

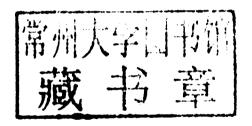
The BRIC States and Outward Foreign Direct Investment

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 secondlargest 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.