

FINAL SUMMARY OF THE DISCUSSION

on the Results of the Second Meeting

of the Coordination Committee of the BRICS Law Institute and of the Expert Group on Legal Support to Inter-State Partnership and Integration on Economics, Finance, Taxation and Customs

1. We, the participants of the Second Coordination Committee Meeting of the BRICS Law Institute and the Expert Group on Legal Support to Inter-State Partnership and Integration on Economics, Finance, Taxation and Customs, met in Ekaterinburg (Russian Federation) on 8-9 June 2017 in order to analyze the role of the BRICS and developing countries in international economic relations and to outline possible directions for taking concrete measures in areas of joint interest in relation to tax matters, including the settlement of cross-border tax disputes, and information exchange, education, cooperation and research on legal issues connected with capacity building in such areas;

Towards this end the group has drafted an aspirational model draft convention, which suggest innovative and ambitious approaches in terms of tax regimes and cross-border tax dispute resolutions.

2. WTO statistics data on trade between the BRICS countries and the rest of the world indicates that the share of the BRICS countries in the world exports ranged from 17% to 19% of the world indicators for the period of 2012 to 2016. (Figure 1).

The share of the BRICS countries in the world imports of goods ranged from 16% to 15% over the same period (Figure 2).

Separately, the BRICS countries showed different indicators: the largest imports of agricultural goods were in China, the least imports - in South Africa; The highest export of agricultural products - in Brazil and China; The smallest - in South Africa (Figure 3).

The highest export of fuel and mining products was in Russia, the highest import was in China (Figure 4).

The highest imports and exports of manufacture products were in China, the least exports and imports - in South Africa (Figure 5).

3. Based on recent studies conducted by the participants of the Coordinating Committee Meeting of the BRICS Law Institute and the Expert Group, we came to the need to identify the following steps in the relevant areas that could provide some contribution to the achievement of the identified directions noted above in this document:

a) Development of an effective system for settlement of cross-border tax disputes, including mediation/ arbitration with representatives of the legal experts nominated

by the BRICS, which suggests innovative approaches that are in harmony with the constitutional and legal frameworks of BRICS countries and can furnish a basis of change and innovation to evolve such frameworks;

b) Simplification of the mechanisms for eliminating of international double taxation and tax administration in the BRICS with respect to certain types of income on a multilateral basis;

c) Possible future development of common cross-border tax rules concerning further types of business profits;

d) Coordination of joint actions and efforts of the BRICS states in the field of technical capacity building and education in relation to the matters falling within the scope of this declaration.

I. The role of BRICS and developing countries in international trade and investment

1.1. It is envisaged that the BRICS countries develop an appropriate common standard for settling trade and investment disputes, which must be consistent with the corresponding tax dispute resolutions mechanisms and may apply in their bilateral relations with the due amendments.

1.2. This standard can also apply to relations of BRICS members with third countries.

II. Development of an effective system for settlement of cross-border tax disputes

2.1. The suggested draft of the Multilateral Model Convention modifies and supplements bilateral treaties on avoidance of double taxation between the BRICS countries. The Draft Model Convention envisages a right to taxpayers - residents of the Contracting States to refer the cross-border tax dispute that has not been expeditiously resolved or settled to a common cross-border tax dispute settlement mechanism, the decision of which will be final and binding on the competent authorities. Panels for the settlement of cross-border tax disputes are formed by competent authorities (each appoints one member) and one additional member (chosen by agreement) from among recognized experts in international tax law in the BRICS countries.

2.2. However, it is noted that the existing constitutional and legal framework may require some amendments or modifications.

III. Simplification of the mechanisms for eliminating of international double taxation and tax administration

3.1. The suggested draft of multilateral convention proposes to modify existing bilateral treaties between the BRICS countries on avoidance of double taxation. The

Convention covers taxes on income and compulsory insurance contributions on income from activities such as employment, artists and athletes, teachers and researchers, and entrepreneurial activities. The main feature of the articles is the exclusive single taxation of these incomes in the source state, if the income does not exceed 100,000 US dollars for the tax period. The Convention establishes a "national regime" for the taxation of such incomes from the very first day of the activity (for example, the application of the tax rate applicable to residents). Also, the Convention eliminates double taxation of the permanent establishments of enterprises of the Contracting States within the above thresholds, vesting the exclusive right to tax the profits of the permanent establishment to the state in which it is located. The Draft significantly expands the guarantees of non-discrimination of covered persons, specifying that the national regime of taxation is applicable to the permanent base of individuals, extends to workers, artists, athletes, scientists and researchers in terms of tax rates, deductions and other tax benefits and preferences.

3.2. It is also hereby envisaged that there will be a possible future development of common cross-border tax rules concerning further types of business profits.

IV. Coordination of joint actions and efforts of the BRICS states in the field of technical capacity building and education in relation to the matters falling within the scope of this declaration.

Figure 1

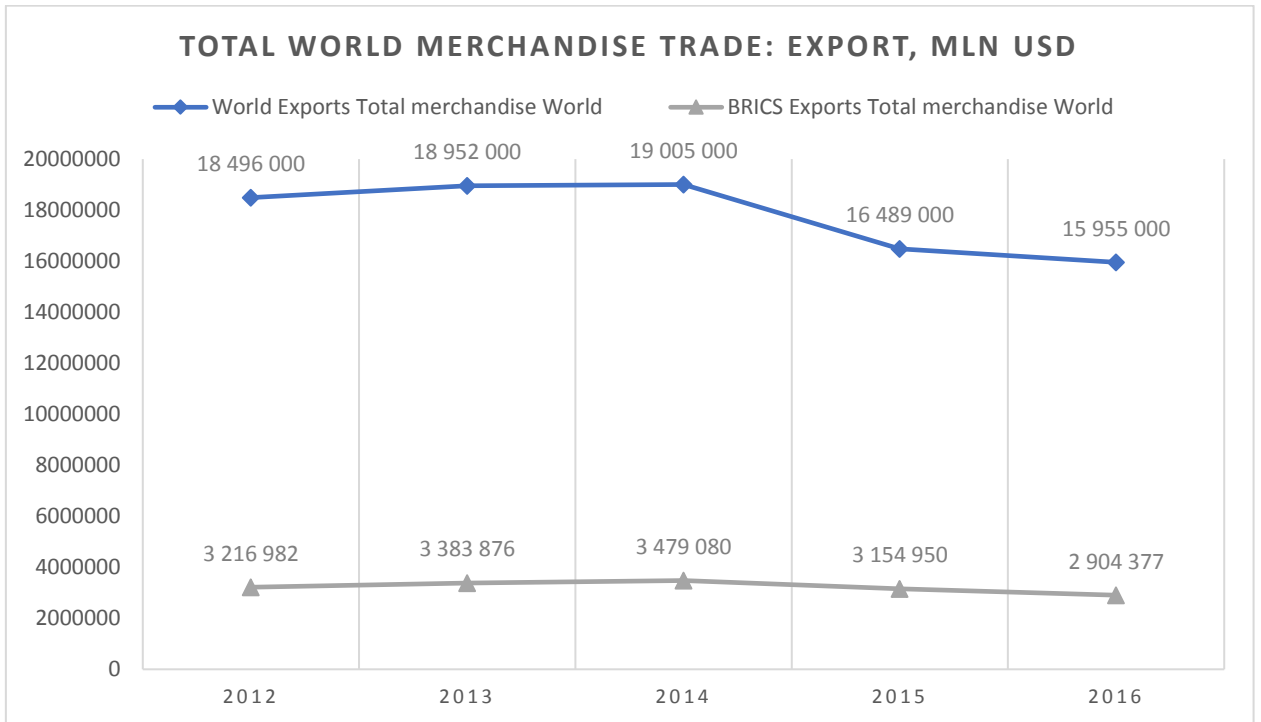


Figure 2

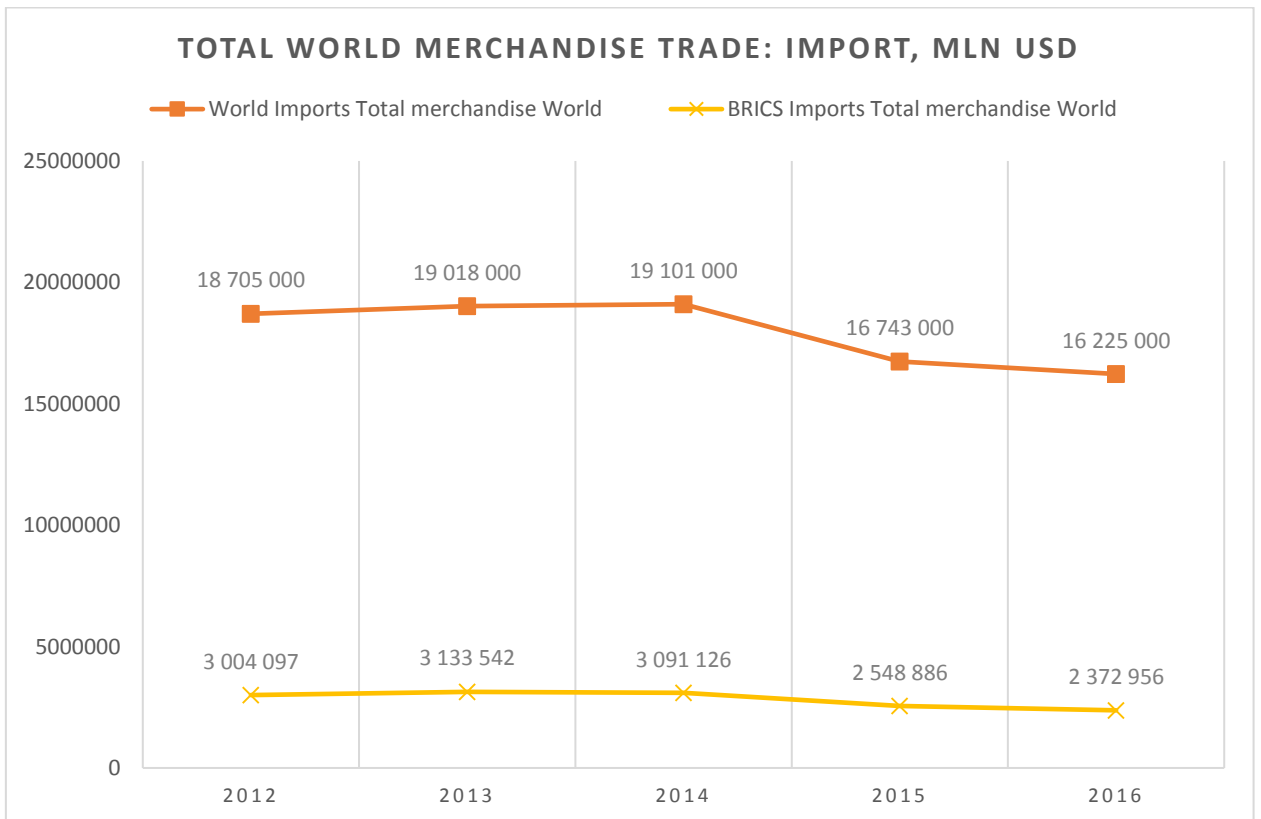


Figure 3

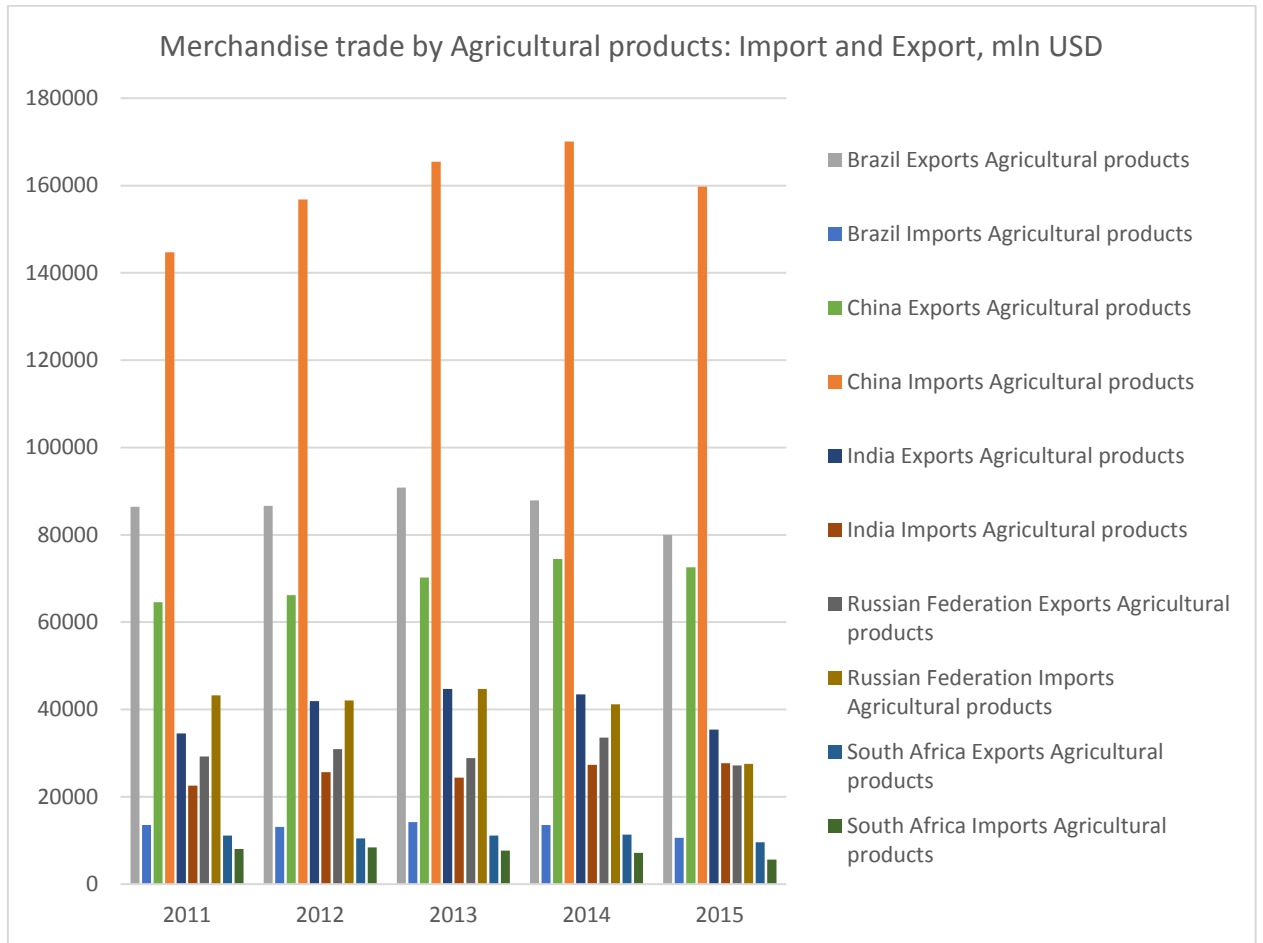


Figure 4

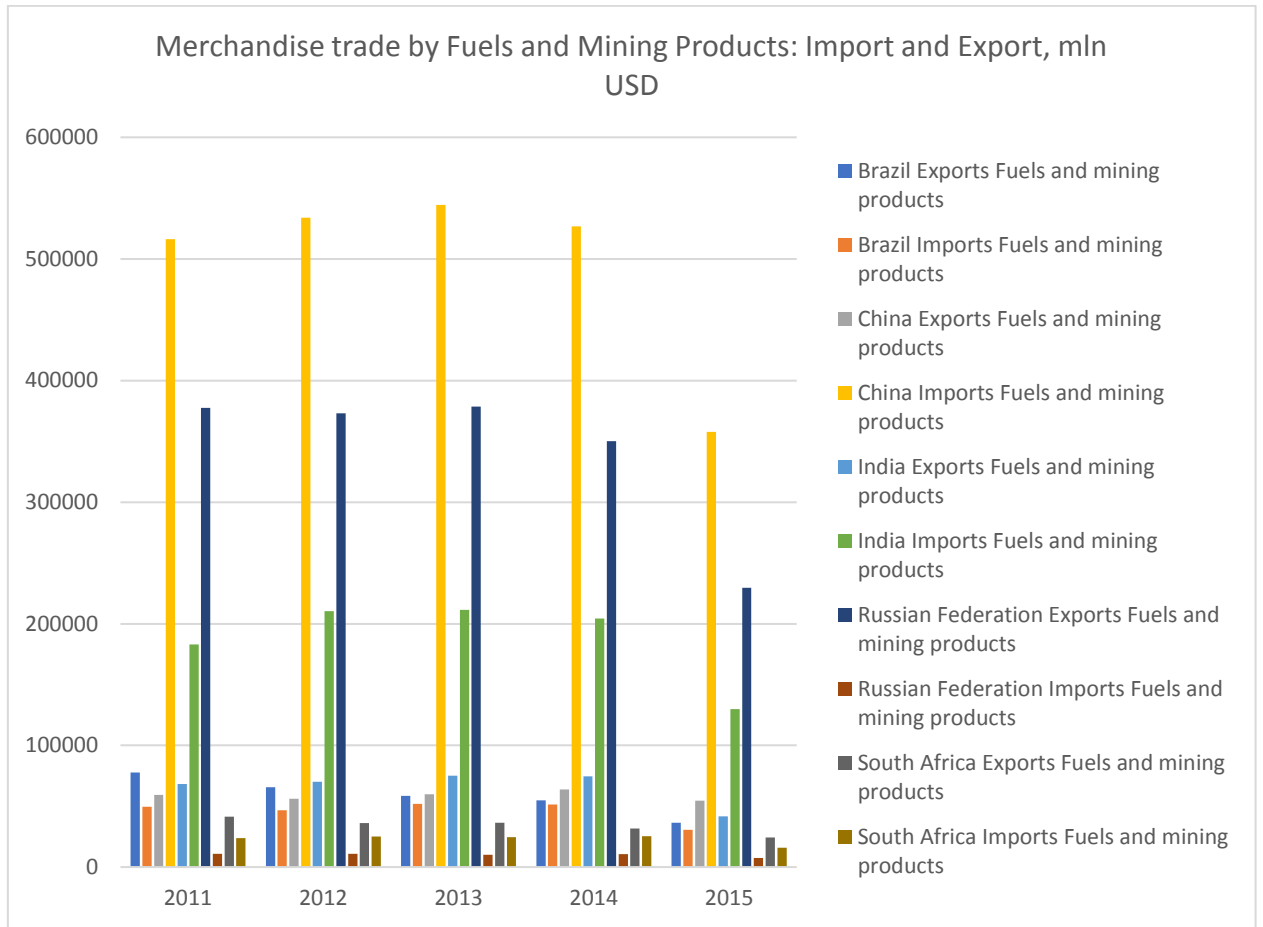


Figure 5

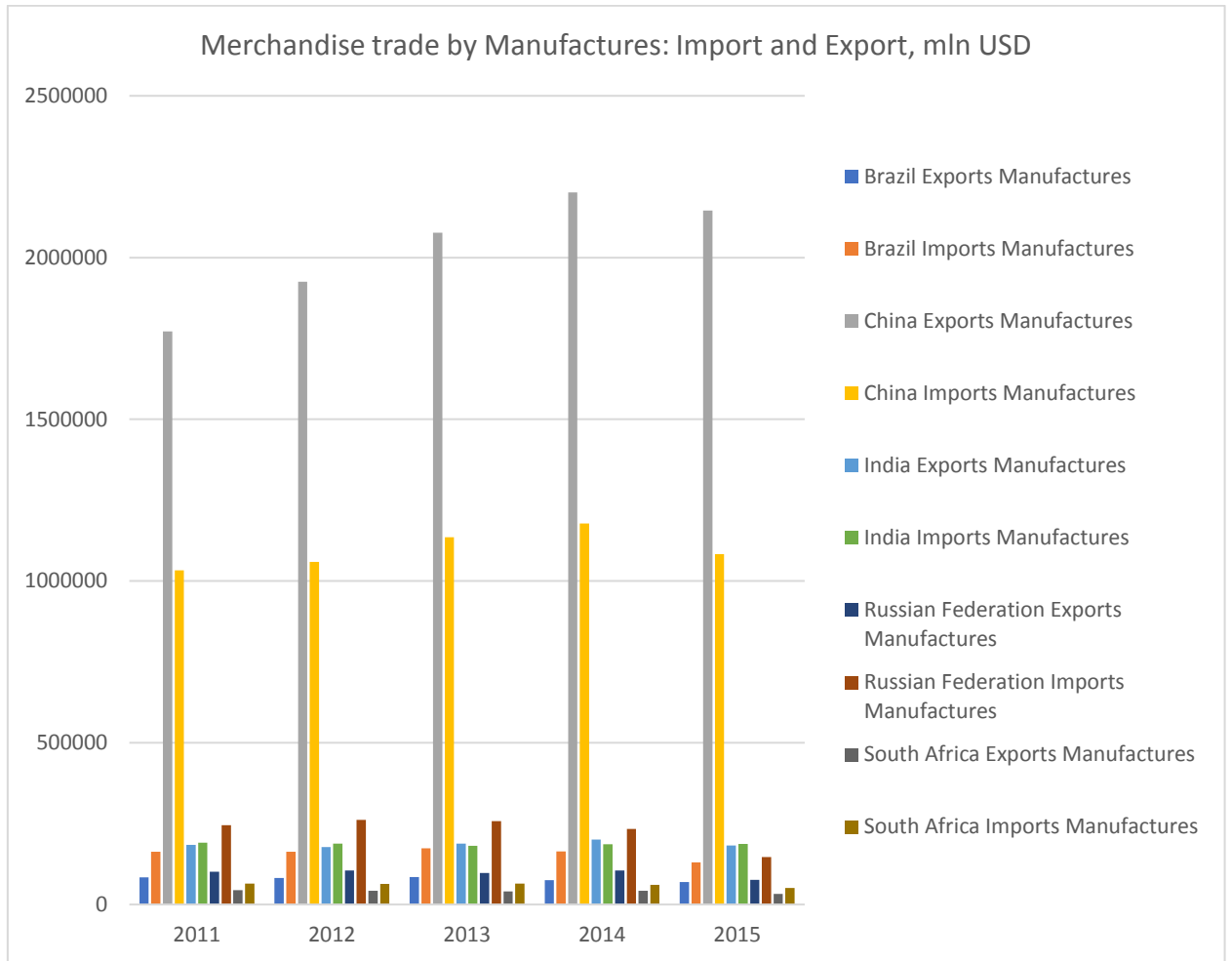


Figure 6

Volume of merchandise exports and imports by level of development, 2012Q1-2015Q4
(indices, 2012Q1=100)

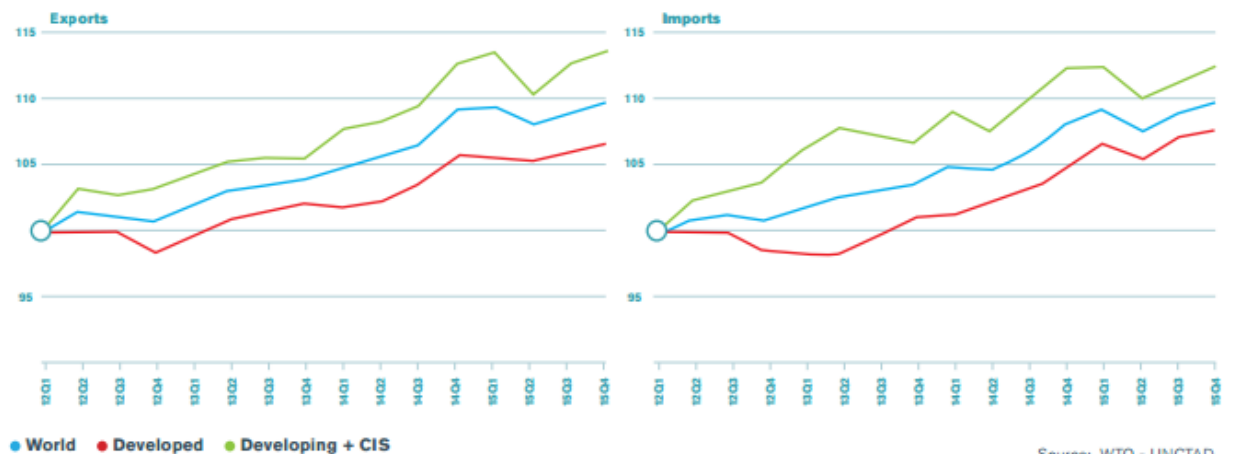


Figure 7

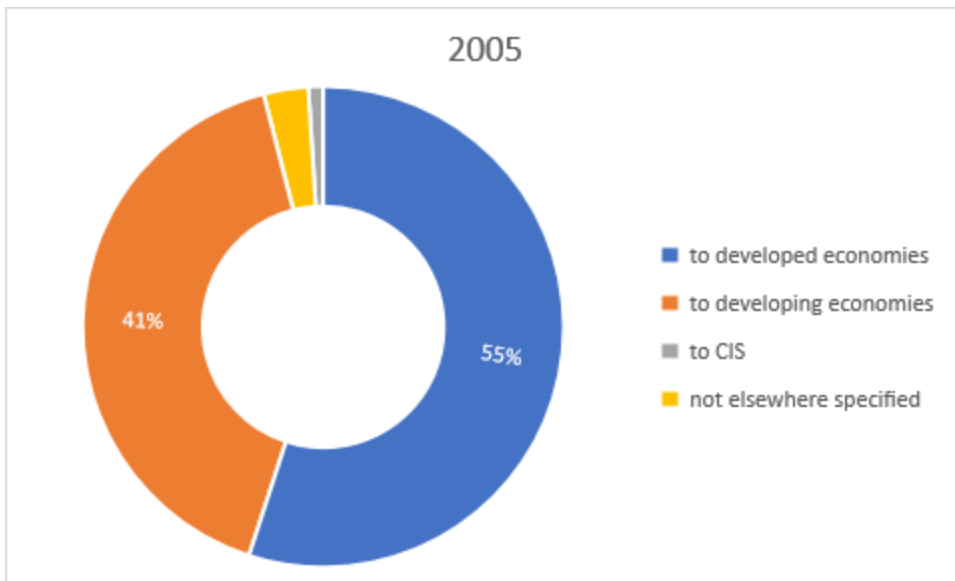


Figure 8

