ACTUAL ECONOMIC, POLITICAL AND LEGAL PROBLEMS AND PROSPECTS FOR THE DEVELOPMENT OF BRICS

DOI: https://doi.org/10.24115/S2446-6220202171746p.383-389

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ABSTRACT

This article is dedicated to the analysis of current problems and prospects of BRICS development. Subject of research: the norms of international law governing the formation and activity of the BRICS, defining the main directions of its development. Research objectives: 1) substantiate the position that the organization and activities of the BRICS are associated with the problems of an objective and subjective nature; 2) to formulate and substantiate the main problems of the BRICS development; 3) to develop and substantiate proposals for resolving the above problems (both in terms of improving the legal framework governing the activities of the BRICS and in terms of optimizing its structure, composition and number of members); 4) to substantiate the conclusion about the existence and development of the BRICS as an international government organization. In this regard, the work has developed and substantiated proposals for improving the organization and functioning of the BRICS. The article uses a number of methods of scientific research, in particular: analysis; synthesis; formal-logical; comparative legal; historical and legal; interpolation; extrapolation.

Keywords: BRICS, Russian Federation, People’s Republic of China, India, South Africa, Brazil. International organization. National legislation.

PROBLEMAS ECONÔMICOS, POLÍTICOS E JURÍDICOS ATUAIS E PERSPECTIVAS PARA O DESENVOLVIMENTO DOS BRICS

PROBLEMAS Y PERSPECTIVAS ECONÓMICAS, POLÍTICAS Y JURÍDICAS ACTUALES PARA EL DESARROLLO DE LOS BRICS

RESUMO

Este artigo se dedica à análise dos problemas atuais e das perspectivas de desenvolvimento do BRICS. Objetivo de pesquisa: as normas de direito internacional que regem a formação e a atuação do BRICS, definindo os principais ramos do seu desenvolvimento. Objetivos de pesquisa: 1) fundamentar a posição de que a organização e as atividades do BRICS estão associadas a problemas de natureza objetiva e subjetiva; 2) formular e fundamentar os principais problemas de desenvolvimento do BRICS; 3) desenvolver e fundamentar propostas para a solução dos problemas acima (tanto em termos de melhoria do arcabouço jurídico que regem as atividades dos BRICS quanto em termos de otimização de sua estrutura, composição e número de membros); 4) fundamentar a conclusão sobre a existência e desenvolvimento do BRICS como organização governamental internacional. Nesse sentido, o trabalho desenvolveu e fundamentou propostas para melhorar a organização e o funcionamento do BRICS. O artigo utiliza vários métodos de pesquisa científica, em particular: análise; síntese; lógico-formal; comparativo legal; histórico e jurídico; interpolação; extrapolação.


RESUMEN

Este artículo está dedicado al análisis de los problemas actuales y las perspectivas de desarrollo de los BRICS. Objetivo de investigación: las normas de derecho internacional que rigen la formación y actividad de los BRICS, definiendo las principales direcciones de su desarrollo. Objetivos de la investigación: 1) fundamentar la posición de que la organización y las actividades de los BRICS están asociadas a problemas de naturaleza objetiva y subjetiva; 2) formular y fundamentar los principales problemas del desarrollo BRICS; 3) desarrollar y fundamentar propuestas para resolver los problemas anteriores (tanto en términos de mejora del marco legal que rige las actividades de los BRICS como en términos de optimización de su estructura, composición y número de miembros); 4) fundamentar la conclusión sobre la existencia y desarrollo de los BRICS como organización gubernamental internacional. En este sentido, el trabajo ha desarrollado y fundamentado propuestas para mejorar la organización y funcionamiento de los BRICS. El artículo utiliza varios métodos de investigación científica, en particular: análisis; síntesis; formal-lógico; comparativo legal; histórico y legal; interpolación; extrapolación.

INTRODUCTION
A significant role in the modern development of international relations in recent years has been played by such an international governmental organization as the BRICS, which is the object of close attention and wide discussion in domestic and foreign scientific and educational literature (ZHARKOV, 2018; MOLTA, 2018; SUN, 2018; GORBUNOVA & IGNATOVA, 2018). BRICS is an international organization that consists of 5 countries, namely: Brazil, Russia, India, China and South Africa. The organization was founded in the summer of 2006 as part of the Economic Forum held in St. Petersburg. The original composition of the BRIC organization included 4 countries: Brazil, India, Russia and the PRC. It was only later that BRIC was transformed into BRICS with the addition of South Africa as the fifth member of the organization.

METHODOLOGY
The work is based on the collection and generalization (synthesis method), systematization (system method) and comparative analysis (complex and comparative analytical methods) of materials obtained from official information resources, other sources of information, including normative legal acts, materials of interpretation of normative legal acts (formal legal method), and analysis of practice (ZALENSY & GONCHAROV, 2019, p. 129-142; ZALENSY & GONCHAROV, 2020, p. 1-6; ZALENSY, GONCHAROV & SAVCHENKO, 2019, P. 51-61).

RESULTS
The name of the organization consists of the first letters of the names of the participating countries and are composed in this order not only for the sake of euphony, but also with a "hidden" meaning, namely: The English transcription of the word BRICS is consonant with the English word "bricks" (MIRZOYAN, 2020). In this case, the following fact is interesting – the BRICS was formed as an economic union of the most powerful developing economies in the world with the highest growth rate, for mutual assistance in development and potential confrontation from the first economy at that time – the United States. Thus, BRICS are the bricks of a new emerging economy, rapidly moving towards the highest indicators.

One of the main problems of the BRICS is the different level of development of the countries belonging to this group. At the end of 2018, according to the IMF (International Monetary Fund) rating, the nominal GDP of the BRICS countries is as follows: China − $ 13 trillion 368 billion (2nd place in the world), while the total GDP of the rest of the BRICS countries for the same 2018 is $ 6 trillion 612 billion (67% vs. 33%) (WORLD, 2020).

In general, in many different areas, the PRC significantly surpasses its partners and is the unofficial head of the BRICS, due to its dominant position in the economy. So, China is the largest exporter in the world (more than two trillion dollars in 2017) and one of the largest importers in the world (more than one and a half trillion dollars). The above information allows us to conclude that the PRC has a "dominant" position in the BRICS as the most economically developed member. As in the case of GDP, imports and exports of China's other organizing partners do not come close to the indicators of the Celestial Empire.

The "strengths" of each country vary. So, Brazil is most of all focused on the production of agricultural products, Russia – the extraction of various energy and hydrocarbon resources. In India, the top priority sectors of the economy are IT production and the preparation of intellectual resources. China possesses a huge amount of relatively cheap labor resources in the production of goods. South Africa, in turn, has a good amount of natural resources. In addition, this country is considered the most developed, at least economically, among African states, which adds additional weight to its participation in BRICS activities (BRICS, 2020).

In general, the legal system of the PRC, due to the socialist nature of the state, is different from the systems of other members, which may cause some obstacles in the implementation of the organization's activities. The People's Republic of China, according to the constitution, is a unitary republic, a socialist state with a democratic dictatorship of the people. The other of the BRICS countries do not define themselves as socialist states and are "capitalist". Thus, the presence of the PRC in the BRICS raises certain questions and gives rise to various fears of the type: "Will there be a situation in which China, under the pretext of being different from other countries, decides to withdraw from the BRICS, thereby causing colossal damage to the rest of the participating countries?" (SUN, 2020).
There are differences in the legal systems of other members of the organization, so the legal system of India is a separate phenomenon of law, since it is a set of customs and traditions of the Indian people, uses the innovations that the British brought with them during the colonization of the territory of the modern state. Among other things, the modern Indian legal system also contains its own elements, which are dictated by the emerging path of development of the country and are thus a way to self-determination of the state among the rest of the world. The legal systems of Brazil, Russia, and South Africa also have their own characteristic features, but still, they are mostly mixed in their characteristics, and in the case of Russia and Brazil, with the priority influence of the Romano-German legal system on them, which is also due to the history of states, and the further path of development chosen by them. South Africa is more inclined towards the Anglo-Saxon side due to the history of the development of the region and the state as a whole.

The most striking example of this problem is the situation around the impeachment of Brazilian President Dilma Roussef, which began at the end of 2015 and lasted until August 31, 2016. The result was the removal of Roussef from the post of president. This situation, in addition to the obvious impact on Brazil itself and its state (the political crisis had a negative impact on the country's development trends), accordingly, and affected the BRICS. Such a drastic process could have a real impact on the activities of the other members of the group, since theoretically, the new government could declare the illegitimacy of certain agreements, including within the BRICS, which would have a negative impact on Brazil's partners. There were real concerns about the further participation of Brazil in the activities of the organization and its fulfillment of its obligations on the BRICS in light of the scandal with President Roussef, as she was accused, among other things, of a kind of corrupt activity as head of state and using her position to derive personal profit and gain. Such accusations and formulations could well have an impact on Brazil's activities in the BRICS on the grounds that the new government tried in every possible way to find the very confirmation of the accusations put forward against the ousted president and, theoretically, the BRICS could fall under "suspicion", first of all, because of the fact that this organization was originally founded for the purpose of economic interaction between countries, and Roussef was accused in the economic sphere.

The presented situation around the post of the head of state, which unfolded in Brazil, distanced her from participation in the activities of the organization, since the ex-Mrs. President is a "leftist" politician, like her predecessor as President of Brazil. The current head of state is a representative of a completely different political idea. Unlike Roussef, which saw benefits in relations with Russia and other BRICS partners, Michel Temer prefers to build a policy of improving relations with the West. This information makes it clear why Brazil at some point was considered as a "frozen" member of the organization. The change in the ideological and political course in the person of the new president presented certain obstacles to Brazil's participation in the further development of the organization, since in one way or another, if Temer decides to sympathize with the conditional United States and its economic allies, then participation in BRICS would be impractical and contradictory (YUSIN, 2020).

Setting aside the example of Brazil, one can recall the situation with the PRC in the early 2010s, when another "change of the generation of leaders" took place in the country. It so happened that in the PRC, since the middle of the 20th century, the country's leadership at a certain time transfers power in the country to the next generation. This happened in 2012, when its current head, Xi Jinping, came to power in China. This event had a significant impact on China's participation in the BRICS, since the change in the generation of the country's leadership within the PRC is important. With a change in leadership, as a rule, there follows a certain rethinking of the country's future path, the search for new means for development and the transformation of existing experience. In this case, China's participation in the BRICS was the fruit of the activities of one generation of the leadership of the Celestial Empire, but another government should continue this path (with different thoughts and ideas about the development of the BRICS). This whole situation implies that the most significant member of the organization at a certain point in time was in a kind of indeterminate state, which in theory could disrupt the work of the organization.

During the III BRICS Summit, held in the Chinese resort town of Sanya on April 13-14, 2011, a new participant, South Africa, was admitted to the BRIC. Thus, BRIC was transformed into BRICS. This situation gave rise to reflections on the expansion of the BRICS membership and possible candidates. One of the directions for expanding the composition can be the "invitation" to the organization of such countries as the Republic of Belarus (as the closest partner of Russia), Argentina (the second economy in South America and partner of Brazil) (Argentina, 2020), Pakistan (as an important partner of China), as well as partners of South Africa for the African Union. Thus, the BRICS will be replenished with more developing states that will unite their aspirations for development and cooperation within the framework of the organization's activities and will serve to increase the effectiveness of the BRICS.
There is also a different point of view regarding the expansion of the membership of the organization and candidates. There is a group of countries that are the top priority candidates for joining the organization on the basis that their economies have great potential and are actively developing at the moment. It is quite possible that in the relative future these countries will become the basis of the world economy, replacing the current economic giants. This group of countries is commonly referred to as the "Group of Eleven". It is the countries from this list that are among the potential participants in the BRICS in the event of an increase in its number. Moreover, some countries from the "group" have already independently expressed their desire to join the BRICS, since the initial goal of creating the organization was precisely to help countries with actively developing economies develop and collectively overcome possible pressure from the United States, if any.

Other potential members for joining the BRICS are countries whose leaders were invited to hold summits. During the BRICS summits, heads of States that are not MEMBERS of the organization were invited to participate. Such countries as Armenia, Afghanistan, Iran, Mexico, Thailand, Egypt, and many others may become potential candidates for membership in the organization. The reason for this opinion is the fact that these countries have already indirectly participated in the work of the BRICS and have an idea of the purposes and objectives of the participating countries within the framework of the organization's work. Such states, as new members, are promising from a simple logic: they are already "spinning" around this sphere, and their entry will increase the number of the organization not just by random countries, but by those who share and understand the position and situation of the entire BRICS.

In addition, as there are talks about the expansion of the BRICS, we should also not forget about how necessary the organization itself is. There is a potential problem in an unnecessarily large number of members of the organization. In this case, new members may well, by joining the organization, for the most part only receive help from other BRICS members, while, in turn, they will not carry and do anything useful for others, being a kind of parasites feeding on the fruits of the organization's work. The potential for such a situation makes it more thoughtful to consider the issue of expanding the BRICS membership, to what extent the organization needs it and who will benefit from it in the first place. If the organization is replenished with new members, you should consider a system of benefits for such new members. It is necessary to fix the list of benefits provided to new participants in regulatory acts. An example of such benefits can be, for example, the granting of customs privileges to novice countries when importing goods to the territory of other members of the organization.

For the most part, the BRICS was created as an economic instrument of interaction between member countries (MIYANOV, 2020). It is necessary not to forget about this direction, as well as to actively develop it. The means for development can be the abolition of customs obstacles within the BRICS between its members and the creation of instruments designed to facilitate trade and economic interaction among the members of the organization. In this direction, conversations are already underway and initial developments are being made (The, 2020). So, at the last XI BRICS summit, the issue of creating an alternative to the interbank SWIFT system was raised in order to facilitate interbank transactions between the organization's participants and overcome possible pressure "from outside" through this very SWIFT system (BRICS, 2019).

Also, in addition to creating its own separate interbank system, which is currently only discussed, the so-called "New BRICS Development Bank" has already been created and began to function, which is an international financial organization created by the BRICS member countries as a development bank. The agreement on its creation was adopted on July 15, 2014 during the VI BRICS Summit. The New Development Bank (or NDB) aims to provide financial assistance in the form of financing various promising infrastructure projects (and along with them sustainable development projects) not only in the BRICS countries, but also in other developing countries. Also, the NDB was created as an alternative to the World Bank and the IMF, since the BRICS countries, although they have the right to vote for them, but at the same time, the actual influence of the countries of the organization there is negligible and is not valid and meets the real requirements and needs of both each of the countries and all BRICS. Since the founding of this financial organization, its headquarters have been located in Shanghai, a kind of financial center of China, which, as noted earlier, is the most powerful and influential member of the BRICS. In light of this fact, once again, it is worth considering how the PRC is a powerful member of the organization.
CONCLUSION

As a result, although some steps towards creating a comfortable environment for trade between the BRICS partners have been taken, this direction should not be abandoned, but on the contrary - it is necessary to further develop, for example, by: transition to an alternative interbank system; development of the NDB’s activities; making decisions on mutual facilitation for the crossing of goods and services from one participating country to another. All these activities, as well as others not listed in this work, will have a positive impact on the development of the BRICS countries, which is beneficial both to each individual and the entire organization as a whole (Abut, 2020). In this direction, it makes sense to propose the following: it is advisable for the BRICS members to create their own analogue of the WTO, acting within the framework of the organization and for the benefit of the member countries. This analogue can be endowed with powers and goals similar to those of the WTO, but with amendments to the level of financial and economic development of the BRICS countries.

These measures can facilitate trade within the organization, and to involve the membership in the BRICS of a new country. The BRICS organization has ambitious plans for development and activities. In this aspect, the following development perspective makes sense - the unification of the national legislation of the members of the organization. This step is necessary in order for the participating countries to create conditions that are closest to each other for the implementation of agreements adopted at the BRICS congresses. This should be done on the basis of the purpose that a situation does not arise when in some of the countries, on the basis of national legislation, the implementation of the norms of the BRICS agreements is not profitable and not expedient, while in others everything is performed properly. If this situation occurs, there will be a gap in the fulfillment of their obligations between certain members of the organization, which along the chain may lead to a cooling in relations between the participants, and in the future everything will end with the disbanding of the organization and the termination of the agreements and obligations already accepted within the BRICS framework for all members.

To avoid this situation, the national legislation of the participating countries should be unified. This process is not easy and fleeting, and absolutely every BRICS member should work to implement it. It is necessary to take into account the economic, political and social condition of each member, the development prospects of all members individually and in the aggregate of the organization, individual interests, and so on. Of course, it is not possible to completely unify national legislation, but it is quite possible to bring them to a certain common standard, on the basis of which the national normative legal acts of the participating country will be adopted with minor discrepancies. Following the generally accepted example, each of the countries will draw up national legislation in those spheres where the norms of the BRICS agreements apply and must be implemented. The entire organization and its members benefit from this event.

Within the framework of the highlighted issue, there is such a development perspective - the creation within the BRICS framework of model codes regulating the activities of the organization and its members, as well as the elimination of problems with serious differences in the laws of the participating countries themselves. Model codes can help to overcome the obstacles that stand in the way of improving the quality of the organization’s work. Also, an equally significant way to improve the work of the BRICS is the adoption of various international agreements on customs procedures and taxation between the participating countries. It is necessary to provide the BRICS countries for each other with certain “benefits” in terms of the passage of goods across the customs border. Thus, the members of the organization themselves will benefit in the first place. But at the same time, we should not forget about the taxation of goods supplied to countries from outside, since taxes are one of the ways to both prevent the dominance of foreign goods in the market, and vice versa to attract them. The adoption of agreements on the avoidance of double taxation between the BRICS members is a very important and necessary step, which will eliminate the possibility that it will not be profitable for countries to act within the framework of the organization, but on the contrary it will be super – profitable.
ACKNOWLEDGMENTS
The article was written based on the results of the research carried out at the expense of budget funds, which were provided to the Financial University as part of the state contract.

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