

Status of EIA Compliance in Asia



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AECEN Principal Activities

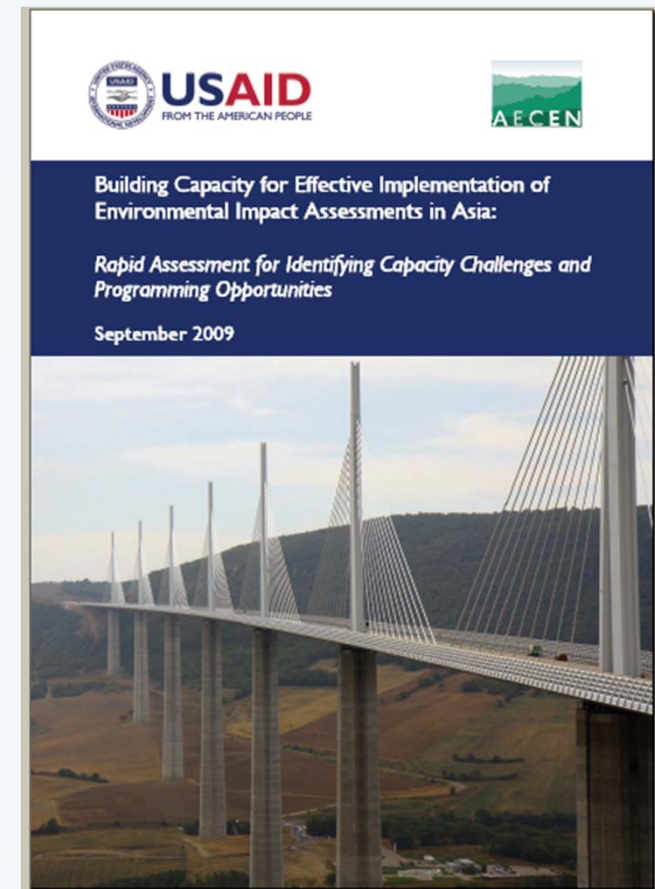
- Facilitating and replicating twinning partnerships that strengthen implementation and enforcement of environmental policies, laws, regulations, etc.
- Building capacity through specialized training and skills development;
- Knowledge management including website, publications and applied research; and
- Networking building, regional cooperation, and communities of practice via AECEN.

Rapid Assessment on EIA Needs and Interests

- AECEN commissioned a rapid assessment of the status of EIA implementation in Asia.
- Conducted over short period time to provide overview and not intended to be comprehensive or definitive.
- Covers: (i) country status; (ii) practice in multilateral and bilateral agencies and private sector financing institutions; (iii) implementation challenges; (iv) past and ongoing capacity building initiatives; (v) lessons learned and need for improvement in capacity building; and (vi) possible AECEN engagement in EIA capacity building; and (vii) conclusions.
- Report on thumb drive as part of workshop materials.

Rapid Assessment Findings

- Virtually all countries in Asia require EIA and this is generally embedded in national laws, regulations, and mandated procedures;
- Over time, developing countries have experimented with various innovations, such as cumulative assessments, health impact assessments, social impact assessments, and incorporation of climate change, but these innovations have not been adopted widely.



Rapid Assessment Confirms Earlier Findings

- **Lohani et al. (1997)** - (i) insufficient procedural guidance; (ii) inadequate baseline data; (iii) cost of EIA preparation; (iv) delays in project implementation; (v) lack of expertise for assessing impacts; (vi) inefficient communication of EIA results to decision makers; (vii) lack of interagency coordination; (viii) limited capacity to review EIA reports; and (ix) insufficient commitment to follow up on implementation of the identified environmental protection measures and the monitoring requirements.
- **Briffet (2000)** - EIA is often “used as a means to an end rather than as a beneficial planning tool” with the “impressive array of legislation and sophisticated processes on paper” often ineffective in practice.

Rapid Assessment Findings: Common Challenges

- (i) Loopholes in the list of prescribed projects
- (ii) Late timing – decision has already been made to proceed
- (iii) Inadequate consideration of alternatives
- (iv) Incremental rather than cumulative impacts
- (v) Conflicting interests - public sector projects are often the worst offenders for non-compliance
- (vi) Inadequate qualifications and certification
- (vii) Lack of data – especially cause-effect or dose-response data
- (viii) Systematic under-estimation of costs
- (ix) Inadequate monitoring plans

Rapid Assessment Findings: Common Challenges

- (x) Poor compliance and enforcement
- (xi) Inadequate sanctions +/- prosecutions
- (xii) Conflicting jurisdictions
- (xiii) Inadequate public participation
- (xiv) High transaction costs

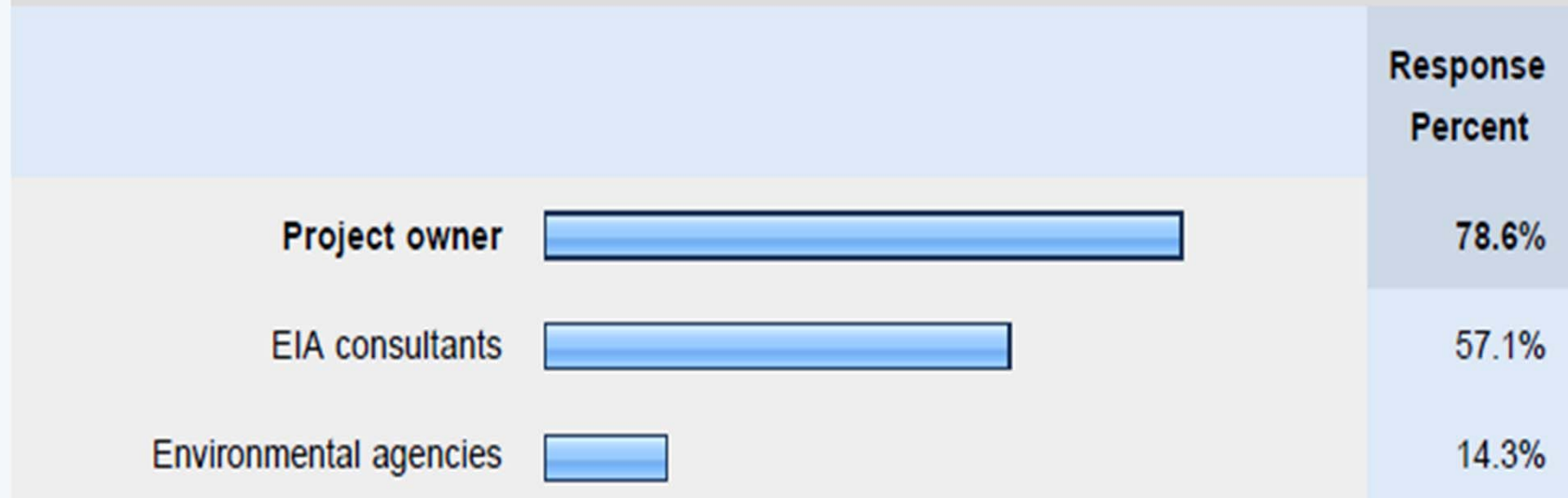
Note that a number of these challenges have more to do with effective implementation of EIAs and environmental monitoring and management plans, rather than their preparation.

Online Survey of Workshop Participants

- Conducted online survey of countries participating in the workshop
- 13 countries responded, including 2 responses from China.
- Focus areas included: (i) legislation; (ii) preparation, review and approval; (iii) enforcement and compliance tools; (iv) implementation and monitoring; and (v) priorities for capacity building
- Results provide a basis for discussion at workshop

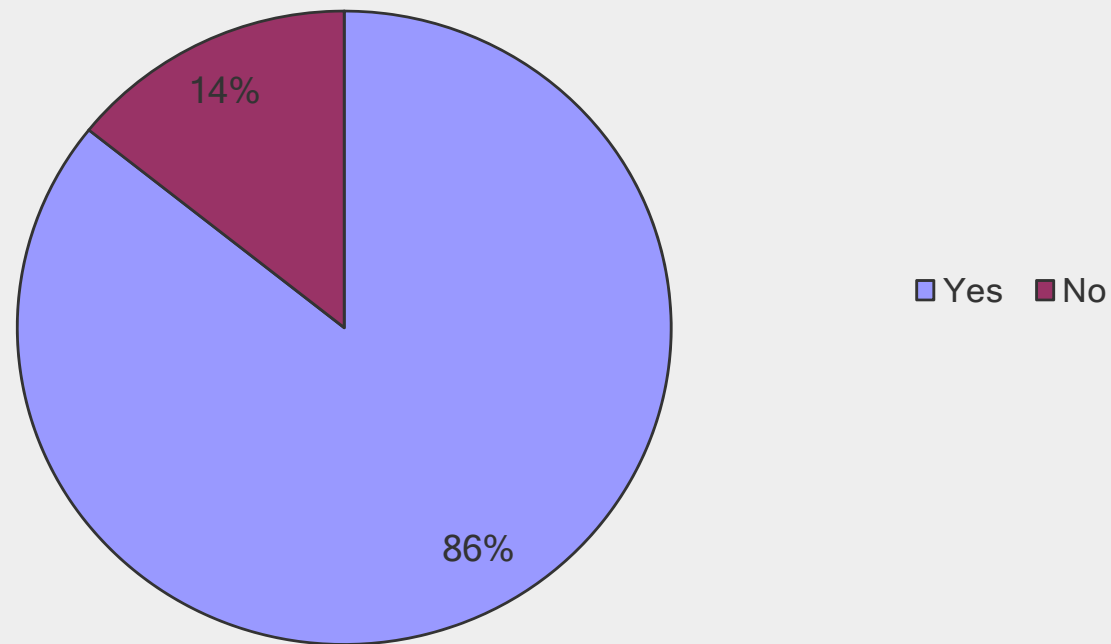
Survey Results: Responsibility for Report Accuracy

Please indicate who takes legal responsibility for the accuracy of EIA reports?



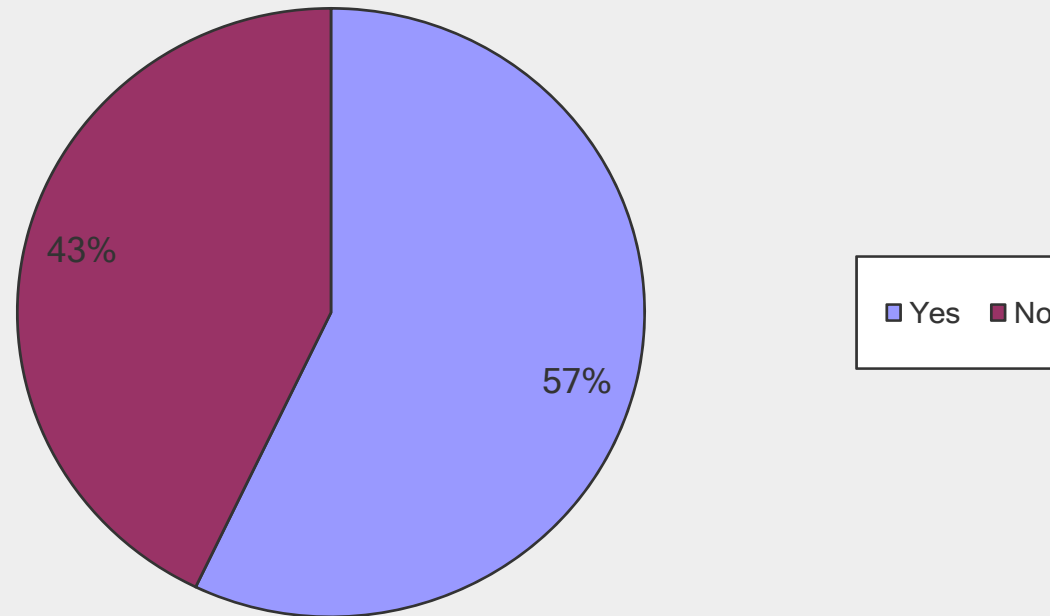
Survey Results: Social Impact Assessment

Does EIA in your country explicitly incorporate aspects of social impact assessment (SIA)?



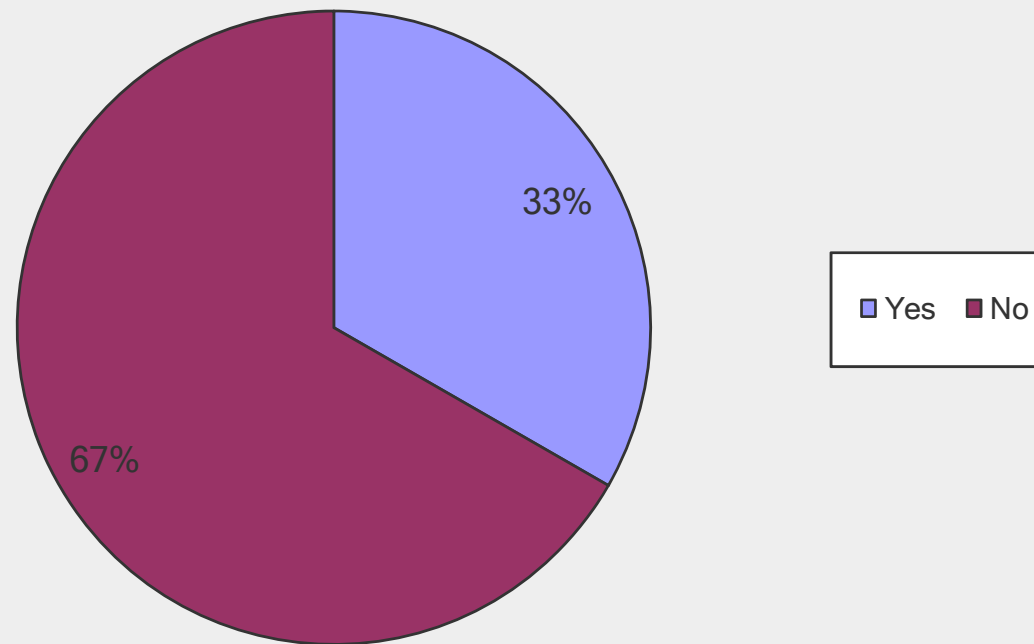
Survey Results: Health Impact Assessment

Does EIA in your country explicitly incorporate aspects of health impact assessment (HIA)?



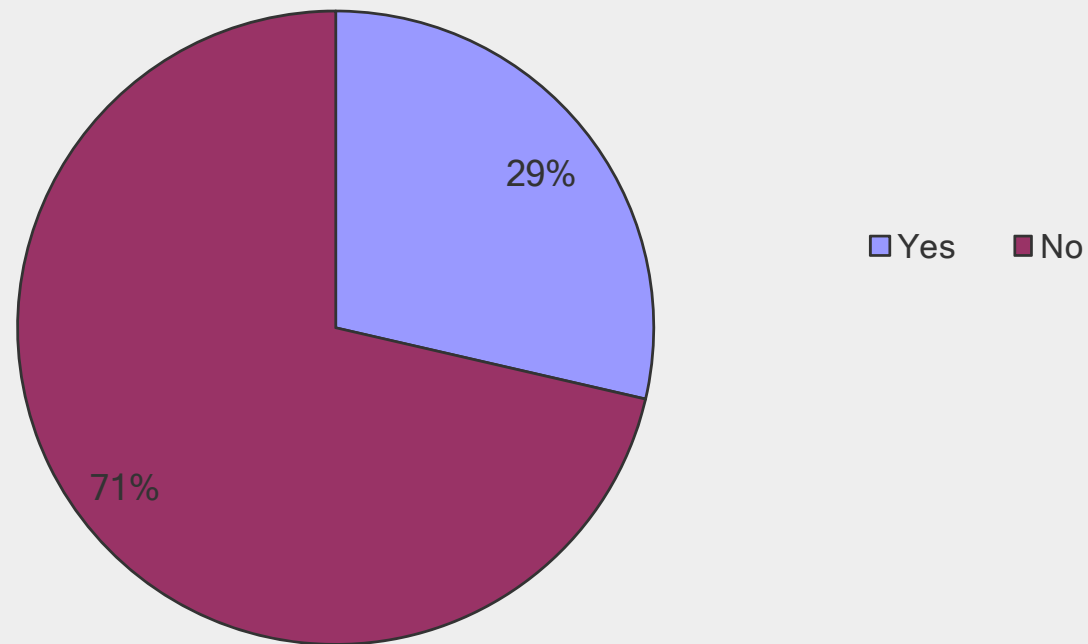
Survey Results: SEIA or Sectoral EIA

Is there a provision in the law requiring the use of upstream EIA tools such as Strategic EIA or Sectoral EIA?



Survey Results: Climate Change Adaptation

Do the EIA regulations require climate change adaptation considerations as part of the project level analysis?





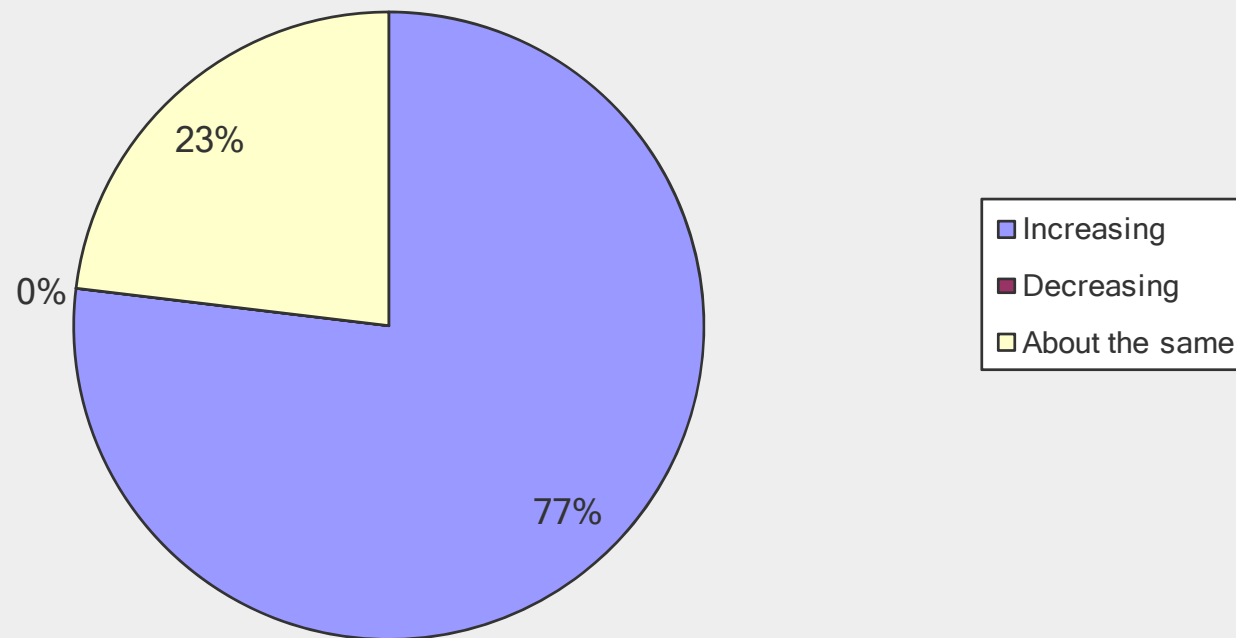
Survey Results: Regulatory Limitations to Implementation

What are some of the key legal and regulatory limitations to effective implementation and enforcement of EIA requirements in your country?

	Response Percent	Response Count
List of prescribed projects are not sufficiently comprehensive or clearly defined	15.4%	2
EIAs are not legally required early enough in a project cycle	23.1%	3
Inadequate EIA regulations do not provide clear guidelines on the conduct of EIA	23.1%	3
Laws do not impose enough accountability on developers and/or EIA consultants	38.5%	5
There are overlapping and/or conflicting jurisdictions of multiple agencies	30.8%	4
Sanctions are inadequate for violation (e.g. financial penalty is too small to act as a deterrent)	46.2%	6
Process is lengthy and cumbersome to acquire EIA approval	23.1%	3
EIA laws and regulations do not require effective public participation	23.1%	3
Guidelines are inadequate for EIA-approving authorities	7.7%	1
Mechanisms are inadequate to monitor and enforce EIA regulations	53.8%	7
Other (please specify)	15.4%	2

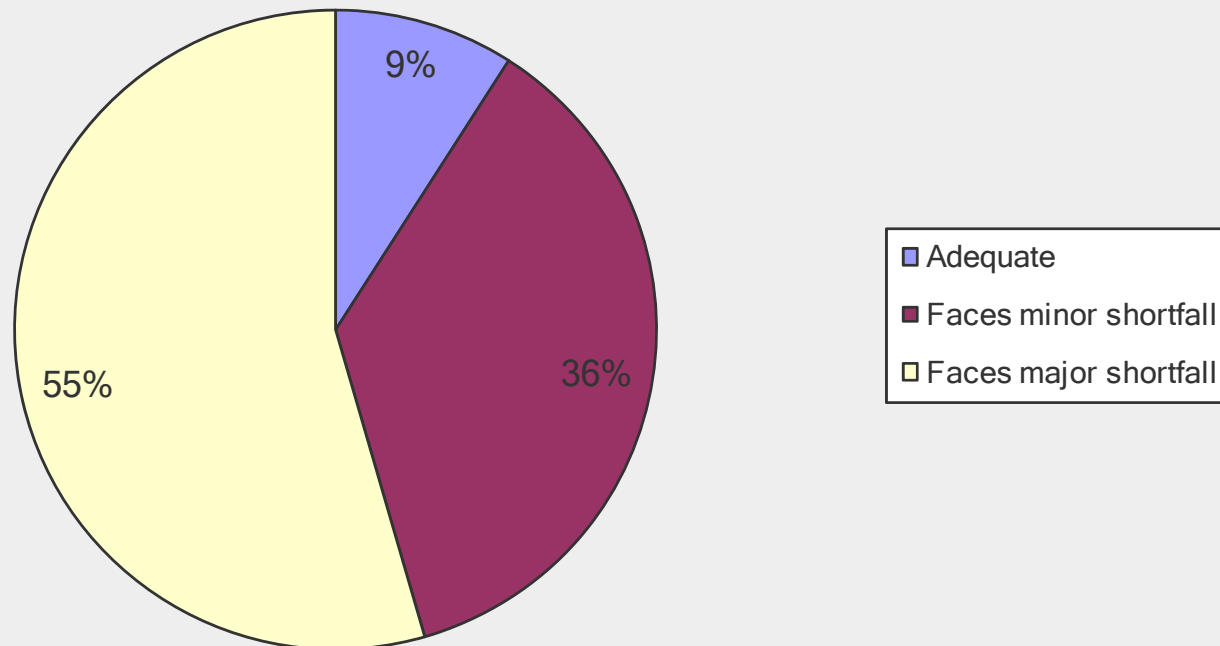
Survey Results: Emphasis on EIA Implementation

Is EIA implementation and enforcement receiving increasing or decreasing policy attention and budget allocation in your country?



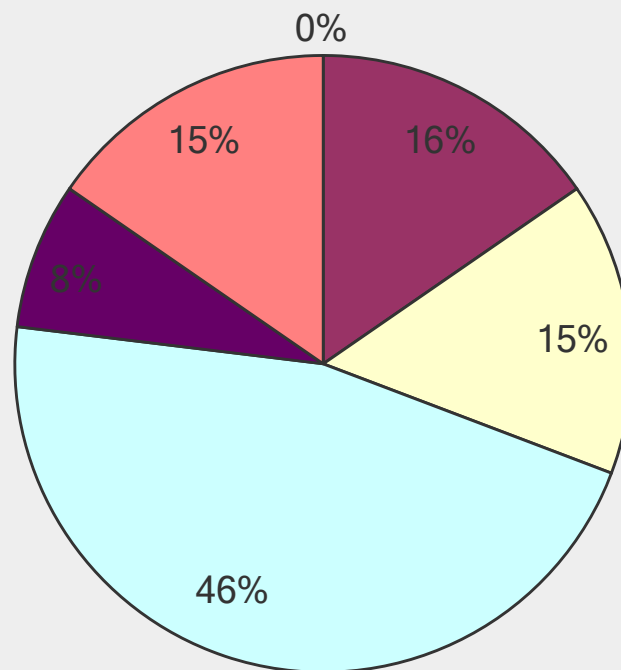
Survey Results: Staffing Levels

How would you describe the level of strength of the full time staff involved in the approval and enforcement of EIA?



Survey Results: Number of Projects

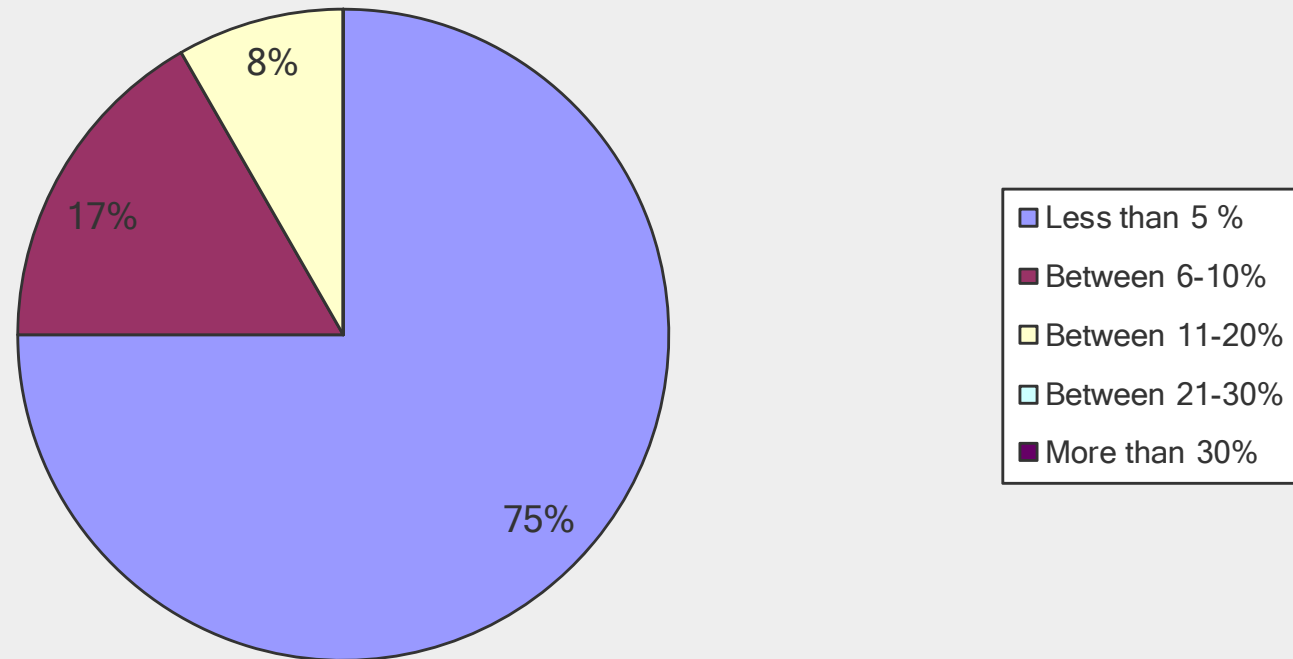
What is the average annual number of projects which your agency has overseen in the preparation, review, approval and implementation of EIAs ?



- Under 10 projects
- Over 10 but under 20 projects
- Over 20 but under 100 projects
- Over 100 but under 400 projects
- Over 400 but under 1000 projects
- Over 1000 projects

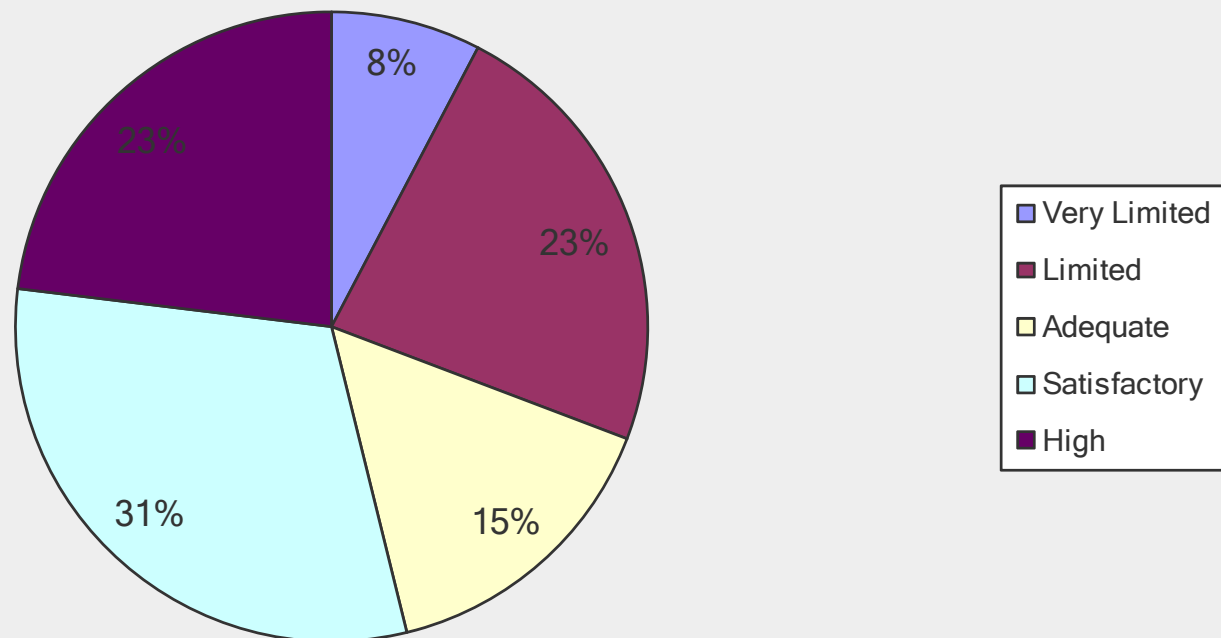
Survey Results: EIA Approval Denied

Of the total projects submitted, what is the average annual number of projects for which EIA approval is refused?



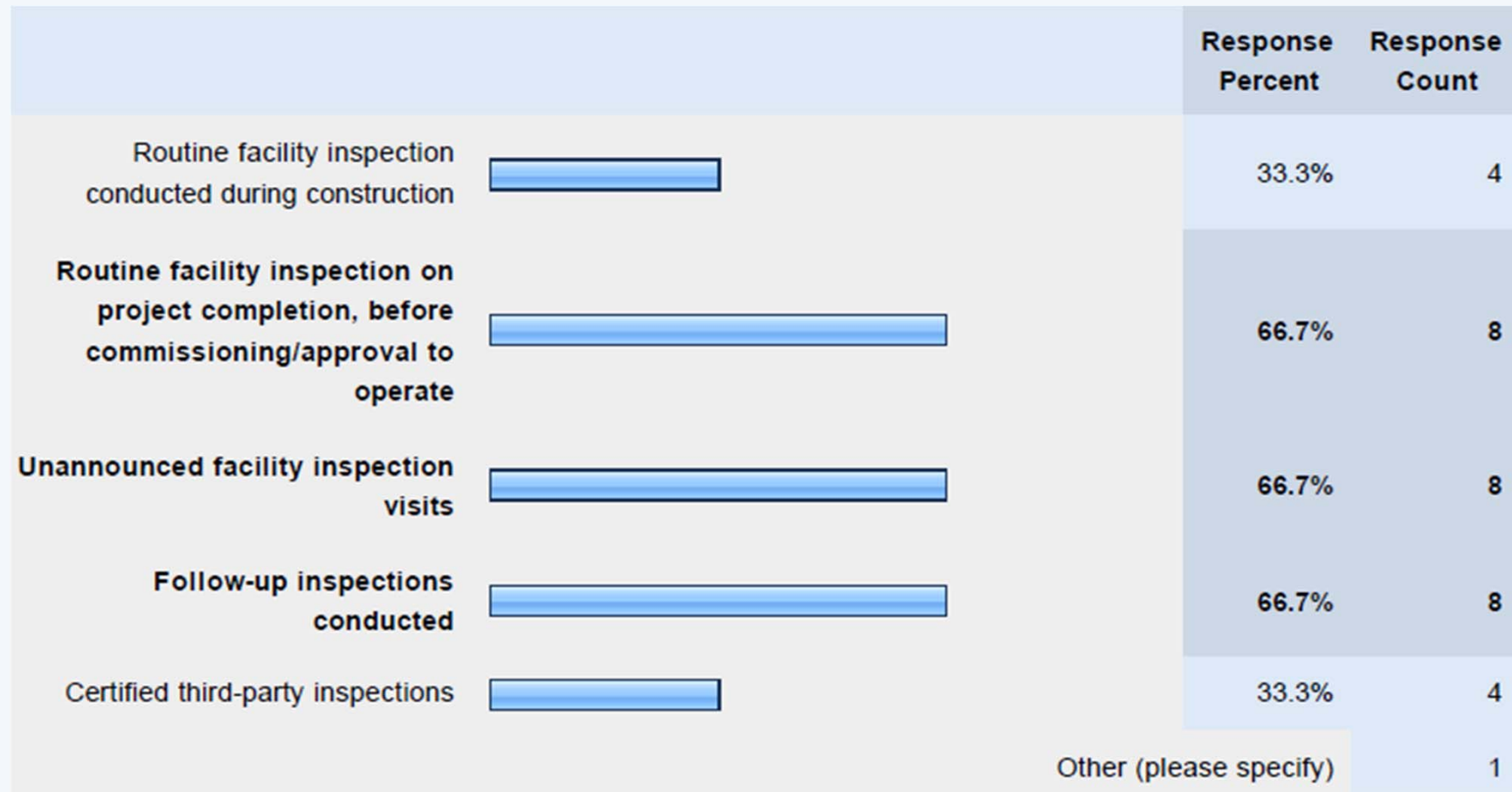
Survey Results: Overall Agency Review Capacity

How would you rate your agency's overall capacity to review and approve EIA reports?



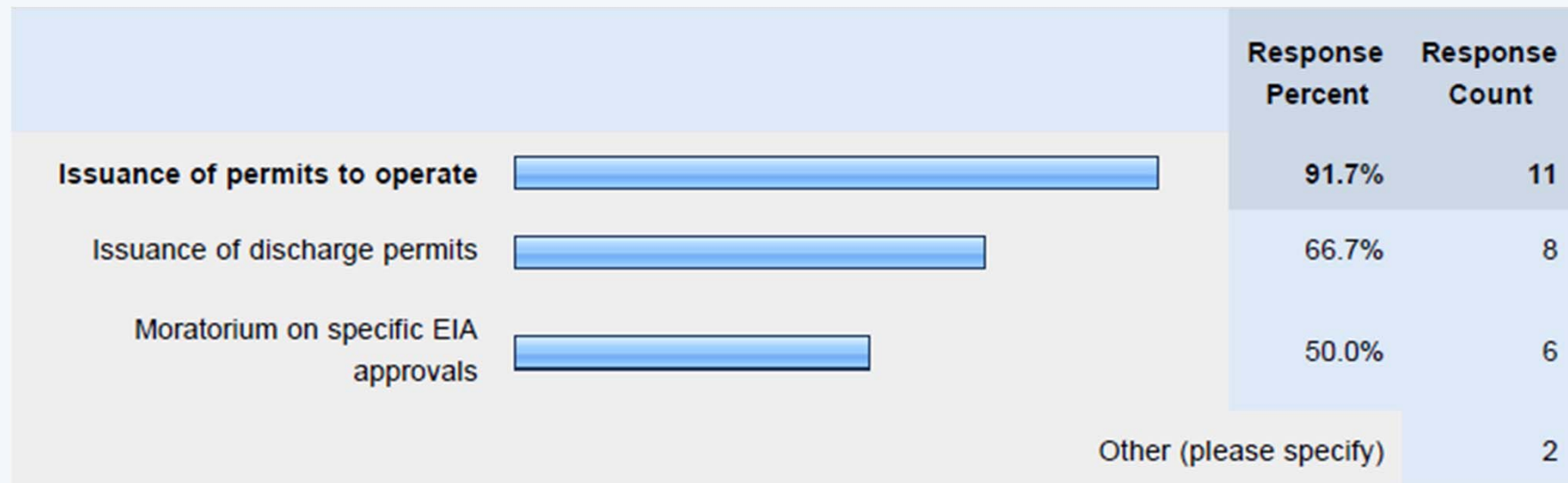
Survey Results: Inspection Tools

Which INSPECTION tools are available within your country's legal framework for the enforcement of EIA commitments?



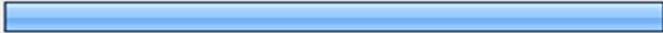
Survey Results: Approval and Permitting Tools

Which APPROVAL AND PERMITTING tools are available within your country's legal framework for the enforcement of EIA commitments?



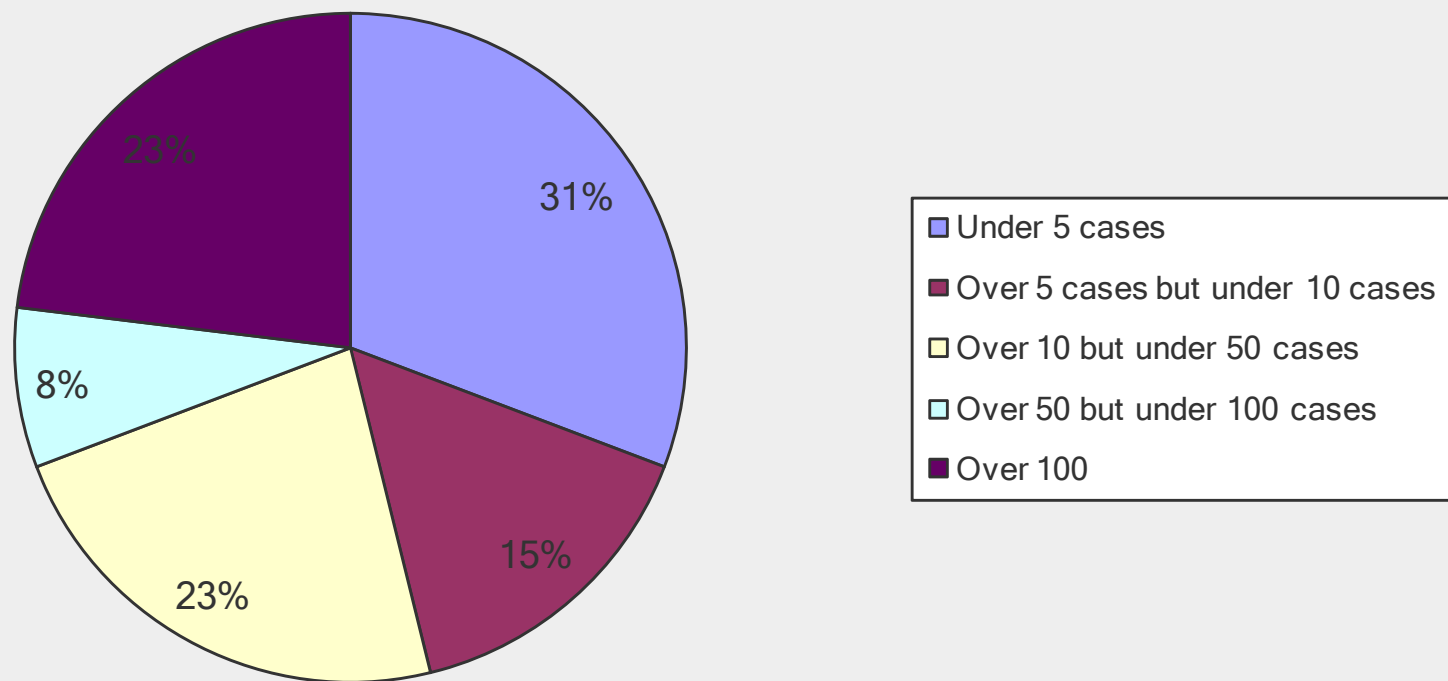
Survey Results: Enforcement Tools

Which ENFORCEMENT ACTIONS are available within your country's legal framework for the enforcement of EIA commitments?

		Response Percent	Response Count
Warnings and informal notices of violation		61.5%	8
Formal notices of violation		84.6%	11
Criminal enforcement (fines, imprisonment etc)		76.9%	10
Administrative enforcement (monetary penalties, revocation of permits, suspension of operations, closure of facilities etc.)		84.6%	11
Civil judicial enforcement (damage claims, findings of liability or injunctions etc.)		46.2%	6
Citizen lawsuits		46.2%	6
Other (please specify)			1

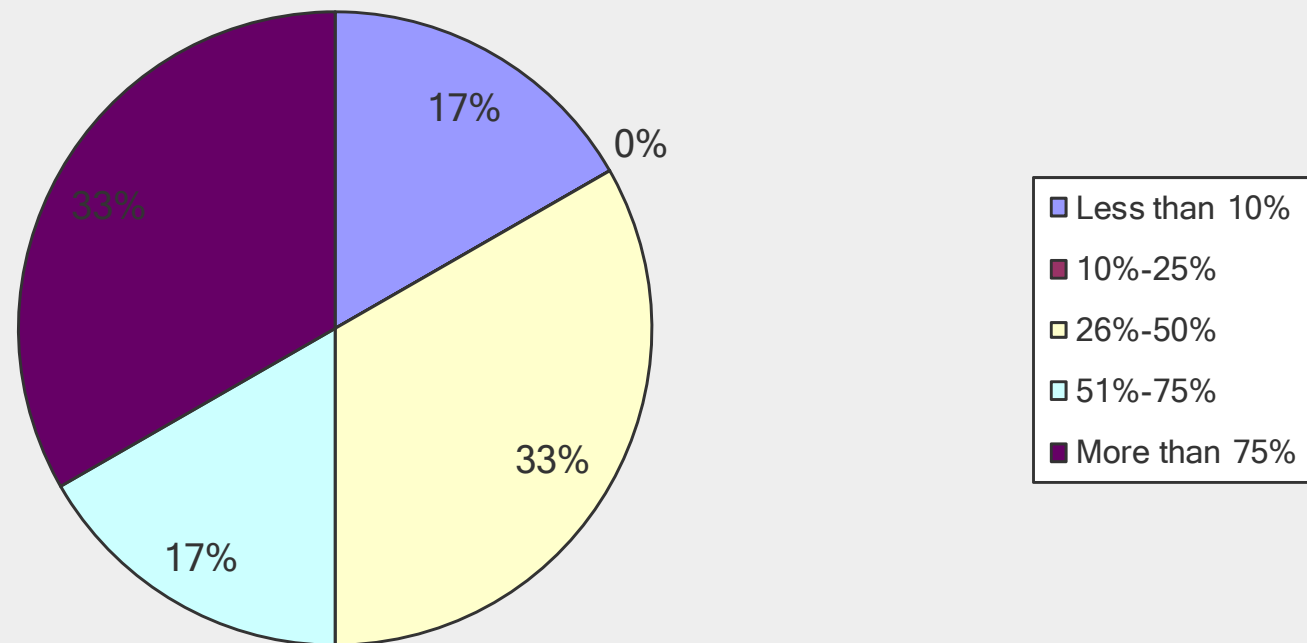
Survey Results: Enforcement Actions

What is the average annual number of enforcement actions related to EIA commitments does your agency initiate?



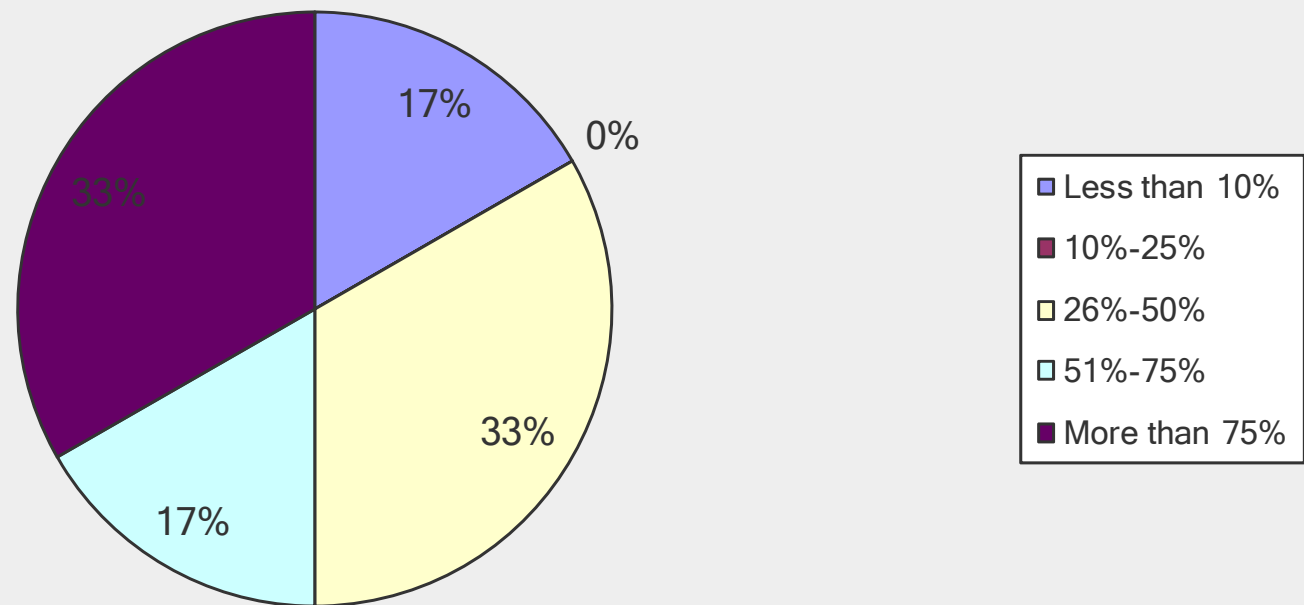
Survey Results: Mitigation Measures

Based on your agency's experience in reviewing EIA reports, approximately what percentage of EIAs give proper attention to the identification of mitigation measures?



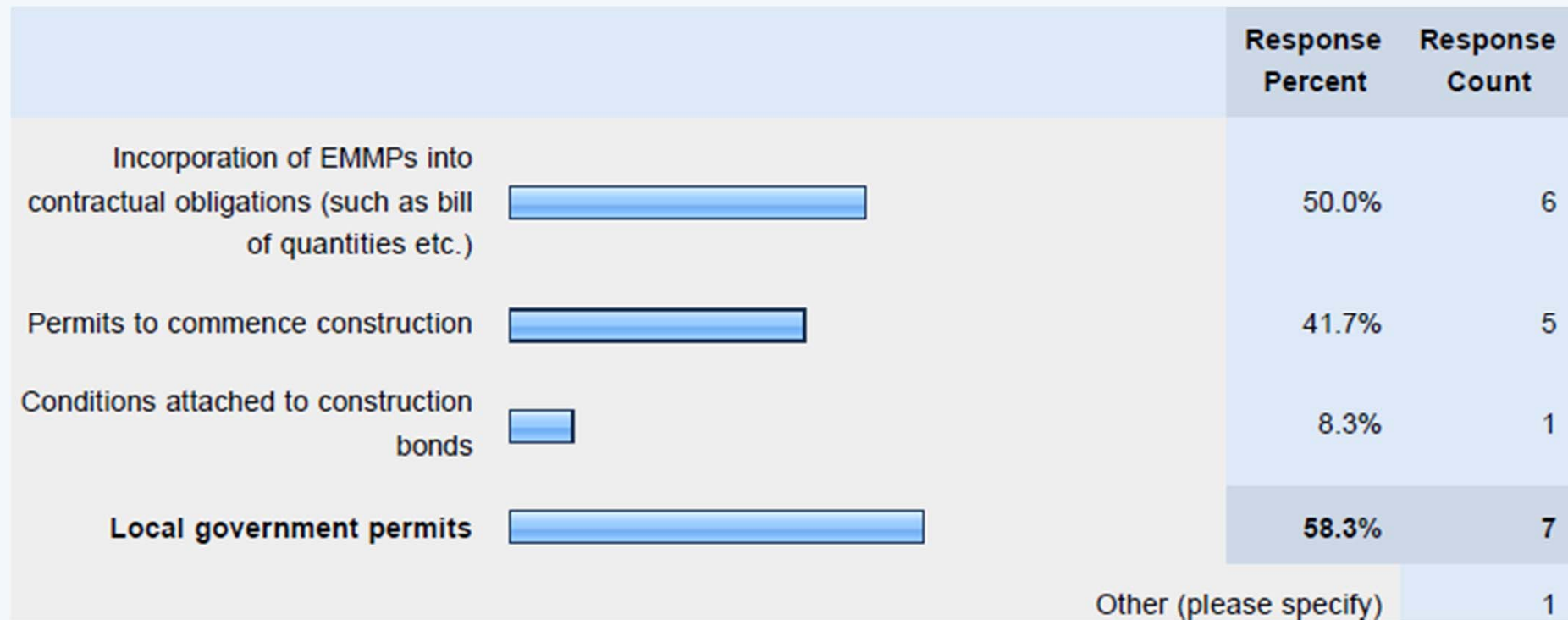
Survey Results: Preparation of EMMP

Based on your agency's experience in reviewing EIA reports, approximately what percentage of EIAs give appropriate attention to the preparation of an Environmental Monitoring and Management Plan (EMMP)?



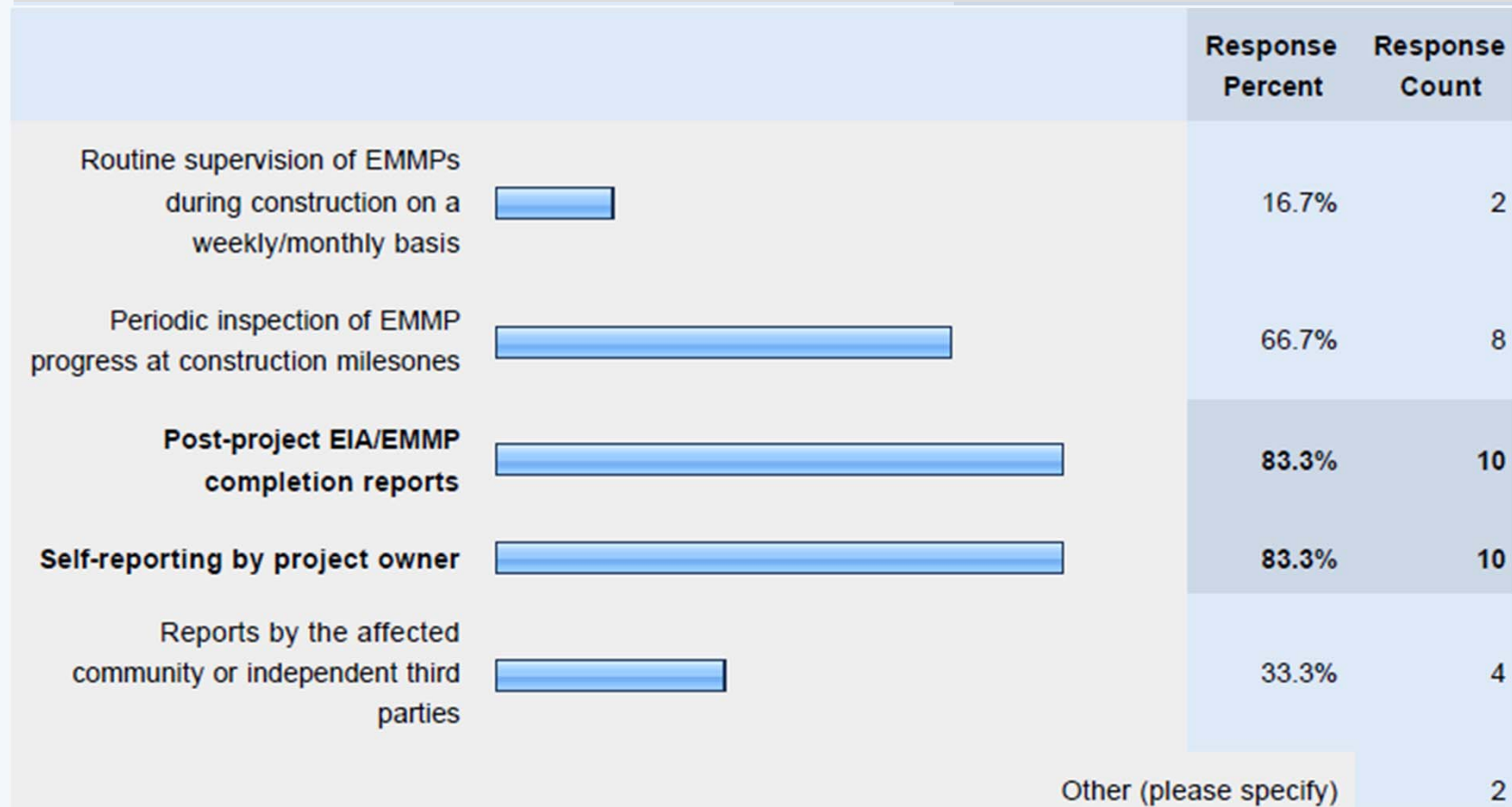
Survey Results: Implementing Mitigation Measures

What are some mechanisms by which mitigation measures identified in the EMMPs are implemented in practice?



Survey Results: Monitoring Implementation of EMMP

How does your agency monitor the implementation of EMMPs in practice?



Survey Results: Key Obstacles for EMMPs

Based on your experience, what are the key obstacles for the effective implementation and monitoring of EMMPs? Please select the three most important reasons.

	Response Percent	Response Count
Lack of ownership/commitment for EMMPs by project owner	53.8%	7
High transaction cost and inadequate funding in preparing the EIA	30.8%	4
Inadequate financing for monitoring EMMPs	61.5%	8
Insufficient procedural guidance	30.8%	4
Lack of baseline data and no funding for data collection	23.1%	3
No sound basis/ expertise for proposed mitigation measures	23.1%	3
Proposed EMMPs are not cost-effective	23.1%	3
Inadequate sanctions (e.g. level of financial penalty is too low)	46.2%	6

Survey Results: Capacity Building Priorities

Please identify priorities for capacity building in your country in relation to the following stages of EIA, as High, Medium, or Low.

	High	Medium	Low	Response Count
Screening	3	7	2	12
Scoping	4	8	0	12
Baseline study	5	4	3	12
Assessment of impacts	7	4	0	11
Design of mitigation measures	7	5	1	13
Assessment of alternatives	6	4	3	13
EIA report preparation	4	6	2	12
EIA review process and approval	5	7	0	12
Implementation of mitigations measures/EMMPs	7	4	1	12
Audit and evaluation	7	2	3	12

Overall Assessment

- Prior reviews of EIA practice plus the rapid assessment and survey results indicate that EIA rules are still being implemented only partially in most Asian nations;
- Project owners and consultants take responsibility for EIA preparation and most environment agencies are capable of adequate EIA review;
- Implementation of EIA mitigation measures falls down at the level of the EMMPs;
- Funding and staffing constraints exist but more could be done using innovative approaches;

Overall Assessment (cont.)

- The main challenges identified are inadequate mechanisms to enforce EIA implementation and sanctions that are too small to act as a disincentive;
- Generally there are very few enforcement actions or project refusals, given the large number of EIAs every year; and
- Capacity building is needed in assessment of impacts, design of mitigation measures, EMMP implementation, and audit/evaluation.

Thank you for your attention.

