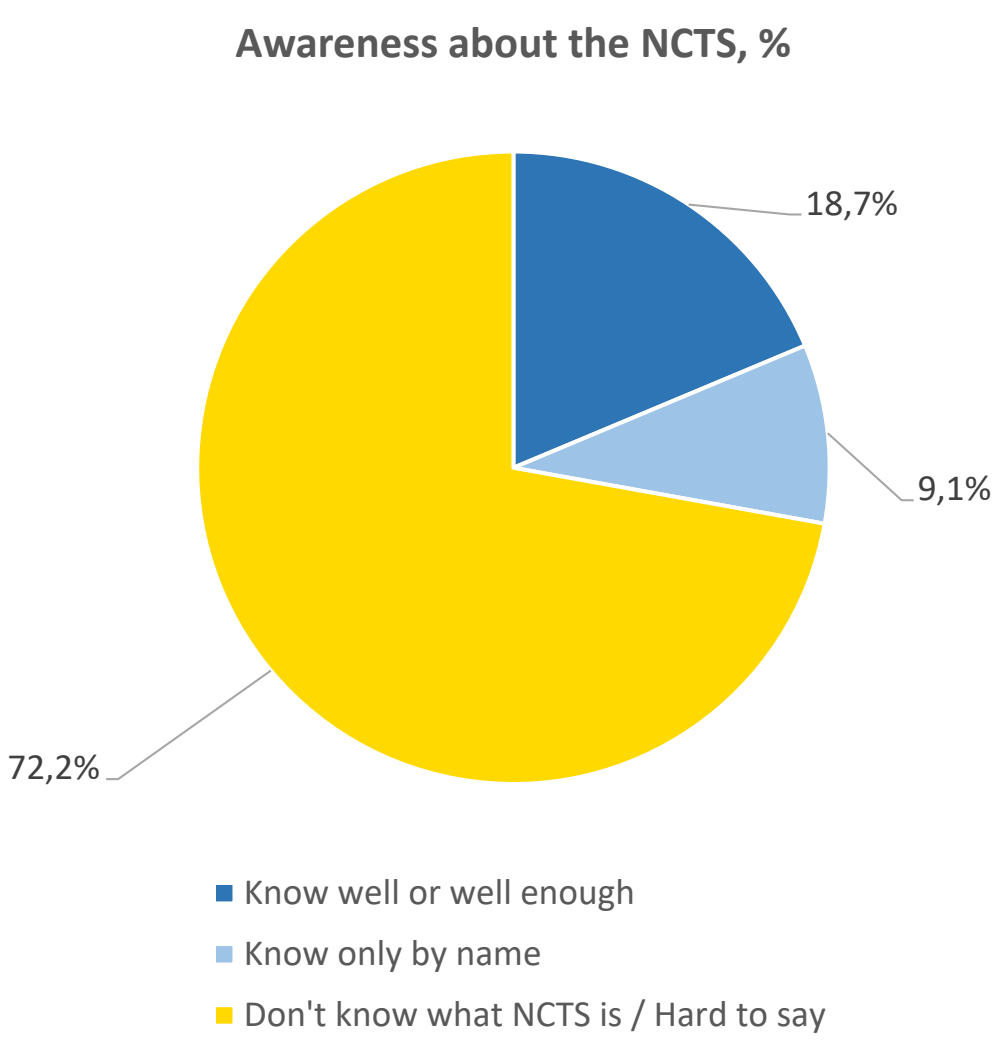
- Enterprises at the Chornomorska, Slobozhanska and Bukovynska customs offices **often** report that they have experience of passing customs procedures through the "single window"
- Enterprises at the Volyn customs office are **the least likely** to report such an experience. There is the largest share of respondents who **work through customs brokers or could not answer** here (86.5%)
- At Poliska, Pivnichna and Odesa customs, businesses often report that they **do not have such experience**

Answers of enterprises at the Azov and Skhidna customs are not analyzed due to insufficient number of respondents

INNOVATION AT CUSTOMS:
NCTS (new computerized transit system)

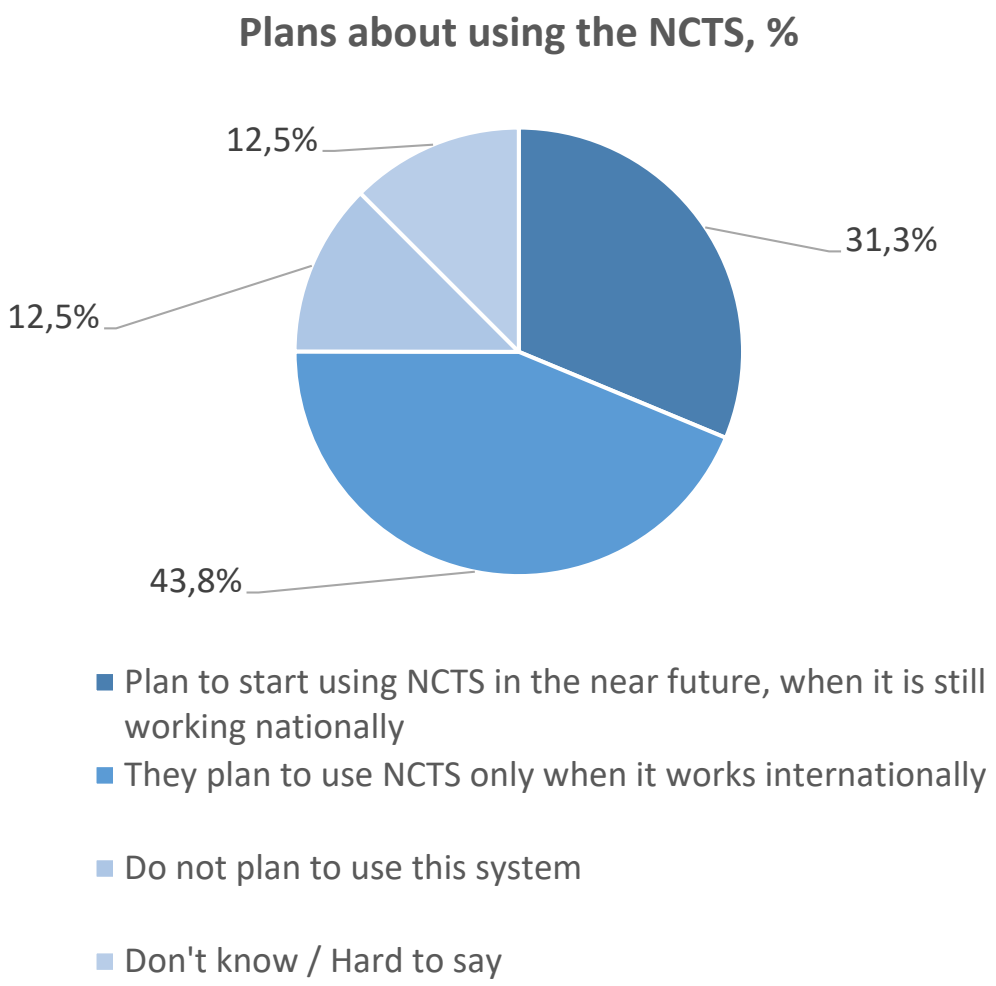
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Awareness about the NCTS



- National application of the NCTS in Ukraine began in March 2021
- Only 1.6% of respondents **know** what the new computerized transit system (NCTS) is
- The majority (85%) **do not know** about it and another 13.4% **know it only by name**
- The share of the respondents who know well about NCTS is very small among enterprises of different sizes, sectors and types of foreign trade
- Against the background of others, only **large enterprises** and enterprises with **import and export** differ. Their representatives know about NCTS by name more often than others
- This indicates possible **gaps in communication** regarding this possibility
- This may also be related to **working through customs brokers**. Representatives of the companies not working with brokers are more likely to know NCTS well or by name (27.3% compared to 13.5% of the representatives of those working with brokers)

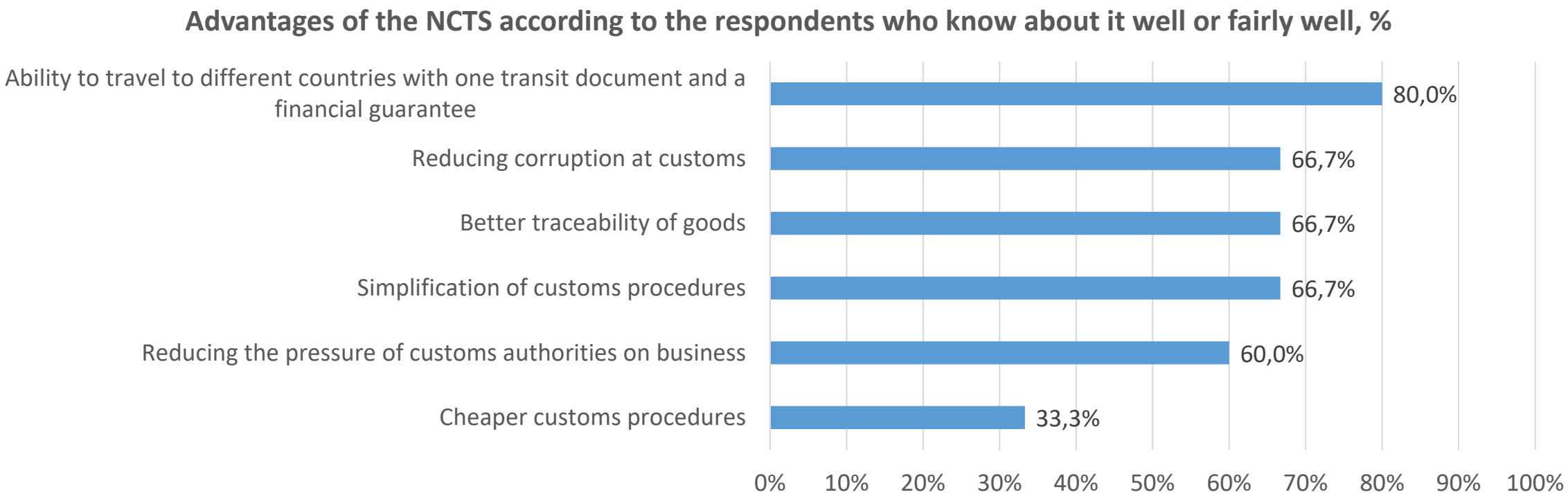
Plans about using the NCTS



- **No company** whose representatives are well aware of the NCTS **used** this system at the time of the survey
- Most companies (43.8%) planned to use the NCTS after it started **operating internationally**
- About a third of enterprises (31.3%) planned to start using NCTS **in the near future**
- Equal proportions of respondents (12.5% each) indicated that they do not plan to use the NCTS and did not answer this question.

The analysis of the responses was conducted on a small sample (N = 16) of the respondents who stated that they know well or fairly well about the NCTS

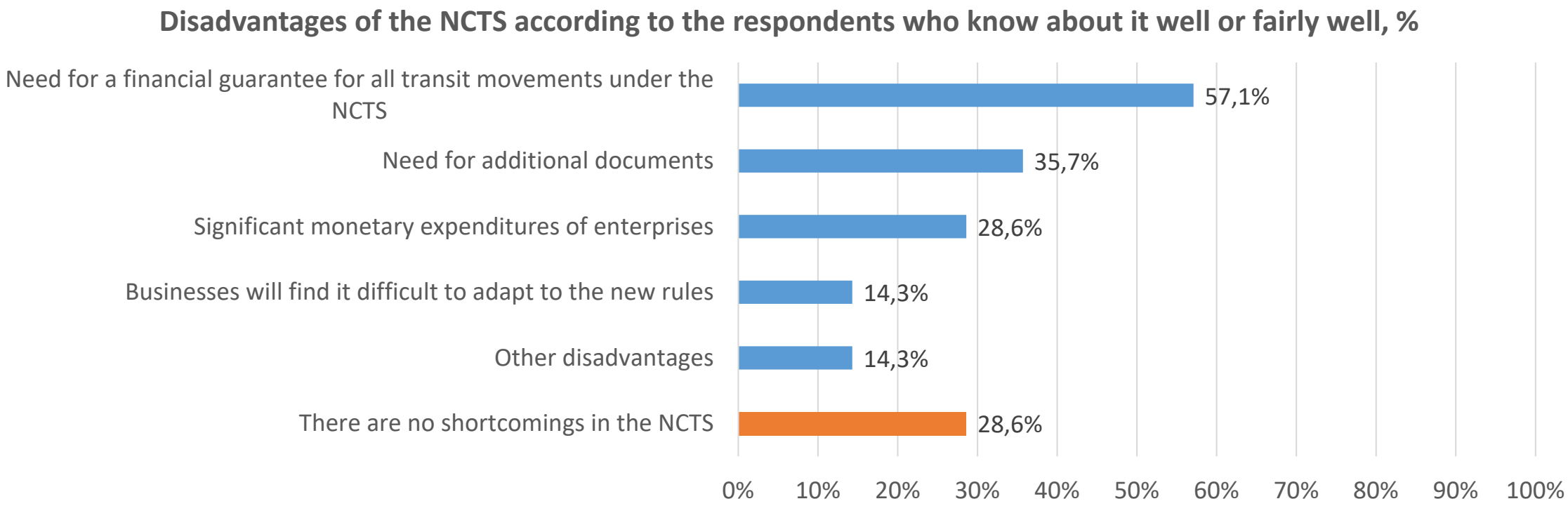
Advantages of the NCTS



- Respondents who are well or fairly familiar with the NCTS often name its almost every benefit. The main advantage **is the ability to travel to different countries with one transit document and a financial guarantee**
- The least important advantage of the NCTS is **the reduction of the cost of customs procedures** (33.3%)

The analysis of the responses was conducted on a small sample (N = 16) of the respondents who stated that they know well or fairly well about the NCTS

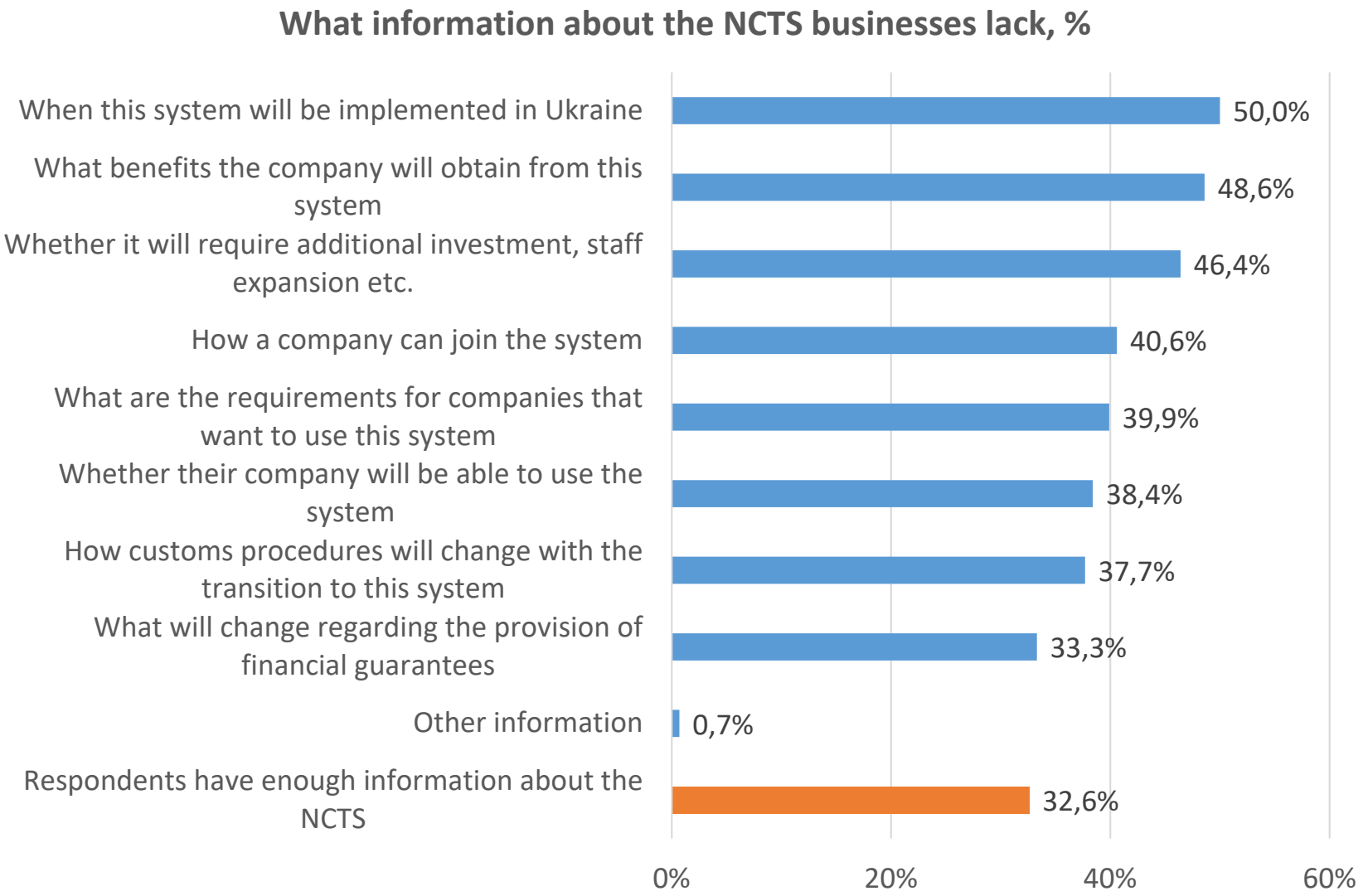
Disadvantages of the NCTS



- Respondents who are well or fairly familiar with the NCTS often cite the **need for a financial guarantee for all NCTS transit movements** as a major disadvantage of the NCTS.
- The smallest share of the businesses worry about **the adaptation to the new rules**. And approximately one in four respondents believes that **there are no shortcomings** in the NCTS

The analysis of the responses was conducted on a small sample (N = 16) of the respondents who stated that they know well or fairly well about the NCTS

What information about the NCTS is lacking

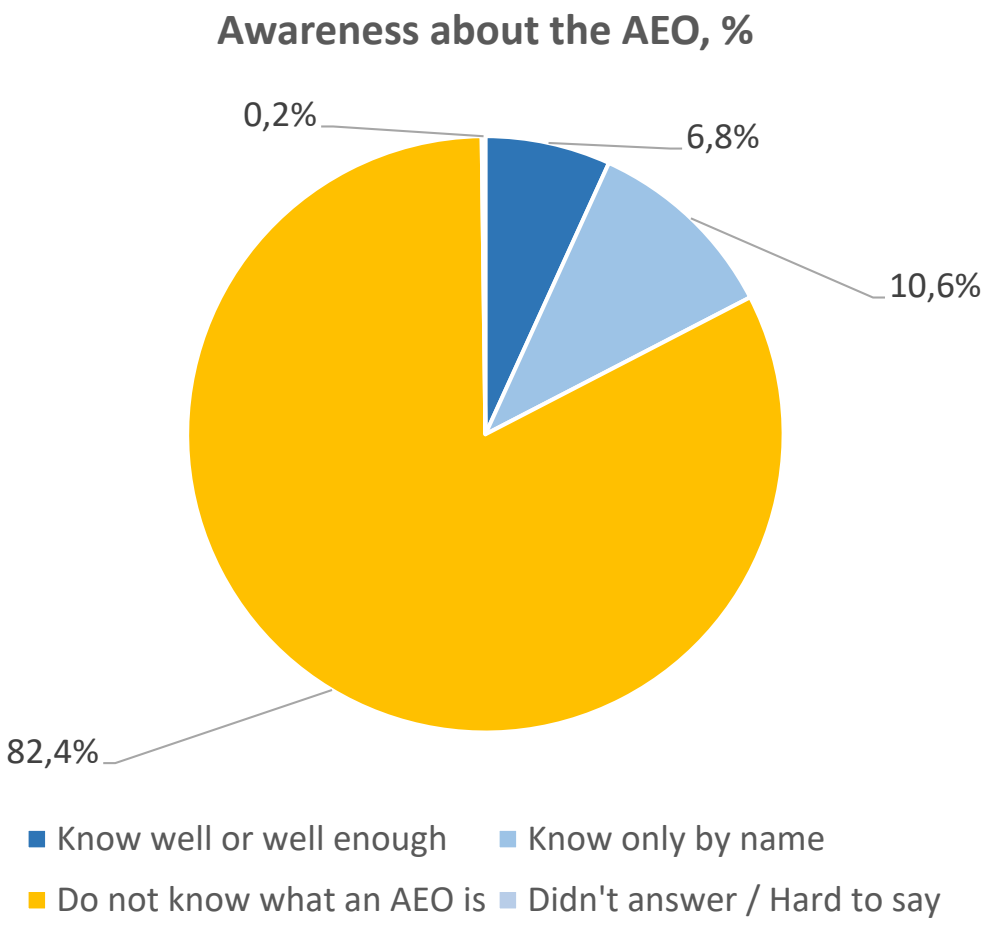


- Respondents who know the NCTS well or only by name are often interested in **when it will be implemented** and **what its benefits** are for their companies.
- The third place among the issue on which there is a lack of information is occupied by the question **whether the NCTS will require additional investment for businesses**
- Almost a third of the respondents indicated that they **have enough information** about NCTS

INNOVATION AT CUSTOMS:
AEO (Authorized Economic Operator)

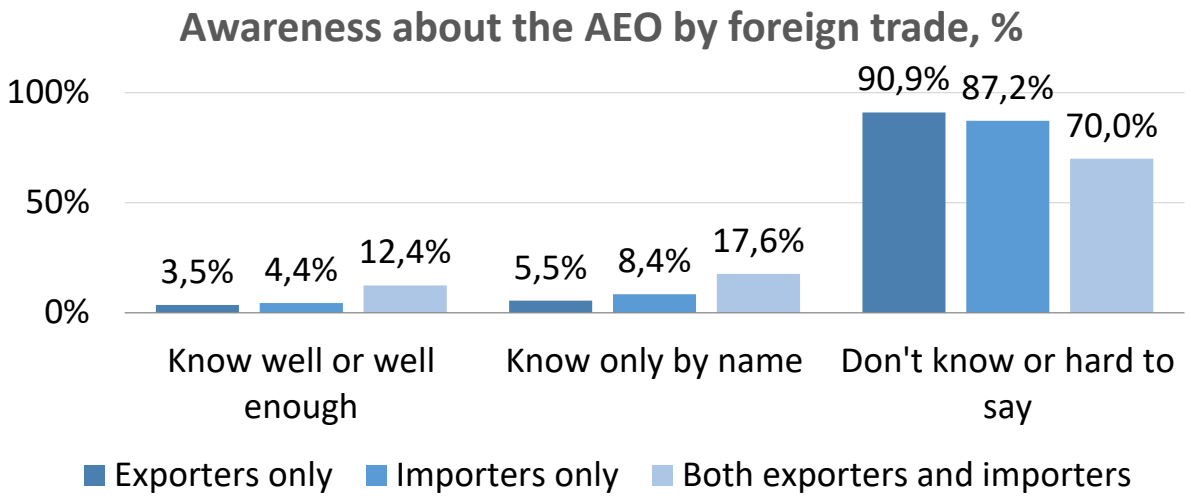
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Awareness about the AEO status

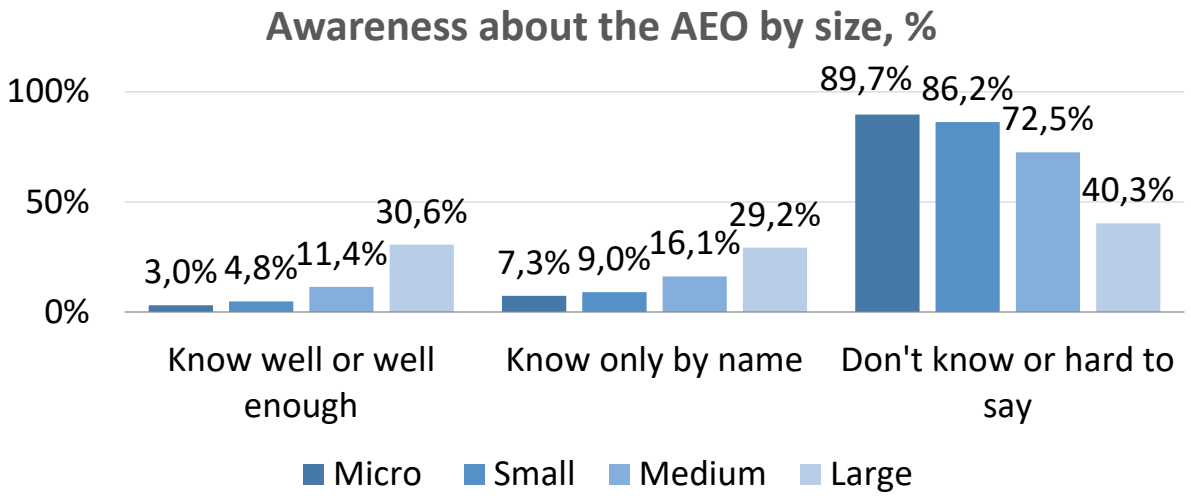


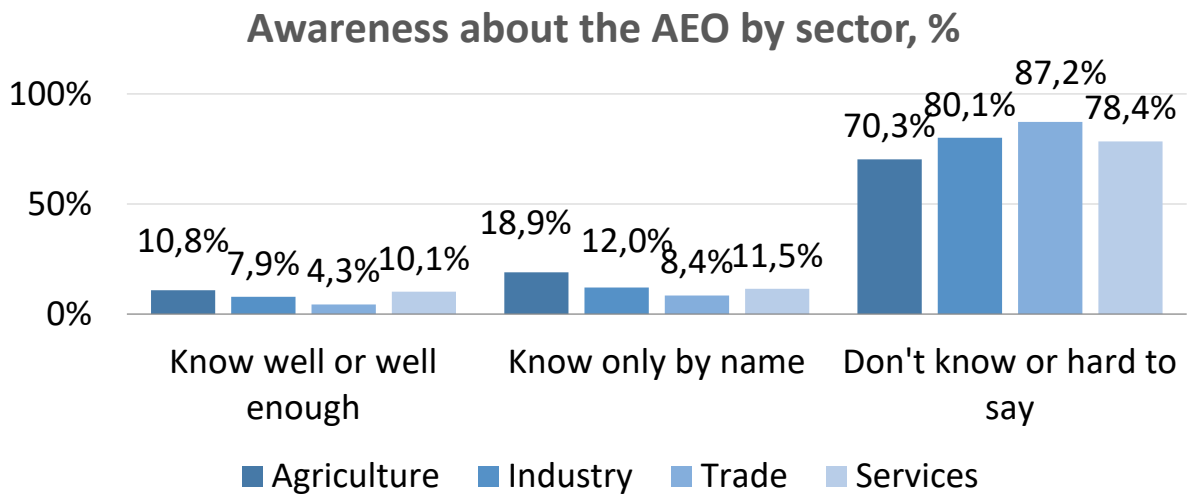
- More than 80% of respondents **do not know** what the status of the Authorized Economic Operator (AEO) is
- Only 6.8% know **well or well enough** what it is
- Every tenth respondent (10.6%) **knows about it only by name**
- This indicates probable **gaps in communication** regarding the AEO, despite the fact that at the time of the survey the enterprises already had the opportunity to register as AEOs

Awareness about the AEO (2)

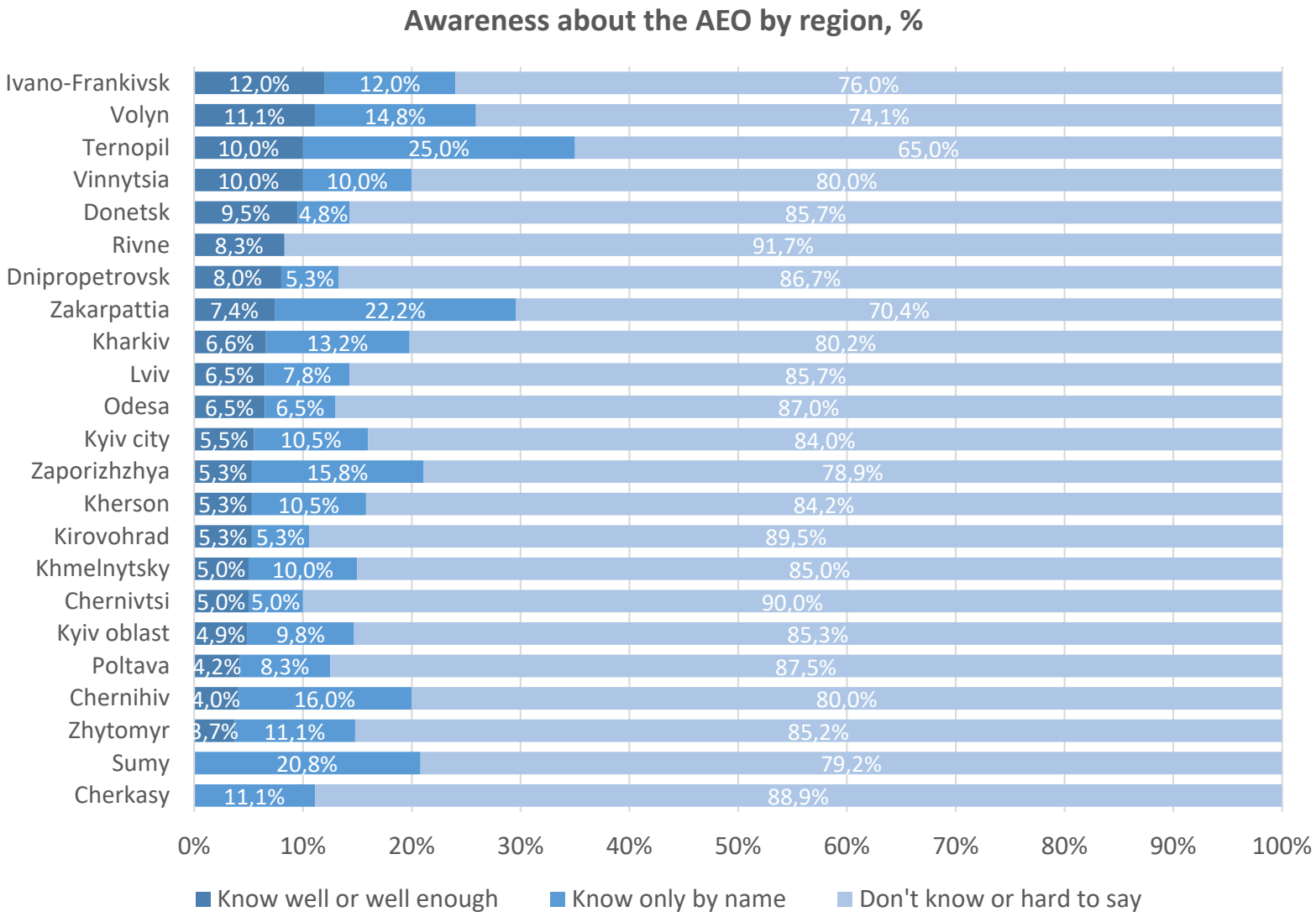


- Representatives of **exporting and importing companies** know about the AEOs best
- Representatives of **large enterprises** know about AEOs three times more often than respondents from medium-sized businesses, and ten times more often than representatives of micro-enterprises.
- Among the representatives of enterprises of different sectors, AEO is the least known in **the trade sector**





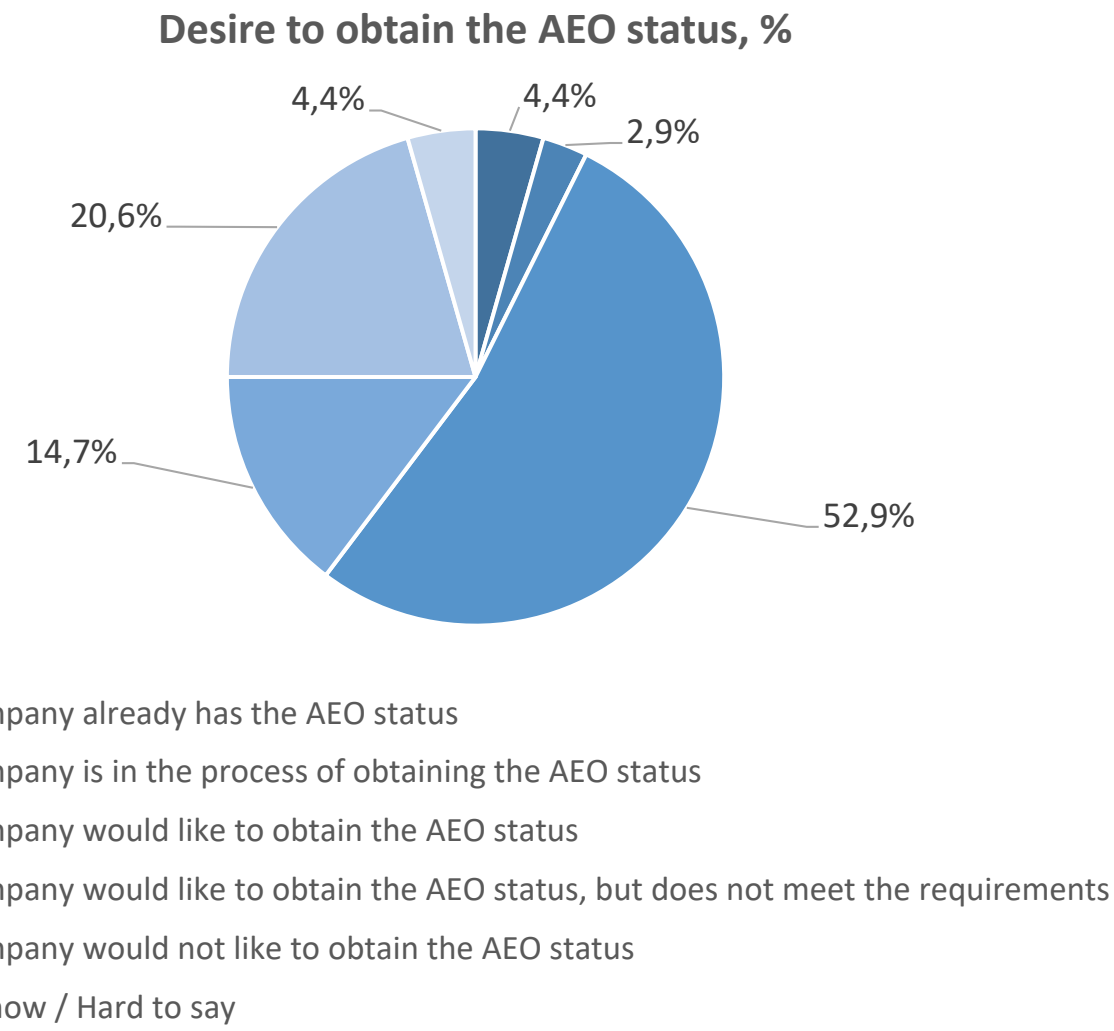
Awareness about the AEO by region



- Respondents in Ivano-Frankivsk and Volyn oblasts are **best** informed about the AEO status
- Every tenth respondent in Ternopil, Vinnytsia and Donetsk oblasts is well aware of AEO
- None of the respondents in Cherkasy and Sumy oblasts indicated that they knew well about AEO
- The largest share of respondents who **do not know about AEO** at all is in Rivne oblasts (91.7%)

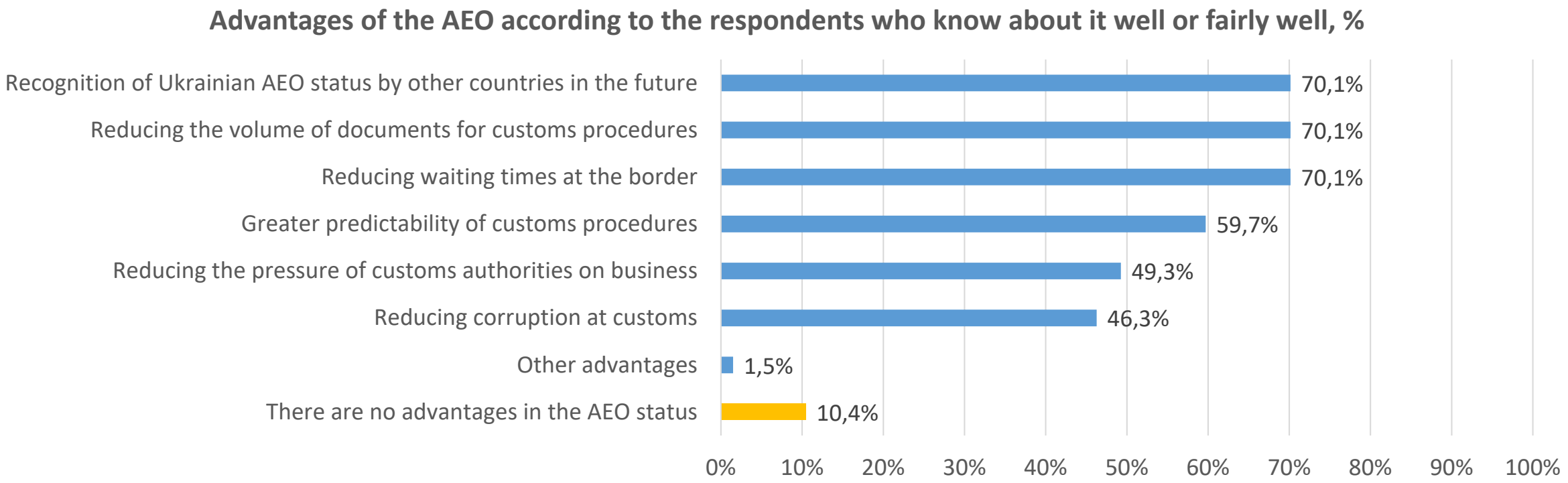
Answers of the respondents in Luhansk and Mykolayiv oblasts are not analyzed due to insufficient number of respondents

Desire to obtain the AEO status



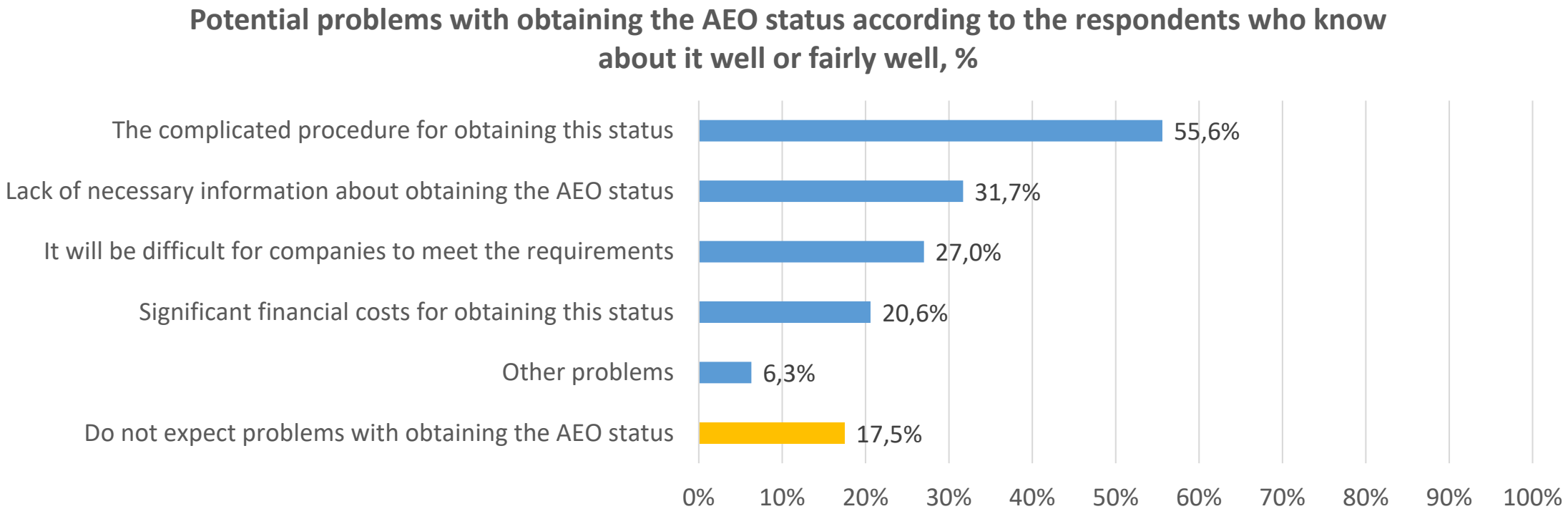
- More than half of the companies whose representatives know well about the AEO **would like to receive** this status
- Almost 3% (2 companies) are in the process of obtaining it and 3 companies claim to have this status, despite the fact that they are not in the AEOs register
- Almost 15% said they would like to receive this status, **but do not meet the requirements**
- One in five companies (20.6%) **would not like to receive** AEO status
- The main reason why they do not want to receive AEO status is because they **do not think they need it**.
- Other frequently mentioned reasons are **the expectations that the financial costs of obtaining the AEO status may exceed its benefits, this will require the disclosure of confidential information about the company** and **the AEO status will not simplify customs procedures.**

Advantages of the AEO



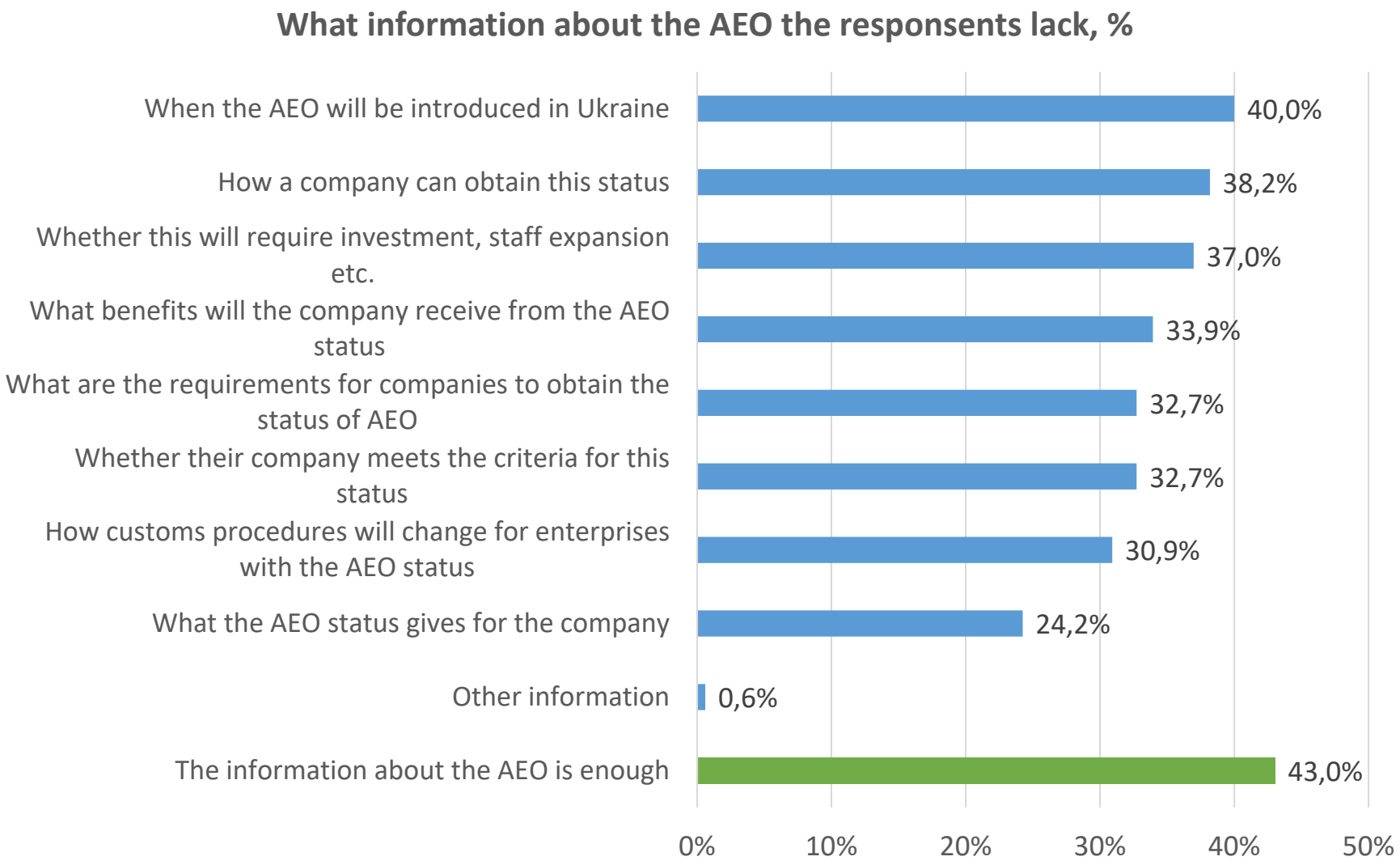
- Respondents who know about the AEO well or fairly well often mention the following three main advantages: **recognition of the AEO status of a Ukrainian enterprise by other countries in the future, reduction of the volume of documents required for customs procedures,** and **reduction of waiting time at the border** (70, 1% of respondents)
- Approximately one in ten respondents (10.4%) believes that there are **no advantages** in the status of AEO

Potential problems with obtaining the status of the AEO



- Respondents who are well or fairly familiar with the AEO often believe that possible problems with obtaining AEO status may arise **due to the complicated procedure** for obtaining this status (55.6%)
- About a third of respondents (31.7%) report **a lack of information** about obtaining the AEO status
- 17.5% of respondents **do not expect problems** with obtaining the AEO status

What information about the AEO is lacking

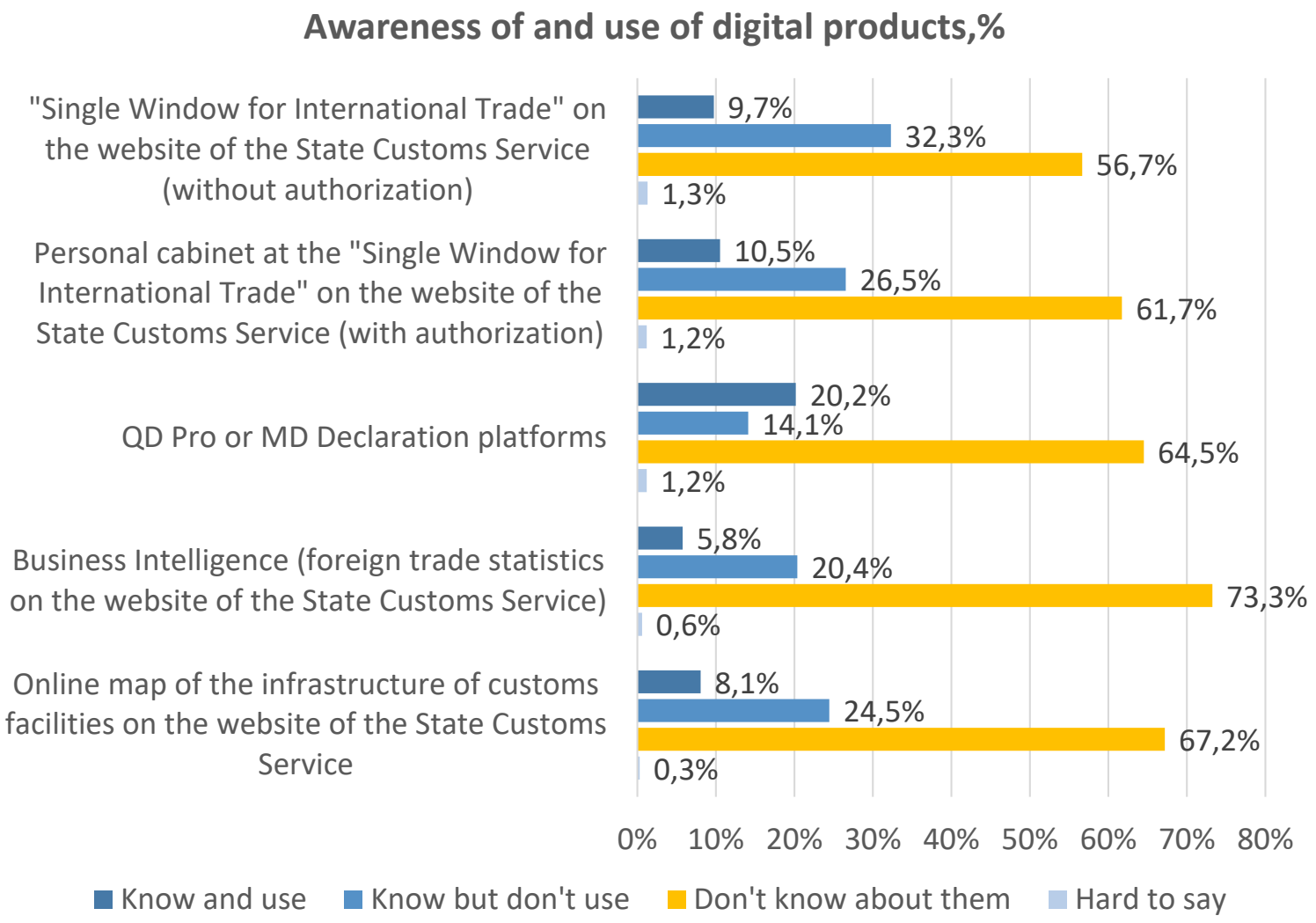


- Respondents who know about AEO well or only by name most often report that **they have enough information** about it (43%)
- The information that is **often lacking** is:
  - when the AEO will be introduced in Ukraine
  - how an enterprise can obtain this status
  - whether it will require the acquisition of AEO status from investment enterprises, staff expansion, etc.

INNOVATION AT THE CUSTOMS: DIGITAL PRODUCTS

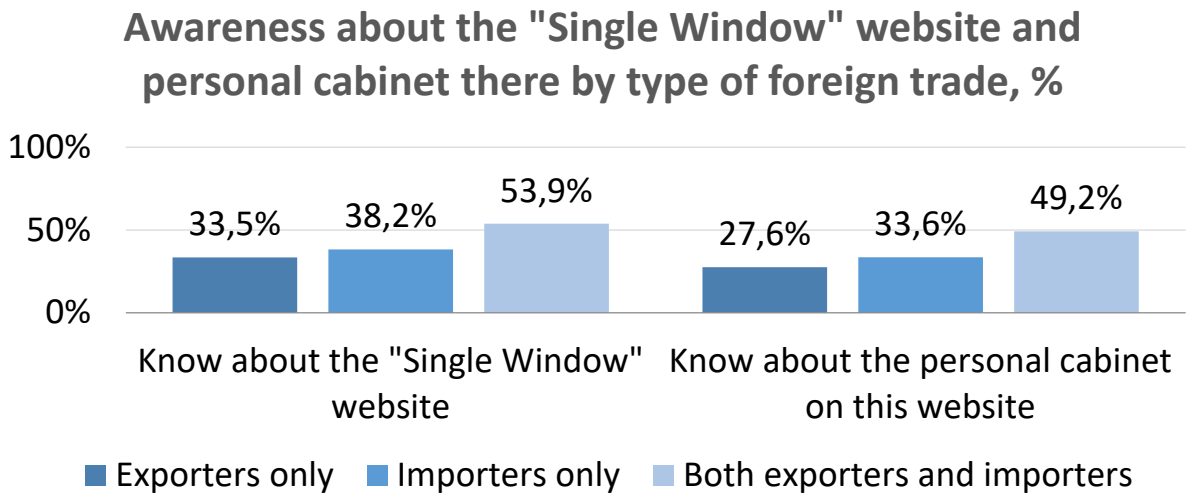
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Awareness of digital products and their use



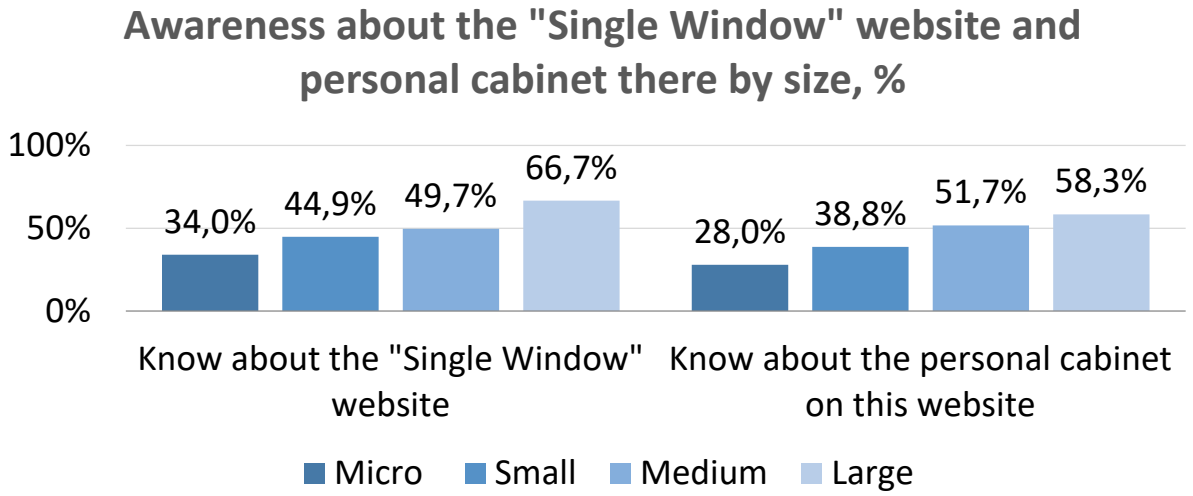
- Most respondents know about the **Single Window for International Trade** web portal (42%)
- Fewer respondents (37.1%) know about **personal cabinet on this portal**
- However, only every tenth respondent uses this portal **without authorization** (9.7%) and **with authorization** (10.5%)
- **QD Pro** and **MD Declaration** platforms are the only digital products that more respondents know and use than just know
- The smallest share of the respondents use and know about the **Business Intelligence module**

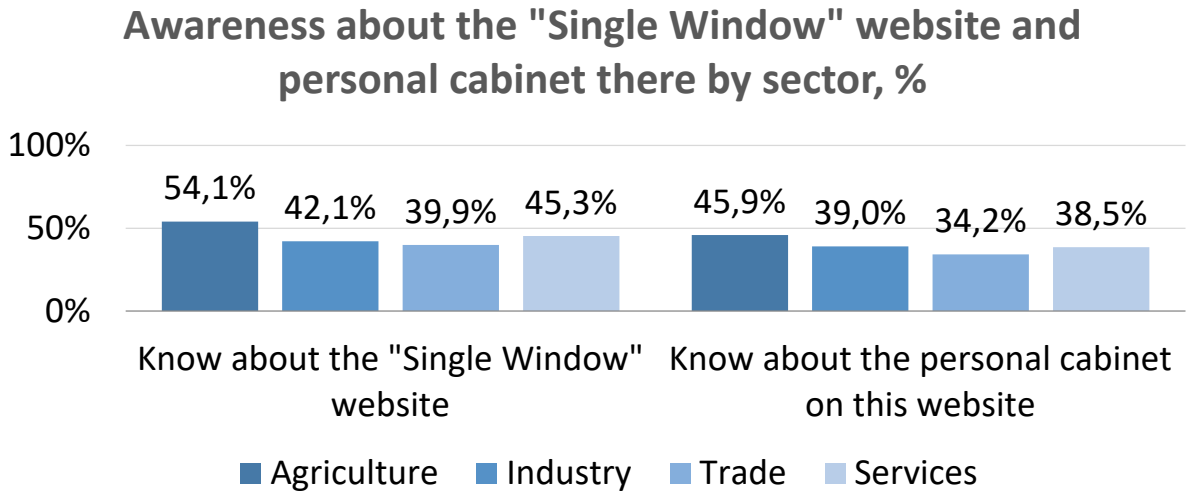
Awareness about the “Single Window” and personal cabinet



- Representatives of **exporting and importing enterprises** and **agricultural enterprises** know best about the “Single Window” website as well as about the personal cabinet function on this website
- Awareness about the “Single Window” website and the cabinet there increases along with **the size of the enterprises**

Respondents who know about these digital products include both their users and those who know about them but do not use





CONCLUSIONS

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Conclusions (1)

Difficulties in customs clearance procedures

- Businesses rarely report difficulties with customs procedures, with the exception of some procedures.
- Importers face difficulties in customs procedures more often than exporters.
- Classification of goods and deciding on their customs value are the most problematic customs procedures for the surveyed enterprises.
- Exporters often point to the complexity and length of procedures, as well as the requirements to provide many documents and the unreasonableness of some procedures (customs inspection, post-audit)
- Importers most often report unreasonable assignment of customs codes with higher duty rates and price increases, refusal to recognize the contract price of goods, different approaches to the same legislation and the same goods, unreasonable procedures and their long duration.

Delays of cargoes during customs control

- Almost 2/3 of exporters did not face cargo delays compared to less than half of importers.
- Queues at the border remain the main reason for delays in exports and imports.

Conclusions (2)

Appeal against the actions of customs authorities

- The success of business appeals against customs actions has deteriorated compared to 2020, when the share of companies with fully or partially successful appeal experience was the largest in 4 waves of the survey since 2016.
- The level of awareness about the appeal procedure remains low: only half of the respondents are familiar with it. Only one in five respondents has the experience of appealing.
- The most needed steps are improvement of the validity of decisions and ensuring impartial, complete and fair consideration of the complaints.

NCTS, AEO and digital products at customs

- Less than 2% of respondents are well aware of the new common transit system (NCTS) and less than 14% are familiar with it by name. Most companies plan to use the NCTS once it is available internationally, and about a third, in the near future.
- The main advantage of the NCTS, according to respondents, is the ability to travel to different countries with one transit document and a financial guarantee. The main disadvantage is the need to obtain this guarantee.
- Less than 7% of respondents know well what an AEO is, and 10.6% are familiar with it only by name.
- The main advantages of the AEO are international recognition of this status, fewer documents and less waiting time at the border. The main potential problem is the complicated procedure for obtaining this status.

THANK YOU FOR YOUR ATTENTION!

QUESTIONS?

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Project "Support of the Civil Society Initiative "For Fair and Transparent Customs"
implemented by the Institute for Economic Research and Policy Consulting
with financial support of
the European Union, the International Renaissance Foundation and Atlas Network

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