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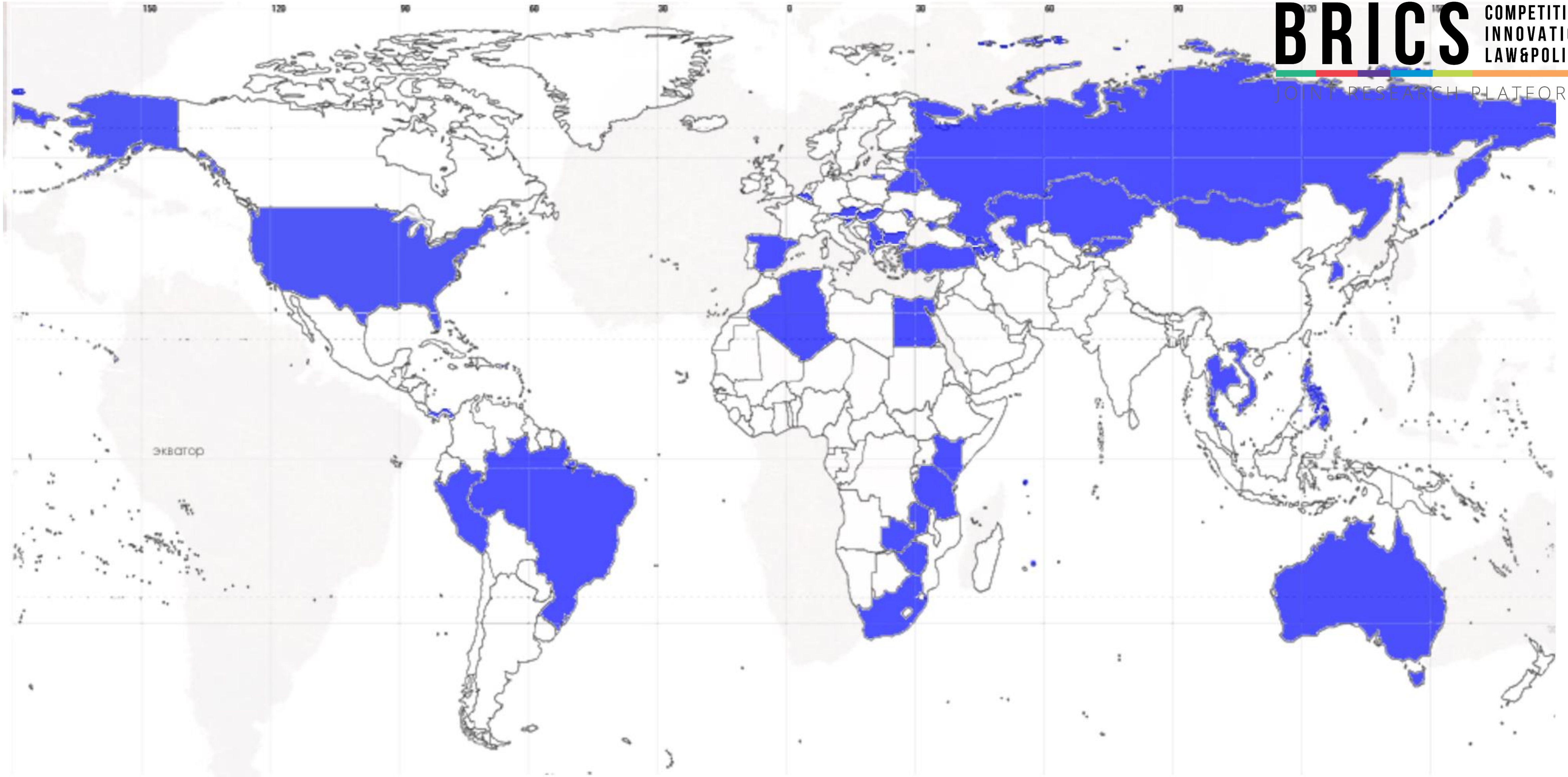
Combatting Cross Border Cartels: An Empirical Study

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COMBATING CROSS BORDER CARTELS: AN EMPIRICAL STUDY



37 Competition Authorities participated in the Study

I. Legislation

Problems on cross border cartels (CBC) investigations which are legal in nature:

- Absence of extraterritorial reach of competition legislation in developing jurisdictions
- Underdeveloped leniency programs in young competition regimes
- Lack of convergence of competition laws regarding sanctions for participation in CBC
- Differences in investigative procedures and time limits set for investigations

II. Enforcement

- Combating cartels is a high priority for all the competition authorities (CAs) participating in the Study
- Most of the jurisdictions consider CBC to be significant threat for their economies
- Only 12 out of 37 respondents have experience in combating CBC

II. Enforcement

Identification tools for CBC



II. Enforcement

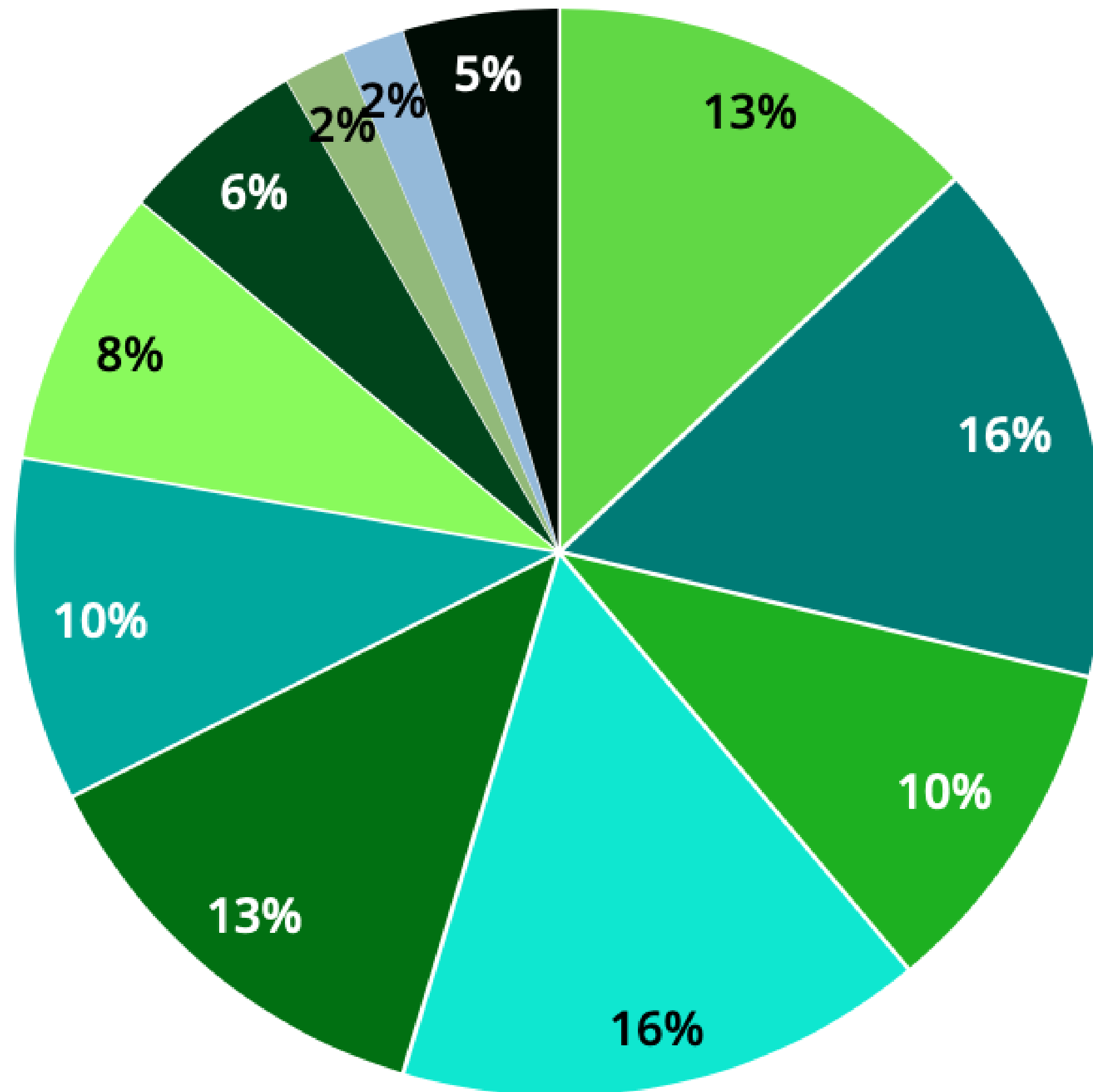
Major challenges of combating CBC:

- Evidence gathering
- Requesting information from undertakings located outside the national jurisdictions of CAs
- Presence of foreign defendants at case hearings
- Lack of time for CBC investigations
- Various legal restrictions (i.e. exchange of confidential information with a foreign CA)

III. International Cooperation

- International cooperation is an important element when it comes to efficient enforcement
- 14 Competition Authorities do not have experience of international cooperation in specific cases
- The ones who have international cooperation experience prefer to use non-binding tools...

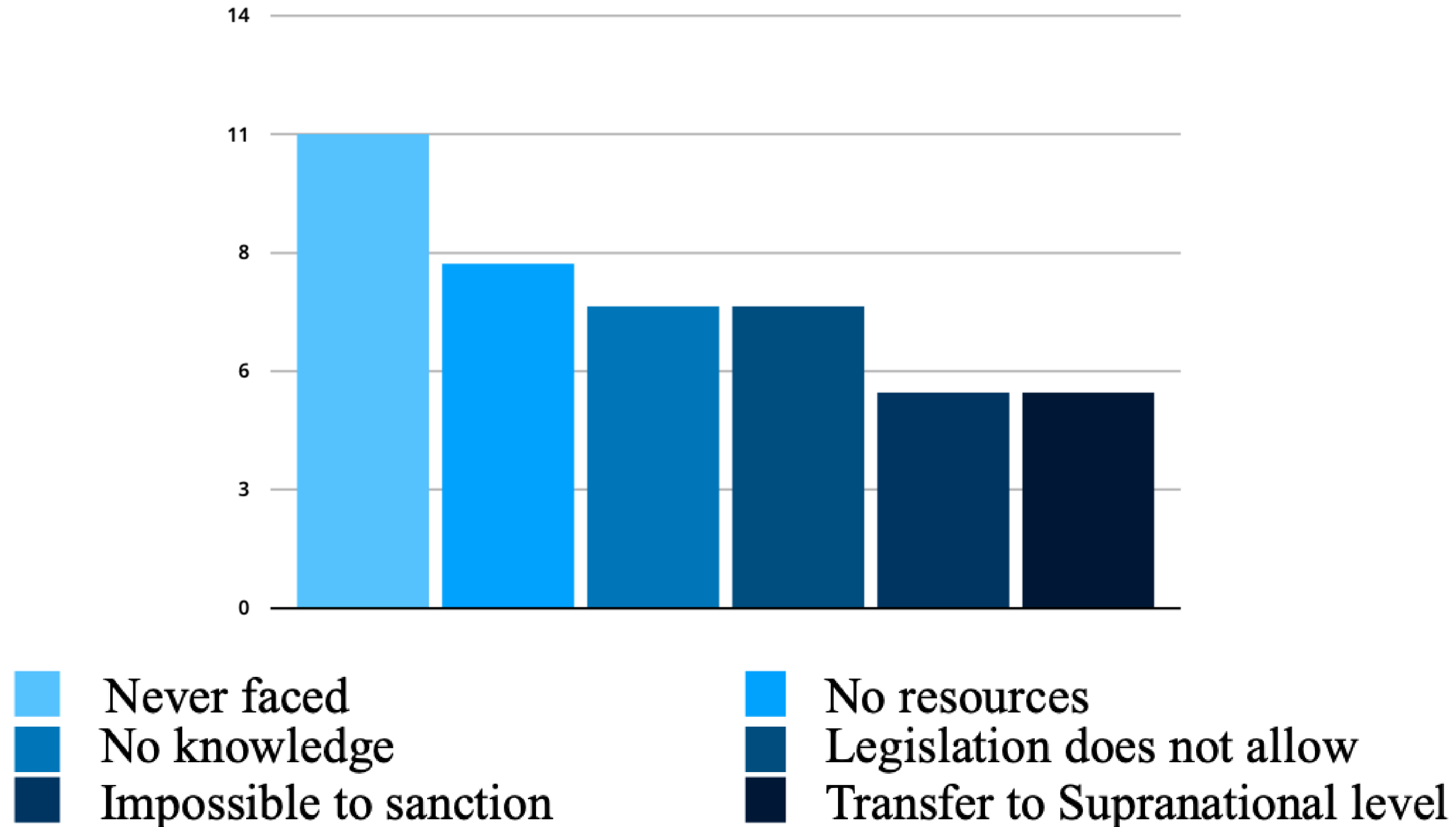
III. International Cooperation



- Request for information
- Virtual consultations
- In-person consultations
- Exchange of opinions on investigative methods
- Exchange of opinions on absence/existence of a violation
- Exchange of confidential information
- Exchange of confidential documents
- Simultaneous dawn raids
- Joint market inquiries
- Joint dawn raids
- Enforcement actions on behalf of a foreign jurisdiction

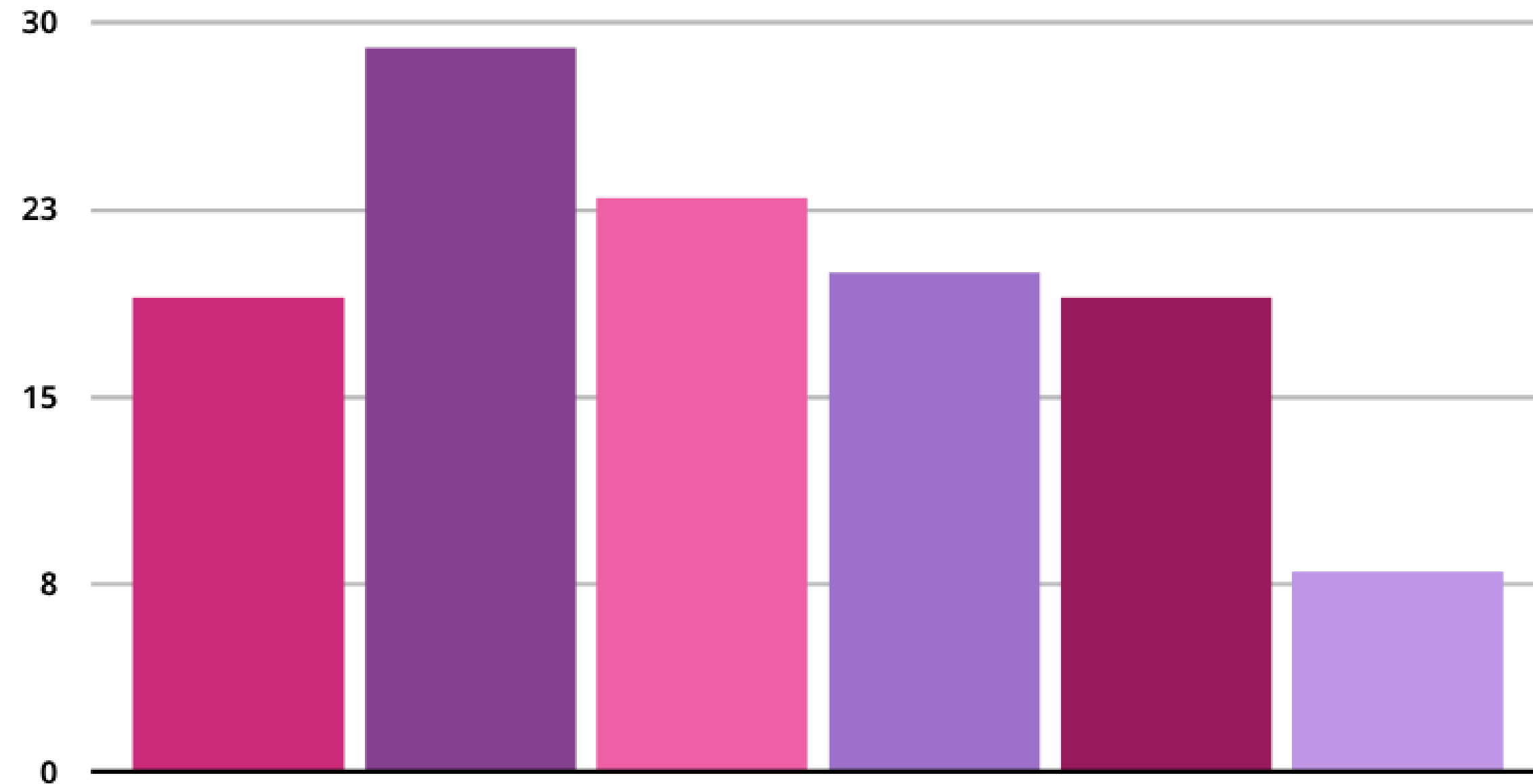
IV. Ways Forward

Reasons of absence for CBC investigations



IV. Ways Forward

International Measures to Combat CBCs



- Convergence of national competition legislations
- Active international cooperation among CAs
- Creation of global approaches and standards
- International entrenchment of tools on combating CBCs
- Unified international database on CBC cases
- International organization on combating CBCs

V. Conclusions

- Currently many competition agencies, especially developing ones, do not have experience in CBC investigations
- Challenges faced are of legal or practical nature, including difficulties related to establishing contacts with foreign competition authorities
- The international competition community can significantly contribute to enhancing CBC enforcement worldwide

V. Conclusions

- Capacity building and technical assistance for developing competition agencies as well as consultations, inter alia, under Section F of the UN Set of Principles on Competition
- Establishing tools and mechanisms of CBC investigations on an international level. The UNCTAD could lead this process

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