



Investment Treaties and Climate Change

Survey of Climate Policies for Investment Treaties

Overview of responses

October 2023



Introduction

First-ever survey of climate policies for investment treaties

Contributes to placing climate change at core of investment treaty policy discussions for first time – overdue for attention

- Joining up climate and investment communities within governments
- Bilateral discussions with governments and others



A basis for dialogue and accountability

A challenging and demanding survey, similar to business surveys

- Sources: climate reports and surveys for finance, business, public sector (ECAs)
- Attention to climate governance, strategy, covered investment, expected action
- Coverage of additional issues of limited relevance for business climate policies
 - Impact on policy space, market access
 - Joining up with government climate commitments and action in other domains
- *New questions, new concepts, new internal discussions*
- *Appreciate government efforts to respond*



Overview of respondents

- **23 responses**; average of 44 investment treaties/respondent
- Some jurisdictions unable to complete responses despite engaging seriously with survey
- **Home and host states** in ISDS in about a 2:1 ratio – approx. 900 ISDS cases
- **Remaining gaps:** 5 of 8 G7 jurisdictions responded; 6 G20 jurisdictions
- Majority of respondents in Europe; also Americas and Indo-Pacific

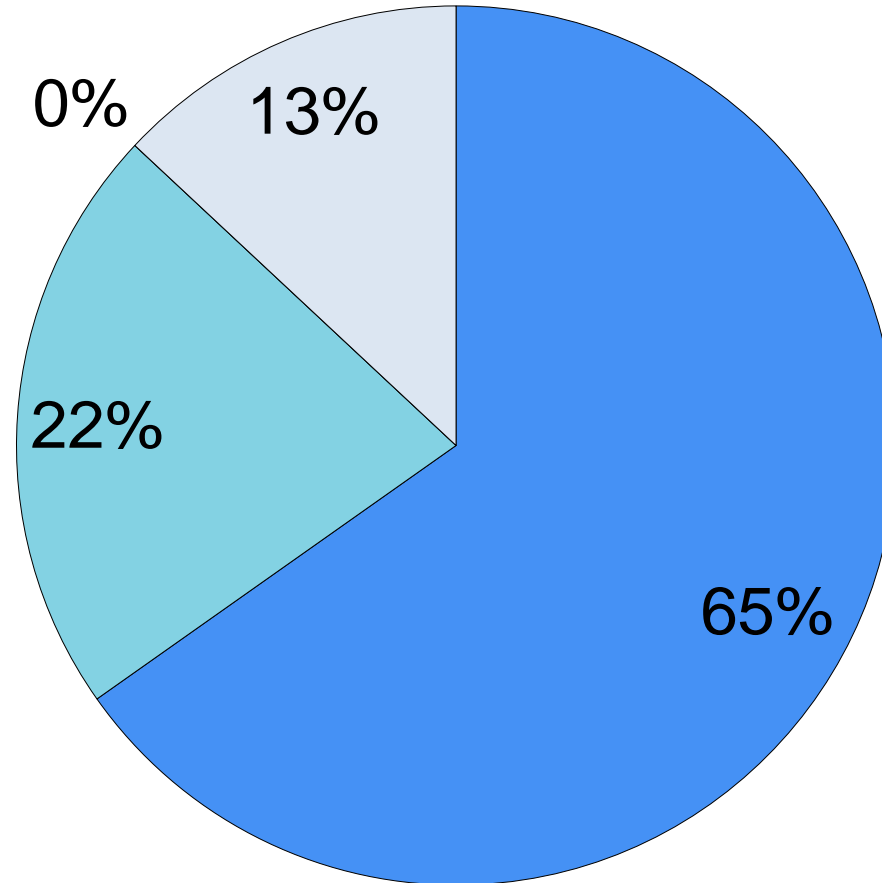
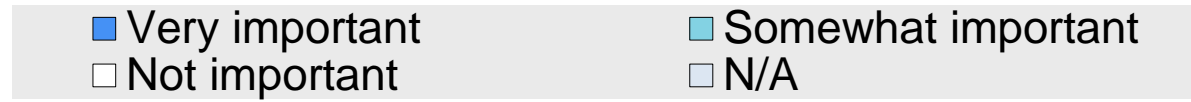


Climate surveys, stakeholders and the public

- Government commitment at outset to include stakeholders in T1 discussions
- Strong public interest in T1 discussions
- Disclosure of survey questions and general findings to stakeholders and the public
 - Strong public and business interest in climate and climate policies
 - Website
 - Distributed to NGFS and UNFCCC communities
 - Public interest
- Regular climate surveys are a new normal: a tool to evaluate and demonstrate progress

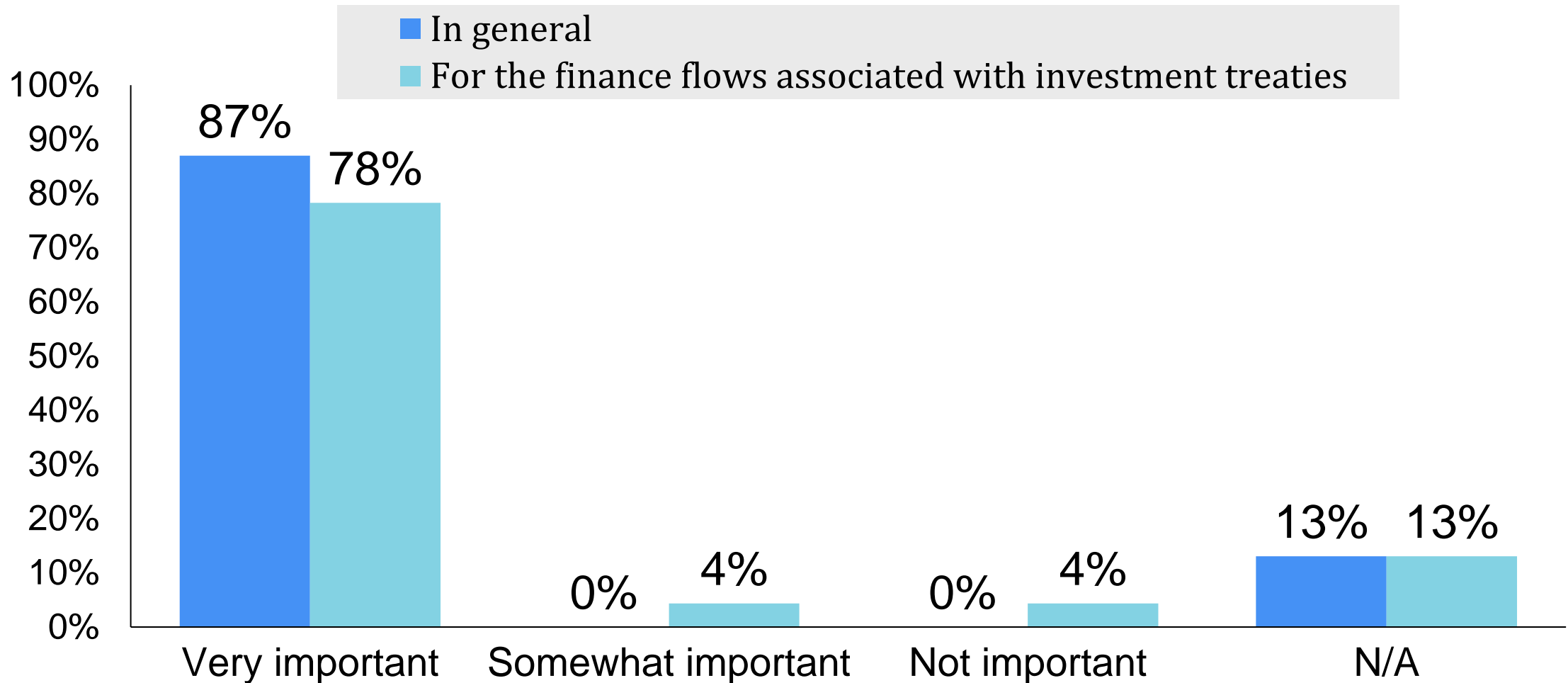


Paris Agreement alignment for existing investment treaties and treaty policies



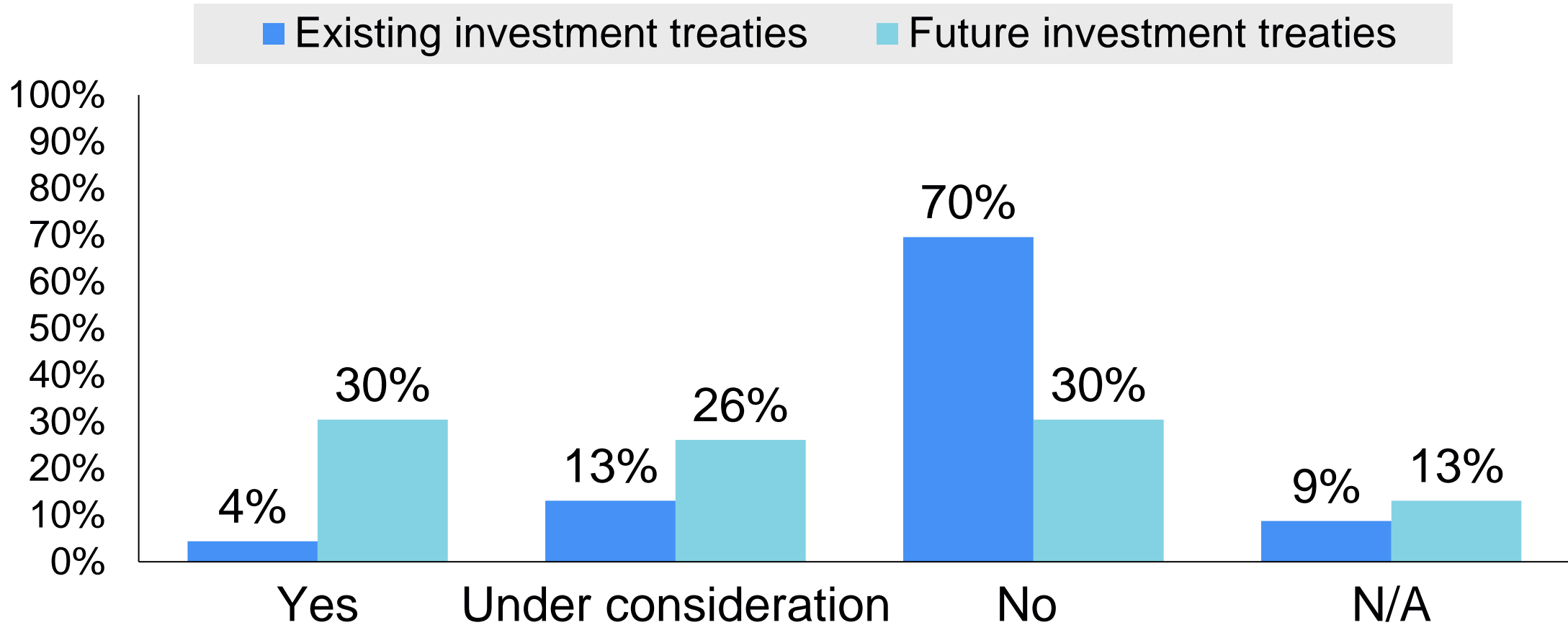


Paris Agreement art. 2.1c: Importance of making finance flows consistent with a low-carbon pathway





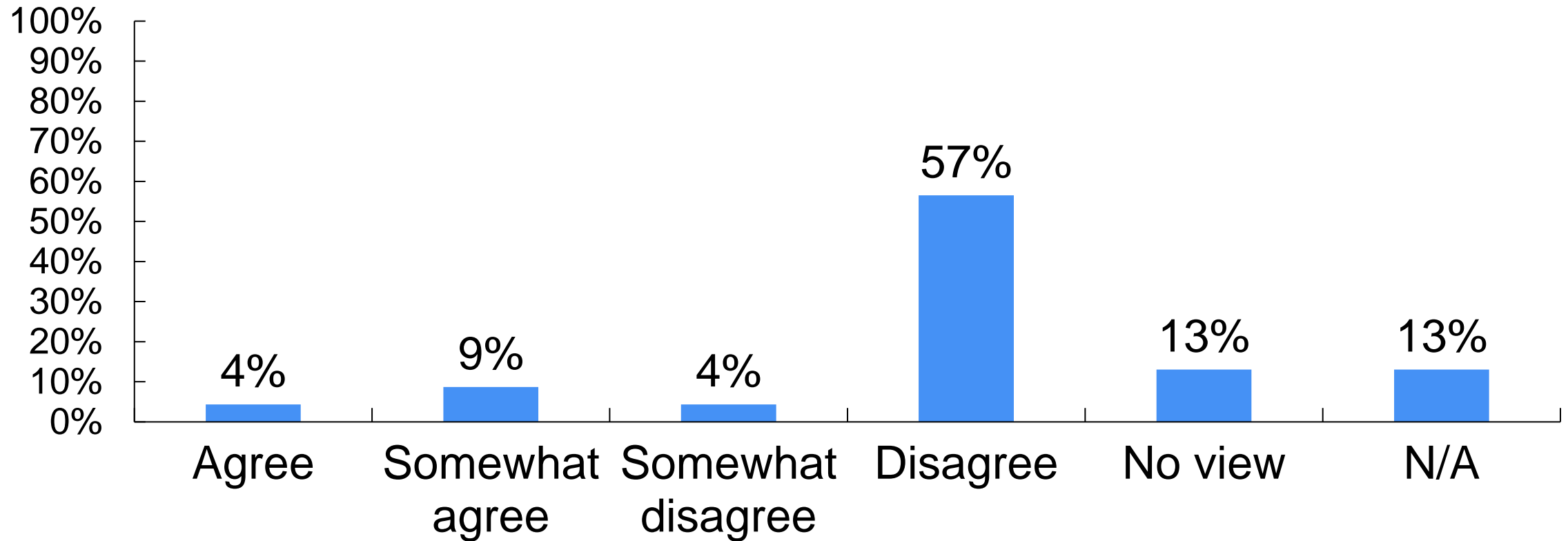
Exclusion of support for projects involving substantial coal-related content



43. Have you implemented, or are you considering implementing, policies to exclude support for projects involving substantial coal-related content: [In existing investment treaties] [In future investment treaties]?



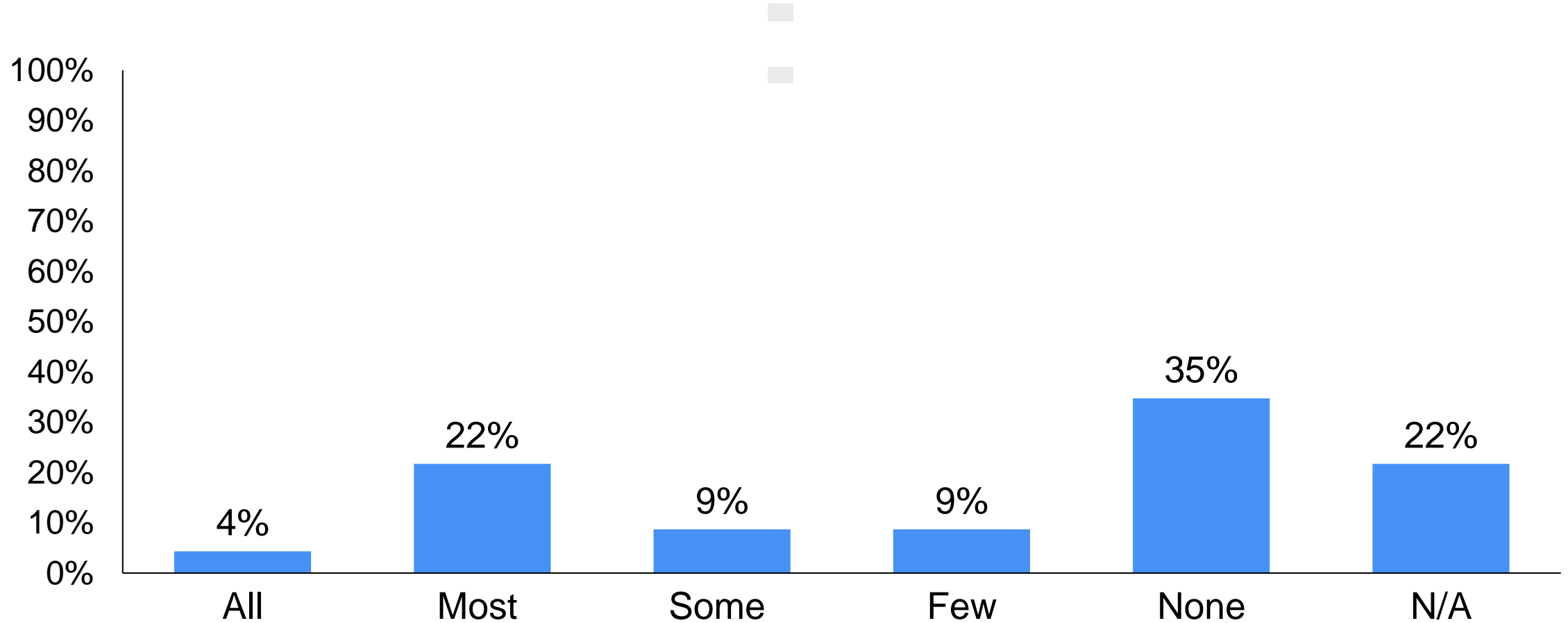
Whether ISDS interpretations provide clear parameters on policy space for climate measures



66.4. Please indicate whether you agree or disagree with the following statement: Investment treaties as interpreted in ISDS provide clear parameters on policy space for climate measures.



Proportion of existing investment treaties including binding market access provisions

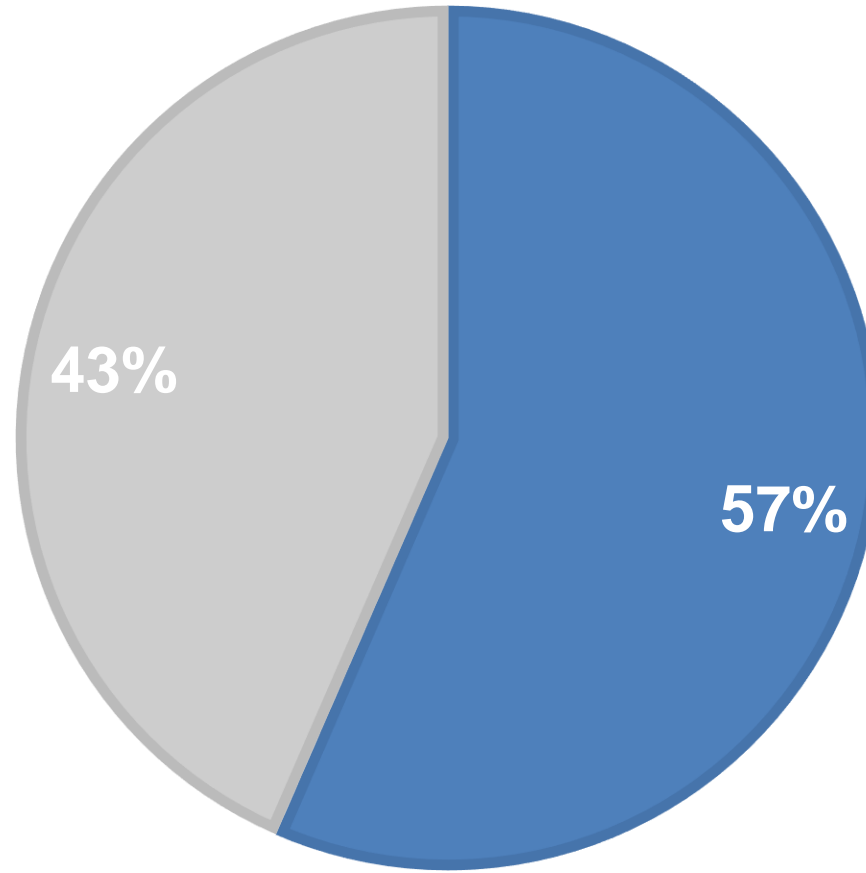


79. In rough terms, what proportion of your existing investment treaties include binding international law provisions for market access for new investment flows?



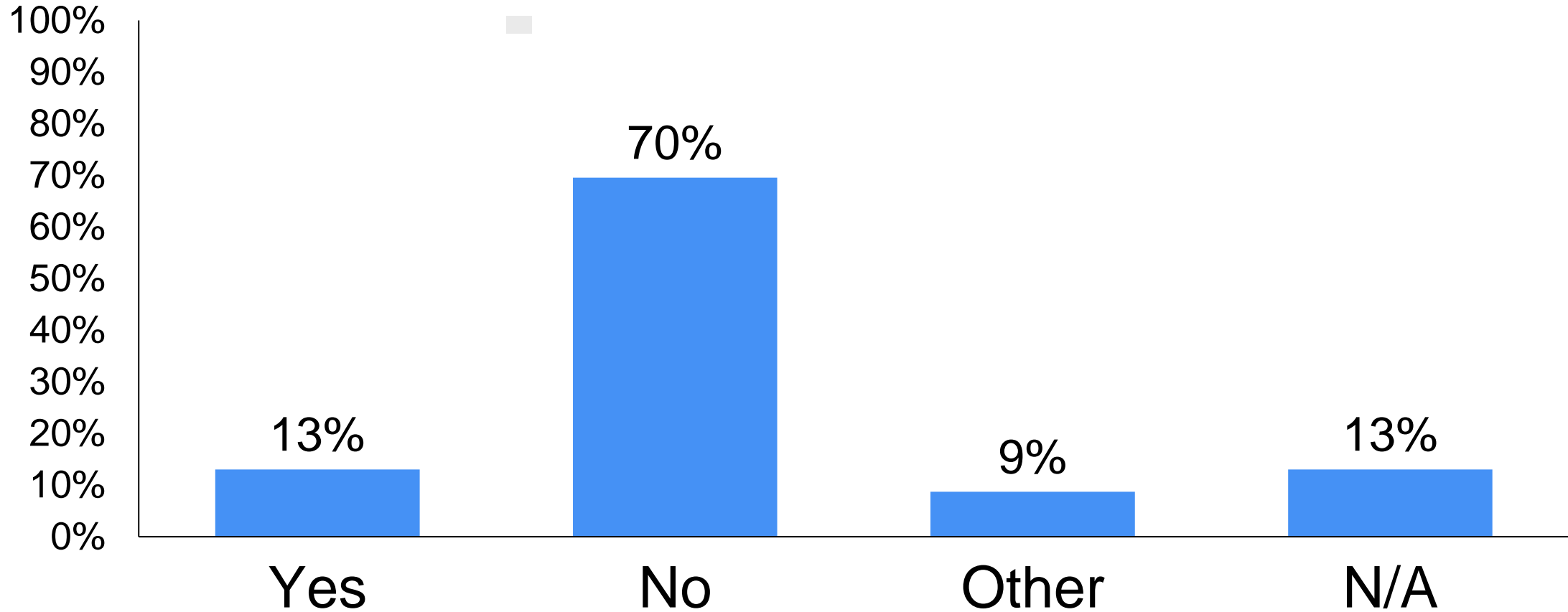
Mandate to pursue climate change initiatives

■ Yes ■ No





Analysis of climate impact of investment treaties





Principal obstacles to aligning investment treaties and policies with the Paris Agreement

