

ARTICLES

THE DEVELOPMENT BANK OF BRICS

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This paper takes aim at the international financial system through the lens of the New Development Bank of the BRICS countries with an analysis of the Bank's impact and relevance vis-à-vis the system. The work compares the traditional characteristics of international development institutions such as the World Bank and financial entities directed by national authorities with international solutions such as the New Development Bank, whose goals are to boost the infrastructure and renewable energy sectors of its five member countries as well as those of other developing countries. The work lays out insightful data on foreign direct investment of BRICS, GDP growth analyses, imports and exports inside and outside the BRICS group for a clearer understanding of the companies and businesses involved in the group. The work highlights an outlook of investment and development engaged in this new form of South-South cooperation which has been created by BRICS.

Keywords: BRICS; New Development Bank; investment; development; international organizations; World Bank.

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Table of Contents

Introduction

1. BRICS Overview

2. The Investment Scenario Among the BRICS Countries

3. Doing Business in BRICS

4. ICSID and BRICS

5. Brazil-China Bilateral Investments

6. Development Banks in the BRICS Countries

7. The New Development Bank of the BRICS Countries

Conclusion

Introduction

The financial crisis of 2008 (the so-called “subprime mortgage crisis”) struck the financial core of the United States, leading many institutions such as Leman Brothers to bankruptcy. The emerging markets were decisive in tackling the crisis and sustaining the U.S. institutions with a considerable amount of financial resources.

Brazil, Russia, India and China were key countries in putting the international financial system back onto the right path. Those countries form the BRIC, an acronym created by Jim O’Neill of Goldman Sachs in 2001, who affirmed that the four countries of this group would be the next strong world economies within a few decades. In 2009, the BRIC countries formally met in Yekaterinburg, Russia, launching a new platform for cooperation in international affairs composed only of emerging countries. The newly formed group demanded reforms in the international organizations, especially the Bretton Woods institutions, the International Monetary Fund (IMF) and the World Bank Group, in order to equate international political power to global economic realities.

In 2010, in Sanya, China, BRIC became BRICS with the addition of South Africa to the group. This move symbolized the act of welcoming an African country to represent the new approach of South-South relations.

In 2014, in Fortaleza, Brazil, BRICS declared the creation of the New Development Bank (NDB) and the Contingency Reserve Arrangement (CRA), which brought new entities to the international financial system. These acts reinforced the BRICS’s plea to the international financial institutions for the need of wider representation of emerging markets. Furthermore, the BRICS agenda showed that they were prepared to join not only international economic forums, but also political ones.

The events of the first decade of the 21st century relate to the new changes and arrangements facing the world, mainly as new countries from the economic South are leading the world in growth and bringing development to more people. Stuenkel¹

¹ Oliver Stuenkel, *The BRICS and the Future of Global Order* (Lanham: Lexington Books, 2015).

has stressed that the 2000–2010 period was the BRIC decade, with these countries characterized by strong economic growth, huge increases in GDP and international reserves, and broad government programs for poverty alleviation. Additionally, the period was marked by an unparalleled boom in commodities which directly benefited these countries, and the developed countries too.

Owing to the positive momentum in the commodities market and the political void created after 2008, when Western institutions were engulfed in financial instability, the BRICS countries entered into the international arena as a strong group defending the recognition of their political and economic relevance on the international stage. From their first informal meetings in the beginning of the 21st century to their annual official summits, these countries continue to present themselves as a relevant group worldwide.

The aim of this paper is to analyze the international investment scenario of the BRICS countries and, specifically, to understand the impact of the New Development Bank created in 2014 and its relevance to the international financial system. The focus of this work consists in promoting a comparison of the traditional characteristics of the international development institutions such as the World Bank with the new approaches led by the New Development Bank, whose goals are to boost the infrastructure and renewable energy sectors of the five BRICS countries as well as those of other developing countries.

1. BRICS Overview

BRICS has been consistently described as a heterogeneous group with only a few geographical, demographical and economic similarities. According to World Bank data, Brazil, India, China and Russia are still among the main economies in the world.² In particular, China and India have maintained strong economic growth since 2008.³

Chart 1 below shows Gross Domestic Product rankings in 2016, with the BRICS countries ranked among the highest GDPs in the world: China was second, India seventh, Brazil ninth and Russia twelfth. South Africa was ranked thirty-eighth.

² The World Bank (Nov. 10, 2018), available at www.data.worldbank.org/data-catalog/GDP-ranking-table.

³ International Monetary Fund (Nov. 10, 2018), available at www.imf.org/external/datamapper/NGDP_RPCH@WEO/OEMDC/ADVEC/WEOWORLD/BRA/CHN/IND/RUS/ZAF.

Chart 1: Gross Domestic Product 2016

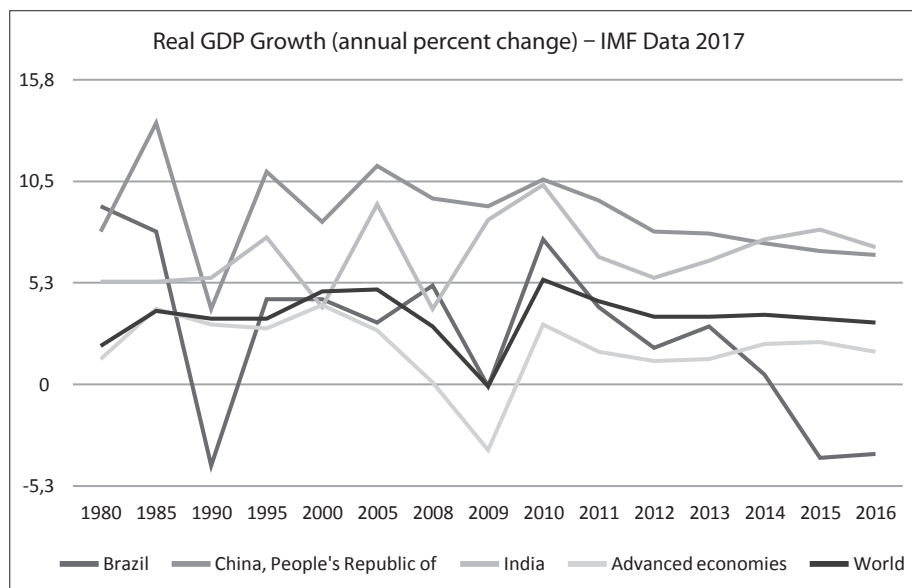
Gross Domestic Product 2016 – World Bank Group Data		
Ranking	Economy	(millions of U.S. dollars)
1	United States	18,569,100
2	China	11,199,145
3	Japan	4,939,384
4	Germany	3,466,757
5	United Kingdom	2,618,886
6	France	2,465,454
7	India	2,263,523
8	Italy	1,849,970
9	Brazil	1,796,187
10	Canada	1,529,760
11	Republic of Korea	1,411,246
12	Russian Federation	1,283,162
13	Spain	1,232,088
14	Australia	1,204,616
15	Mexico	1,045,998
16	Indonesia	932,259
17	Turkey	857,749
18	Netherlands	770,845
19	Switzerland	659,827
20	Saudi Arabia	646,438
21	Argentina	545,866
38	South Africa	294,841

(Chart prepared by the authors)

Considering their share of global GDP, the BRICS countries are immensely important. According to the World Economic Forum, the GDP forecast in 2017 puts the United States in first position with almost a quarter of the total global GDP (24.3%) followed by China in second position with 14.8% of the world economy. Next come Japan, Germany, the United Kingdom and France. India remains the seventh largest economy and Brazil the ninth. The forecast underlines that China's economy grew 6.7% in 2016 and the U.S. economy only 1.6%, and it anticipates that in 2050 China and India will each surpass the U.S. economy owing to their population growth and technology-driven productivity.⁴

⁴ Alex Gray, *The World's 10 Biggest Economies in 2017*, World Economic Forum, 9 March 2017 (Nov. 10, 2018), available at <https://www.weforum.org/agenda/2017/03/worlds-biggest-economies-in-2017/>.

Chart 2: Real GDP Growth



(Chart prepared by the authors)

According to Chart 2, the GDP growth of both China and India in 2007 was far superior compared to the advanced economies, and superior as well to the economic performance of Brazil.⁵ World GDP growth thus maintained a relatively stable position thanks to the emerging economies of China and India.

BRICS represents (according to the Brazilian Ministry of External Relations) 26% of the Earth's land mass and comprises 46% of the world's population. Moreover, Goldman Sachs projected a forecast of 14.2% share of the world's GDP, not considering South Africa. The group is responsible for 18% of the world's GDP. In addition, the participation of the BRICS countries in total global exports doubled between 2001 and 2011, from 8% to 16%, with an increase in total exports of more than 500% compared to an increase in global export growth of 195% in the same period.

Each BRICS country has potentialities. China and India are the fastest growing economies, Russia is an important player in military and diplomatic relations, South Africa concentrates on major regional cooperation and Brazil is the most important economy in Latin America. On the other hand, the recent reduction of China's annual GDP growth rate to 6.5% and the political and economic crises in Russia, South Africa

⁵ Chart 2 traces Real GDP Growth for only three of the BRICS countries: Brazil, India and China. The GDP growth performance of South Africa and Russia was similar to Brazil's. For the last several years, Brazil, South Africa and Russia have been facing a number of economic and political constraints that differed from the experiences of China and India.

and Brazil raise questions about the BRICS future. In order to confront the recent crises, so serious that some experts suggest a change to the acronym from “BRICS” to “IC,” maintaining only India and China,⁶ the strongest markets in the club, it is necessary to recognize that these five countries must concentrate on their internal markets and at the same time are responsible for a large percentage of foreign trade, especially in energy, commodities and manufactures.

Moreover, the BRICS countries hold huge amounts of foreign exchange reserves, which is desirable in the service of boosting development among the members, instead of only supporting funds such as those of the IMF and World Bank Group. China has the world’s highest foreign exchange reserves, and Brazil and the Russian Federation are in the top ten. According to Stuenkel,⁷ the BRICS countries have more reserves allocated in the Bretton Woods institutions than in their own institutions (the NDB and the CRA).

It is well known that the total sum of resources allocated for international cooperation is lower than what is necessary to cope with the demands related to development. Therefore, the creation of new organizations represents a paradigm shift to other countries, to work together in cooperation and eliminate protectionism.

2. The Investment Scenario Among the BRICS Countries

There are different kinds of international investments. Mainly, there are: (i) commercial loans, which are bank loans issued to foreign businesses or governments; (ii) official flows (or aid resources), aimed at promoting development assistance, from one country, or international organization, to another country; (iii) foreign direct investment, in which an investor from one country obtains an asset in another country, with the intent to manage that asset; and (iv) portfolio investment (speculative capital), which represents the movement of investment in financial stocks, bonds or other financial instruments.⁸

Foreign direct investment (FDI) is considered a vital source of development means in the world today and responsible for the main share of domestic capital, employment, income and promotion of technology transfer and know-how.⁹

⁶ Wpcomimportuser1, *Is It Really BRICS, or Just ICs?*, Time, 12 July 2007 (Nov. 10, 2018), available at http://business.time.com/2007/07/12/is_it_really_bricks_or_just_ics/.

⁷ Stuenkel 2015, at 118.

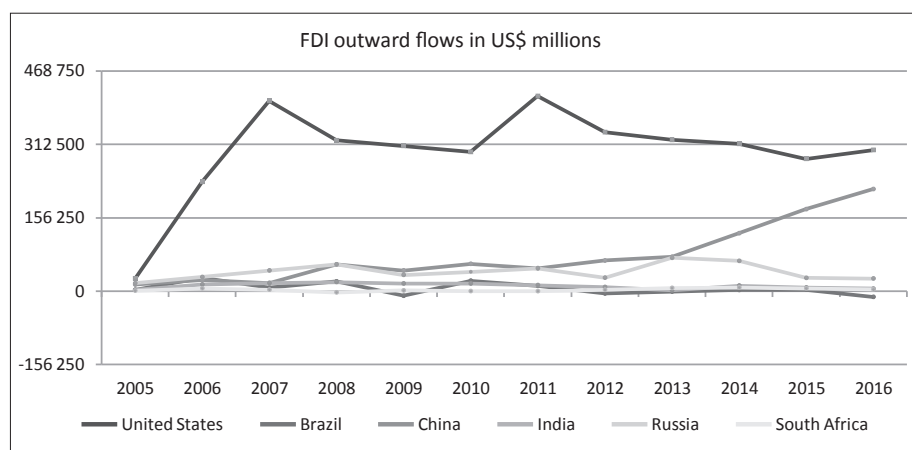
⁸ <http://mastersincommerce.blogspot.com.br/2013/11/nature-and-types-of-international.html>; <http://www.globalization101.org/what-are-the-different-kinds-of-foreign-investment/>; [http://unctad.org/en/Pages/DIAE/Foreign-Direct-Investment-\(FDI\).aspx](http://unctad.org/en/Pages/DIAE/Foreign-Direct-Investment-(FDI).aspx); <https://www.oecd.org/daf/inv/investmentstatisticsandanalysis/40193734.pdf>

⁹ There are some questions about the relation between FDI and the concept of sustainable development and environmental protection, due to the increased concerns about pollution and climate change.

Concentrating only on FDI, the BRICS countries are a relevant group in attracting this kind of investment. According to an UNCTAD report from 2014, the APEC and BRICS countries almost doubled their share of global FDI inflows from the figures of pre-crisis 2007–2008. Moreover, the APEC¹⁰ countries are responsible for more than half of global FDI flows, similar to the G20, while the BRICS countries jumped to an amount equal to one-fifth.¹¹

An analysis of the FDI of the BRICS countries and the United States shows that, according to OECD FDI data from 2005 to 2016, only China has an FDI flow capable of competing with U.S. foreign investment. The other BRICS countries have maintained the same rate of FDI without considerable changes over recent years.¹²

Chart 3: FDI Outward Flows¹³



(Chart prepared by the authors)

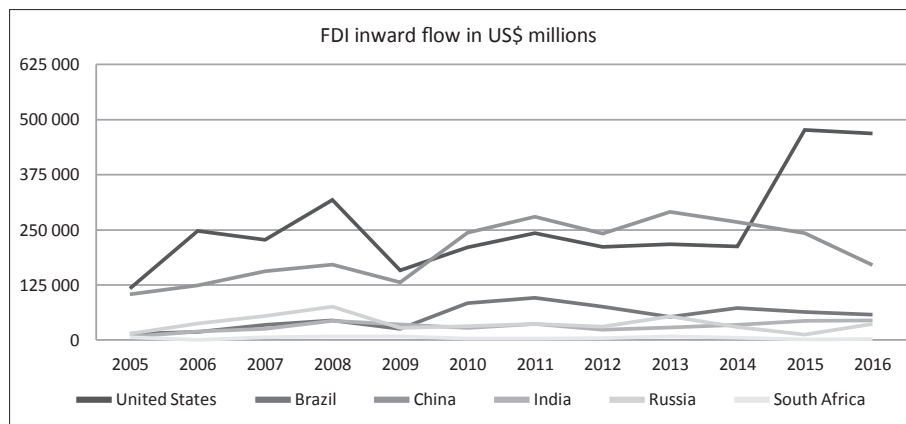
Albeit the divergences in economic theories, FDI is a reliable indicator for recognizing the growth of a country. Mihaela Kardos, *The Relevance of Foreign Direct Investment for Sustainable Development. Empirical Evidence from European Union*, 15 *Procedia Economics and Finance* 1349 (2014).

¹⁰ APEC is the Asian-Pacific Economic Cooperation established in 1989 as a regional economic forum with 21 member countries, aimed at promoting balanced, inclusive, sustainable, innovative and secure growth in the region (<https://www.apec.org/About-Us/About-APEC>).

¹¹ Global FDI Rose by 11%; Developed Economies Are Trapped in a Historically Low Share, *Global Investment Trends Monitor*, Report No. 15, UNCTAD, 28 January 2014 (Nov. 10, 2018), available at http://unctad.org/en/PublicationsLibrary/webdiaeia2014d1_en.pdf.

¹² Latest data on FDI trends, up to the first quarter of 2017, of the Organization for Economic Co-operation and Development – OECD (Nov. 10, 2018), available at <http://www.oecd.org/daf/inv/investment-policy/investmentnews.htm>.

¹³ FDI outward flows consist of the amount of capital of foreign companies when they invest assets in other countries.

Chart 4: FDI Inward Flows¹⁴

(Chart prepared by the authors)

The international investment arena is recognized as a potential strength for the BRICS countries. However, intra-BRICS foreign investments are almost irrelevant compared to the foreign investment of each country to non-BRICS countries. The only exception is the investment flow from China to each BRICS country.

China, therefore, is the most important commercial and investment partner of the other BRICS countries. Since 2009, China has consistently been the main commercial partner of Brazil, surpassing even the United States. China's participation in Brazil is extensive, with investments in infrastructure, communications, machinery, banking services, agriculture and mining.

Moreover, Chinese international investments flow not only to the other BRICS countries, but also to a number of countries in Africa. Between 2000 and 2014, Chinese banks, private companies and the government disbursed more than US\$86 billion to Africa, with the primary beneficiaries being the Democratic Republic of Congo, Ethiopia, Kenya and Sudan.¹⁵ That considerable amount of resources helped economic growth and spurred sub-Saharan GDP to grow by 5% in 2011, although this dropped to 1.4% in 2016, which was considered the lowest level of GDP growth in more than twenty years.

The World Investment Report 2017, released by the United Nations Conference on Trade and Development (UNCTAD),¹⁶ compared the intra-group investments for a number of selected groups of states: G20, Asia-Pacific Economic Cooperation (APEC),

¹⁴ FDI inward flows consist of the amount of capital of national companies when they invest assets in other countries.

¹⁵ Eleanor Albert, *China in Africa*, Council of Foreign Relations, 12 July 2017 (Nov. 10, 2018), available at www.cfr.org/background/china-africa.

¹⁶ World Investment Report 2017: Investment and the Digital Economy, United Nations Conference on Trade and Development – UNCTAD (Nov. 10, 2018), available at https://unctad.org/en/PublicationsLibrary/wir2017_en.pdf.

North American Free Trade Agreement (NAFTA), BRICS, Commonwealth and Asian Caribbean and Pacific (ACP) nations between 2010 and 2015 (Chart 5 below).

Chart 5: UNCTAD Report of Investments in Selected Groups

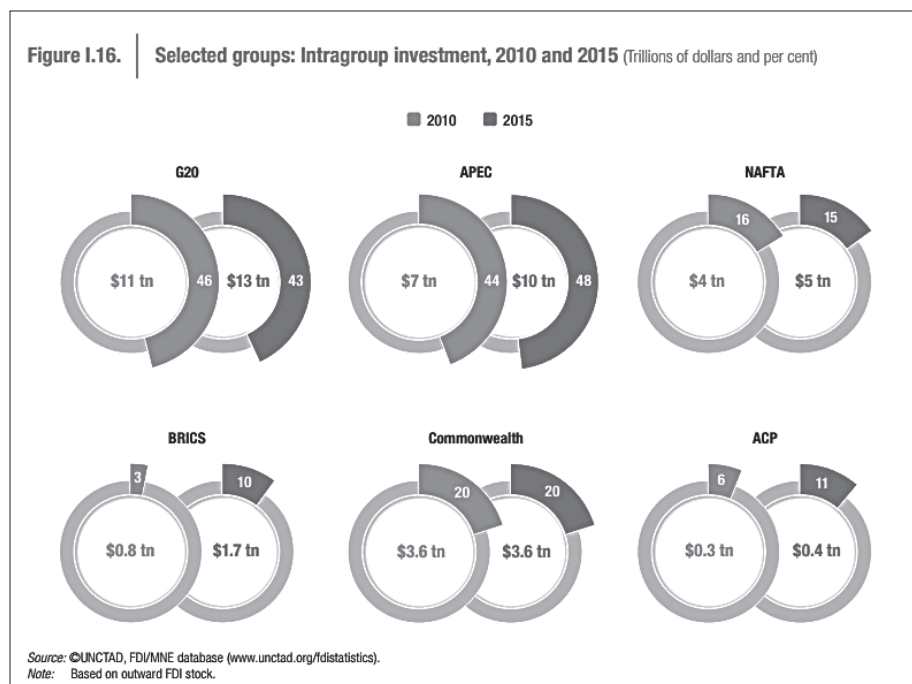


Chart 5 shows the significance of G20 and APEC investment compared with the other groups. Clearly, FDI is still concentrated in the developed countries and recently moved towards Asia. APEC has almost half of world's FDI, which shows how important Asia is to the financial and economic system. At the same time, the report highlighted that APEC received 53% of FDI inflows in 2016, but during the same year the group contributed 60% of the global GDP. Additionally, the increase in intra-BRICS investment is relevant, rising from less than US\$ 1 trillion to almost US\$ 2 trillion. Considering the recent BRICS political convergence, the group shows growing prospects in trade and investment cooperation. Thus, the report on intra-BRICS investments contrasts with the criticism that the group is too frail to be counted as a relevant actor in the international economic arena. The report stressed:

FDI flows to the five BRICS countries last year rose by 7 per cent to \$277 billion. The increase in inflows to the Russian Federation, India and South Africa more than compensated for the decline of FDI to Brazil and China.

Cross-border M&A [Mergers & Acquisitions] sales declined from \$44 billion in 2015 to \$37 billion in 2016. (UNCTAD, 2007)

FDI flows are aligned with the growth in the BRICS countries' economies. The political and economic crises in Brazil, South Africa and Russia led to a decrease in GDP. On the other hand, India continues to experience solid growth. In the second quarter of 2017, China showed growth in its economy, beating the forecast which had anticipated a decrease. According to the *Financial Times*, China grew 6.9% in the first quarter of 2017 and was expected to maintain that level. The result at the end of 2017 could be the first year of acceleration of China's growth since 2010.¹⁷

3. Doing Business in BRICS

According to the Brazilian Ministry of Foreign Affairs (MRE), with regard to commercial exchange between Brazil and the other BRICS countries, in 2015 83% of Brazilian exports went to China, and only 17% went to India, Russia and South Africa combined. Regarding Brazilian imports, in 2015 China represented 81%, and India, Russia and South Africa (again, combined) represented 19%. The most important commercial BRICS partner to Brazil is clearly China, and the trade with the other BRICS countries is minimal.

With regard to the types of Brazilian export goods that the country sends abroad (again, for 2015), 75% are basic products, 15% are semi-manufactured products and 10% are manufactured products. Additionally, the type of import goods from BRICS are 94% of manufactured, and 3% of basic and semi-manufactured goods each, in 2015.¹⁸

The main Brazilian products for export to the other BRICS countries are soybeans, seeds, ores, fuels, meat, wood paste and sugar. As for the import goods from the other BRICS countries, the main products are electrical and mechanical machines, organic chemical products, fuels and fertilizers.

Therefore, it is possible to infer that Brazil maintains traditional North-South trade relations with China, sending commodities and receiving manufactured products.

Considering the relevance of the Brazil-China trade, the Brazilian government should implement measures to bring technology and market value to its export goods, for example measures such as adding value to commodities, promoting agro-industrial mechanisms and increasing research. Chart 6 below presents data compiled by the Brazilian Ministry of Foreign Affairs on exports of the BRICS countries for 2012.¹⁹

¹⁷ China GDP Growth Points to 2017 Economic Rebound, *Financial Times*, 17 July 2017 (Nov. 10, 2018), available at <https://www.ft.com/content/6e46e302-6878-11e7-8526-7b38dcaef614>.

¹⁸ Brazilian Ministry of Foreign Affairs (Nov. 10, 2018), available at <https://investexportbrasil.dpr.gov.br/arquivos/IndicadoresEconomicos/web/pdf/ICBrasilXBRICS.pdf>.

¹⁹ Brazilian Ministry of Foreign Affairs (Nov. 10, 2018), available at <http://brics.itamaraty.gov.br/about-brics/economic-data>.

Chart 6: BRICS Outlook

Member Countries	Brazil, China, India, Russia and South Africa
GDP	US\$ 15.76 trillion
Share (%) of world GDP	19.8%
Population	2.998 billion
Share (%) of world population	41.6%
Total exports (2012) ⁽²⁾	US\$ 3.19 trillion
Share (%) of global exports	17.7%
Total imports (2012) ⁽²⁾	US\$ 2.95 trillion
Share (%) of global imports	16.1%
Total Trade (2012) ⁽²⁾	US\$ 6.14 trillion
Share (%) of world trade	16.9%
Trade balance (2012) ⁽²⁾	US\$ 244 billion

(Brazilian Ministry of Foreign Affairs)

Considering the BRICS countries' share of world GDP and world trade, there is still a low level of intra-BRICS trade.²⁰

Chart 7: Exports Inside and Outside BRICS

Exports Inside and Outside BRICS ⁽¹⁾ US\$ trillion					
Year	Total Trade	Inside BRICS		Outside BRICS	
		Value	Share %	Value	Share %
2008	2.35	0.17	7.2%	2.18	92.8%
2009	1.89	0.14	7.6%	1.74	92.4%
2010	2.46	0.21	8.6%	2.25	91.4%
2011	3.07	0.27	9.0%	2.79	91.0%
2012	3.19	0.28	8.8%	2.91	91.2%

²⁰ Brazilian Ministry of Foreign Affairs, MRE/DPR/DIC – Trade Intelligence Division, based on UN/UNCTAD/ITC/Trademap.

2012 (Jan-Sep)	2.35	0.21	8.9%	2.14	91.1%
2013 (Jan-Sep)	2.35	0.22	9.2%	2.13	90.8%

(1) Some BRICS members have not informed UNCTAD of their 2012 trade statistics. In such cases, data were obtained based on information provided by other trade partners.

NOTE: Values of exports and imports inside BRICS are theoretically identical. Differences between them are due to the inclusion of insurance and freight in imports.

(Brazilian Ministry of Foreign Affairs)

From Chart 7 it is clear to see that intra-BRICS trade amounts to less than 10% of total trade; trade outside BRICS amounts to more than 90%. Although there is a slight increase inside the group, the increase is small if we consider how huge BRICS's markets are.

Regarding other business sectors, many emerging markets, characterized by having cheap labor, have been recently associated with innovation, surpassing even the Japanese boom in innovation of the 1980s. Multinationals are investing in emerging markets, and the BRICS countries are the leading group, and among the group especially China and India.

Multinationals expect about 70% of the world's growth over the next few years to come from emerging markets, with 40% coming from just two countries, China and India. They have also noted that China and to a lesser extent India have been pouring resources into education over the past couple of decades. China produces 75,000 people with higher degrees in engineering or computer science and India 60,000 every year.²¹

The assumption that Western capitals control all the processes of innovation and globalization is no longer true. According to *The Economist* (2010), Western companies are embracing polycentric innovation²² by spreading research centers around the world, and emerging markets are becoming powerhouses in innovation. Other trends in innovation are the improvements in products and processes aimed

²¹ The World Turned Upside Down: A Special Report on Innovation in Emerging Markets, *The Economist*, 17 April 2010 (Nov. 10, 2018), available at <https://www.economist.com/node/15879369>.

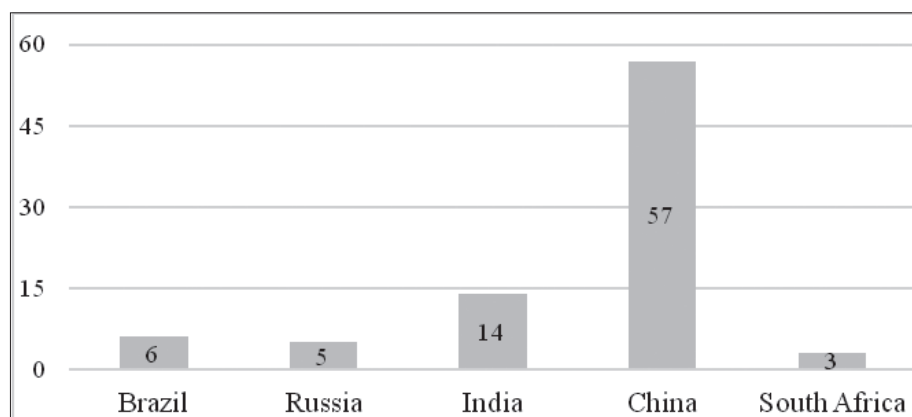
²² Stephanie Jones, *BRICS and Beyond: Executive Lessons on Emerging Markets* (Chichester: Wiley, 2012). According to Jones, polycentric innovation is the concept of innovation based on multiple centers that might come not just from the headquarters, but from different places around the world where the company is present, or according to its strategy.

at reaching the middle or the bottom of the income pyramid,²³ which are the large populations in the developing countries.

From an analysis presented by the *Financial Times* Global 500 2015,²⁴ a considerable number of the top 500 companies in the world come from the BRICS countries. This marks an important new participation by major BRICS companies alongside traditional Western companies.

According to the rankings, Brazil, Russia and South Africa marked their presence with less than 10 companies. On the other hand, India has 14 businesses and China 57. It is important to point out that in the research conducted Hong Kong and Taiwan were considered to be businesses of China. All in all, the total number of major BRICS companies amounts to only 85 of the 500; this figure corresponds to 17% of the top businesses in the world, where emerging market businesses are competing with the traditional multinationals from the developed world.

Chart 8: Number of BRICS Companies
from the *Financial Times* Global 500 2015 Rankings



(Chart prepared by the authors)

In addition, the presence of BRICS major companies in the top 500 is a combination of national private investment and government support via subsidies and selected protectionism in a number of key sectors.²⁵

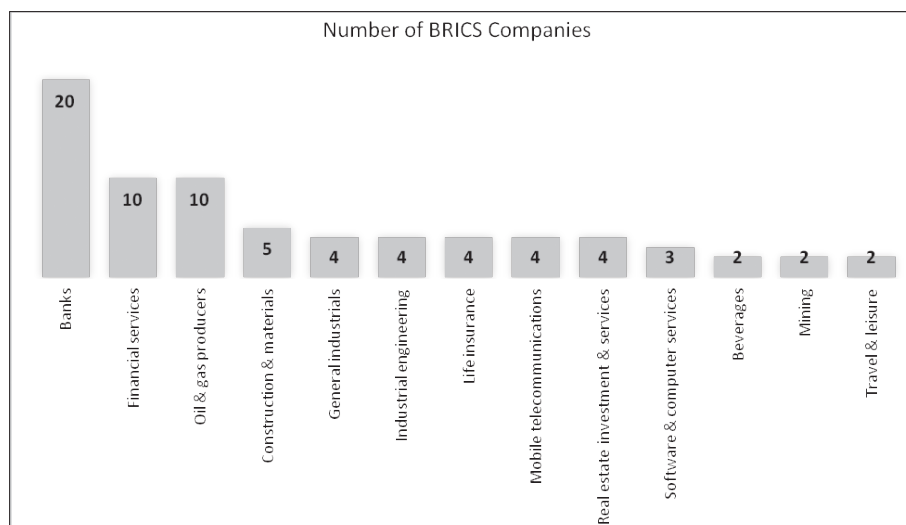
²³ Jones 2012. According to Jones, the concept of the bottom of the pyramid or the base of the pyramid was formulated by C.K. Prahalad as identifying the business opportunities among the poorest strata of society, at the lowest level of the socio-economic pyramid.

²⁴ FT 500 2015, *Financial Times*, 19 June 2015 (Nov. 10, 2018), available at www.ft.com/ft500?mhq5j=e7.

²⁵ Jones 2012, at 183.

With the support of the BRICS countries' governments in specific sectors, in the Global 500 Rankings banks and financial services, oil and gas producers, and construction and industrials are the main business sectors in the BRICS top 500 companies (see Chart 9 below).

Chart 9: Number of BRICS Companies from the *Financial Times* Global 500 2015 Rankings by Main Sectors



(Chart prepared by the authors)

It is necessary to draw special attention to the banks and other financial services, such as insurance companies, which are the most relevant components, corresponding to 35% of the top BRICS companies in the *Financial Times* rankings. Oil and gas producers are also important due to the characteristics of some BRICS countries as major commodities exporters, for instance Vale and Petrobrás in Brazil, Gazprom and Rosneft in Russia and PetroChina in China.

4. ICSID and BRICS

Considered to be an international organization and one of the five institutions of the World Bank Group, the International Centre for Settlement of Investment Disputes (ICSID) provides facilities for conciliation and arbitration of international investment disputes that involve states and foreign companies or investors.

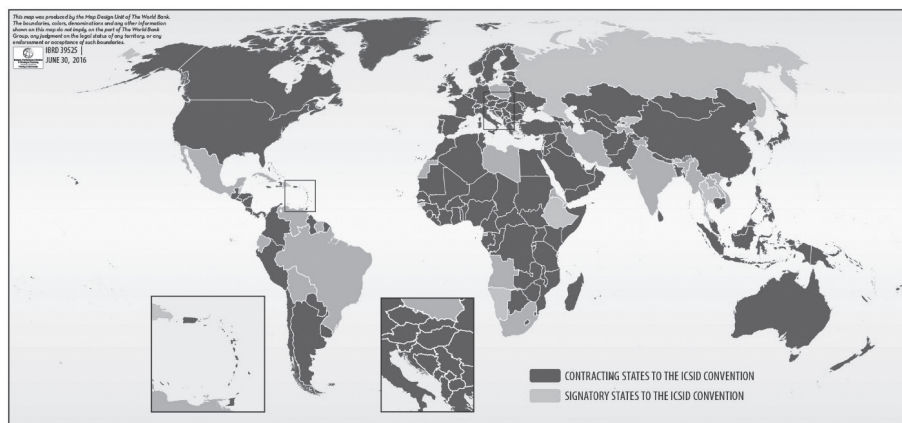
Specifically, ICSID is a jurisdictional institution aimed at settling investment conflicts between foreign investors and states. The organization was established in

1996 under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, known as the ICSID Convention (or the Washington Convention). ICSID works to provide confidence in the dispute resolution process, which involves conciliation and arbitration.

In addition, ICSID can be seen as a third party in these kinds of disputes, as an independent arbitrator to whom foreign investors are more willing to submit their disputes than to a national court.

Therefore, when a country is a contracting (or signatory) state to the ICSID Convention, this organization presents itself as a defender of international standards of equal treatment for domestic and foreign investors, and may attract more confidence for further investments.

Chart 10: Contracting States and Signatories to the ICSID Convention



(ICSID website)

According to the ICSID website, Brazil, South Africa and India are not contracting (or signatory) states to the convention, thus not members of this international organization. Russia only signed the convention in 1992, but did not deposit its ratification, which means that ICSID norms are not applied in Russian territory. Among the BRICS countries, only China is a full member of this international organization: it signed the convention in 1990 and ratified it in 1993.^{26/27}

²⁶ ICSID (Nov. 10, 2018), available at <https://icsid.worldbank.org/en/Pages/icsiddocs/List-of-Member-States.aspx>.

²⁷ About ICSID and China, there are only three cases in ICSID, two of them already concluded and only one pendent. The case *Ekran Berhad v. People's Republic of China* (ICSID Case No. ARB/11/15), concluded in 2013 after both parties reached an agreement and the proceedings were suspended. The case *Ansung Housing Co., Ltd. v. People's Republic of China* (ICSID Case No. ARB/14/25), registered in 2014, involved a bilateral

5. Brazil-China Bilateral Investments

In 2004, Brazil and China decided to create the Sino-Brazilian Commission (COSBAN is the acronym in Portuguese), which aims to establish regular contacts between high representatives of China and Brazil in order to promote investments and their bilateral relationships. The commission meets every two years.

In 2014, Brazil and China signed a joint communication during a visit of the President of China Xi Jinping to Brazil. The agreement set goals for bilateral relations and actualization of the Joint Action Plan for the period 2015–2021. This agreement aims to establish strategic and broad orientations to deepen bilateral relations and development projects between China and Brazil. The agreement defines strategic areas for joint work by sub-commissions, submitted by COSBAN: politics, commerce, economy, energy and mining, finance, agriculture and quality security measures, industry, information technology, space cooperation, science and innovation, and culture and education.

In spite of the many areas for cooperation, there is no bidding document in Brazilian budgetary laws referring to this agreement and provision of specific resources to apply to this cooperation. The (multi-year) plan for 2016 to 2019, revised for 2017, only refers to China in broad terms in reference to an initiative for the Brazilian Ministry of Foreign Relations to consolidate the role of Brazil as a global player, reinforcing strategic relations with countries on all continents.

The initiative 06A8 for the Brazilian Ministry of Foreign Affairs is described as

the deepening strategic relations of Brazil with South Africa, China, India, Russia, assuring the implementation of joint activities, like those defined in

investment treaty between China and the Republic of Korea signed in 2007. In 2006, the South Korean company Ansung identified a 1,500 *mu* parcel of land (about 0.165 acres or 546 square meters) for a golf course project in Sheyang-Xian (a sub-district of Yancheng-Shi) to be developed partially with a joint venture company called Sheyang Seashore International Golf Course Co. Ltd – the Sheyang Seashore. In the same year, the Korean company decided to build the golf resort and acquired the Chinese joint venture company, planning to develop the 3,000 *mu* (the Chinese company land and adjacent areas). The Korean company submitted the master plan to the Chinese Committee and was informed that the government would provide the adjacent land for the company. In 2007, the government said that it would not provide the adjacent land requested at the agreed price (specified in the original agreement) and that the company would have to apply for land-use rights through a public sale at higher prices. In addition, the company was informed of the necessity to establish a Chinese subsidiary in order to be eligible to develop a clubhouse and condominiums around the golf course. In 2008, the Committee required the company to agree to pay higher prices for the land and later they awarded only a small part of the land for construction, refusing to respect the original local investment agreement. The Korean company also learned that other golf courses were to be established nearby and that the local government Committee had refused to grant the adjacent land for their project. Unable to finish its project, the company did not earn enough return on capital and could not pay the loans arranged by the Committee. In 2011, Ansung had no alternative but to dispose of its entire assets invested in the golf business to a Chinese purchaser at a price significantly lower than the original Korean investments. The Chinese government alleged that the investment agreement between the country and the Korean company set a maximum period for the submission of any complaints at three years. According to the ICSID decision, this period was not observed by the Korean company, and thus its complaint was not upheld.

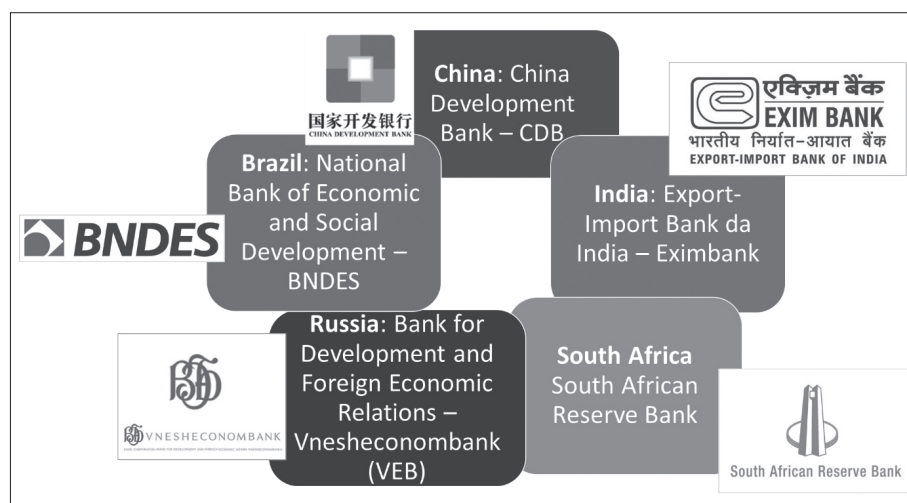
the Commission of High Level Brazil-Russia; Intergovernmental Commission for Economic, Commercial, Scientific and Technological Cooperation Brazil-Russia; Sino-Brazilian Commission of High Level; the Global Strategic Dialogue Brazil-China; and the Bilateral Ministerial Commission Brazil-India.²⁸

Therefore, there is no specific program to boost this kind of cooperation, only general statements to conduct Brazilian foreign affairs in these matters.

6. Development Banks in the BRICS Countries

In the BRICS countries, the participation of the national banks for development is important, for they are the engines of the economies. In most of the BRICS countries, these national banks are the main entities for infrastructure financing for public and private projects. In addition, these banks for development projects use interest rates below market standards in order to increase investments in their domestic markets.

Chart 11: BRICS National Development Banks



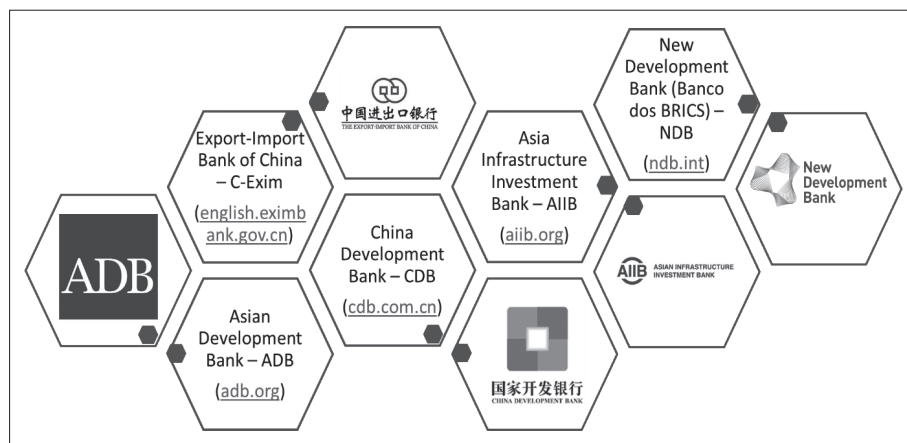
(Chart prepared by the authors)

According to Chart 11, each BRICS country has a relevant national bank for development. In China, in addition to the China Development Bank (CDB), there are other designated banks for development, such as the Asia Infrastructure Investment

²⁸ Plano Plurianual 2016–2019, revised in 2017, Brazilian Ministry of Planning, Budget and Management, 22 November 2017 (Nov. 10, 2018), available at <http://www.planejamento.gov.br/assuntos/planeja/plano-plurianual>.

Bank (AIIB), the Asian Development Bank (ADB) and the Export-Import Bank of China (C-Exim).^{29/30}

Chart 12: China's National Banks for Development



(Chart prepared by the authors)

²⁹ The New Development Bank (NDB), also called the BRICS bank for development, will be analyzed in Section 7 below.

³⁰ While the Asian Development Bank (ADB) has Japan as the main contributor, the main investor of the AIIB is China. The ADB, located in Manila, Philippines, aims to act together with the AIIB, in the same way as the World Bank, which acts in almost every country in the world.

Chart 13: Members of AIIB, ADB and the World Bank

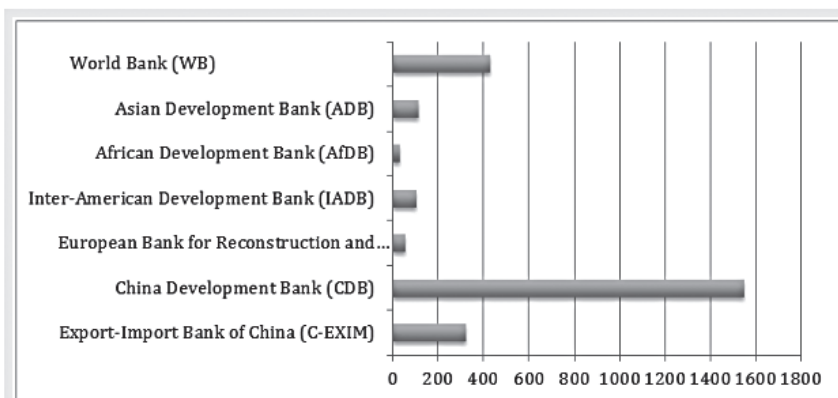


(Chart prepared by the authors)

Therefore, the national banks are relevant for public development and for attracting investments in long-term projects, such as those relating to infrastructure, public services and technology. In China, the number of banks for development and investment is a sign of their importance for the economy.

Specifically, two of China's banks, CDB and C-EXIM, already hold more assets than the combined sum of the assets of the Western-backed multilateral development banks. The CDB is often the largest single source of development bank funding for projects.

Table 1: China-backed and Western-backed developement banks (total assets \$ billion)



Source: Kevin P Gallagher, Gregory Chinn, and Rohini Kamal

Table 1 shows that the C-EXIM and CDB have over US\$ 1.8 trillion in assets, whereas the Western-backed banks hold just over \$700 billion. The CDB's international holdings are just 30% of total assets, putting the two banks' international assets at around US\$ 500 billion.

7. The New Development Bank of the BRICS Countries

Following group studies for a development bank in New Delhi, India in 2012 and in Durban, South Africa in 2013, official approval came in 2014, in Fortaleza, Brazil, for the creation of the New Development Bank (NDB) and the Contingency Reserve Arrangement (CRA).

According to Stuenkel,³¹ the CRA is similar to the Chiang Mai Initiative (CMIN), which is a regional arrangement created to avoid periodical financial crises and stabilize the country's balance of payments. The CRA allows for access to resources equal to 30% of the maximum access for each party and to the remaining 70% with IMF approval. The innovation lies in the fact that the CRA is not a multilateral fund, like the IMF or the CMIN in eastern Asia, but is an arrangement in which each country deposits their individual commitment in each central bank. This structure is more flexible in the context of payment imbalance, in order to provide for quick action to resolve cyclical crises.

³¹ Stuenkel 2015, at 115.

Furthermore, the NDB is an institution aimed at providing development funding to each of the five BRICS countries, and other developing countries through financial and technical assistance.

As initially set out in the Fortaleza Declaration of 2014: the bank will have an initial capital of US\$ 100 billion and an initial subscribed capital of US\$ 50 billion equally shared among the five BRICS countries; the first Chair of the Board of Governors will be from Russia, the first Chair of the Board of Directors from Brazil, the first President of the Bank from India, the headquarters of the NDB will be located in Shanghai, and the New Development Bank Africa Regional Center will be established in South Africa, which will also be the location for the Center's headquarters.

The NDB's Articles of Agreement specify that all members of the United Nations are eligible to become members of the NDB; however, the BRICS countries can never hold less than a 55% share of the total voting power. The UN determines the concentration of voting power to be in the hands of the five BRICS countries, as it similarly determines voting powers in the IMF and the World Bank to be controlled by the developed countries.

Following the 2008 financial crisis and the 2009 G20 Summit in London, a joint action of the BRIC countries led to the common position to restore the economic and financial order and promote a soft reshaping of the world order in international affairs. Since the creation of the IMF in 1944, voting power expresses the over-representation of the developed countries, where Belgium and Luxembourg, as an example, control more share votes than Brazil, China or India. A major change to voting power in the IMF was agreed in 2010, when the BRIC countries joined the top ten share voters, along with the United States, Japan, Germany, the United Kingdom and France. With reference to the World Bank, China, India and the Russian Federation were already in the top ten of major share voters (not including Brazil). The 2010 voting power reform was approved only for the IMF and not for the World Bank, whose structure remains as before.

Table 2: Top Countries Voting Powers in the IMF and World Bank

Top Countries Voting Powers					
Ranking	International Monetary Fund (after the 2010 Reform)		Ranking	International Bank for Reconstruction and Development (World Bank Group)	
	Country	Percentage of Voting Power		Country	Percentage of Voting Power
1º	USA	17.46	1º	USA	16.28
2º	Japan	6.48	2º	Japan	7.02

3º	China	6.41	3º	China	4.53
4º	Germany	5.60	4º	Germany	4.11
5º	UK	4.24	5º	UK	3.85
6º	France	4.24	6º	France	3.85
7º	Italy	3.17	7º	India	2.98
8º	India	2.76	8º	Russia	2.84
9º	Russia	2.71	9º	Saudi Arabia	2.84
10º	Brazil	2.32	10º	Italy	2.71
–	Canada	2.22	–	Canada	2.50
–	Saudi Arabia	2.10	–	Brazil	1.82
–	South Africa	0.64	–	South Africa	0.77

(Table prepared by the authors³²)

Representing the strong desire of BRICS to create a new development bank and to be the leader of the emerging economies of the world, the NDB is an expression of the will of the Global South and the importance of South-South cooperation. According to this view, the BRICS's decision to concentrate 55% of the voting power in the hands of the group's five founding members has important symbolism for the South in international affairs. The control of the majority of votes by the five founding members indicates the political will to maintain the priority of Southern interests and the possibility to implement new approaches in cooperation for development.

The main goals of the NDB are the promotion of infrastructure and renewable energy. The bank aims to foster the development of the member countries, support economic growth, promote competitiveness and facilitate job creation, and build a platform of shared knowledge among developing countries. The bank started its operations in 2016 and up to the present time has approved projects only in the five founding member countries. In the first year of operations, the Board of Directors of the Bank approved loans involving financial assistance of over US\$ 1.5 billion for projects in the areas of green and renewable energy, and transportation. According to the NDB's official website, thirteen projects have been approved since the beginning of banking operations.³³

³² Data is drawn from the latest information from the IMF and IBRD (World Bank Group) on voting powers of the member countries (Nov. 10, 2018), available at www.worldbank.org/en/about/leadership/votingpowers; www.imf.org/external/np/sec/memdir/members.aspx.

³³ New Development Bank (Nov. 10, 2018), available at <https://www.ndb.int/wp-content/uploads/2017/02/list-of-all-projects-1.pdf>.

Table 3: NDB Projects by BRICS Countries

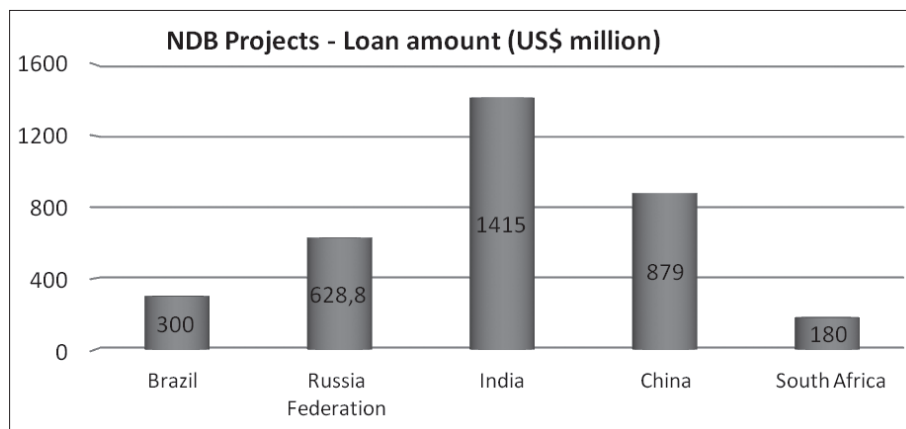
Nº	Country	Loan Amount	Target Sector
1	China	RMB 2 billion (US\$ 298 million)	Renewable energy (wind power)
2	China	RMB 2 billion (US\$ 300 million)	Water, sanitation and flood control, environment
3	China	US\$ 200 million	Energy conservation
4	China	RMB 252 million (US\$ 81 million)	Renewable energy (solar rooftop PV)
5	India	US\$ 250 million	Renewable energy (wind, solar, etc.)
6	India	US\$ 350 million	Upgrading major district roads
7	India	US\$ 470 million	Water supply and sanitation, rural development
8	India	US\$ 345 million	Irrigation Agriculture
9	Brazil	US\$ 300 million	Renewable energy (wind, solar, etc.)
10	South Africa	US\$ 180 million	Renewable energy (transmission)
11	Russian Federation	US\$ 100 million	Renewable energy (hydro-power) + green energy
12	Russian Federation	US\$ 460 million	Social infrastructure
13	Russian Federation	US\$ 68.8 million	Transportation

(Table prepared by the authors)

China and India account for the highest number of projects (4), followed by the Russian Federation (3) and Brazil and South Africa (each with one). India received the highest loan amount since the beginning of operations, according to the NDB.³⁴

³⁴ New Development Bank, *supra* note 33.

Chart 14: NDB Projects Loan Amounts



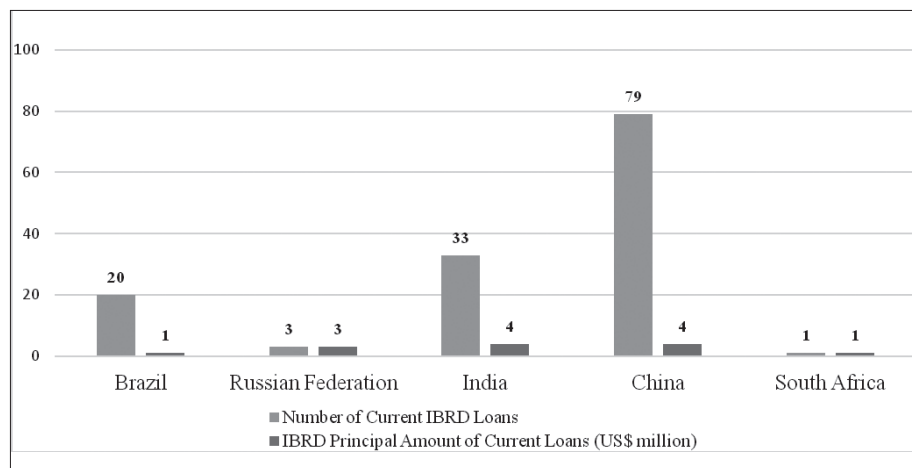
(Chart prepared by the authors)

Considering that the NDB's core activity is to promote projects in infrastructure and renewable energy, there are seven renewable energy and four infrastructure projects, including the fact that all of the BRICS countries have at least one project.

It is important to underline that only the five NDB founding members are the beneficiaries of the resources. No other developing country has up to the present time been a recipient of the bank's initiatives. This fact raises doubts about the aim of the NDB to be considered a bank for developing countries. The lack of development projects in other Southern countries could undermine the image of BRICS, which in every summit reaffirms itself as a leader of the developing countries of the world.

Within the World Bank Group, the International Bank for Reconstruction and Development (IBRD) has several projects in each of the five BRICS countries. Comparing the number of current projects signed by each of the BRICS countries with the IBRD and NDB, it is possible to see (and emphasize) how important each of these international organizations is in the five BRICS countries themselves.

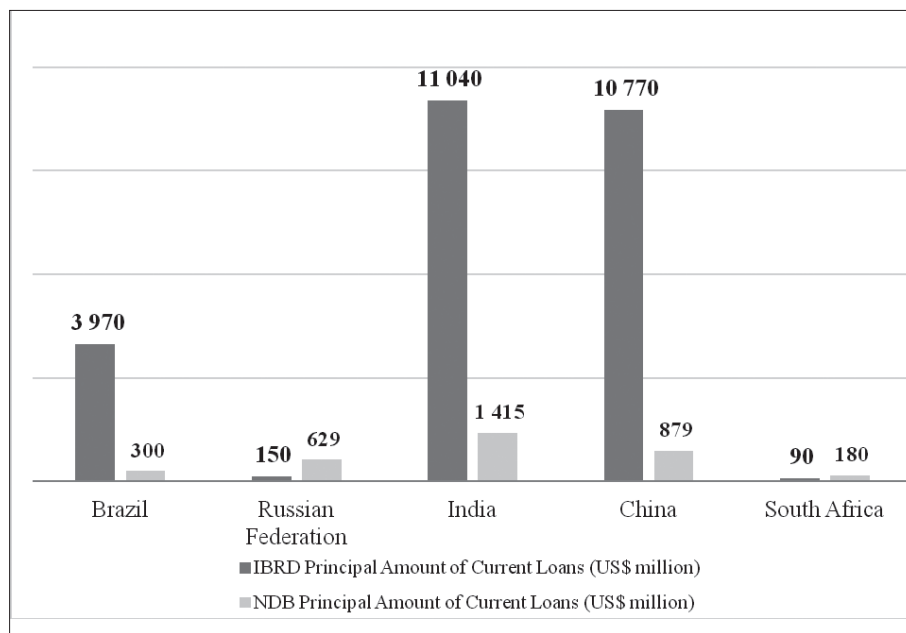
Chart 15: Comparing IRDB and NDB Number of Projects in BRICS Countries



(Chart prepared by the authors)

The number of IBRD loans or projects present in the Russian Federation and South Africa in 2017 was significant. For Brazil, the number was 20 IBRD projects and one NDB project; for India, 33 IBRD projects and four NDB projects; and for China 79 IBRD projects and four NDB projects. It is important to recall that the NDB was created only in 2014 and went into operation in 2016, while the IBRD has been in operation since the 1940s. Beyond that, the World Bank Group is more complex, established and trusted than the NDB, with 187 member countries and is an institution seen as a beacon for development aid and good governance in the world. The range of sectors in which the World Bank Group works is broader than that of the NDB, which decided to operate mainly in infrastructure and sustainable development. The common goal of these two institutions is the commitment to promoting development, with consideration of the environment and sustainable measures, which indicates that both are aligned with international concerns. Chart 16 below compares the loan amounts handled by the IBRD and NDB for 2017.

Chart 16: Number of Current IBRD and NDB Loan Amounts
in 2017 (US\$ million)



(Chart prepared by the authors)

There is a more significant loan amount approved by the IBRD compared with the total loan amount made by the NDB in 2017. India and China received approximately US\$ 11 billion and US\$ 10.7 billion, respectively, in IBRD loans. NDB loans to India amounted to US\$ 1.4 billion and US\$ 879 million to China. Brazil received almost US\$ 4 billion from the IBRD and only US\$ 300 million from the NDB. But the Russian Federation and South Africa were more contemplated by the NDB than the IBRD in respect of loans, which could be interpreted as meaning that the NDB benefits more from these two countries.³⁵ However, the reason for the greater amount of NDB loans in Russia and South Africa than IBRD loans is not explained simply through inference by examining these figures. Many different motives are involved: the countries' financial stability, the duration of projects, local needs and the historical trajectory of the relationship of donor-beneficiary, among others.

Considering the BRICS' decision to create a regional office in South Africa, the New Development Bank of the BRICS countries will increase its operations in that country and could eventually extend its resources throughout the African continent.

³⁵ The World Bank (Nov. 10, 2018), available at <https://finances.worldbank.org/en/countries/>.

Conclusion

The foundation of a bank for development by the BRICS countries can be considered to be a huge step towards more institutionalized cooperation in financial and economic matters. Following the approval of a new rebalancing of share voting quotas in the IMF, the NDB and CRA are the next most relevant group, without even considering the importance of a variety of technical cooperation and governmental meetings in other areas between the national administrations of the BRICS countries.

The NDB puts into practice the core intentions of the BRICS summits in promoting development and bringing closer together South-South cooperation. Moreover, the majority of the bank's voting power will remain in the hands of the founding member countries, similar to the majority of voting power that is concentrated in the hands of the developed countries with regard to the IMF and the World Bank Group.

Beyond the symbolism it has of a new alternative to engage South-South cooperation, the NDB needs to expand its activities to benefit other developing countries, in order to reinforce the BRICS desire to represent the Global South.

Notwithstanding the increase the NDB brings in the BRICS countries' influence in the international financial arena, the NDB still has few resources and is incapable of surpassing the World Bank in initiatives. Furthermore, the Bretton Woods institutions are present all around the world, even at work in the BRICS countries themselves, and possess an enormous amount of resources and political and technical capacity to have a significant impact in the South.

The New Development Bank needs to be seen as a contributor to international development, as an institution designed to remedy the lack of infrastructure and cope competently with issues such as inequality and poverty. The development bank of BRICS is strong evidence that the group plays an important role in the international agenda for development.

What is more, the BRICS annual meetings underline their commitment to preserve the status quo of the international order, for the five countries demand *reforms* in the international organizations, in order to *strengthen* the financial system. At the 9th BRICS Summit in Xiamen, China,³⁶ the group reiterated its commitment to the defense of globalization and the preservation of the international liberal order, acknowledging the prominence of the G20, reemphasized its respect for international law and reaffirmed the central role of the United Nations.

References

Jones S. *BRICS and Beyond: Executive Lessons on Emerging Markets* (Chichester: Wiley, 2012).

³⁶ Available at <http://www.postwesternworld.com/2017/09/07/leaders-declaration-analysis/>.

Stuenkel O. *The BRICS and the Future of Global Order* (Lanham: Lexington Books, 2015).

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