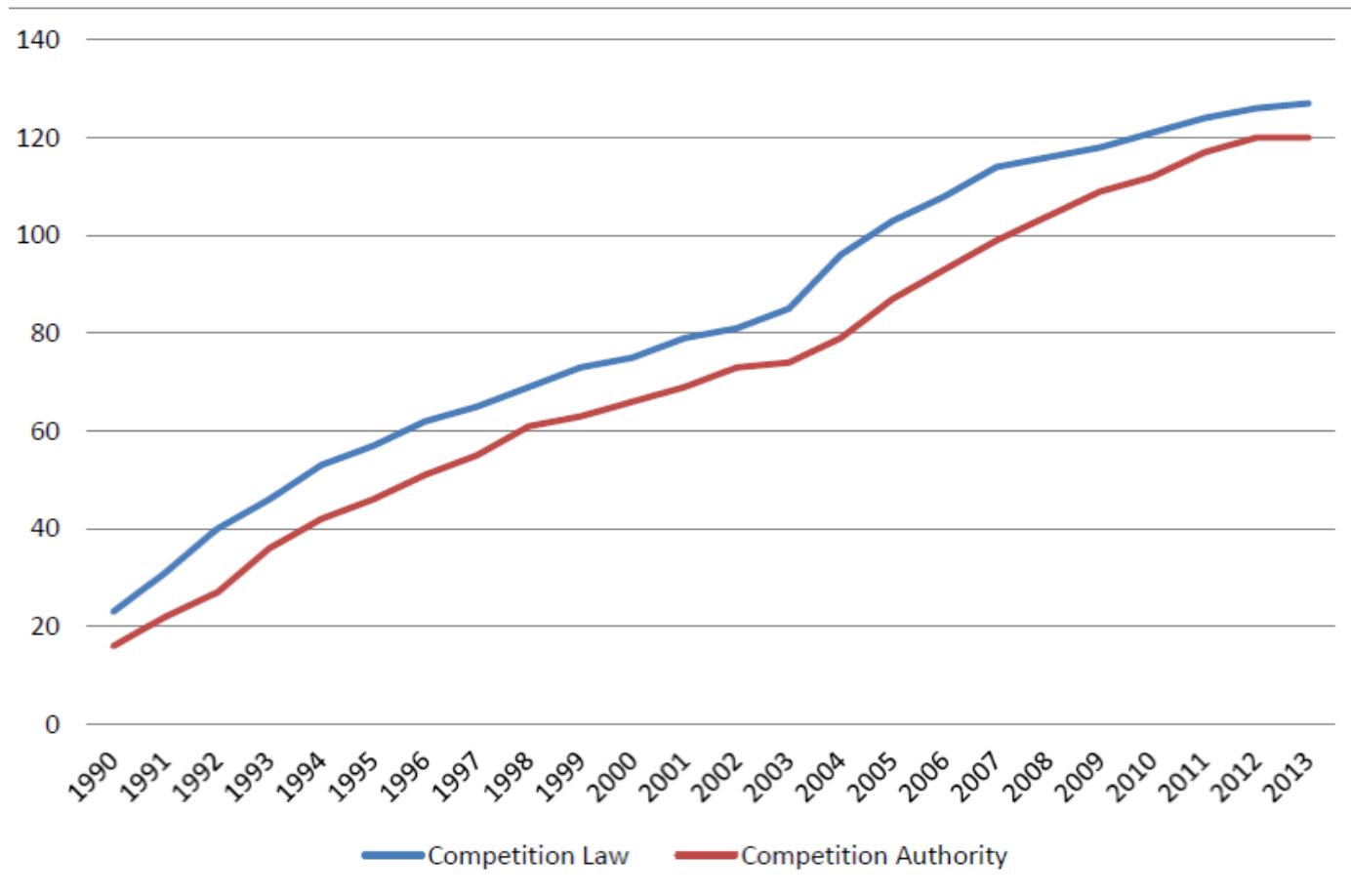




International Convergence in competition policy and enforcement: a view from the EU

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Global expansion of competition regimes



Competition law global coverage

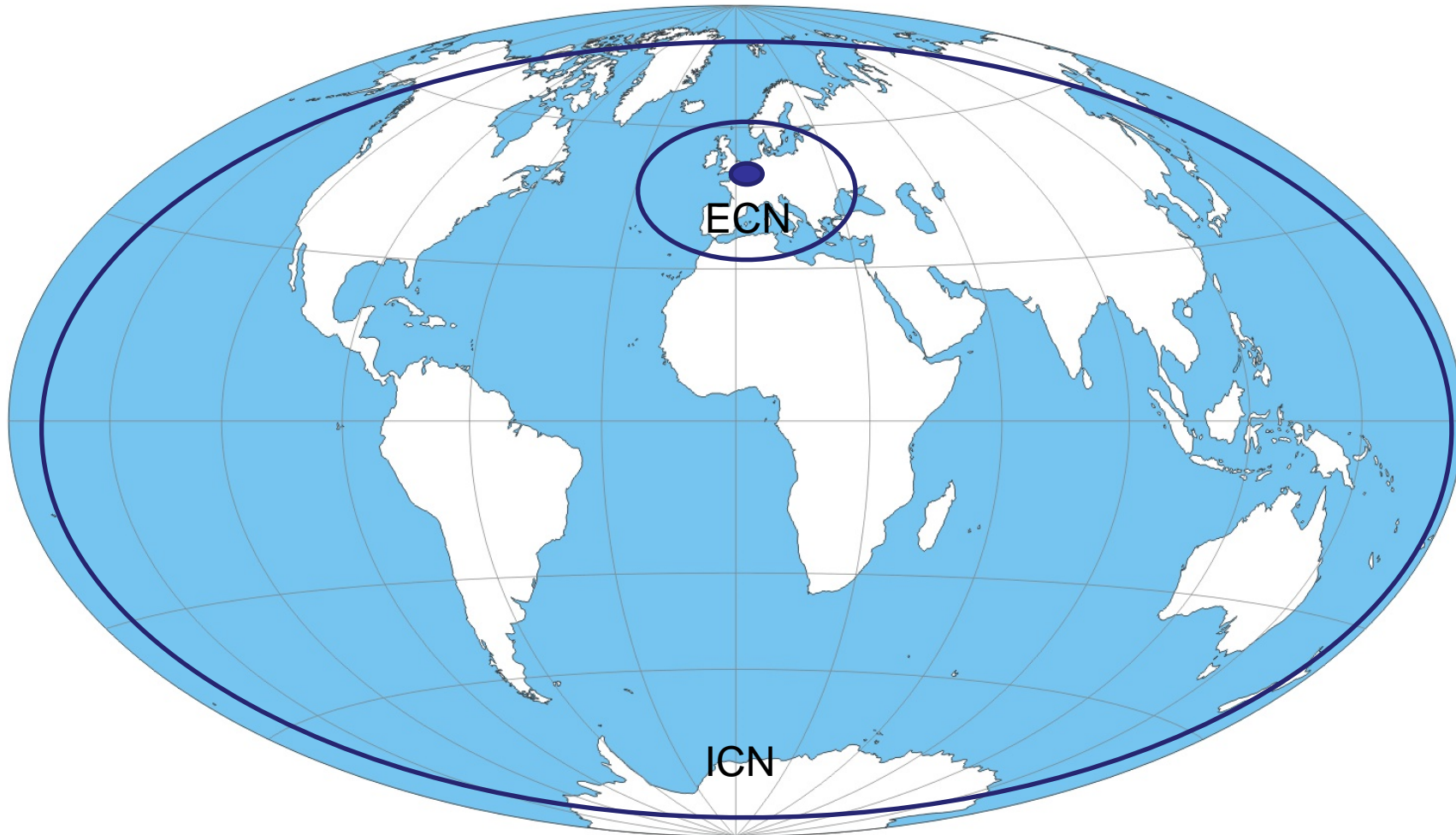
1990:

*less than 25% of the world's
population*

2013:

about 85% of the world's population

A perspective from the EU:



EU Law based systems: 1/3 of ICN members

Total number of ICN members: 127

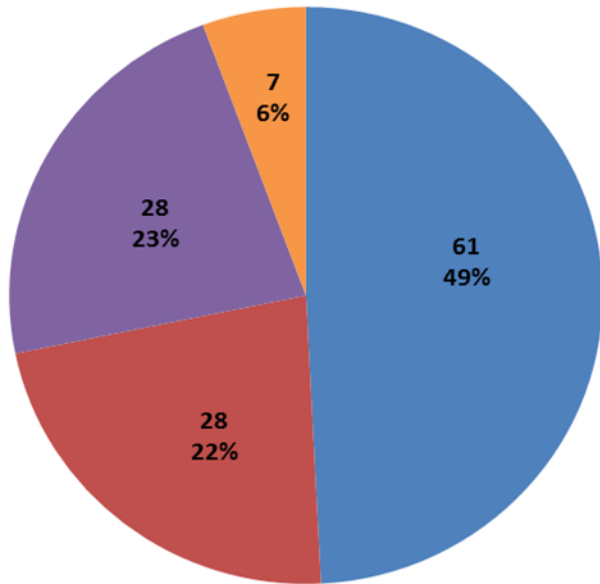
- Authorities from the EU 28: 34 (27 % of the total ICN);
- Authorities from the EU + EEA: 36 (28% of the total ICN);
- Authorities from the EU + EEA + candidate countries (FYRM, Montenegro, Serbia, Turkey): 40 (31% of the total ICN);
- Authorities from the EU 28 + EEA + candidate + potential candidate countries (Kosovo, Bosnia and Albania): 43 (34% of the total ICN)

The European Competition Network (ECN)

- Commission + 28 National Competition Authorities
- Convergence in substantive antitrust rules
 - Obligation to apply EU Law to cross-border practices (Art 3 Reg 1/2003)
 - Legal instruments to ensure coherent application (Arts 11-13 Reg 1/2003)
 - Informal cooperation within the ECN (sectoral groups,...)
- Progressive convergence in antitrust procedures
 - ECN Soft Law: Model Leniency Program; ECN Recommendations;
- Progressive convergence in substantive merger control

ECN achievements (2004-2014)

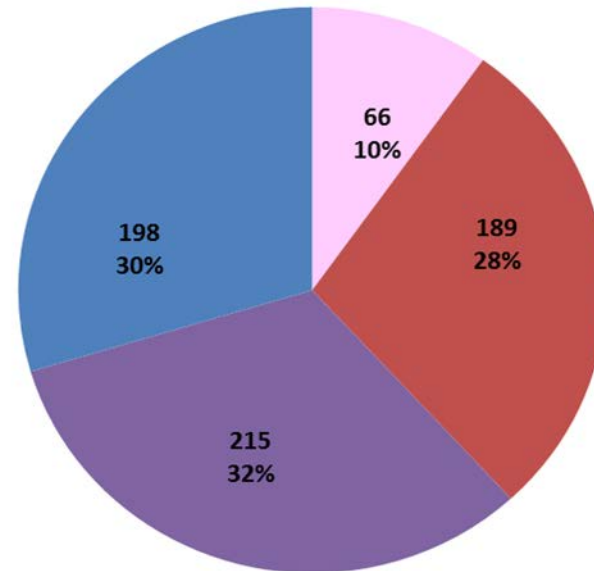
COM



- Art 101 - Cartels
- Art 101 - Other horizontal or vertical
- Art 102 and Art. 102 & 106
- Procedural

Total: 124

NCAs



- Art. 101 & 102
- Art. 101
- Art. 102
- Art. 101 - Cartels

Total: 668

EU/ECN: a positive factor for global convergence

- 1/3 of ICN members apply the same competition law in a closely coordinated manner;
- Beyond this core group, numerous new competition regimes have been influenced by the administrative EU model;
- EU model not static, open to influences from other systems and exchanges of best practices.
- Major evolution of the EU model in the last two decades (e.g. effects based assessment...) has contributed to global convergence.
- “Bloc dynamics” largely absent from convergence efforts at global level.

Beyond the EU: global convergence on competition rules

- ICN (established in 2001): Fosters global convergence, mostly on the basis of non-binding Recommended Practices, that embody global accepted standards.
- E.g. Merger Control
 - Recommended Practices for Merger Notification and Review Procedures
 - Recommended Practices for Merger Analysis

“Overall, 72% of ICN members responding to the survey indicated that MWG work product has contributed to changes in their merger review regimes”. (ICN MWG comprehensive assessment; 2011).

e.g. Unilateral conduct objectives (ICN Survey, 2007):

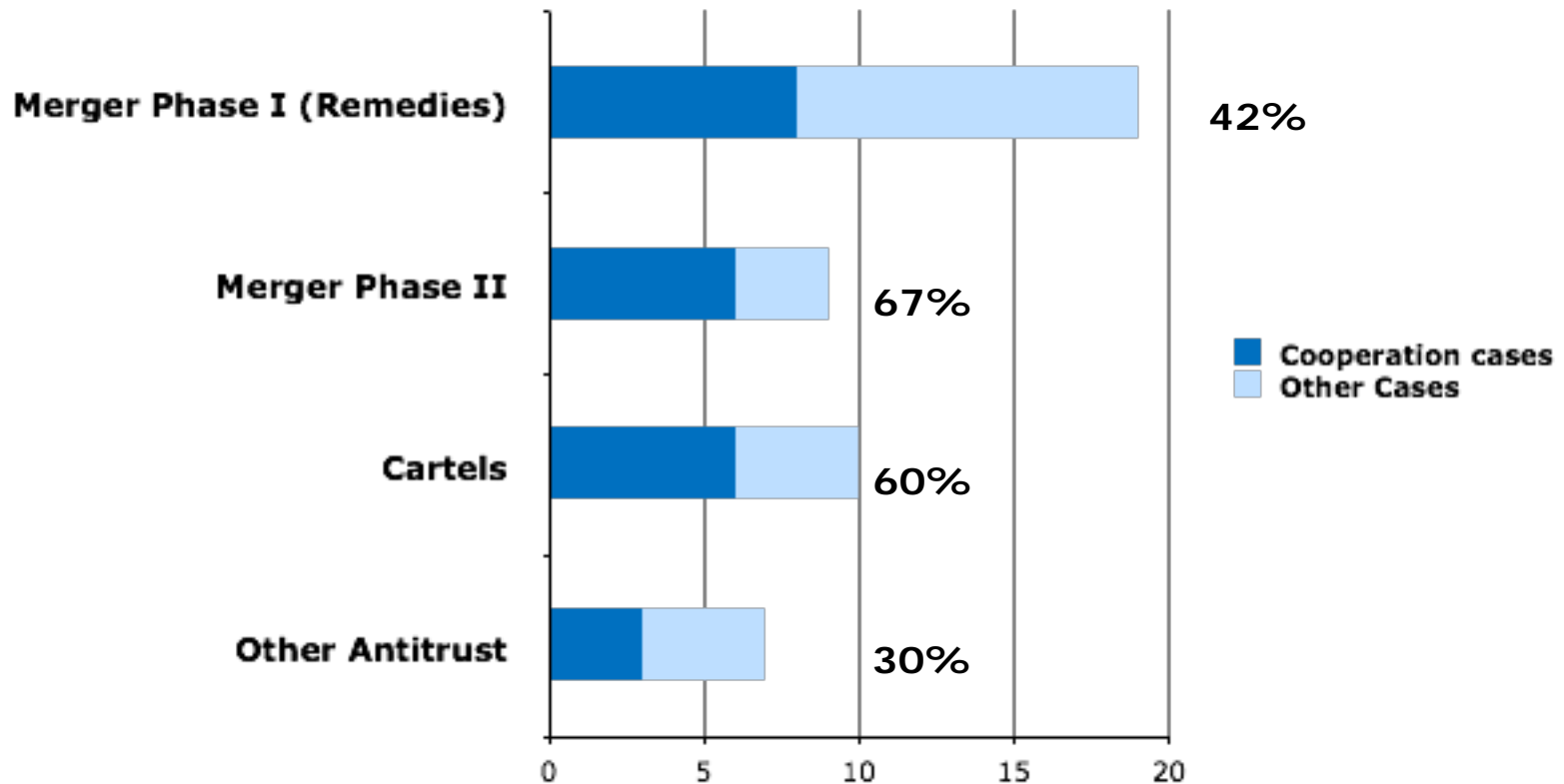
	Countries	Objectives	Ensuring an effective competitive process as a goal and/or a means	Promote consumer welfare	Maximize efficiency	Ensure economic freedom	Ensure a level playing field for SMEs	Promote fairness and equality	Promote consumer choice	Achieve market integration	Facilitate privatization and market liberalization	Promote competitiveness in international markets
1	Australia		X ^a	X	X		X			X		
2	Brazil		X ^a	X	X	X						
3	Bulgaria		X ^a	X		X		X				
4	Canada		X ^b	X	X		X		X			X
5	Chile		X ^a									
6	Czech Republic		X ^a			X						
7	European Union		X ^b	X	X					X		
8	France		X ^a	X	X	X		X				
9	Germany		X ^a	X	X	X	X					
10	Hungary		X ^b	X	X							
11	Ireland		X ^b	X					X			
12	Israel		X ^a	X		X						
13	Italy		X ^b	X		X						
14	Jamaica		X ^c	X	X			X	X			
15	Japan		X ^a	X				X				
16	Jersey		X ^b	X	X	X						
17	Korea		X ^b	X		X	X	X				
18	Latvia		X ^a	X					X			
19	Mexico		X ^a	X	X	X						
20	Netherlands		X ^b	X								
21	New Zealand		X ^b	X	X					X	X	
22	Pakistan			X	X	X						
23	Romania		X ^b	X								
24	Russia		X ^a	X	X	X				X	X	
25	Singapore		X ^c		X							
26	Slovak Republic		X ^b	X								
27	South Africa		X ^b	X	X		X	X	X			X
28	Sweden		X ^b	X								
29	Switzerland		X ^a	X	X	X	X					
30	Turkey		X ^a	X	X		X					
31	Ukraine		X ^a	X	X							
32	United Kingdom		X ^a	X	X							
33	United States		X ^b	X	X							
	Total		32	30	20	13	7	6	5	4	2	2

Global cooperation in enforcement

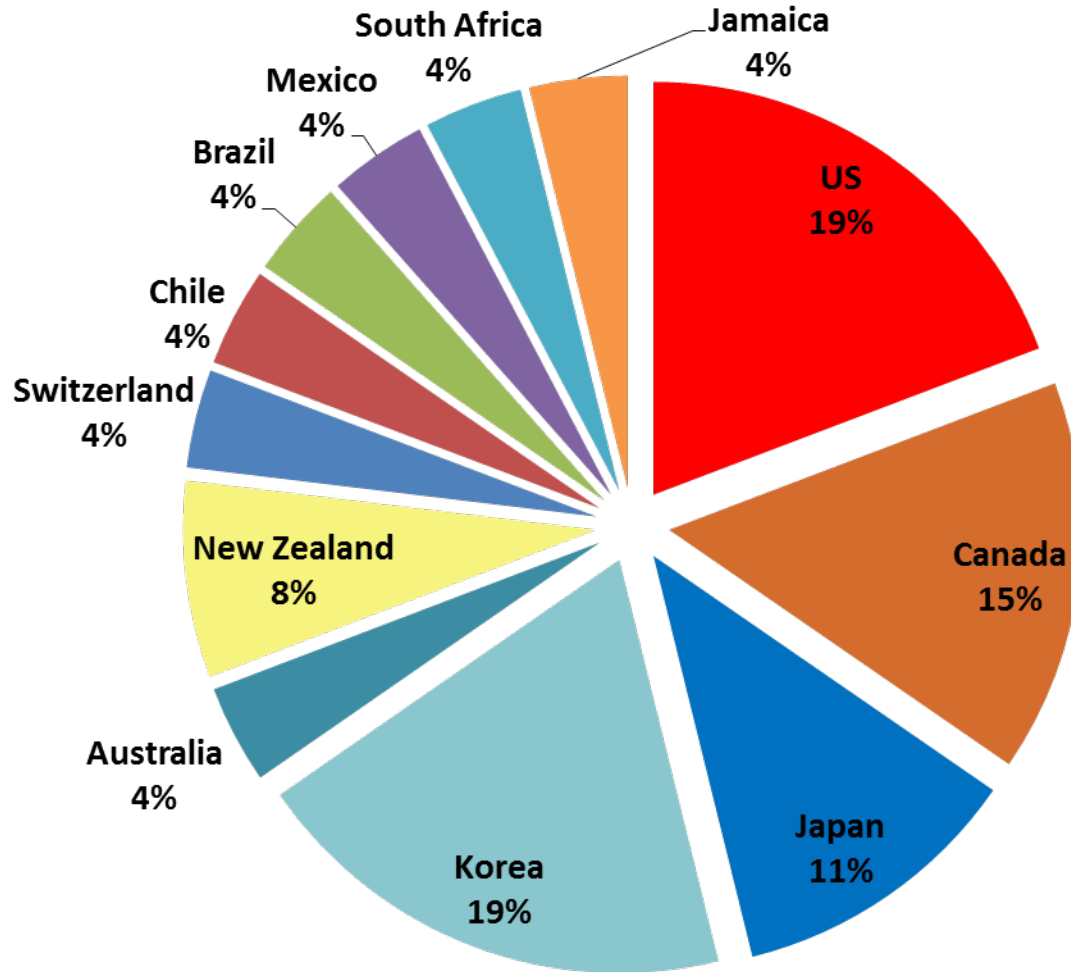
In a world of multiple enforcers, convergence of rules is not enough. Effective cooperation in enforcement is required to:

- ▶ Ensure effectiveness of enforcement actions (coordination of time-tables, collection of evidence...)
- ▶ Facilitate consistent outcomes
- ▶ Reduce costs for enforcers and companies (e.g. uncoordinated remedies)
- ▶ Maintain legitimacy of competition enforcement activities with multiple players

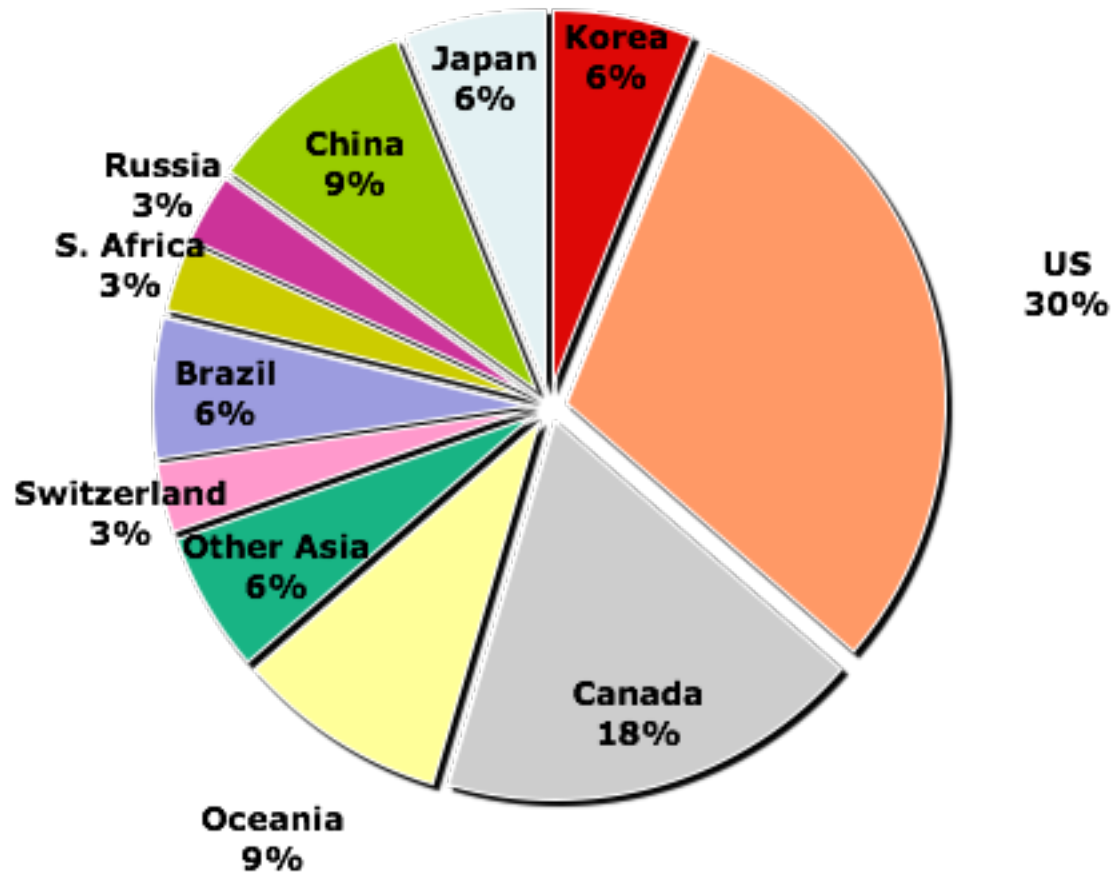
EU cases with international cooperation: (2010-2011)



The geography of cooperation in Cartels



The geography of cooperation in Mergers



ICN/OECD Report on International Cooperation

- Report based on a comprehensive questionnaire (2012). 57 responding agencies.
- Report confirms increase of cooperation cases
 - ▶ 116 Merger cases in 2011 (86 in 2007)
 - ▶ 55 Cartel (48 in 2007)
 - ▶ 29 Antitrust cases (22 in 2007)
- But limited number of agencies with international cooperation experience (cooperation taking place mostly within regional networks):
 - ▶ Cartels: 19 agencies
 - ▶ Mergers: 21 agencies
 - ▶ Antitrust: 13 agencies

Actions to enhance international cooperation frameworks:

- Strengthened bilateral cooperation with established authorities of major trading partners
- Extension of international cooperation to BRICS
- Enhanced dialogue at multilateral (ICN, OECD) level with a view to:
 - establish multilateral cooperation frameworks / remove obstacles to multilateral cooperation

Global convergence on rules on subsidies?

- EU: State Aids control regime. Notification system; high transparency; strong enforcement by the Commission.
- World-wide: limited actionable rules and transparency obligations for subsidies affecting trade in goods in WTO.
- Stronger convergence on subsidies control would reduce competition distortions world-wide and contribute to growth.
- Bilateral FTAs concluded by the EU including rules on subsidies:
 - Korea; Singapore; Central America; Andean Countries, Moldova, Georgia.