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The BRIC States and Outward Foreign Direct Investment

David Collins

INTERNATIONAL ECONOMIC LAW

The BRIC States and Outward Foreign Direct Investment

by
DAVID COLLINS



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List of Abbreviations

AATS	China-ASEAN Agreement on Trade in Services
AIN	China-ASEAN Investment Agreement
APTA	Asia-Pacific Trade Agreement
ASEAN	Association of South East Asian Nations
BCG	Boston Consulting Group
BIT	bilateral investment treaty
BRIC	Brazil, Russia, India, and China
CDB	China Development Bank
CECA	Indo-Singapore Comprehensive Economic Cooperation Agreement
CEPA	Comprehensive Economic Partnership Agreement (India)
CIS	Commonwealth of Independent States
CSR	corporate social responsibility
ECOSOC	United Nations Economic and Social Council
ECT	European Energy Charter
FDI	foreign direct investment
FET	fair and equitable treatment
FIAC	Foreign Investment Advisory Council (Russia)
FPS	full protection and security
FTA	free trade agreement
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GPA	Government Procurement Agreement (WTO)
ICSID	International Centre for Settlement of Investment Disputes
IFC	International Finance Corporation
IIA	international investment agreement
IISD	International Institute for Sustainable Development
ILO	International Labour Organization
IMF	International Monetary Fund
MAI	Multilateral Agreement on Investment (OECD)
MAIS	multilateral agreement on investment in services
MERCOSUR	Southern Common Market
MFN	most favoured nation
MIGA	Multilateral Investment Guarantee Agency
MNE	multinational enterprise
NAFTA	North American Free Trade Agreement
OECD	Organisation of Economic Co-operation and Development
PRI	political risk insurance
RTA	regional trade agreement
SAARC	South Asia Association for Regional Cooperation
SAFTA	South Asian Free Trade Area
SOE	state owned enterprise
TRIMS Agreement	WTO Agreement on Trade Related Investment Measures

TRIPS Agreement	WTO Agreement on Trade Related Aspects of Intellectual Property Rights
UNCITRAL	United Nations Commission on International Trade Law
UNCTAD	United Nations Conference on Trade and Development
WTO	World Trade Organization

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1

Introduction

I. The Growth of Foreign Direct Investment in Services from Brazil, Russia, India, and China

The world's four largest emerging economies, often identified as the BRIC states¹ of Brazil, Russia, India, and China, are poised to become the leading global economic actors in the twenty-first century; possibly overtaking many of the largest advanced economies of the West, including Germany, the UK and even the US. These four countries are now emblematic of the modern concept of globalization, at least in economic terms if not yet political or cultural. China's decade of unprecedented growth has already led it to eclipse Japan as the world's second-largest economy. India will shortly become the most populated country in the world, with a relatively young and increasingly educated workforce. Although in a sense a fallen empire, Russia possesses vast resources that have supported its position as a global energy power. Brazil has harnessed its resource wealth and embraced a market economy to become Latin America's largest economy. These trends are well captured in recent data on the flows of Foreign Direct Investment ('FDI') both to and from these states, the latter figure reflecting the appearance and rise of the BRIC's multinational enterprises ('MNE') on the world stage.² FDI outflows from the world's developing countries were \$384 billion in 2011, accounting for 23 per cent of global FDI outflows, a slight decline from that of 2010.³ Together the BRICs alone accounted for \$146 billion FDI outflows in 2011 (China \$65 billion, Russia \$67 billion, India \$15 billion, and Brazil with a negative annual outflow of \$1 billion). This is almost 10 per cent of the world's total yearly FDI outflow of \$1.5 trillion, shared among four developing

¹ This term was coined by Jim O'Neill the Chief Economist for the Goldman Sachs investment bank in a 2001 article 'Building Better Economic BRICs' Goldman Sachs, Global Economics Paper No: 66 (30 November 2001) <<http://www.goldmansachs.com/our-thinking/topics/brics/brics-reports-pdfs/build-better-brics.pdf>> accessed 5 November 2012.

² The term transnational enterprise or transnational corporation is often used interchangeably with multinational enterprise, which is the term that will be used throughout this book. A multinational enterprise is often defined as a large firm where at least 10 per cent of sales or production is done overseas and having foreign affiliates in three or more countries: A Rugman, *Inside the Multinationals: The Economics of Internal Markets* (Columbia University Press, 1981).

³ World Investment Report 2012, UNCTAD, 2012 at xiv, <<http://www.unctad-docs.org/files/UNCTAD-WIR2012-Full-en.pdf>> accessed August 2012.