



Analysis of the economic and financial relations between Latin America and the Caribbean and the BRICS group

Extra-Regional Relations

Regional Seminar on the economic and financial relations between Latin America and the Caribbean and the BRICS Group.

Caracas, Venezuela

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F O R E W O R D

This document has been prepared in compliance with Activity III.1.2 of the Work Programme of SELA for the year 2015, entitled “Analysis of the economic and financial relations between Latin America and the Caribbean and the BRICS countries”.

The document comprises an introduction, four chapters and a final section with the conclusions and recommendations stemming from the study. Chapter I describes the economic performance of the BRICS countries, their economic relations with Latin America and the Caribbean and the functioning of the development banks of the member countries. Chapter II assesses the financial architecture of Latin America and the Caribbean and explores the needs for financing in the region. Chapter III deals with the regulatory frameworks governing public and private investments in Latin America and the Caribbean and the Bilateral Investment Treaties with the BRICS countries. Finally, Chapter IV describes the main features of the New Development Bank (NDB) and the Contingent Reserve Agreement of the BRICS.

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INTRODUCTION

This study aims to analyze the economic and financial relations between Latin America and the Caribbean and the BRICS grouping. The importance of this project resides in the clarification of the new role exerted by the BRICS countries in the international scenario.

The BRICS does not consist only in a political group, but it has evolved to a new platform of emerging countries contesting the old international order, established in Bretton Woods, in 1944. With the rise of Brazil, Russia, India, China and South Africa in the international realm, the United States and Europe role as the primary financing providers is challenged.

This report was divided into six distinct parts: (i) introduction and executive summary; (ii) assessment of the BRICS's role in international context; (iii) evaluation of the financial architecture of Latin America and the Caribbean; (iv) the protection of public-private investments in Latin America and the Caribbean; (v) the New Development Bank and; (vi) Conclusions and Recommendations.

The present chapter intends to highlight the most important points and subjects dealt in each of the subsequent sections. The purpose of this introduction and executive summary is to explain the main features of this study in a way that will make the readers acquainted with relevant information found out in the project. This section will flash out the most important points gathered during the development of the study.

Chapter II assesses the BRICS's role in international context. This section is divided into two parts. The first part depicts the BRICS main economic features, such as volume and amount of trade in goods and services; the growth of GDP per capita, and foreign direct investments. In the second part, it develops an analysis of the national development bank of each BRICS country, more precisely their role in fostering foreign direct investment and promoting import and export of goods and services.

BRICS countries GDP growth since 2001 has been impressive when compared to other emerging and developed economies. Even though the BRICS countries are now under economic or political distress, their importance to the global economy is undeniable. The World Bank Databank shows that, since 2001, BRICS countries have grown an average of 5.53% annually. China with a 9.82% GDP growth average from 2001 to 2014, followed by India with 7.24%; Russia with 4.21%; Brazil, 3.24%; and South Africa with 3.14%. The GDP per capita has also significantly grown in the past fifteen years. The World Bank projections show that China will have a persistent growth in the GDP per capita while Brazil and Russia will not. India will also keep a steady growth in the GDP per capita.

BRICS have also increased their participation in international trade. In 2013, they represented 17.98% of all exports in goods and 16.61% of all imports in goods. In services, BRICS countries represented 10.16% of all services exports and 15.43% of all services imports. International reserves are very steady amongst BRICS countries and, in the last decade, they were able to accumulate a large amount of international reserve, which provided more stability and predictability for their economies, resulting in massive FDI. Brazil has USD 363,6 billion in reserves; Russia USD 386,2 billion; India USD 325,1 billion; China USD 3,9 trillion; and South Africa USD 49,1 billion in international reserves.

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The national development banks of the BRICS countries are also playing an important role in fostering their insertion in international context. They provide the necessary export and import credits to boost trade in service and goods as well as foster foreign direct investment.

The Bank for Development and Foreign Economic Affairs (*Vnesheconombank*) is a Russian state corporation that operates to enhance competitiveness of the Russian economy, diversify it and stimulate investment activity. The main destinations of the *Vnesheconombank*'s export support efforts comprise the Commonwealth of Independent States (CIS) countries, South and East Asia, Central and Eastern Europe, Latin America, North and Central Africa. The leading products that receive the Bank's exports priorities include aircraft building and rocket and space complex, nuclear and traditional power, transport machine building, defense industry, Russian hi-tech exports.

The Export-Import Bank of India is a state-owned corporation aimed at enhancing exports from India, but also integrating the country's foreign trade and investment with the overall economic growth. Regarding export credit and guarantees, the Exim Bank of India approved, in the fiscal year 2014-2015, loans amounting to 257.34 billion by way of supplier's credits, buyer's credits and finance for project exports. These guarantees refer to overseas projects in sectors such as power generation, transmission and distribution, infrastructure development and export obligation guarantees. The Bank is sponsoring not only strategic development projects within India but also in other developing countries, mainly in Middle East and Africa.

The China Development Bank (CDB) is a governmental development financial institution that provides medium-to long-term financing facilities to assist the progress of a robust economy. In 2014, the Bank continued to broaden its international cooperation in sectors such as infrastructure; equipment manufacturing; finance, agriculture; clean energy; social sectors; and small and medium-sized enterprises. Its international collaboration practices encompass partners in Asia, Africa and Latin America.

The Development Bank of Southern Africa (DBSA) is a state owned entity with the scope of accelerating sustainable-economic development and improve the quality of life of the people of Southern Africa by driving financial and non-financial investments in the social and economic infrastructure sectors. At the core of DBSA's mandate resides the Bank's pivotal role in delivering developmental infrastructure in South Africa and the rest of Africa. As of the end of 2014, the DBSA had development assets of R 55.5 billion spread across 13 Southern African Development Community, predominantly in the energy, roads, water, transport and social infrastructure sectors.

Chapter III develops an evaluation of the financial architecture of Latin American and the Caribbean. In order to advance the analysis of the economic and financial relations of the region with the BRICS, the chapter was divided into three parts.

At first, the Latin America and the Caribbean financial architecture was portrayed by highlighting aspects such as credit provisions, direction of investments and the consequences of the 2008 financial crisis. It was possible to demonstrate that during the boom years of 2000s, credit provisions by banks grew strongly across LAC. The size of the banking sector relative to the economy more than doubled in several countries in less than a decade. Consequently, the financial institutions of LAC are playing a more important role in international financial transactions. LAC's connections with other South countries have been growing faster than its connections with North countries, especially during the second half of the 2000s. However, the North is still by far the principal source (receiver) of the flows to (from) LAC countries. Except in some Caribbean countries, Latin America and the Caribbean got through the recent global financial crisis

remarkably well. This could be accomplished due to the existence of significant external buffers and, for the larger economies, the flexibility afforded by floating exchange rates. However, despite its stability and recent achievements, the financial systems in Latin America and the Caribbean remain underdeveloped. Large part of the population has no access to banking services and the financial systems of the region's countries remains generally shallow, short-termist and essentially reliant on commercial banks.

In a second moment, the financing needs for development of Latin America and the Caribbean were discussed and evaluated. It could be observed that the provision and quality of economic infrastructure, particularly, the deficit that Latin American has in this area is a constraint on the region's growth, development and sustainability. This phenomenon is known as the "infrastructure gap". While infrastructure supply growth has been fairly modest in recent years in the transport and energy sectors, the region has made greater progress in the telecommunications and water and sanitation sectors. Another Latin American and Caribbean's persistent bottleneck lies on the small and medium-sized enterprises' (SME) lack of access to the financial systems in the region, which translates more or less to a lack of access to credit. It is also noteworthy that middle-income countries such as those of Latin America and the Caribbean require greater financial resources to deal with the effects of climate change; especially small Caribbean islands are the most vulnerable to this effect. These funds could be provided by national and international financial institutions aimed at promoting the process of economic and social development.

At last, the most important financial institutions aimed at promoting development of Latin America and the Caribbean countries were depicted, particularly international, regional, sub-regional and national development banks, such as World Bank, Inter-American Development Bank, the Andean Development Corporation (CAF), Fund for Structural Convergence of Mercosur (FOCEM) and National Bank for Economic and Social Development (BNDES). These development-oriented institutions have proven to be successful source of medium and long-term resources through investment finance for infrastructure, production and social development, and climate change mitigation. According to the studies and surveys conducted by ECLAC, sub-regional development banks have considerably enhanced their lending volume and relative share of total multilateral development bank lending in Latin America and the Caribbean. Sub-regional banks have become more relevant not only in terms of larger lending volumes, but also regarding sectoral diversification with emphasis afforded to infrastructure and production sector financing and, more recently, to financial intermediation. Currently, the development financing in Latin America and the Caribbean is proportionally divided between international, regional, sub-regional and national development banks.

Chapter IV presents the analysis of the protection of foreign investments in Latin America. Before the creation of International Investment Law, foreign investments were limited to domestic sphere, and were only encompassed by International Law when it involved customary law and diplomatic protection. According to these perspectives, only States were able to protect its national citizens. However, it was frequent some abuses in the using of diplomat protection, as the gunboat diplomacy, which unleashed the disapproval of many countries, particularly in Latin America and the Caribbean, with the Drago and Calvo Doctrines.

Along the 20th Century, many States which were resistant to International Investment Law reviewed its position, mainly in the 1990s, facing the need of attracting investments to boost economic development. The attraction of foreign direct investments have been one of the priorities of the developing countries due to the role of private capital in bringing more technology, expertise, employments and growth to the Host Countries. However, investing in another State involve a range of risks, such as political instability or arbitrary governmental measures, as nationalizations,

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expropriations, interference in the control transfer of foreign ownership or in the returns to the States of origin of the private investors.

Facing these instabilities, the investors pressured its own States to set up international arrangements to protect them and promote investments, all in accordance with international law. In the 1990s, developing countries, even in Latin America and the Caribbean, adopted these investment agreements, particularly bilateral investment treaties, as an asset to attract the new wave of investments that was spreading around the world, in consonance with the neoliberal economic policy predominant in this period. BRICS grouping are not an exception in this flooding of treaties, even though Brazil had been resistant to this pattern until 2015.

Nevertheless, despite the fact that BRICS is a cooperation group between rising powers in the world politics, each State has its own strategy regarding international investment policies. Brazil was traditionally resistant to bilateral investment treaties and the model designed in the 1990s was rejected by the Congress. In the 21st Century, Brazil was transformed from a solely receptor of investments to an investor, motivation that made the country to propose a new investment instrument, the new Cooperation and Facilitation Investment Agreements.

Russia concluded the first bilateral investment treaty in 1989 and it lasted until the 2001, when in the government of President Vladimir Putin, a new pattern of investment treaty was launched. This new model was more conservative than the last one. It means that the Russian investment agreement became more resistant to the entrance of investment in the country, whereas reflect the new Russian policy with a shift in spreading Russian investments and presence abroad, mainly in Africa, Asia and Middle East. Along the years, Russia has signed BITs with Latin American countries and also with BRICS nations. Several BITs separately have been listed with forward investment demands to an international arbitration court of one of the Chambers of commerce with the consent of both parties to the dispute.

India passed by an evolution regarding investment policy, launching in 2013 an updated version of the Indian BIT. Specialists infers that India's new BIT model is innovative regarding traditional concepts, even though some important questions are still not present in the new provisions. Despite the majority of those agreements has been signed with developing countries from Asia, Africa, and Eastern Europe, India has expanded its investment policy to Latin America and the Caribbean. However, it is important to stress that all of these BITs were signed during the effectiveness of the old pattern. India has concluded BITs with the BRICS countries and affirms a stance of resistance facing international investment arbitration, not signing the ICSID Convention.

China is an investment-treaty friendly country and it has been signed several bilateral investment treaties in the last years. The Chinese bilateral investment treaties faced an evolution process since the 1980s and, nowadays, are in the fourth pattern, launched in 2008. The provisions have been modified along the years and the most significant resistance at the beginning were related to scope of the investor-State dispute settlement clause. In the past, the treaties only covered the amount of compensation in case of expropriation, the free transfer of capital and the refusal regarding National Treatment Clause, in order to protect the Chinese infant industries. The evolutions could be observed through the proliferation of Chinese BITs around developing countries, including Africa, Asia and Latin America during the second phase. The innovations in a more liberal basis were reflected in the following phases. Since 1993, China is a member of ICSID, even though during the evolution of the BITs framework, China omitted mention to ICSID arbitration. Nowadays, several Chinese bilateral treaties already provide this remission. China has signed BITs with several Latin American Countries as well as it has an investment policy towards

the BRICS countries. In the present time there is a bias of the Chinese investment policy towards Africa, as a result of the South-South BITs wave.

In 1990s, South Africa has adopted investment agreements, in accordance with the "race to the bottom" in attracting investments promoted by the developing countries. The South-African model emerged providing some assurances to investors, even though it arose some concerns related to domestic social policies and to international investment arbitration. After many discussions, South Africa decided to change its investment policy and made efforts to terminate the already signed bilateral investment treaties with some European countries. In 2013, the country proposed a draft of a Promotion and Protection Investment Bill, aiming at attracting more foreign direct investment, at the same time as maintaining its sovereignty. South Africa concluded BITs only with a few Latin American countries as well as with the BRICS countries.

Another important tool used in the contemporary scenario to increase investments and foster development is the Public-Private Partnerships. This institution consists in a long-term contract between the public and private sectors, to sponsor public works, normally associated with infrastructure, such as construction and operation of ports, bridges, canals, airports, railways and waste management facilities. Other public services as education and health, as well as prisons are also target of PPPs models, setting up the allocation of risks and tasks to the private sector.

In the 1990s, Latin American and the Caribbean public entities had serious difficulties in affording capital and covering alone all the needs of the region. For this reason, the region followed the pathway of the PPPs model. There has been a leveraged in the performance of provisions to infrastructure in the region (electricity, water and sanitation, telecommunication, road, railroad, port, and airport). This explains why structural and regulatory framework reforms were made to encourage the PPPs, as new PPP, and also as concession regulations and PPP agencies or PPP units. At the beginning, most of the PPPs projects were related to brownfield projects, even tough, along the years it was verified an increase in the Greenfield projects, mainly in energy.

Some Latin American countries have development financial bank institutions that finance part of the investment project infrastructures that are not accepted by the private investors. In the region, financing by development banks has been historically very important to carry out infrastructure projects, as the examples of the performance of the BNDES (Brazil) and BANOBRAS (Mexico).

It is important to associate the emphasis of Latin America and the Caribbean in infrastructure and public works with new financial initiatives which have been created in the international contemporary world. The New Development Bank (NDB) initiative is launched as a potential for scaling up financing for sustainable development and infrastructure. This purpose is reinforced in the II Business Council Summit, occurred in Ufa, Russia, in July, 2015, as provided in the Second Annual Report 2015-2016.

Chapter V analyzes the main features of the New Development Bank (NDB) and the Contingent Reserve Agreement (CRA) approved by BRICS' countries in the last year and yet to be implemented. Both the NDB and the CRA have resulted in formal agreements with some degree of rights and obligations for each of the BRICS country.

The BRICS Leaders approved the creation of the New Development Bank (NDB) and the Contingent Reserve Agreement (CRA) at the Fortaleza Summit in 2014. The NDB was created bearing in mind that developing countries have insufficient investments in infrastructure and in sustainable development initiatives. BRICS Leaders have also reminded of the supplementary aspect of the NDB towards the efforts of multilateral and regional financial institutions for global

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development in order to achieve collectively a strong, sustainable and balanced growth. BRICS Leaders are expecting the NDB to start receiving the first investment projects by the first semester of 2016.

The NDB can support both public and private projects through loans, guarantees, equity participation and other financial instruments. The Bank shall act in cooperation with other international organization and financial entities. Projects can also require technical assistance from the NDB. As for the Contingent Reserve Agreement, BRICS countries have decided to create a structure capable of granting loans and financial help during financial distress in developing countries and emerging economies.

Each BRICS country is a founding member of the NDB and an enlargement is possible for borrowing and non-borrowing members. The only admissibility requirement is to be a member of the United Nations. A special majority shall be obtained for a new member to be accepted. New members can opt for a borrowing or non-borrowing memberships.

The NDB will count on a US\$ 50 billion of subscribed capital and an initial authorized capital of US\$ 100 billion. The voting power in the NDB is determined by the amount of subscribed shares of each member in the capital stock of the NDB. The first US\$ 50 billion of subscribed capital shall be equally distributed amongst BRICS countries.

The NDB shall use the resources of the bank to support infrastructure and sustainable development projects, whether public or private in nature, by means of loans, guarantees, equity participation and other financial instruments compatible with sound banking principles. There are only ordinary and special operations. All operations are ordinary if NDB's ordinary capital resources finance them. All operations are special if the resource comes from a special fund. Only emerging economies, developing countries and the BRICS countries can apply for such a support. BRICS countries decided that the NDB will have its headquarters in Shanghai and regional offices as necessary to exercise its functions. The first regional office shall be in Johannesburg, South Africa.

The voting power of each of its members depends on the number of subscribed shares in the capital stock of the NDB. If, for any reason, a member does not comply with any of his duties towards paid-in shares, the member is suspended until it complies with its obligations. A suspended member cannot use the percentage of its voting power for which it has not subscribed in the capital stock.

It is also important to highlight that the NDB can borrow funds in member countries or elsewhere. All securities issued or guaranteed by the NDB shall have a notice informing that such operation is not an obligation of any government, unless it is determined so, therefore, there should be a notice informing to which government such operation is an obligation to. The NDB can also invest in funds that are not needed in its operations with the purpose for pensions or similar.

BRICS countries conferred full international personality to the NDB with full capacity to engage in contracts, to acquire and dispose of immovable and movable property, and to institute legal proceedings. The Board of Governors, the Board of Directors, a President and a Vice-President are the main decision-making organs of the NDB and the meetings shall take place at the NDB's headquarters in Shanghai, China.

If there is a disagreement regarding an operation, arbitration shall take place. The arbitration shall be a tribunal of three arbitrators, in which one is appointed by the NDB, a second one by the affected member and the last one an authority approved by the Board of Governors unless the

parties disagree upon that. The arbitrator appointed by the Board of Governors should have the power to ascertain the proceedings if the parties disagree upon that. On the other hand, if there is a disagreement between the NDB and a borrowing member, the settlement of controversies shall be governed by what is disposed in the respective contract.

In any case shall the property and assets of the NDB be subject to seizure, attachment or execution before a final decision is delivered against the NDB regardless their location or who to be in possession of them. Property and assets are also exempt from restrictions, regulations, controls and moratoria of any nature at the extent necessary to carry out their functions and purpose. The NDB, its property, assets, transfers, operations and transactions shall benefit from tax immunity and customs duties. Such immunities include taxation and duties levied on salaries of employees, directors, alternates, officers paid for by the NDB and other obligations or securities guaranteed by the NDB. Solely the Board of Directors can waive any of those immunities, privileges and exemptions.

The main idea of the Contingent Reserve Agreement is to have a US\$ 100 billion as of resources split amongst BRICS Countries for parties' requests in a financial instability situation. At any time, parties can request access to committed resources and it will have access to it if the other parties (which are providing the resources) agree upon that. The CRA, as opposed to the NDB, does not possess "independent international legal personality". For that reason, it cannot conclude agreements or engage in legal processes.

BRICS countries established two organs to take decisions in respect of the CRA: (i) the Council of CRA Governors (or "Governing Council"); and (ii) the Standing Committee. Under the Governing Council's responsibilities is the approval of new countries as parties of the CRA, which means that such instrument comprises future enlargements.

Disputes regarding the interpretation of the CRA shall be solved by consultations with the Governing Council. In case of litigation on the performance, interpretation, construction, breach, termination or invalidity of any provision in the CRA that cannot be solved amicably in the Governing Council shall resume to an arbitration proceeding under the Arbitration Rules of UNCITRAL. The arbitration will be in English and with a composition of three arbitrators.

All things considered, it can be affirmed that the BRICS is a political group that intends to rebalance the prevailing global governance. The New Development Bank and the Contingent Reserve Arrangement stand out as first step in order to accomplish this goal. When fully operational, these two financial institutions may add up resources to tackle financing needs for development and help countries that facing problems in their balance of payment.

I. THE BRICS IN THE INTERNATIONAL CONTEXT

1. Introduction

The term BRIC is an acronym for Brazil, Russian Federation, India, and China, and its main purpose is to draw investors' attention to the global economic changes and the rise of middle-income countries (O'Neill, 2001). It is important to highlight that South Africa was not part of the group until 2011 and the Russian Federation WTO membership became effective only after August 2012.

Thereby, it was established a comparison amongst the economies of Brazil, Russian Federation, India, and China and the G-7 nations (the United States, Canada, the United Kingdom, France, Italy, Germany, and Japan). O'Neill's study analysis provided estimates for BRIC countries' economies for 2050. By that time, BRIC countries should become the largest economies in the world, as a result, China will be the largest one, followed by the United States, India, Japan, and Brazil (O'Neill, 2001).

2. BRICS Economic Features

BRICS countries GDP growth since 2001 has been impressive when compared to other emerging and developed economies. Despite of a great performance in the past decade, some of BRICS countries are facing economic constrains. Russia suffers with economic sanctions applied by western countries because of the conflict in Ukraine. Russia's GDP growth for the first trimester of 2015 will shrink by 2.2% and they have heavily affected trade flows between Russia and European countries according to NATO (NATO, 2015)². China has shown that its growth path might be slowing down. In the past months, Chinese stock exchange market has come close to a meltdown (Wong; Gough; Stevenson, 2015; Allen, 2015; S.R, 2015), which caused the reemergence of a new chapter in so-called currency wars (Hughes; McGee; Anderlini, 2015; Eavis, 2015; Inman, 2015). Brazil has also administered economic restrains and its GDP shall experience a retraction of more than 2% (Martello, 2015) while a two-year recession in the Brazilian economy is just around the corner (Gillespie, 2015; Gallas 2015; Rapoza, 2015; Financial Times, 2015).

In spite of such negative scenario, BRICS countries decided upon the creation of the New Development Bank and the Contingency Reserve Agreement as an attempt to influence the global financial system, especially activities controlled by the IMF and the World Bank Group. Even though the majority of BRICS countries might be under economic or political distress right now, their importance to the global economy is undeniable, as this chapter will show.

As already mentioned the GDP growth of each of BRICS countries is considerably high and deserve attention as much as a comparison amongst themselves. The World Bank Databank shows that, since 2001, BRICS countries have grown an average of 5.53% annually. China with a 9.82% GDP growth average from 2001 to 2014, followed by India with 7.24%; Russia with 4.21%; Brazil, 3.24%; and South Africa with 3.14%.

If the period before the global financial crisis in 2008 and the period after that are compared, interesting results arises:

¹ The Sanya Declaration of 14 April 2011 welcomed South Africa as a member of the BRICS forum (BRICS Leaders Meeting, 2011a, para. 2).

² See also: Cable News Network (CNN). (April 21, 2015). Sanctions will cost Russia more than \$100 billion. [On line Journal] Available at: <http://money.cnn.com/2015/04/21/news/economy/russia-ukraine-sanctions-price/> [Accessed: 2015, July 25]

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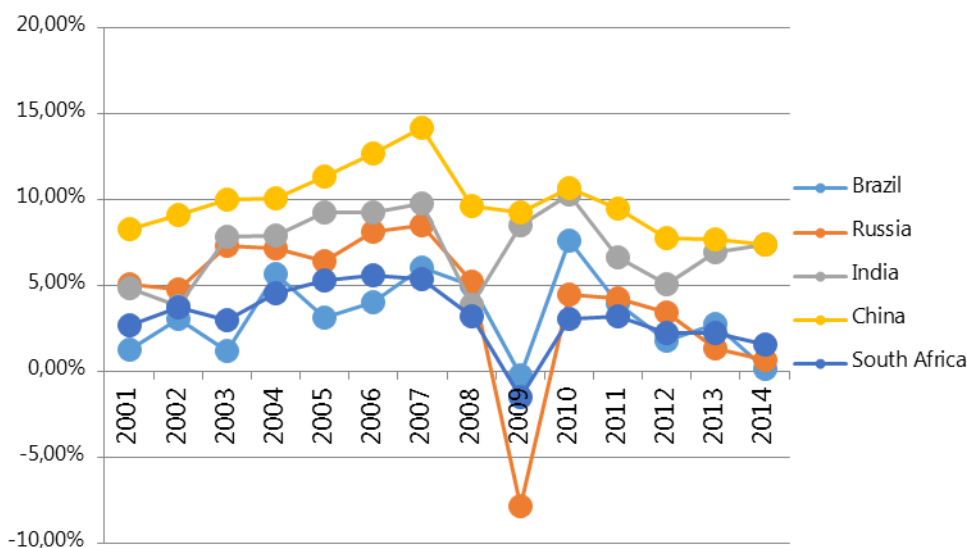
TABLE 1
Average GDP Growth of BRICS Countries from 2001 to 2014
 (in percentage)

Country	Average from 2001-2008	Average from 2009-2014
Brazil	3.68%	2.65%
Russian Federation	6.58%	1.06%
India	7.08%	7.46%
China	10.67%	8.69%
South Africa	4.16%	1.78%
Average amongst all	6.43%	4.33%

Source: World Bank databank, 2015.

The Table shows that Brazil averages vary about -1.03% from 2009 to 2014 when compared to the previous period. Russia experiences a free fall by reducing its GDP growth by 5.52% in the second term analyzed here. On the contrary, India improved its performance by enhancing growth in about 0.38%. The Chart below shows the annual GDP growth for each BRICS country from 2001 to 2014.

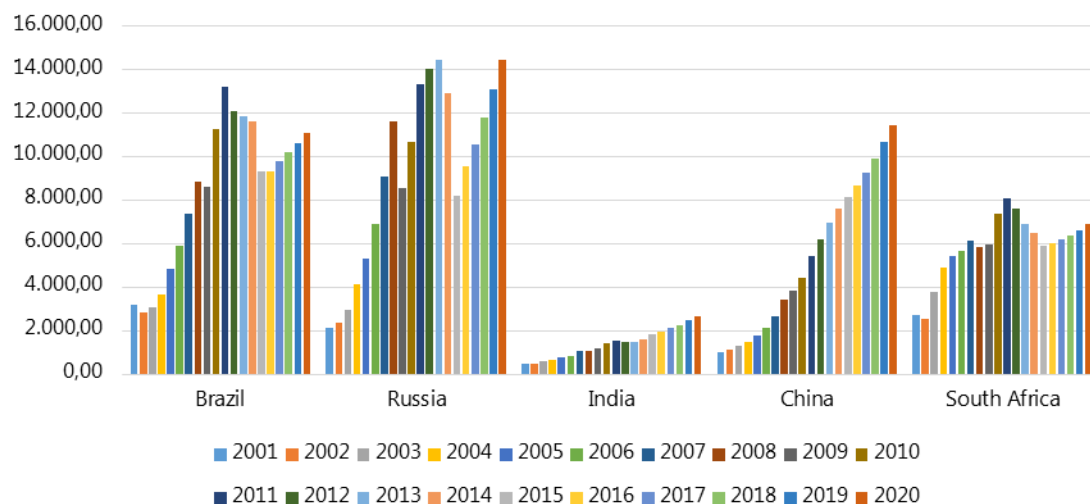
CHART 1
BRICS countries' GDP annual growth from 2001 to 2014
 (in percentage)



Source: World Bank Databank, 2015.

The GDP per capita has also significantly grown in the past fifteen years. The World Bank projections show that China will have a persistent growth in the GDP per capita while Brazil and Russia will not. India will also keep a steady growth in the GDP per capita. The chart below demonstrates that the World Bank estimates suggest that the GDP per capita will vary negatively from 2013 to 2020 only in Brazil (from USD 11,893.71 to USD 11,101.85). The rest of the BRICS will experience positive variations from the 2013 level in 2020. Russia will vary from USD 14,468.58 to USD 14,479.72; India from USD 1,508.16 to USD 2,671.50; China will almost double it, from USD 6,958.91 to USD 11,449.16; and South Africa will remain mostly intact, from USD 6,889.70 to USD 6,894.99.

CHART 2
BRICS: Gross Domestic Product per capita
(current prices, US dollars)



Source: World Bank Databank, 2015.

BRICS have also increased their participation in international trade. In accordance with the WTO, in 2013, BRICS countries had the following profile:

TABLE 2
BRICS: Participation in Exports and Imports for goods and services
(in percentage, 2013)

Country	Export in goods	Import in goods	Export services	Import services
Brazil	1.29	1.33	0.81	1.90
Russian Federation	2.78	1.82	1.39	2.81
India	1.66	2.47	3.25	2.84
China	11.74	10.32	4.41	7.52
South Africa	0.51	0.67	0.30	0.36
TOTAL	17.98	16.61	10.16	15.43

Source: WTO, 2015.

China had 11.74% of all exports in goods in the world in 2013, which means nearly the double of all the other BRICS added up together. The same occurs for imports, where China had a 10.32% participation. Exports and imports in services are more balanced. Nevertheless, China responds for 7.52% of all imports in services in 2013, nearly 50% of all BRICS countries counted together.

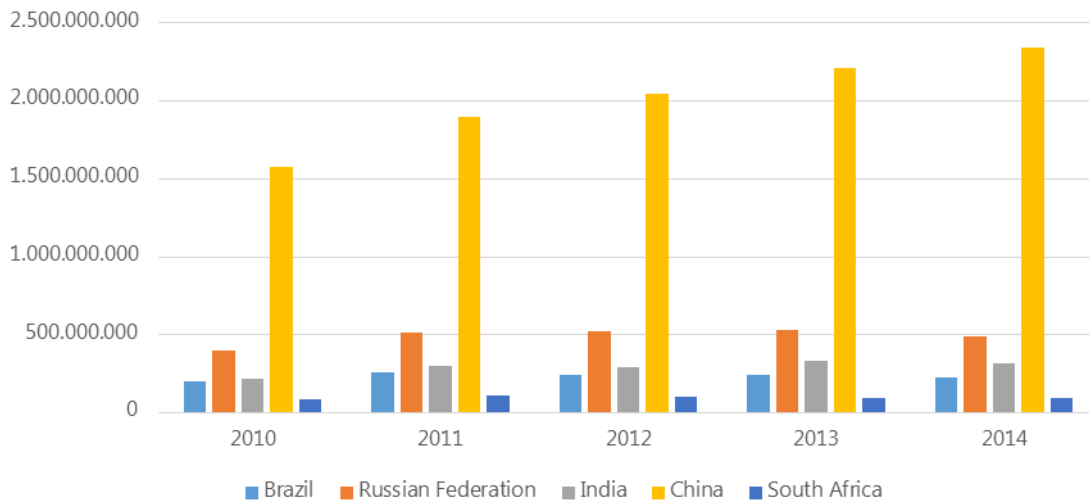
In broader terms, BRICS countries are very important for international trade. In 2013, they represented 17.98% of all exports in goods and 16.61% of all imports in goods. In services, BRICS countries represented 10.16% of all services exports and 15.43% of all services imports. Figure below shows exports and imports for each BRICS countries from 2010 to 2014.

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CHART 3

BRICS: Exports and Imports in Goods (2010-2014)

(in USD thousands)

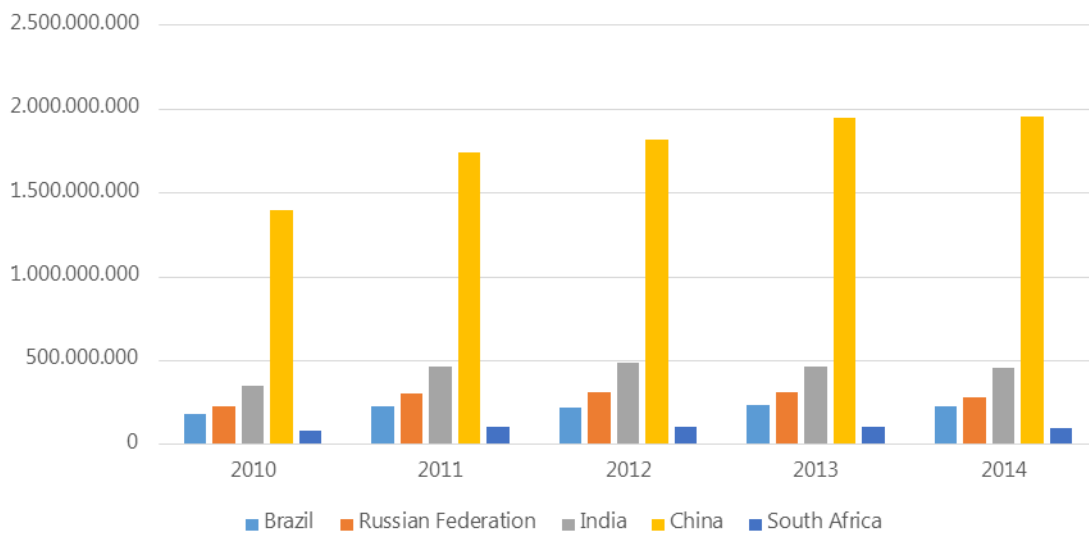


Source: WTO, 2015.

CHART 4

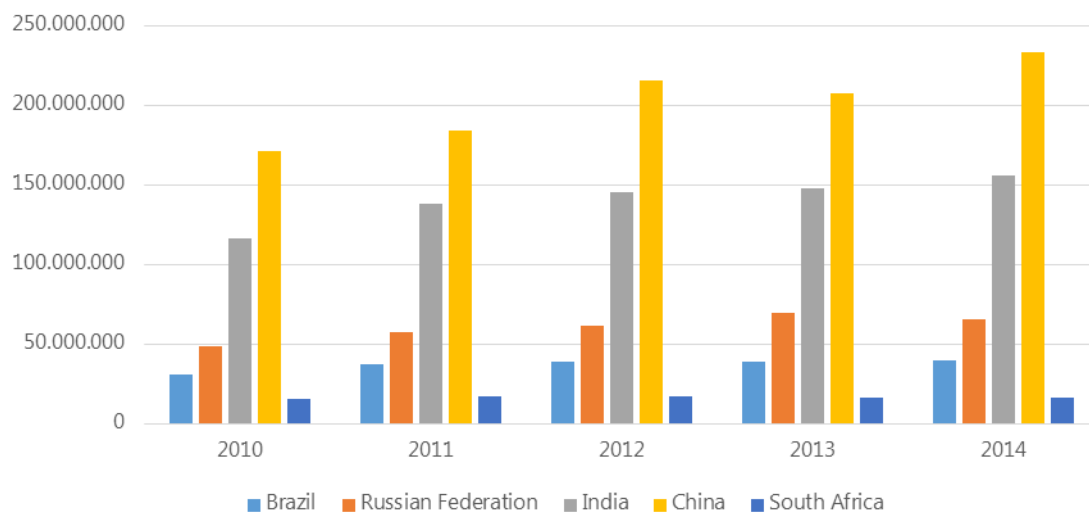
BRICS: Imports in Goods (2010-2014)

(in USD thousands)



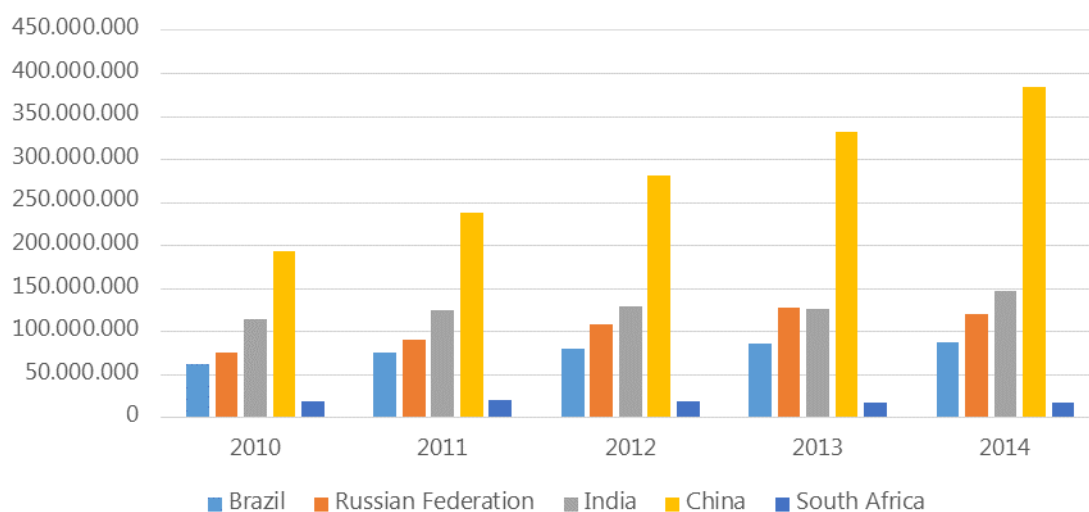
Source: WTO, 2015.

CHART 5
BRICS: Exports in Services (2010-2014)
(in USD thousands)



Source: WTO, 2015.

CHART 6
BRICS: Imports in Services (2010-2014)
(in USD thousands)



Source: WTO, 2015.

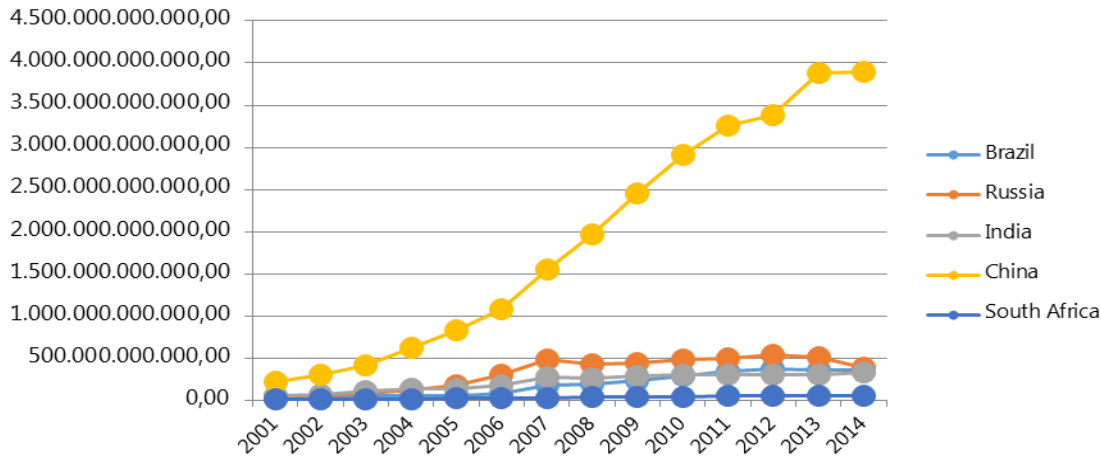
International reserves are very steady amongst BRICS countries and, in the last decade, they were able to accumulate a large amount of international reserve, which provided more stability and predictability for their economies, resulting in massive FDI. Brazil has USD 363,6 billion in reserves; Russia USD 386,2 billion; India USD 325,1 billion; China USD 3,9 trillion; and South Africa USD 49,1 billion in international reserves, as shown by the chart below.

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CHART 7

BRICS: International Reserves from 2001 to 2014

(in USD)



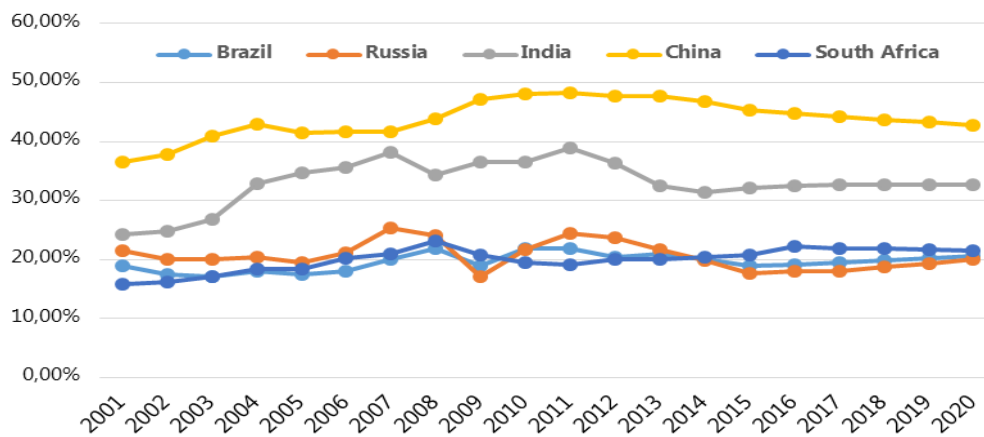
Source: World Bank Databank, 2015.

The impact on investments is beyond doubt. BRICS countries have experienced massive investments inflow in the last fifteen years, which resulted in more resources to develop their economies and accumulate more economic growth. See chart below.

CHART 8

BRICS: investments

(in percentage of GDP)



Source: World Bank Databank, 2015.

Figure shows that all BRICS countries have augmented investment levels compared to the GDP from 2001 to 2013, with some variation in the meantime. The World Bank also projects that in 2020 the level of investment will not vary significantly to 2013 levels. For Brazil, it is going from 21% to 20.55%; for Russia, from 21.62% to 19.99%; for India, from 32.52% to 32.65%; for China, from 47.79% to 42.84%; and for South Africa, from 20.12% to 21.42%. China and Brazil are the only BRICS countries to reduce investment participation in the GDP in 2020 when compared to 2013 levels.

It is also important to stress the expressive volume of Chinese investment and lending in Latin American and the Caribbean. This strategy is developed in order to better access large overseas

markets and natural resources. The China Development Bank and China Ex-Im Bank have supported projects by lending to Chinese and foreign companies abroad. Particular in the past five years, Chinese banks reached new heights in international lending. The following table presents the Chinese Investments in Latin America and the Caribbean in the last ten years per country (Inter-American Dialog, 2015).

TABLE 3
Chinese Investments in Latin America and the Caribbean – 2005/2014

País	Quantidade de Empréstimos	Valor (US\$)
Venezuela	16	56.3 bi
Brasil	10	22 bi
Argentina	10	19 bi
Equador	12	10.8 bi
Bahamas	3	2.9 bi
México	3	2.4 bi
Peru	4	2.3 bi
Jamaica	8	1.4 bi
Bolívia	3	611 mi
Costa Rica	2	401 mi
Honduras	1	298 mi
Chile	1	150 mi
Guiana	1	130 mi
Colômbia	1	75 mi
Uruguai	1	10 mi

Source: *Inter-American Dialog [Portal Web]*. 2015.

As demonstrated above, Venezuela, Brazil and Argentina are the main receivers of Chinese investments in Latin America and the Caribbean.

3. BRICS National Development Banks and their International Operations

In order to understand the increasing role that the BRICS are playing in the international context, one cannot forget to evaluate their national development banks, especially regarding their financing of exports and the promotion of foreign direct investments. This section will analyze the national development banks of Russia (Vnesheconombank); India (Export-Import Bank of India); China (China Development Bank); and South Africa (Development Bank of Southern Africa). The Brazilian National Development Bank (Banco Nacional de Desenvolvimento Econômico e Social) will be investigated in Chapter IV when dealing with international financial architecture of Latin America and the Caribbean.

3.1. Bank for Development and Foreign Economic Affairs (VEB) – Vnesheconombank

The Bank for Development and Foreign Economic Affairs (Vnesheconombank) is a Russian state corporation that operates to enhance competitiveness of the Russian economy, diversify it and stimulate investment activity³ (VEB, 2015a). The Bank's projects can be implemented in the Russian Federation and abroad as well as involve foreign capital. VEB's projects are "aimed at the development of infrastructure, innovations, special economic zones, environmental protection, support of export of Russian goods, works and services, as well as small and medium business

³ The VEB's activity is governed by special Law N° 82-FZ which came into force on June 4, 2007 (Federal Law on Bank for Development).

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support"⁴. The VEB's funding comes from the Federal Budget, Central Bank and National Wealth Fund (VEB, 2015b, p. 6).

In order to achieve its purposes, the Vnesheconombank shall exercise functions, such as: (i) financing of investment projects aimed at development of infrastructure and implementation of innovative projects, including in the form of loans or interest in business organization's capital; (ii) servicing budgetary loans when such loans are extended to support Russian industrial product exports, including construction of facilities abroad and supply of complete installations, issuance of bank guarantees for Russian companies taking part in international bidding, and performance of contracts signed; (iii) participation in financial and guarantee support of exports of the Russian-made goods, including issuance of state guarantees to Russian exporters of industrial products (goods, works, services), Russian and foreign banks extending loans to Russian exporters, foreign importers, non-resident banks and foreign states, in connection with industrial products (goods, works, services) exports⁵.

The VEB carries out investment projects and support for industrial exports by providing: (i) credits; (ii) guarantees and securities; (iii) participation in economic entities' authorized capitals; (iv) leasing transactions; (v) insurance and export credits; (vi) financial and guarantee support for exports. Investment projects are selected upon the following criteria: (i) conformity with the VEB's principles; (ii) project payoff period is more than 5 years; (iii) project total cost is more than 2 billion rubles; (iv) VEB's minimum participation share is 1 billion rubles (VEB, 2015a).

Since its creation in 2007, the Bank's main activity has been financing long-term capital-intensive projects that commercial banks cannot afford. Its Constitutive Agreement also sets forth that the Bank shall avoid loss-making operations, heed environmental concerns and give preference to public-private partnerships (VEB, 2015b, p. 5).

Over the last years, VEB is steadily increasing the volumes of financial support for Russian industrial exports. In 2013, Vnesheconombank's portfolio of loans expanded to support Russian exports demonstrated a more than 1.5-fold increase and reached RUB 22.5 billion. Regarding guarantees, the Bank demonstrated a more than 2-fold increase and reached RUB 99.57 billion (VEB, 2014, p. 46).

The main destinations of the Vnesheconombank's export support efforts comprise the Commonwealth of Independent States (CIS) countries, South and East Asia, Central and Eastern Europe, Latin America, North and Central Africa. The leading products that receive the Bank's exports priorities include "aircraft building and rocket and space complex, nuclear and traditional power, transport machine building, defense industry, Russian hi-tech exports" (VEB, 2014, p. 46).

Another important function of Vnesheconombank resides in funding investment projects abroad. The Bank provides support for Russian direct investments overseas "by way of participating in funding investment projects and acquiring assets in foreign countries in order to make the Russian economy more competitive" (VEB, 2015a). The Bank performs at the intersection of state and private sector interests boosting the overall development of the national economy and putting into action principles of public private partnership (VEB, 2015a).

Even though Vnesheconombank has the function of funding investment projects abroad; since its creation, the majority of funds were directed to assist regional development, mainly to the

⁴ Article 3 (1) of the Federal Law on Bank for Development.

⁵ Article 3 (3) of the Federal Law on Bank for Development.

constituent entities of the Russian Federation (VEB, 2015a). Besides, it is important to highlight that Vnesheconombank can also finance projects with the participation of other international financial institutions, such as: The European Bank for Reconstruction and Development (EBRD); the European Investment Bank (EIB); The Northern Investment Bank (NIB); and the World Bank (VEB, 2015a).

In sum, it can be affirmed that the Russian Bank for Development and Foreign Economic Affairs is an important credit institution that enables Russian companies to access long-term financial resources. Particularly, the Bank plays an important role in promoting the export of Russian goods and services in the international market as well as in improving infrastructure in the constituent entities of the Russian Federation.

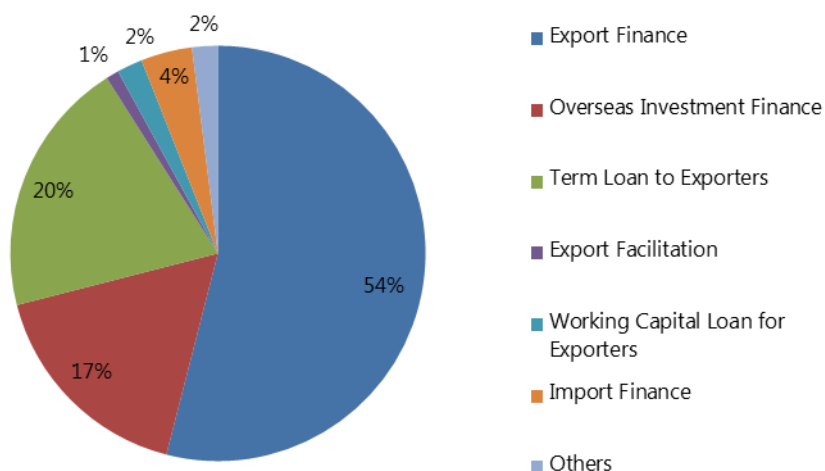
3.2. Export-Import Bank of India

The Export-Import Bank of India is a state-owned corporation aimed at enhancing exports from India, but also integrating the country's foreign trade and investment with the overall economic growth. Hence, the Bank intends to leverage India as a manufacturing hub on Global Value Chains and build "Brand India" while creating jobs in the country at the same time (EXIMINDIA, 2015).

For over three decades, India Exim Bank has been playing an important role in ensuring India's increasing integration with the global economy. The Bank maintains a range of export credit services like "finance for export of projects and consultancy services, capital equipment finance, export project cash-flow deficit finance and guarantees" (India Exim Bank, 2015, p. 19). During the fiscal year of 2014-2015, the Bank approved loans aggregating to 576.84 billion rupees under various lending programs. In the same period, the Bank disbursed loans amounting to 385.080 billion rupees (EXIMINDIA, 2015, p. 15).

CHART 9

India Exim Bank – Total Loan Assets – Fiscal Year 2014/2015



Source: *Export-Import Bank of India. Annual Report 2014-2015, p. 15.*

The Bank is prepared to offer a comprehensive financing package to India project exporters including funded support and project related guarantee facilities. During the 2014-15 fiscal year, the India Exim Bank secured 105 contracts amounting to 497.8 billion rupees, covering 40

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countries. The contracts secured 43 turnkey contracts (236.44 billion rupees); 24 construction contracts (233.44 billion rupees); 11 supply contracts (15.02 billion rupees); 27 technical consultancy & services contracts (13.33 billion) (EXIMINDIA, 2015, p. 19).

Some main projects supported by the Exim Bank of India in 2014 were developed, for example, in: Kuwait (Hospital Construction); Saudi Arabia (International Airport Design and Construction); Abu Dhabi (Oil field Construction); Qatar (Commissioning of Power Transmission System); and Nigeria (Petroleum Refinery and Polypropylene Plant) (EXIMINDIA, 2015, p. 19).

Regarding export credit and guarantees, the Exim Bank of India approved, in the fiscal year 2014-2015, loans amounting to 257.34 billion by way of suppliers credit, buyer's credit and finance for project exports. These guarantees refer to overseas projects in sectors such as "power generation, transmission and distribution, infrastructure development and export obligation guarantees" (EXIMINDIA, 2015, p. 19).

Disbursements under Buyer's Credit Program, for example, amounted to 26.57 billion rupees for exports to countries, such as, Uganda, United Kingdom, Zambia and Zimbabwe. The main products exported under the Buyer's Credit are: "transport vehicles and auto spare parts, engineering goods, IT services, fruits and vegetables, rice, other agro-based products and commodities, plain and studded gold/diamond jewelry, steel wire and rods, fuel and furnace oil, tires and yarn" (EXIMINDIA, 2015, p. 20).

It is also important to mention that the Exim Bank of India also extends Lines of Credits (LOC) to foreign financial institutions, regional development banks, sovereign governments and other entities. This Line of Credit is designed to enable buyers in other countries to import developmental and infrastructure projects, equipment, goods and services from India. Currently, 194 LOCs, covering 63 countries, with credit commitments aggregating US\$ 11.68 billion are available for implementation (EXIMINDIA, 2015, p. 21).

During the fiscal year of 2014/2015, the Bank granted 17 LOCs, accounting to US\$ 1.67 billion to support of projects, goods and services from India. The Lines of Credits were directed to governments of Cuba, Democratic Republic of Congo, Djibouti, Fiji Islands, Gambia, Mauritius, Nepal, Nicaragua, Nigeria, Republic of Congo, Senegal, Togo and Vietnam. They were granted in order to support projects such as "cement plant, electrification, expansion, transmission lines and substation, rice self-sufficiency program, fertilizer plant and upgradation of the sugar industry" (EXIMINDIA, 2015, p. 21).

In regard to overseas investment finance, the Exim Bank of India has a program covering equity finance, loans, guarantees and advisory services, to support India outward investment. Since the beginning of its activity, the Bank has provided finance to 533 ventures launched by 430 companies in 91 countries. The Bank's aggregate assistance to support overseas investment by Indian companies totals up to 432.10 billion rupees and comprises various sectors, such as: "pharmaceutical, home furnishings, readymade garments, construction, paper & paper products, textiles & garments, chemicals & dyes, computer software & IT, engineering goods, natural resources (coal & forests), metal & metal processing and agriculture & agro-based products" (EXIMINDIA, 2015, p. 23).

During the 2014/2015 fiscal year, the Exim Bank of India has sanctioned funded and non-funded assistance to 35 corporates in the amount of 58.07 billion rupees. They were granted in order to par financing overseas investments in 11 countries. They comprised, for example, the

acquisition of a veterinary products plant in Turkey, the establishment of a chilli manufacturing unit in China and the acquisition of an engineering unit in Germany (EXIMINDIA, 2015, p. 23).

At last, it is worth to note that the Exim Bank of India also assist Indian companies to secure business in projects funded by the World Bank, Asian Development Bank, African Development Bank (AfDB) and European Bank for Reconstruction and Development. After all, projects sponsored by such Multilateral Funding Agencies offer interesting business opportunities for suppliers, contractors and consultants. Therefore, Exim Bank of India has been organizing seminars in association with Multilateral Agencies in order to foster business opportunities (EXIMINDIA, 2015, p. 30).

In sum, one can assert that the Exim Bank of India is becoming an important player in the promotion of cross border trade and investment as well as patterning Indian industries. The Bank is sponsoring not only strategic development projects within India but also in other developing countries, mainly in Middle East and Africa.

3.3. China Development Bank

The China Development Bank (CDB) is a governmental development financial institution that provides medium- to long-term financing facilities to assist the progress of a robust economy. The CDB's mission is to: (i) support the development of national infrastructure, basic industry, key emerging sectors, and national priority projects; (ii) promote coordinated regional development and urbanization by financing low-income housing, small business, agricultural/rural investment, education, healthcare, and environment initiatives; (iii) facilitate China's cross-border investment and global business cooperation (CDB, 2015a).

In 2014, the Bank continued to broaden its international cooperation in sectors such as infrastructure; equipment manufacturing; finance, agriculture; clean energy; social sectors; and small and medium-sized enterprises. Its international collaboration practices encompasses partners in Asia, Africa and Latin America and it put in action the principles of learning from each other, building trust, sharing experiences, and developing jointly (CBD, 2015b, p. 57).

The CDB advanced on major cross-border projects, such as the purchase of La Bambas cooper mine in Peru by a consortium led by Minmetals. This project represents the largest overseas acquisition to date within China's metals and mining industry. It positioned the Minmetals consortium into one of the 10 copper producers in the world. The transaction amounted to US\$ 7.005 billion and the syndicated loan for this project was US\$ 6.957 billion (CBD, 2015b, p. 57).

The Bank is also supporting the construction of a coal-fired power plant in Bali, Indonesia. This project will largely help to cover the power supply shortage in the country and reduce dependence on oil-fired or gas-fired electricity. The CDB committed US\$ 473 million in lending and had disbursed US\$ 367 million as of the end of 2014. Another CDB's project in Africa is the construction of a FAW Car Assembly Plant in South Africa. It was jointly supported by the China-Africa Development (CAD) Fund and First Automobile Works (FAW). The plant entered into operation in July 2014, with an annual production capacity of 5,000 trucks of 14 models. The CAD Fund financed 45% of the project's total cost, accounting for US\$ 45 million (CBD, 2015b, p. 58).

The China Development Bank is also financing the upgrading of Mansa-Lwingu Road in Zambia, in Africa. The highway is an important economic corridor within in north Zambia and its upgrading will shorten the transportation distance for the export of Zambia's cooper products, agricultural products and others. It is expected that this undertaking will reduce transportation costs, create

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1,200 jobs and promote local economic growth. The CBD committed US\$ 175 million in lending and it had disbursed US\$ 64.67 of the end of 2014 (CBD, 2015b, p. 59).

Furthermore, the CBD has leveraged the Shanghai Cooperation Organization Interbank Association and the China-ASEAN and contributed to the creation of a Silk Road Fund to serve China's regional integration strategy and advance project implementation in and around those areas (CDB, 2015b, p. 17). The contributions to the new silk road strategy (One Belt, One Road) are aimed at promoting major projects and supporting Chinese railway and nuclear power enterprises to invest abroad (CDB, 2015b, p. 57).

Another recent highlight of CDB is the opening of its representative office in Caracas in 2014. The Bank also operated the China-Africa Development Fund and the China-Portugal Fund as overseas investment platforms, carrying on its support of Chinese enterprise in their global endeavors. These operations are an important mechanism to promote the internalization of the Chinese currency, the Renminbi. With correspondent banking relationships set up with 707 banks in 106 overseas markets, the CDB has maintained a global network of correspondent banks that grounds consistent steady improvements in the Bank's service capability (CDB, 2015b, p. 57).

As of the end of 2014, the Bank had foreign currency loans totaled US\$ 267 billion and an offshore yuan-denominated loan balance of RMB 56.4 billion, which further consolidated its status as a pillar of cross-border financing in China (CDB, 2015b, p. 57).

To sum up, it can be asserted that the China Development Bank has been strengthening its international cooperation and progressing in government's initiative of economic and social development. The Bank has financed important projects, especially in developing countries in Africa, Asian and Latin America.

3.4. The Development Bank of Southern Africa

The Development Bank of Southern Africa (DBSA) is a state owned entity with the scope of accelerating sustainable-economic development and improve the quality of life of the people of Southern Africa by driving financial and non-financial investments in the social and economic infrastructure sectors (DBSA, 2015a). The DBSA aims to "advance the development impact, within and in time, beyond, the Southern African Development Community (SADC)⁶ and the Africa continent through the expansion of access to infrastructure development solutions" (DBSA, 2015b, p. 1).

It is important to highlight that in December 2013, the South African government extended the Bank's geographic mandate to the whole of the African continent. Hence, the Bank can finance projects within South Africa but also in other African countries. The BDSA aims to continue expand its investment activities in Southern African Development Community (SADC) at the same time as pursuing a gradual approach in the rest of the continent (DBSA, 2015b, p. 41).

As of the end of 2014, the DBSA had development assets of R 55.5 billion spread across 13 SADC, predominantly in the energy, roads, water, transport and social infrastructure sectors (DBSA, 2015b, p. 1). The DBSA is promoting inclusive and sustainable growth through their portfolio of lending operations as well as project implementation and program management support activities.

⁶ The Southern African Development Community is a Regional Economic Community formed by 15 countries: Angola, Botswana, Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, United Republic of Tanzania, Zambia and Zimbabwe.

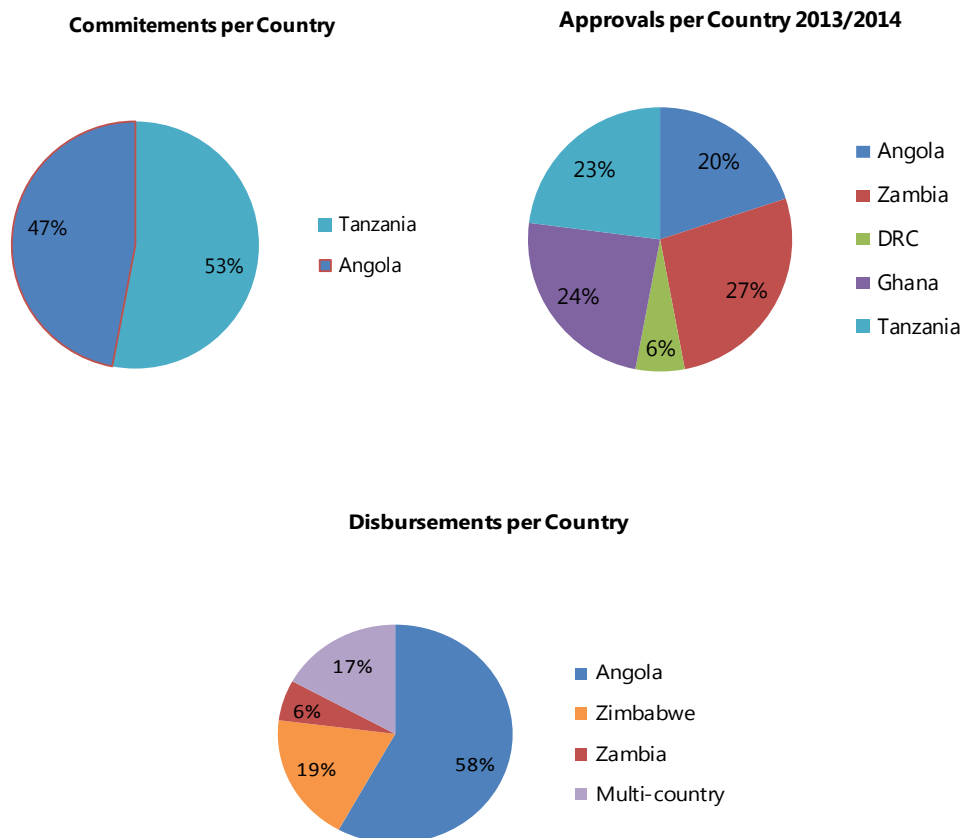
Through the provision of a range of innovative services, the Bank supports infrastructure development and creates value in South Africa and in the broader region.

At the core of DBSA’s mandate resides the Bank’s pivotal role in delivering developmental infrastructure in South Africa and the rest of Africa. Hence, the Bank designs its strategy in order to “provide sustainable infrastructure project preparation, finance and implementation support in selected African markets to improve the quality of life of people, in support to economic growth and regional integration” (DBSA, 2015b, p. 33).

In regard to international financing, the DBSA provides financial products and services to a range of public and private sector clients as well as partners in the region. During the 2013/2014 fiscal year, the Bank registered a record disbursement of R 3.6 billion, more than double the previous year’s R 1.6 billion. Total approvals reached R 4.0 billion (US\$ 344 million), compared with R. 5.6 billion in 2012/2013 (DBSA, 2015b, p. 41).

Approvals in the 2013/2014 fiscal year were predominately in the energy sector concentrated in Zambia, Tanzania, Angola, Ghana and the Democratic Republic of Congo. Total Commitments amounted to R 4.6 billion (US\$ 429 million), clearly more than the R 655 million (US\$ 75 million) achieved in the previous fiscal year (DBSA, 2015b, p. 41).

CHART 10
Approvals, Commitments and Disbursements per Country – 2013/2014



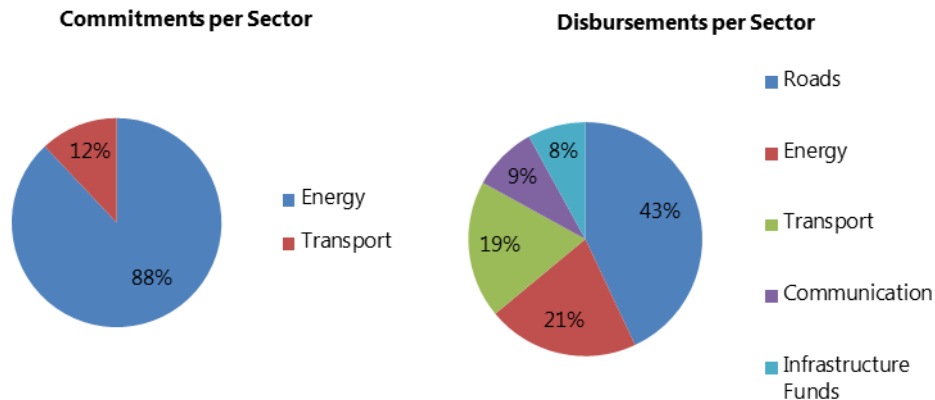
Source: Development Bank of Southern Africa. 2014 Integrated Annual Report, p. 42.

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During the 2013/2014 fiscal year, the majority of the DBSA's commitments were channeled to the energy sector (88%), followed by the transportation sector (12%). Regarding disbursements, road accounted for the majority of shares (43%) in 2013/2014. Subsequently, there were energy (21%), Transport (19%), Communication (9%), infrastructure funds (8%) (DBSA, 2015b, p. 42).

CHART 11

Commitments and Disbursements per Sector – 2013/2014



Source: Development Bank of Southern Africa. 2014 Integrated Annual Report, p. 42.

In brief, it can be affirmed that the DBSA is becoming a channel through which the South African government can achieve its economic integration and development objectives for the continent. In the next years, the Bank is intended to focus on early stage project development; broadening their product offering; developing targeted expertise and leveraging partnerships with leading infrastructure agencies from Europe, Asia and the BRICS nation to ensure opportunities to co-finance regional projects (DSBA, 2015b, p. 44).

4. Final Remarks

BRICS countries are relevant players in the international trade. However, they have been underestimated in financial and investment matters. The NDB and the CRA are initiatives that have the main goal to show that BRICS countries are also relevant investors and that they have significant financial systems. Furthermore, they also believe that they can provide to developing economies a new perspective on how to address investments for development and how to manage eventual balance-of-payments restraints that would lead to financial instability in a developing economy.

The National Development Banks of the BRICS countries are playing a primary role in supporting their insertion in the international economy. Not only through the allowance of import and export credit but also through the promotion of foreign direct investment overseas. The projects undertaken by them are focused predominantly in the energy, roads, water, transport and social infrastructure sectors. Except from the China Development Bank which presents a more far-reaching international scope, their projects are concentrated mainly in regional undertakings. Hence, the BRICS National Development Banks constitute key financial institutions to foster development not only nationally but also in other developing countries.

II. EVALUATION OF THE FINANCIAL ARCHITECTURE OF LATIN AMERICA AND THE CARIBBEAN

1. Introduction

Financial systems have a vital role in the functioning of the world economy. A stable financial system is the center of an efficient resource allocation and promotes economic growth and social development.

In order to advance the analysis of the economic and financial relations of Latin America and Caribbean with the BRICS, it is first necessary to evaluate its regional financial architecture.

This chapter is divided into three main parts. In the first part, the Latin America and Caribbean financial architecture will be portrayed. In a second moment, the financing needs for the development of the region will be discussed and evaluated. At last, the most important regional financial institutions aimed at promoting development of Latin America and Caribbean countries will be depicted.

2. Characterization of the Regional Financial Architecture

The Latin America and Caribbean (LAC) financial architecture is formed by a myriad of development banks, public banks, private banks, credit unions, microfinance institutions and other financial entities. They act on a system of global, regional and sub-regional spheres, providing financial services to specific economic needs. This network can provide a more balanced structure than one that is sustained by a few global institutions.

During the boom years of 2000s, credit provision by banks grew strongly across LAC. The size of the banking sector relative to the economy more than doubled in several countries in less than a decade. During this expansion years, private banks and government-owned (or public) banks participated in credit increase (Powell, 2015, p. 34).

Consequently, the financial institutions of LAC are playing a more important role in international financial transactions. The countries from the region are increasingly connected with the rest of the world. Across all types of transactions, LAC has been gaining ground, as both a receiver and a sender of capital. In this aspect, another notable feature is that (except for greenfield investment) LAC's connections with other South countries have been growing faster than its connections with North countries, especially during the second half of the 2000s. However, the North is still by far the principal source (receiver) of the flows to (from) LAC countries (World Bank, 2015, p. 156-157). In this perspective, the study elaborated by the World Bank, entitled Financial Development in Latin America and the Caribbean highlighted that the LAC financial systems are increasing substantially over the past two decades. Specially, bonds and equity markets have gained ground, institutional investors now play a central role in the economy, new markets and instruments have sprung up, maturities have lengthened, and dollarization has been reduced. In addition, the study points out the system of Brazil's equity market and Chile's bond market as successful development cases that should be seen as examples for other countries in the region (World Bank, 2012c, p. 29).

After a history of recurrent instability and crisis, the financial systems of the Latin America and the Caribbean region are now well poised for rapid expansion. As evidence of their new soundness and resiliency, financial systems in the regional, except in some Caribbean countries, got through the recent global financial crisis remarkably well (World Bank, 2012c, p. 1). According to Powell

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(2015, p. 27), Latin America and the Caribbean survived the 2008 global financial crisis relatively successfully “due in no small degree to the strength of local financial systems, the existence of significant external buffers and, for the larger economies, the flexibility afforded by floating exchange rates.”

Besides, it is also important to highlight that banking systems across the region have relatively high, stable solvency ratios. In the second half of 2014, the banking system of a typical Latin American country had “a ratio of total regulatory capital to risk-weighted assets of 15.6% and average common equity tier 1 capital of 12.7% of risk-weighted assets, exceeding the new Basel III minimum guidelines of 7% to be implemented by 2019” (Powell, 2015, p. 35).

However, despite its stability, the financial systems in Latin America and the Caribbean remain underdeveloped. According to the Inter-American Development Bank (2012, p. 7), a large part of the population has no access to banking services and even less to more sophisticated financial services such as stock markets. In addition, “significant development gaps remain, including the depth and efficiency (as measured by interest rate margins) of banking intermediation, the liquidity of the domestic equity market, and the depth of insurance products” (World Bank, 2012c, p. 29).

In addition, Agnoli and Vilán (2008, p. 15) mention that capital markets in the region have grown considerably during the last decade but remain behind Asia and European emerging markets in terms of liquidity and efficiency. As reported by the World Bank Study (2012c, p. 29), other areas of concern include “the stubbornly high concentration of issues and trading in the bond and equity markets, and the limited capacity of institutional investors to expand their portfolios beyond the safest and most liquid investments”.

In this sense, the 2015 Economic Survey of Latin America and the Caribbean, published by the ECLAC, asserted that the financial systems of the region’s countries remains generally shallow, short-termist and essentially reliant on commercial banks. There is a lack of long-term financing instruments. Moreover, the Survey alleged that “one consequence of the information asymmetries that prevail in the region is credit rationing, especially for small and medium-sized enterprises (SMEs) and innovation activities. “These features have resulted in high and segmented costs and low levels of banking coverage” (ECLAC, 2015a, p. 137).

LAC financial systems are concentrated on commercial banking whose services focus on short-term instruments. Commercial banks account for an average of 90% of financial system assets. In addition, capital markets retain low capitalization levels and little publicly traded stock, with trading restricted to just a few shares. As reported by the 2015 ECLAC Survey, “these indicators place Latin America and the Caribbean below the averages for other regions such as East Asia and the Pacific, Eastern Europe and Central Asia, the Middle East and North Africa, and South Asia” (ECLAC, 2015a, p. 142)

In sum, it can be asserted that the Latin America and Caribbean financial architecture has evolved significantly in the last two decades. The financial systems have demonstrated relatively stable solvency ratios which helped them to cross the 2008 financial crisis. However, there are still some issues that need to be addressed, such as the lack of long-term financing instruments, the dependence on commercial banks and the shallowness of the system.

3. Financing needs for the Development of Latin America and Caribbean

During the last years, Latin America and the Caribbean have experienced different cycles of economic expansion, derived to a great extent from the increasing productivity and capital input. This favored the acquisition of goods and services that have generated social wealth and improve

the quality of life in the region. Maintaining some of these structural elements is crucial to extent this trend (CAF, 2015, p. 17). However, the region still has important financing needs that if not successfully tackled may hinder its developmental tendency. Hence, this section aims to point out the main financing gaps and demands of the region.

In 2015, the Economic Commission for Latin America and the Caribbean (ECLAC) carried out a study that demonstrated that the provision and quality of economic infrastructure, particularly, the deficit that Latin American has in this area, is a constraint on the region's growth, development and sustainability. The research highlighted that the low levels of investment in economic infrastructure by both public and private sector resulted in the continuation or worsening of constraints on access to those services. This phenomenon is known as the "infrastructure gap" (ECLAC, 2015a, p. 115).

The shortcomings are especially remarkable when the region is compared not only with developed countries, but also with certain developing countries which had a similar infrastructure level to Latin America in the 1980s (ECLAC, 2015a, p. 115). The survey offered an overview of the current situation of four selected sectors in LAC, which were: transport, energy, water and sanitation and telecommunications. The analysis demonstrated that "while infrastructure supply growth has been fairly modest in recent years in the transport and energy sectors, the region has made greater progress in the telecommunications and water and sanitation sectors" (ECLAC, 2015a, p. 116).

In this sense, ECLAC estimates that Latin America needs to spend some 6.2% of GDP a year on average "to fund the flows of infrastructure investment (in the areas of transport, energy, telecommunications and drinking water and sanitation) that it would take to meet the requirements of firms and final consumers during the period from 2012 to 2020" (ECLAC, 2015a, p. 126).

Another Latin American and Caribbean's persistent bottleneck lies on the small and medium-sized enterprises' (SME) lack of access to the financial systems in the region, which translates more or less to a lack of access to credit. The scarcity of credit for SMEs is significant, which turns into negative impacts in the country economy. Due to their potential to create and multiply jobs, SMEs operate like a financial engine, rotating the virtuous cycle of the economy (IDB, 2012, p.7). Hence, special attention should also be drawn to this issue.

Moreover, there should be more instruments and mechanisms available to cope with the different saving and financing needs that the various countries may present (ECLAC, 2015a, p. 144). After all, the ability of financial systems to support sustainable economic and social growth depends on "their ability not only to mobilize large quantities of resources and channel them efficiently towards the best investment opportunities, but also to be inclusive, in the sense of providing a wide range of individuals and firms with access to financial services" (ECLAC, 2015a, p. 144).

Hence, one of the major challenges that Latin American and Caribbean countries still face today resides in further developing their financial systems. If their ability in this domain were improved, LAC countries could, first, channel savings towards production and investment, thereby contributing to higher growth rates in their economies, and, second, act inclusively and bring financial services to larger segments of the production fabric and households that are currently outside the system (ECLAC, 2015a, p. 143).

It is noteworthy that middle-income countries such as those of Latin America and the Caribbean require greater financial resources to deal with the effects of climate change. The income groups in LAC that contribute least to increasing the green houses effects are the most vulnerable to this

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effect, especially the small Caribbean islands. Hence, overcoming the negative impacts and the root causes of climate change will require further funding in the region (ECLAC, 2015b, p. 8).

In brief, departing from the above reported, it can be asserted that the areas in which financing for development is mostly needed are: infrastructure, credit for small and medium-size enterprises, and mitigation of climate change negative effects. These funds could be provided by national and international financial institutions aimed at promoting the process of economic and social development. That said, the next section will describe the main development financial institutions focused on the region.

4. Latin American and Caribbean Development Financial Institutions

Development-oriented institutions, such as national, sub-regional and regional development banks have proven to be a successful source of medium and long-term resources “through investment finance for infrastructure, production and social development, and climate change mitigation” (ECLAC, 2015b, p. 42). In this sense, Avalle (2005, p. 195) asserts that the core competency of development banks is to lend money to governments in developing countries and economies in transition, in a way that these funds can be used to cover shortfalls in budgets or to allow governments to continue program development without having to increase their debts by borrowing from the international capital markets.

But not only development banks have an important role in promoting progress among nations. There is an increasing need for other monetary funds, aside the International Monetary Fund, in assuring international financial stability. Accordingly, Perry (2015, p. 176) argues that developing countries increasingly need an international lender of last resort (mirroring the role of central banks at the domestic level), capable of supply enough liquidity to individual governments and economies, in order to contain the effects of emerging financial, foreign exchange or fiscal crisis and, therefore, their potential effects on the global financial system.

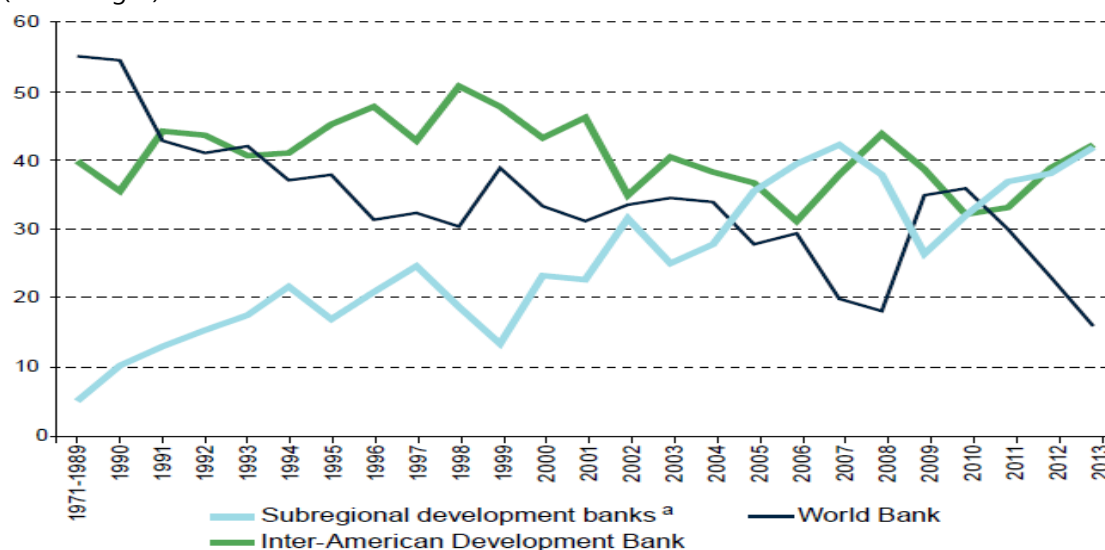
According ECLAC (2015b, p. 42), development banks in Latin American and Caribbean region gained renewed impetus in the 2000s following a decline in the 1980s and 1990s. After 2000, net lending by development banks increased by 15% annually for the region on average. The impetus gained by these bank’s operations is mirrored in the relevance they have acquired within the region’s financial systems.

Since 2000, sub-regional development banks have considerably enhanced their lending volume and relative share of total multilateral development bank lending in Latin America and the Caribbean. In 2011, for example, sub-regional banks lent almost US\$ 12 billion in Latin America and the Caribbean, figuring 36% of total multilateral development bank lending to the region. In the meantime, other international development banks represented 34% of lending to the region, and the World Bank represented 30% (ECLAC, 2015b, p. 42).

CHART 12

Latin America and the Caribbean: Development Bank's share in total multilateral lending 1971 – 2013

(Percentages)



Source: Economic Commission for Latin America and the Caribbean. 2015b.

Sub-regional banks have become more relevant not only in terms of larger lending volumes, but also regarding sectoral diversification with emphasis afforded to infrastructure and production sector financing and, more recently, to financial intermediation (ECLAC, 2015b, p. 43). With respect to national development bank, they “currently hold an average share of 30% of total assets, and 24% of total deposits, and have gained recognition for their role in financing social and economic projects” (ECLAC, 2015b, p. 42-43).

In this perspective, this section will describe the most important financial institutions focused on financing development in Latin America and Caribbean. Due to the large number of these entities⁷, this analysis will be limited to the most important financial development institutions in regional, sub-regional and national level.

4.1. International Development Banks focused on Latin America and Caribbean

4.1.1. The World Bank

The International Bank for Reconstruction and Development, later known as the World Bank, was created at the 1944 Bretton Woods Conference. The Bank was envisaged as one of the three pillars of the post war international economy that should be formed by the International Monetary Fund (IMF) and the International Trade Organization (ITO)⁸. According to Lowenfeld (2011, p. 600), the Bank “would be devoted to long-term economic development, first to reconstruction of countries ravaged by the war, then to development of countries not yet in the economic mainstream”.

⁷ According to ECLAC (2015b, p. 42), in Latin America and the Caribbean there are over 100 development financial institutions.

⁸ The International Trade Organization (ITO) never came into being. Its constitutive Agreement (the Havana Charter) was not approved by the US Congress and it never entered into force. An international organization for the regulation of trade was only established in 1994 with the adoption of the Marrakesh Agreement which created the World Trade Organization (WTO).

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Since its creation in 1994, the World Bank has expanded from single institution to a closely associated group of five development institutions: the International Bank for Reconstruction and Development (IBRD); International Development Association (IDA); International Finance Corporation (IFC), the Multilateral Guarantee Agency (MIGA); and the International Centre for the Settlement of Investment Disputes (ICSID). Even though reconstruction remains an important part of the Bank's work, currently, poverty reduction through inclusive and sustainable globalization constitutes the overarching goal of World Bank (WB, 2015c).

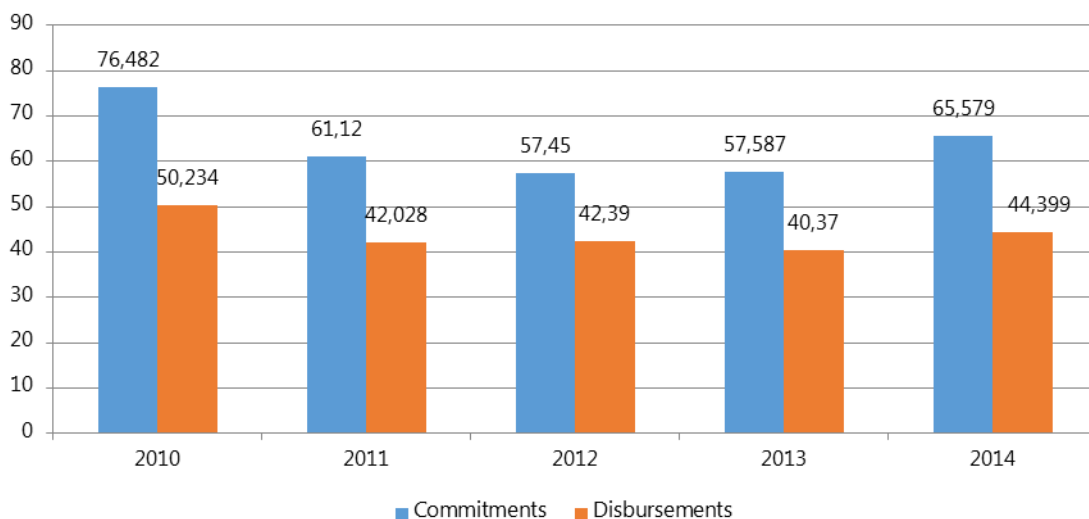
In 2014, the World Bank's support for developing countries amounted to US\$ 65.6 billion in loans, grants, equity investments and guarantees. These commitments include multiregional and global projects that were entitled to partner countries and private business. From the total amount of funds committed in 2014, US\$ 44.3 billion were disbursed (WB, 2015b, p.5). The following Table presents the evolution of the World Bank's commitments and disbursements in the last 5 years.

TABLE 4
World Bank Group Financing for Partner Countries by Fiscal Year
(Millions of Dollars)

World Bank Group	2010	2011	2012	2013	2014
Commitments	76,482	61,120	57,450	57,587	65,579
Disbursements	50,234	42,028	42,390	40,370	44,399

Source: *The World Bank. Annual Report. 2014, p. 7.*

CHART 13
World Bank Group Financing for Partner Countries by Fiscal Year
(Millions of Dollars)



Source: *The World Bank. Annual Report. 2014, p. 7.*

Before analyzing the World Bank flux of funds to Latin America and the Caribbean, it is important to highlight that, as of June 30, 2014, LAC countries eligible for World Bank borrowing were: Antigua and Barbuda, Argentina, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, Venezuela.

In 2014, Latin America and the Caribbean represented 25% of IBRD's commitments, accounting for US\$ 4,609 million; and 2% of IDA's commitments, accounting for US\$ 460 million. Hence, Latin America and the Caribbean enjoyed, together with Europe and Central Asia (25%), the biggest shares of IBRD's commitments in 2014. By IDA, Latin America and the Caribbean owned only 2% of the total amounts of commitments. The region was only behind the Middle East and North Africa, which share in IDA's commitments symbolized only 1%.

TABLE 5
2014 World Bank Commitments

Region	IBRD (\$Millions)	Share (%)	IDA (\$Millions)	Share (%)
Africa	420	2%	10,193	46%
East Asia and Pacific	4,181	22%	2,131	10%
Europe and Central Asia	4,729	25%	798 ⁹	4%
Latin America and the Caribbean	4,609	25%	460	2%
Middle East and North Africa	2,588	14%	199	1%
South Asia	2,077	12%	8,458	38%
Total	18,604	100%	22,239	100%

Source: The World Bank. Annual Report. 2014, p. 29.

In regard to disbursements, Latin America and the Caribbean represented 30% of the IBRD's total disbursements in 2014, receiving US\$ 5,662 million during that fiscal period. By IDA, Latin America and the Caribbean accounted for only 2% of the IDA's total disbursements, receiving US\$ 306 million in 2014. By IBRDS, Latin America and the Caribbean were the second destination of disbursements, losing the first place only to Europe and Central Asia that accounted for 35% of the Bank's total disbursements in 2014. By IDA, Latin America and the Caribbean, together with Middle East and North Africa, had the lowest share of disbursements in 2014, only 2%.

TABLE 6
2014 World Bank Disbursements

Region	IBRD (\$Millions)	Share (%)	IDA (\$Millions)	Share (%)
Africa	334	2%	6,604	49%
East Asia and Pacific	3,397	18%	1,459	11%
Europe and Central Asia	6,537	35%	519	4%
Latin America and the Caribbean	5,662	30%	306	2%
Middle East and North Africa	1,666	9%	273	2%
South Asia	1,165	6%	4,271	32%
Total	18,761	100%	13,432	100%

Source: The World Bank. Annual Report. 2014, p. 29.

⁹ The South Asia figure includes one multiregional project of US\$ 527 million, of which 17 percent was provided to Europe and Central Asia countries.

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These numbers, however, demonstrate a decrease in the total amount of commitments and disbursements of the World Bank Group to Latin America and the Caribbean. In the last three years, it is possible to note a slight decline of the funds directed to the region.

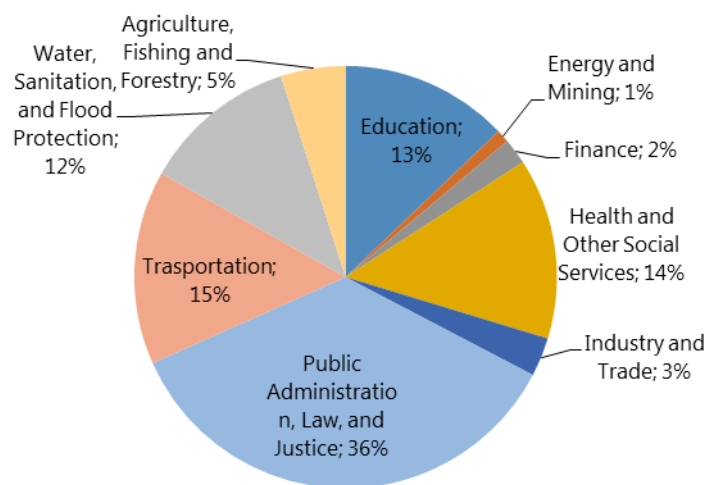
TABLE 7
Latin America and Caribbean Commitments and Disbursements for fiscal years 2012-2014

	Commitments (US\$ millions)			Disbursements (US\$ millions)		
	FY12	FY13	FY14	FY12	FY13	FY14
IBRD	6,181	4,769	4,609	6,726	5,308	5,662
IDA	448	435	460	342	273	306

Source: The World Bank. Annual Report. 2014, p. 43.

Accordingly, the World Bank approved US\$ 5.1 billion for Latin America and the Caribbean for 41 projects in 2014. Support encompassed US\$ 4.6 billion in IBRD loans and US\$ 460 million in IDA commitments. The leading sectors were Public Administration, Law and Justice (US\$ 1.8 billion); Transportation (US\$ 746 million); and Health and other Social Services (US\$ 711 million) (WB, 2015b, p. 42).

CHART 14
IBRD and IDA Lending by Sector in Latin America and the Caribbean in 2014
 (Share of total of US\$ 5.1 Billion)



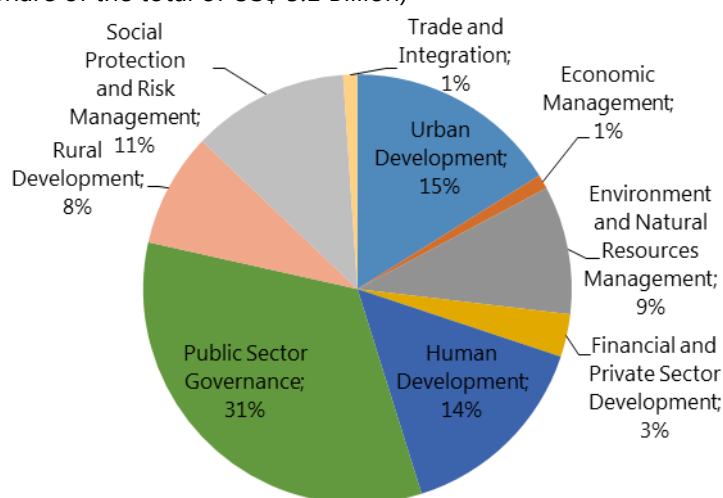
Source: The World Bank. Annual Report. 2014.

The World Bank’s support to Latin America and the Caribbean aims “to generate opportunities for all through public and private sector initiatives that expand public services; improve regional productivity, competitiveness, and integration; create high-quality jobs; and assist people most in need” (World Bank, 2015b, p. 42). The areas that had the majority of World Bank’s fund committed were, respectively, public sector governance (31%), urban development (15%) and human development (14%).

CHART 15

IBRD and IDBA Lending by Theme in Latin America and the Caribbean in 2014

(Share of the total of US\$ 5.1 Billion)



Source: *The World Bank. Annual Report. 2014.*

In sum, it can be asserted that the World Bank Group, especially the IBRD, channels import share of its resources to Latin America and the Caribbean. The Bank has contributed to address some of the main regional development needs. Despite the slight decline in the amount of the funds directed to the region in the last three years, the World Bank still plays an essential role in building a world that is more sustainable, prosperous and just.

4.2. Regional Development Banks

4.2.1. Inter-American Development Bank (IDB)

The Inter-American Development Bank (IDB) was created in 1959 as a partnership between 19 Latin American countries and the United States. According to Avalle (2005, p. 196), "the IDB was created in response to the limitations of the World Bank and IMF, the Bretton Woods institutions, which were increasingly focusing away from Latin America and the Caribbean Region towards other parts of the world".

The IDB's founding members were Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, Venezuela and the United States. With its headquarters located in Washington, the IDB is today the largest source of development financing for Latin America and the Caribbean¹⁰. The purpose of the Bank is to contribute to the acceleration of the process of economic social development of the regional member countries, individually and collectively¹¹.

In order to implement its purpose, the Bank has the following functions:

- i. To promote the investment of public and private capital for development purposes;

¹⁰ The IDB has four official languages: English, French, Portuguese and Spanish.

¹¹ In accordance with Article I, section 1, of the Agreement Establishing the Inter-American Development Bank.

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- ii. To utilize its own capital, funds raised by it in financial markets, and other available resources, for financing development of the member countries, giving priority to those loans and guarantees that will contribute most effectively to their economic growth;
- iii. To encourage private investment in projects, enterprises, and activities contributing to economic development and to supplement private investment when private capital is not available on reasonable terms and conditions;
- iv. To cooperate with the member countries to orient their development policies toward better utilization of their resources, in a manner consistent with the objectives of making their economies more complementary and of fostering the orderly growth of their foreign trade; and
- v. To provide technical assistance for the preparation, financing, and implementation of development plans and projects, including the study of priorities and the formulation of specific project proposals¹².

Since its foundation in 1959, the Bank expanded its membership, firstly, through the Western Hemisphere, with the accreditation of Trinidad and Tobago (1967), Barbados (1969), Jamaica (1969), Canada (1972), Guyana (1976), The Bahamas (1977), Suriname (1980), Belize (1992); and, secondly, through non-regional members countries. The 22 non-Western Hemisphere countries consists of 16 European States¹³ plus Israel and Japan, which joined between 1976 and 1986. The last countries to join the IDB were Croatia (1993), Slovenia (1993), the Republic of Korea (2005) and People's Republic of China (2009). At last, it is important to highlight that Cuba signed but did not ratify the Agreement Establishing the Inter-American Development Bank, the institution's charter, so it has not become a member yet (IDB, 2015).

Nowadays, the IDB is constituted by 48 Member States, of which 26 are borrowing members in Latin American and the Caribbean. Together, they have 50,02% of the voting power on the IDB board. The remaining 22 States are non-borrowing Member Countries that provide capital and have voting representation in the Bank's Board of Executive Directors according to their capital subscriptions, but cannot directly receive funds from the Bank. Nevertheless, non-borrowing members benefit in that only suppliers from member states can provide goods and services for IDB-financed projects and the Bank can only employ citizens from those countries (IDB, 2015).

The IDB uses a country grouping for purposes of monitoring the distribution of its lending. This criterion divides countries into Groups I and II, based on their gross national income (GNP) per capita. Approximately 65% of the lending volume is directed to the Group I countries, composed by: Argentina, the Bahamas, Barbados, Brazil, Chile, Mexico, Trinidad and Tobago, Uruguay and Venezuela. The 35% of the bank's lending volume is channeled to the Group II countries, which are formed by: Belize, Bolivia, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Paraguay, Peru and Suriname (IDB, 2015).

¹² In accordance with Article II, section 2, of the Agreement Establishing the Inter-American Development Bank.

¹³ The 16 European States that are non-borrowing Members of the IDB are: Austria, Belgium, Croatia, Denmark, Finland, France, Germany, Italy, The Netherlands, Norway, Portugal, Slovenia, Spain, Sweden, Switzerland and the United Kingdom.

TABLE 8
Distribution of IDB's Lending by Country Group

Group I	Group II
65% of the Banks's Lending Volume	35% of the Banks' Lending Volume
Argentina	Belize
The Bahamas	Bolivia
Barbados	Colombia
Brazil	Costa Rica
Chile	Dominican Republic
Mexico	Ecuador
Trinidad and Tobago	El Salvador
Uruguay	Guatemala
Venezuela	Guyana
	Haiti
	Honduras
	Jamaica
	Panama
	Paraguay
	Peru
	Suriname

Source: Inter-American Development Bank, 2015 [Portal Web].

It is important to highlight that in order to become a regional member, a country needs prior membership to the Organization of the American States (OEA)¹⁴; whereas, to become a non-regional member, a country needs to be a member of the International Monetary Fund (IMF)¹⁵. A second essential requirement in both regional and non-regional members is the subscription of the Ordinary Capital and contribution to the Fund for Special Operations (IDB, 2015).

Administration of the Inter-American Development Bank is vested in the Board of Governors, which tops the organizations structure of the Bank. Each Member State assigns a governor, whose voting power is proportional to the capital in the Bank subscribed by his or her country. Among its Regional Developing Members, the countries that have the most significant shares of voting powers are: Argentina, Brazil and Mexico. As a developed Regional Member, the United States is the country with the biggest share of voting power. Its weight in the decision making process is bigger than the three biggest Regional Developing Members (Argentina, Brazil and México). Concerning Non-regional Members, the countries that possess the major shares of voting powers are, respectively: Spain, France and Germany. The following table displays the Subscriptions to capital stock, contribution quotas and voting powers as of December 2014 (IDB, 2015).

¹⁴ The Organization of American States (OAS) was founded in 1948 through the adoption of the Charter of the OAS, which entered into force in December 1951. The Organization was established in order to achieve among its member states an order of peace and justice, to promote their solidarity, to strengthen their collaboration, and to defend their sovereignty, their territorial integrity, and their independence (OAS, 2015).

¹⁵ The International Monetary Fund (IMF) was conceived at the Bretton Woods Conference, New Hampshire, United States, in July 1944. The IMF's primary purpose is to ensure the stability of the international monetary system – the system of exchange rates and international payments that enables countries (and their citizens) to transact with each other (IMF, 2015).

36**TABLE 9****Subscriptions to Capital Stock, Contribution Quotas and Voting Power as of December 31, 2014**

(In Millions USD)

Subscriptions to Capital Stock, Contribution Quotas and Voting Power as of December 31, 2014 (in Millions USD)					
Ordinary Capital Subscribed Capital Stock					
Member Countries	Paid-in	Callable	Total	% of Total Number of Votes	FSO Contribution Quotas
Regional Developing Members					
Argentina	\$589.8	15,403.0	15,992.8	11.189	532.2
Bahamas	13.7	284.2	297.9	0.209	11.2
Barbados	7.1	184.5	191.6	0.135	1.9
Belize	8.5	155.3	163.8	0.116	8.0
Bolivia	47.3	1,237.1	1,284.4	0.900	51.1
Brazil	589.8	15,403.1	15,992.9	11.189	573.2
Chile	162.0	4,229.8	4,391.8	3.073	166.1
Colombia	162.0	4,229.8	4,391.8	3.073	161.2
Costa Rica	23.7	618.8	642.5	0.451	24.5
Dominican Republic	31.6	825.8	857.4	0.601	35.7
Ecuador	31.6	824.2	855.8	0.600	31.9
El Salvador	23.6	617.6	641.2	0.450	22.5
Guatemala	30.8	793.4	824.2	0.578	34.4
Guyana	9.5	220.0	229.5	0.162	8.7
Haiti	23.6	617.6	641.2	0.450	22.9
Honduras	23.7	618.8	642.5	0.451	27.8
Jamaica	30.8	793.4	824.2	0.578	30.2
Mexico	379.1	9,901.6	10,280.7	7.193	346.4
Nicaragua	23.6	617.6	641.2	0.450	25.4
Panama	23.6	617.6	641.2	0.450	26.7
Paraguay	23.6	617.6	641.2	0.450	29.3
Peru	78.9	2,061.6	2,140.5	1.499	84.0
Suriname	6.6	119.4	126.0	0.089	6.6
Trinidad and Tobago	23.1	594.5	617.6	0.433	22.0
Uruguay	63.2	1,652.0	1,715.2	1.201	58.7
Venezuela	249.3	5,568.5	5,817.8	4.071	315.3
Total Regional Developing Members	2,680.1	68,806.8	71,486.9	50.039	2,657.9
Canada	214.5	6,896.1	7,110.6	4.003	329.7
United States	1,609.1	41,303.1	42,912.2	30.021	5,076.4
Nonregional Members					
Austria	8.5	219.5	228.0	0.161	21.0
Belgium	17.6	451.7	469.3	0.329	44.6

Subscriptions to Capital Stock, Contribution Quotas and Voting Power as of December 31, 2014 (in Millions USD)					
Ordinary Capital Subscribed Capital Stock					
Member Countries	Paid-in	Callable	Total	% of Total Number of Votes	FSO Contribution Quotas
China	0.1	3.8	3.9	0.004	131.1
Croatia	2.6	66.7	69.3	0.050	6.2
Denmark	9.1	233.4	242.5	0.171	21.0
Finland	8.5	219.5	228.0	0.161	19.9
France	101.6	2,608.5	2,710.1	1.897	232.8
Germany	101.6	2,608.5	2,710.1	1.897	241.3
Israel	8.4	216.4	224.8	0.158	18.0
Italy	101.6	2,608.5	2,710.1	1.897	227.2
Japan	268.1	6,882.5	7,150.6	5.003	623.3
Korea, Republic of	0.1	3.8	3.9	0.004	1.0
Netherlands	14.6	325.6	340.2	0.239	36.9
Norway	9.1	233.4	242.5	0.171	21.0
Portugal	2.9	74.2	77.1	0.055	8.2
Slovenia	1.6	40.7	42.3	0.031	3.6
Spain	103.3	2,677.6	2,780.9	1.947	226.4
Sweden	17.5	448.9	466.4	0.327	42.2
Switzerland	25.2	647.5	672.7	0.472	67.3
United Kingdom	51.6	1,324.8	1,376.4	0.964	183.9
Total nonregional members	853.6	21,895.5	22,749.1	15.937	2,176.9
Grand Total	\$5,357.0	\$138,901.0	\$144,258.0	100.000	\$10,240.0

Source: Inter-American Development Bank. 2014 Annual Report: the year in review.

An Annual Meeting in March or April of each year is held by the Board of Governors in order to review the Bank's operations and make major policy decisions. Other key issues can also be dealt in extraordinary meetings. The decisions achieved in these meetings are reflected in the list of Approved Resolutions of the Board of Governors. The Inter-American Development Bank's governors are responsible for overseeing the Bank's activities and administration (IDB, 2015).

The Board of Governors, by a majority of the total voting power of the member countries, including an absolute majority of the governors of regional members, shall elect a President of the Bank, who, while holding office, shall not be a governor or an executive director or alternate for either.¹⁶ Currently, the IDB's Presidency is held by the Colombian Diplomat Luis Alberto Moreno (IDB, 2015).

The President of the Bank is its legal representative. The term of the office of the President of the Bank lasts five years and he/she may be reelected to successive terms. Besides, he/she shall cease to hold office when the Board of Governors so decides by a majority of the total voting power of

¹⁶ In accordance with Article VIII, section 5, (a), of the Agreement Establishing the Inter-American Development Bank.

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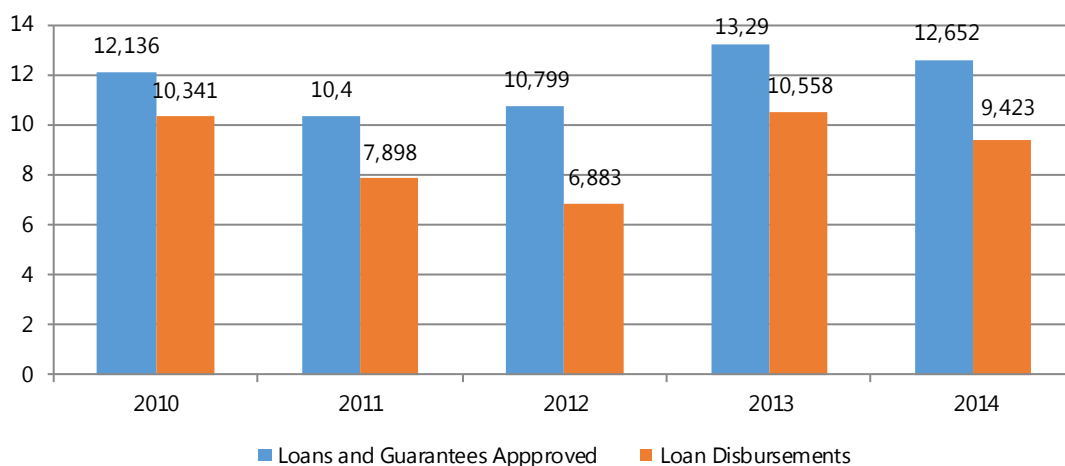
the member countries, including a majority of the total voting power of the regional member countries¹⁷.

In 2014, the Inter-American Development Bank approved a program of 168 projects, for a total value of US\$ 13.8 billion. Of the total approvals in 2014, US\$12.7 billion were drawn from the Bank's ordinary capital (OC), US\$300 million from the Fund for Special Operations (FSO) and US\$214 million from the IDB Grant Facility. These results consolidate the growth trend in the number of Bank approvals. According to the IDB's 2014 Annual Report, "average annual approvals have increased significantly over the last five years as compared to the previous five-year period, increasing from US\$ 9.8 billion in 2005-2009 to US\$12.6 billion in 2010 – 2014" (IDB, 2014, p. 5).

CHART 16

Approvals¹⁸ and Disbursements 2005 – 2014

(in Millions of U.S dollars)



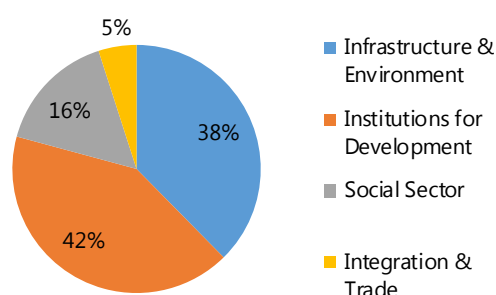
Source: Inter-American Development Bank. 2014 Annual Report: the year in review.

Loan approvals in 2014 were concentrated in 5 priority areas: (i) social policy for equity and productivity; (ii) infrastructure for competitiveness and social welfare; (iii) institutions for growth and social welfare; (iv) competitive regional and global international integration, and (v) protection of the environment, response to climate change, promotion of renewable energy and ensuring food security. In terms of sectors, 42% of approved financing was allocated to institutional support for development, 38% to the infrastructure and environment sectors, 16% to social sector programs, and 5% to integration and trade programs (IDB, 2014, p. 5).

¹⁷ In accordance with Article VIII, section 5, (a), of the Agreement Establishing the Inter-American Development Bank.

¹⁸ Excludes guarantees issued under the Trade Facilitation Program and non-sovereign-guaranteed loan participations.

CHART 17
2014 – Volume of Approvals by Sector



Source: Inter-American Development Bank. 2014 Annual Report: the year in review, p. 6.

In terms of the number of projects, 35% of newly approved operations were in the area of institutional support for development, 34% in the infrastructure and environment sectors, 17% in integration and trade, and 14% in the social sectors (IDB, 2014, p. 5).

TABLE 10
2014 Approvals by Sector Group¹⁹
(In millions of U.S dollars)

Sector	Number of Projects	Amount	%
Agricultural and Rural Development	6	150	1%
Energy	17	1,110	8%
Environment and Natural Disasters	5	272	2%
Sustainable Tourism	2	84	1%
Transport	15	2,355	17%
Water and Sanitation	11	1,138	8%
Infrastructure and Environment Subtotal	56	5,108	38%
Financial Markets	23	2,547	19%
Private Firms and SME Development	10	566	4%
Reform/Modernization of the State	17	2,227	16%
Science and Technology	1	40	0%
Urban Development and Housing	7	276	2%
Institutions for Development Subtotal	58	5,656	42%

¹⁹ Excludes Contingent Credit Line for Sustainable Development approved projects. The totals may not add due to rounding.

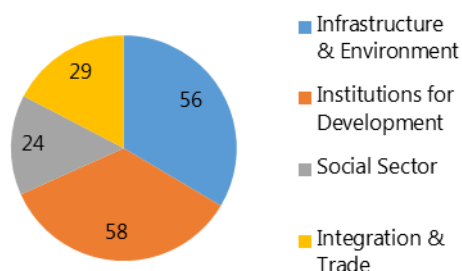
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Sector	Number of Projects	Amount	%
Regional Integration	2	28	0%
Trade	27	602	4%
Integration and Trade Subtotal	29	630	5%
Education	6	175	1%
Health	9	1,268	9%
Social Investment	9	706	5%
Social Sector Subtotal	24	2,149	16%
Total	167	13,543	100%

Source: Inter-American Development Bank. 2014 Annual Report: the year in review, p. 6.

Regarding the most important fields in each Sector, significant parts of funds were channeled to: transport (USD 2,355 millions), Infrastructure and Environment Sector, financial markets (USD 2,547 millions), in Institutions for Development Sector; trade (USD 602 millions) in the Integration and Trade Sector; health (USD 1,268 millions), in the Social Sector (IDB, 2014, p. 6).

CHART 18 2014 – Number of Project Approvals by Sector



Source: Inter-American Development Bank. 2014 Annual Report: the year in review, p. 6.

As the last years' results demonstrate, the Inter-American Bank has contributed to lift people out of poverty and diminish the critical level of social exclusion in Latin America and the Caribbean. In order to advance its achievements, the Bank shall attract better projects, build more durable partnerships and put an end to the fragmentation of their operations and ensure that they get the most out of their resources (IDB, 2014, p. 2).

In sum, it can be asserted that the Inter-American Development Bank constitutes an important institution focused on the promotion of vital reforms that can ensure sustained and inclusive growth in the medium and long term in Latin America and the Caribbean. In the last years, the Bank has increased its lending capacity, allowing it to provide more financial support to smaller and less developed countries. Hence, the Bank is playing a major role in solving financing needs in the region.

4.3. Sub-regional Development Banks (SRDBs)

In the last decade, Sub-regional Development Banks have been playing a major role financing development in Latin American and the Caribbean. According to Seatzu (2014, p. 2), sub-regional developing banks "are an innovative institutional tool to channel knowledge and finance

to developing countries, as well as to generate knowledge on and supply technical advice and assistance for economic and social growth". Hence, in order to comprehend the LAC financial architecture, it is necessary to analyze the sub-regional development bank.

4.3.1 The Andean Development Corporation (CAF)

The Andean Development Corporation (*Corporación Andina de Fomento – CAF*) is a development bank created in 1970 through the adoption of the 1968 *Convenio Constitutivo de la CAF*²⁰. Originally an Agreement signed between Bolivia, Colombia, Ecuador, Peru and Venezuela, the institution currently also encompasses the following shareholders: Argentina, Brazil, Chile, Costa Rica, Dominican Republic, Jamaica, Mexico, Panama, Paraguay, Portugal, Spain, Trinidad & Tobago, Uruguay and 14 private banks within the region (CAF, 2014, p. 4).

The headquarters of the Corporation are located in Caracas, Republic of Venezuela, but it also has offices in Buenos Aires, La Paz, Brasília, Bogota, Quito, Madrid, México D.F, Panama City, Asuncion, Lima, Montevideo and Port of Spain (CAF, 2015a). If necessary to develop its function, the CAF may establish agencies, offices or representations in each one of the participating countries and elsewhere²¹.

The Corporation's purpose is "to promote sustainable development and regional integration, by providing multiple financial services to clients in the public and private sectors of its Shareholder Countries."²² In order to accomplish its objectives, the Corporation presents the following functions:

- a. To carry out studies intended to identify investment opportunities and conduct and prepare the appropriate projects;
- b. To divulge the results of its research in the countries of the area, so as to adequately direct the investment of the available resources;
- c. To directly or indirectly furnish the technical and financial assistance needed to prepare and carry out multinational or complementary projects;
- d. To obtain internal and external credits;
- e. To issue bonds, debentures and other obligations, the placement of which may be made inside or outside of the Shareholder Countries;
- f. To promote the raising and use of resources;
- g. To promote capital and technology contributions in the most favorable conditions;
- h. To grant loans and bonds, avals and other guaranties;
- i. To promote underwriting operations, and grant said guaranties when the appropriate conditions are met;
- j. To foster the creation, expansion, modernization or conversion of companies, and to such effect being able to subscribe shares or participations;
- k. To carry out, in the conditions it determines, the duties or specific steps related to the object thereof, as may be entrusted to it by its shareholders or third parties;
- l. To coordinate its actions with those of other national and international entities to develop the Shareholder Countries;
- m. To recommend the coordination mechanisms needed by the entities or bodies of the area which furnish investment resources;

²⁰ The *Convenio Constitutivo de la CAF* has been amended several times.

²¹ In accordance with article 2 of the Agreement Establishing the Andean Development Corporation (CAF).

²² In accordance with article 3 of the Agreement Establishing the Andean Development Corporation (CAF).

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- n. To acquire and dispose of personal and real property, to file or answer judicial and administrative actions and, in general, to carry out all kinds of operations, acts, contracts and agreement needed to achieve its purposes.²³

The CAF's products and services are available in the form of: (i) loans, (ii) co-financing and A/B loans, (iii) credit lines, (iv) structured finance; (v) guarantees; (vi) investment banking and financial assistance services; (vii) equity investments, (viii) cooperation funds and technical assistance (CAF, 2015b).

The capital of the *Corporación Andina de Fomento* is formed by: USD 10.000 million Authorized Capital; USD 4.908 million Subscribed Capital; USD 5.284 million paid-in capital and additional paid-in capital. The total equity, constituted by Subscribed and paid-in capital, Additional paid-in capital, Reserves and Retained Earnings, accounts for USD 7.817 million (CAF, 2015b).

TABLE 11
2014 CAF's Capital Structure

(in USD million)

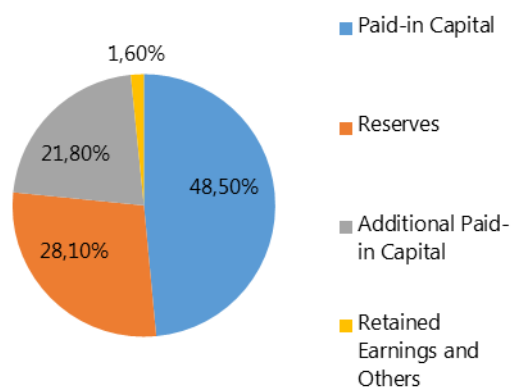
Authorized Capital	10.000
Subscribed Capital	4.940
Paid-in capital and additional paid-in capital	6.162
Total equity (Subscribed and paid-in capital, Additional paid-in capital, Reserves and Retained earnings)	8.763

Source: CAF Fact Sheet 2015.

It is worth to note that 48.5% of CAF's capital structure is constituted by paid-in capital; 28.1% by reserves; 21.8% by additional paid-in capital; and 1.6% by retained earnings and others.

CHART 19
CAF's Capital Structure

(percentage)



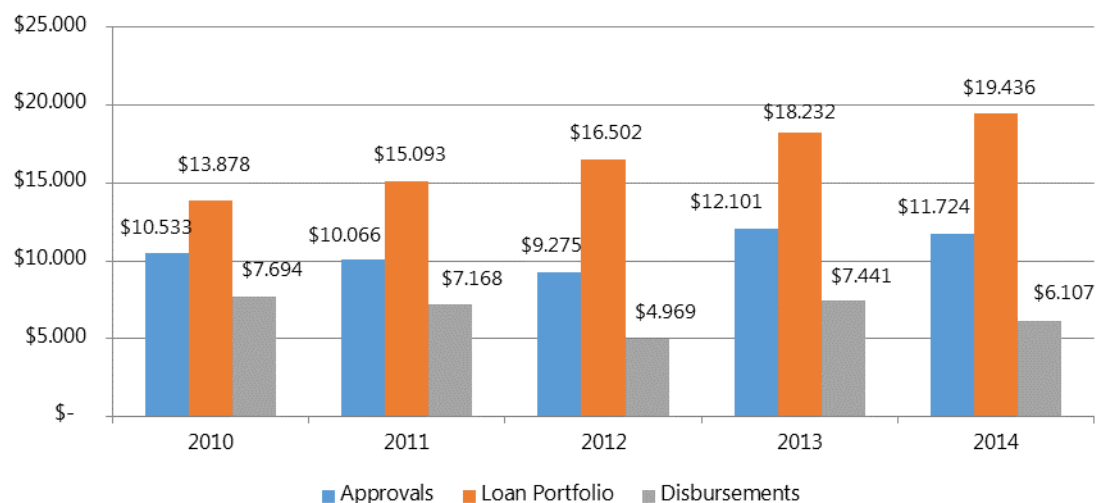
Source: Development Bank of Latin America (CAF). Portal Web 2015.

In 2014, the Corporation's loan portfolio achieved the amount of USD 19.4 billion, USD 1.204 million more than in 2013. The CAF approved USD 11.7 billion in projects, of which USD 6.1 billion

²³ In accordance with article 4 of the Agreement Establishing the Andean Development Corporation (CAF).

were disbursed in 2014. The following chart demonstrates the evolution of CAF's operations in USD million between 2010 – 2014 (CAF, 2015a).

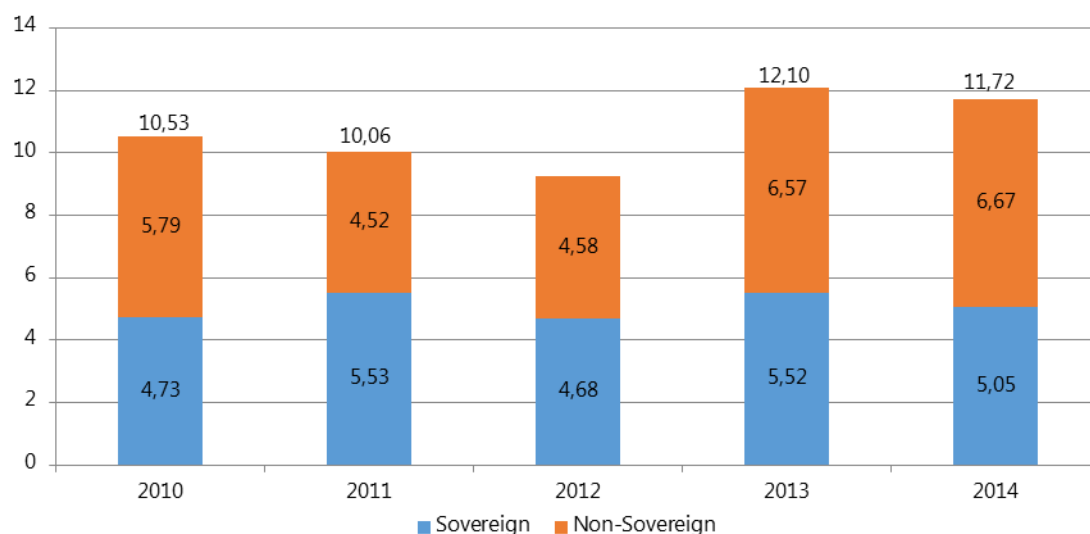
CHART 20
CAF Operations
(in USD Million)



Source: Development Bank of Latin America (CAF). Portal Web 2015.

With regard to the composition of the loan approvals in 2014, USD 5,05 million were sovereign guaranteed operations while USD 6,67 million were non-sovereign guaranteed operations. These numbers demonstrate a balanced in the distribution. This feature is reflected throughout the last 5 years of loan approvals, as can be observed in the following chart (CAF, 2015b).

CHART 21
Loans Approvals
(in USD Millions)

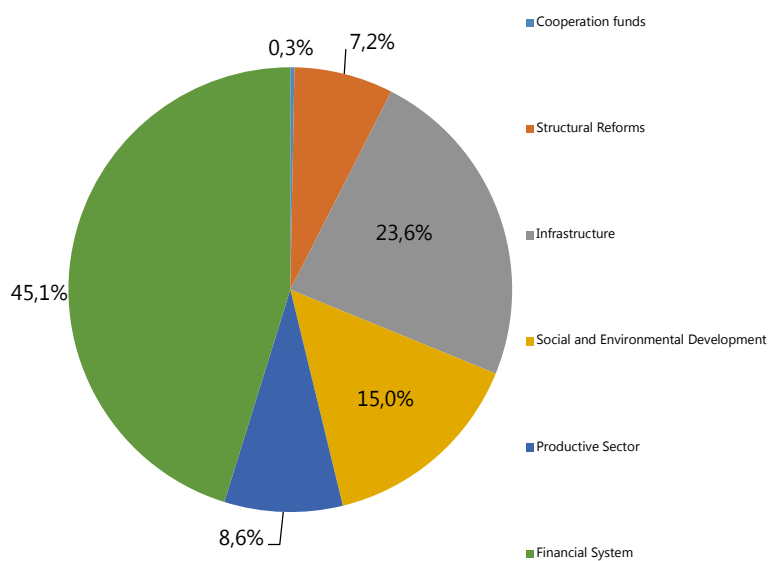


SOURCE: Development Bank of Latin America (CAF). Fact Sheet – 2015.

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Regarding the destination of the loan approvals by sector, the major share of it (45,1%) was committed to the financial system in 2014. Afterwards, there were infrastructure (23,6%); social and environmental development (15%); and productive sector (8,6%). The chart below reveals the share of loan portfolio approvals by sector in 2014 (CAF, 2015b).

CHART 22
Loan Portfolio Approvals by Sector in 2014



SOURCE: Development Bank of Latin America (CAF). Fact Sheet – 2015.

TABLE 12
2014 Approvals by Strategic Area

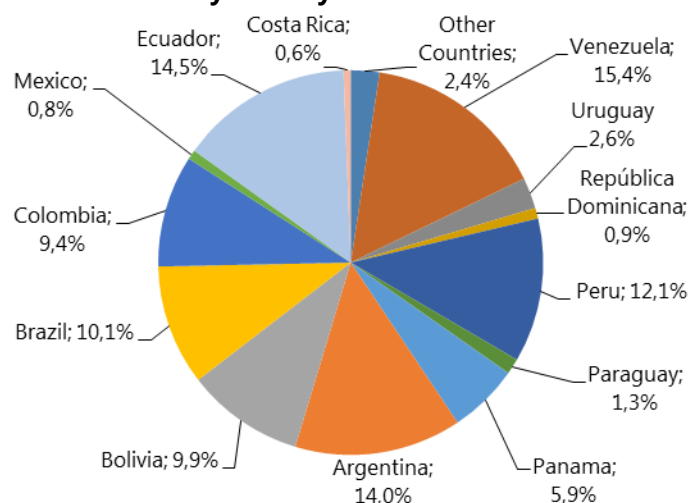
(in millions of USD)

Financial Systems	5,293
Economic Infrastructure	2,646
Social and Environmental Development	1,762
Productive Sector	1,012
Structural Reforms	850
Integration Infrastructure	121
Cooperation Funds	40
Total	11,724

Source: 2014 CAF Annual Report, p. 33.

In 2014, Venezuela accounted for the major share of the CAF's loan portfolio, speaking for 15.4% of its total. Subsequently, there were Ecuador (14.5%), Argentina (14%), Peru (12.1%) and Brazil (10.1%). The consecutive chart shows the loan Portfolio by country in 2014 (CAF, 2015b).

CHART 23
Loan Portfolio by Country in 2014



SOURCE: Development Bank of Latin America (CAF). Fact Sheet – 2015.

The Banks 2014 Annual Report also asserted that CAF's shareholder countries (Bolivia, Colombia, Ecuador, Peru and Venezuela) continue to represent the largest percentage of annual approvals, 50%. Nevertheless, full members (Argentina, Brazil, Panama, Paraguay, Trinidad and Tobago, and Uruguay) along with series C members (Mexico, Dominican Republic, Costa Rica, Chile, Spain, Jamaica and Portugal) have recorded a progressive increase in their share of annual approvals, reaching respectively 32.5% and 17.5% (CAF, 2014, p. 32).

TABLE 13
Approvals by Country
(in millions of USD)

Country	2010	2011	2012	2013	2014	2010-2014
Argentina	1,607	1,346	839	1,100	674	5,566
Bolivia	426	407	485	684	625	2,628
Brazil	1,980	1,797	1,903	2,234	1,903	9,818
Colombia	992	1,456	841	1,563	1,552	6,404
Costa Rica	10	10	10	10	10	50
Dominican Republic	0	10	10	43	60	124
Ecuador	901	772	766	843	800	4,081
Mexico	35	29	82	380	549	1,075
Panama	312	484	328	325	299	1,748
Paraguay	36	120	189	431	181	956
Peru	1,693	2,184	1,749	2,644	2,415	10,686
Uruguay	120	648	729	586	754	2,836
Venezuela	1,638	531	327	417	475	3,388
Total	10,533	10,066	9,275	12,101	11,725	53,699

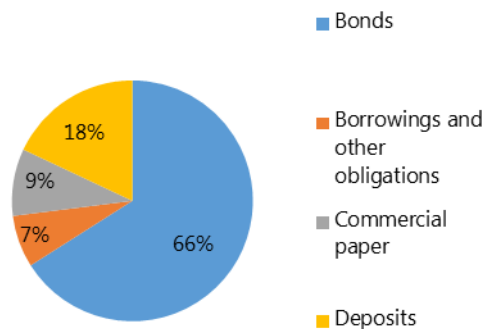
Source: 2014 CAF Annual Report, p. 32.

CAF's financing strategy is based on the diversification of funding, mitigation of interest rate and currency risks, as well as obtaining competitive rates, all of which allow for an efficient intermediation of financial resources. In 2014, 66% of the funding sources derived from Bonds. The

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other sources of funding were deposits (18%), commercial papers (9%) and borrowings and other obligations (7%) (CAF, 2015b).

CHART 24
2014 CAF'S Funding



SOURCE: Development Bank of Latin America (CAF). Fact Sheet – 2015.

Since 1993, CAF has issued more than 119 bonds, increasing more than USD 20,200 million in international capital markets, encompassing the U.S, Europe, Asia, Oceania and various countries in Latin America. The Bank “also maintains a constant presence in short term capital markets through commercial paper programs in the U.S. (USD 2 billion) and Europe (USD 3 billion)” (CAF, 2015b).

In the last years, CAF has become the highest rated Latin American frequent issuer as a result of: strong capitalization, excellent asset quality, high liquidity level, consistent growth and profitability, preferred creditor status, continued support of shareholders and broad investor base (CAF, 2015b). In accordance with Avalle (2005, p. 197), the CAF’s success in the region has much to do with its unique structure. Shareholders have a clear self-interest in maintaining and increasing CAF’s institutional credibility and have opted to keep their obligations to CAF in full.

All things considered, it is possible to affirm that CAF is promoting a comprehensive agenda, with a long-term vision, to accompany countries in their development strategies from a social, economic and environmental perspective (CAF, 2014, p. 6).

4.3.2. Fund for Structural Convergence of Mercosur (FOCEM)

The Fund for Structural Convergence of Mercosur (FOCEM) was created in the end of 2004 by the Common Market Council (CMC) Decisions n° 45/04 and n° 18/05 of Mercosur and it started to operate in January 2007 (MRE, [sd]). The purpose of the fund is to finance programs to: (i) promote structural convergence; (ii) increase the private sector competitiveness; (iii) develop social cohesion, in particular in the smaller economies and less developed regions; (iv) strength the operation of the institutional framework and deepen the integration process. Another core objective of the fund is to reduce asymmetries among members, particularly in less developed countries in order to raise their competitiveness compared to others and make the whole region able to give the return to foreign investors (ARAÚJO; NORONHA, 2015, p. 258)²⁴.

²⁴ According to Nádia de Araújo and Carolina Noronha, the FOCEM has a dual focus of activity, both in the smaller economies and in less developed regions. The fund adopts an asymmetry identification mechanism based on two criteria which are essential for the guidance in the allocation of resources: (i) the size distinction between States and (ii) the

The Decision n° 18/05 establishes the form of integration and the validity of the fund, providing the length of 10 years from the first contribution made by one of the Member States and, after this period of time the States will evaluate the effectiveness of the initiatives of FOCEM and the convenience of its permanence (ARAÚJO; NORONHA, 2015, p.258-259; SOUZA; OLIVEIRA; GONÇALVES, 2010, p. 12). Hence, the Decision CMC n° 40/12 addresses that the remained evaluation must consider a possible capitalization of the FOCEM and the revision of the contribution quotas and benefits, reflecting the current composition of the Members and eventual incorporations. In July 16, 2015, during the XLVIII Summit of Mercosur, in Brasilia, it was announced that the FOCEM was extended for more 10 years, according to the Decision CMC n° 22/15.

The Fund is sponsored by a system of contributions by each Member State divided into mandatory and voluntary contributions (both non-refundable) to be subscribed in semiannual contributions. Regarding the mandatory contributions - on a reverse basis - the Member States with greater relative economic development held greater contributions, while less developed countries receive high amount of resources to finance their projects. At the beginning, the stipulation of total mandatory contributions was US\$ 100 million. In the first years, FOCEM began its operations with progressive contributions reaching US\$ 50 million in 2006, US\$ 75 million in 2007 and, finally, US\$ 100 million in 2008.

To achieve US\$ 100 million *per* year, the amount of contributions was distributed in the following order: Argentina (27%), Brazil (70%), Paraguay (1%) and Uruguay (2%). Meanwhile, the assistances were disproportional and Paraguay and Uruguay were benefited from quotas of, respectively, 48% and 32% of total resources, while Brazil and Argentina, net contributors, were assisted by 10% each one (CÉSAR, 2015, p. 2)²⁵.

Since 2013, with the entry of the Bolivarian Republic of Venezuela, the overall of annual contributions were readjusted to US\$ 127 million. Hereinafter, the regular annual contributions are distributed in the following way: (i) Paraguay - US\$ 55,5 million (43,70%); (ii) Uruguay - US\$ 37 million (29,15%); (iii) Venezuela - US\$ 11,5 million (9,05%); (iv) Argentina - US\$ 11,5 million (9,05%); and (v) Brazil US\$ 11,5 million (9,05%)²⁶.

In June 2015, during the XI FOCEM Working Group Meeting, the Committee of Permanent Representatives of MERCOSUR (CPRM) informed the amount of contributions that each Member State shall subscribe until June 2015. Brazil has subscribed US\$ 70 million, and it has yet paid 35 million (1st quota), while voluntarily the amount donated is US\$ 97 million; Argentina must contribute with US\$ 27 million and it has yet subscribed with US\$ 13,5 million (1st quota); Paraguay must help with US\$ 1 million, and it has yet paid US\$ 509 thousand; Uruguay has subscribed US\$ 2 million; and Venezuela must contribute with US\$ 27 million and it has yet paid US\$ 13,5 million.

emphasis on the traditional notion of inequality, considering the per capita difference between the less developed regions of Mercosur (ARAÚJO; NORONHA, 2015, p.259).

²⁵ The percentages have been established according to the historic GDP average of Mercosur.

²⁶ Subsequently, the entry of Venezuela into the Fund, in force in 2013, has been implicated in additional annual contributions of US\$ 27 million, US\$ 11,5 million of which is destined to Venezuelan projects and the remaining US\$ 15,5 million to be distributed among the other members in the traditional formula.

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TABLE 14
Contributions – FOCEM
(In June, 2nd 2015)

YEAR	QUOTAS	ARGENTINA		BRAZIL - Mandatory		BRASIL - Voluntary		PARAGUAY		URUGUAY		VENEZUELA (Dec. CMC N° 41/12)		
		Date	Amount of Contribution Million US\$	Date	Amount of Contribution Million US\$	Date	Amount of Contribution Million US\$	Date	Amount of Contribution Million US\$	Date	Amount of Contribution Million US\$	Date	Amount of Contribution Million US\$	
2006	1st quota	06/03/2007	6.595.355	27/07/2007	35.000.000			24/05/2007	500.000	16/01/2007	999.251			
	2nd quota	18/04/2007	6.562.865											
2007	1st quota	28/06/2007	10.452.014	02/11/2007	52.500.000			18/09/2007	375.000	12/07/2007	749.251			
	2nd quota	28/05/2008	10.139.766					09/10/2007	375.000	12/10/2007	749.625			
2008	1st quota	28/05/2008	13.500.000	10/04/2008	35.000.000			29/04/2008	500.000	14/02/2008	1.999.955			
	2nd quota	29/05/2008	13.500.000	05/01/2009	35.000.000			15/08/2008	500.000					
2009	1st quota	03/07/2009	13.500.000	27/05/2009	35.000.000			20/04/2009	500.000	02/07/2009	1.998.002			
	2nd quota	20/11/2009	13.500.000	07/07/2010	35.000.000			22/09/2009	500.000					
2010	1st quota	31/07/2010	13.500.000	07/07/2010	35.000.000			15/04/2010	500.000	05/03/2010	2.000.000			
	2nd quota	17/12/2010	13.500.000	08/11/2010	35.000.000			15/10/2010	500.000					
2011	1st quota	01/06/2011	13.500.000	29/06/2011	35.000.000	29/12/2011	35.549.660	17/05/2011	500.000	06/02/2011	1.999.500			
	2nd quota	30/01/2012	13.500.000	05/12/2011	35.000.000			04/11/2011	500.000					
2012	1st quota	23/07/2012	13.500.000	06/11/2012	35.000.000	21/06/2012	43.550.866	18/05/2012	500.000	07/02/2012	1.999.240			
	2nd quota	21/12/2012	13.500.000	08/01/2013	35.000.000			01/11/2012	500.000					
2013	1st quota	23/08/2013	13.500.000	09/01/2014	17.493.953	08/01/2013	30.000.000	31/05/2013	500.000	14/02/2013	1.999.500	27/10/2014	13.500.000	
						13/05/2013	10.999.980	29/11/2013	500.000			27/10/2014 and 11/05/2015	13.500.000	
	2nd quota	13/05/2014	13.500.000		52.506.047	04/09/2013	15.929.958							
2014	1st quota		13.500.000		35.000.000	09/01/2014 to 30/11/2014	53.899.920	31/05/2014	500.000	28/02/2014	2.000.000		13.500.000	
	2nd quota		13.500.000		35.000.000			27/01/2015	490.702			10/12/2014	5.676	
2015	1st quota		13.500.000		35.000.000		97.069.670	29/05/2015	500.000	10/03/2015	2.000.000		13.500.000	
									02/06/2015			9.297		
	2nd quota													
TOTAL US\$		236.250.000		612.500.000		300.000.000		8.750.000		18.500.000		67.500.000		
1.243.500.000														
		40.500.000		157.506.047		97.069.670		0		0		40.500.000		
335.575.717														

Source: Government Authority. 2015.

Moreover, there are projects included in the Program IV (strengthening regional integration in Mercosur), in which the projects are presented by the Secretariat of Mercosur to CPRM. For a while, the framework of projects encompassed by this initiative and already finished are: (i) The Institutional Strengthening of the Secretariat of Mercosur regarding the Information System of the Common External Tariff; (ii) The Institutional Strengthening of Mercosur Secretariat for the Implementation of Jurisprudence Database and (iii) Identification of Structural Convergence Needs in Mercosur. The only project that is in process is The Building an Infrastructure for the Protection and Promotion of Human Rights in Mercosur, dated from 2013 (MERCOSUR, [sd]).

The operation of the Fund depends on the submission of the project proposals²⁷. Firstly, the presentation of an initiative and its evaluation to be a future proposal lies on the National

²⁷ A project can be submitted by two or more States jointly, or even organs of the Mercosur's institutional structure.

Technical Unit (NTU), bind to the Ministries of Economy of the Member States and liable for meeting issues relating to the Fund. Secondly, the selected proposal will be sent to the Committee of Permanent Representatives (CPR)²⁸, under the Common Market Council, which shall determine whether the conditions of eligibility and compliance with the formal requirements and project presentation materials are accurate. If the decision is favorable and adopted by consensus, it will be forwarded to the Technical Unit of FOCEM to promote the technical analysis of the project.

Once approved by the Technical Unit, the report is sent again to the CRP together with the proposal of the finance partnership (contract between the beneficiary State and the Technical Unit of FOCEM) (ARAÚJO; NORONHA, 2015, p. 260-262). The Commission's findings is presented to the Common Market Group (CMG), the Executive instance of Mercosur, and, whether considering that the project is able to be approved, it is submit the decision of CMC, which will give the final order. The recipient country will be solely liable from the well proceedings of the projects, which must be complied with national rules regarding regulation and contracting, audits and required controls as well as it has the duty to submit six-monthly reports informing the project implementation *status* (ARAÚJO; NORONHA, 2015, p. 261).

In the end of 2014, the FOCEM had 45 projects approved, mainly, those aimed at structural convergence as construction, upgrading, modernization and recovery of transport routes and those to improve the competitiveness of private sector. The projects include 17 presented by Paraguay, 12 for Uruguay, 4 by the Mercosur Secretariat or other body part of the institutional structure of Mercosur, 4 by Argentina, 5 by Brazil and 3 multi-country projects. Venezuela is the only Member State that did not launch projects until now (MRE [sd]). Concerning the projects already approved, 37 are in process of implementation (more than a half presented an advanced progress above 50%) and 2 were revoked (CÉSAR, 2015, p.04).

Furthermore, it is worthy to note that there are three multi-country projects, as follows:

TABLE 15
Multi-country Agreements in the FOCEM

N°/Year	Duration	Recipient	Cost (US\$)	Project	Description
n°07/07 Jun 2007	5 Years	Mercosur and Bolivia	FOCEM: US\$ 7.063.000 Local Unit: US\$ 2.998.400 Total: US\$ 10.061.400	Action Project Mercosur Free of Foot-and- Mouth Disease	Project to support the eradication of Foot-and-Mouth in the Member States of Mercosur, contribute to the development of a computerized veterinary solid sub-regional system and help to the development of regional livestock, its insertion in the international global market and the strengthening of health facilities to prevent other disease with similar economic impact.
n°03/11 Dec 2011	36 months	Mercosur	FOCEM: US\$ 13.888.550 Local Contributio	Investigatio n, Education and Biotechnolo	Development of competitiveness and generation and dissemination of technological knowledge towards dynamic productive sectors. Formation of a network of

²⁸ Furthermore, it is worthy the work of the Commission of Permanent Representatives of Mercosur (CPMR) through the FOCEM's Working Group. Until now, 10 meetings have been held in the scope of the Working Group, so the 10th was held in June 2015, in Montevideo.

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N°/Year	Duration	Recipient	Cost (US\$)	Project	Description
			n: US\$ 2.450.920 Total: US\$ 16.339.470	gy applied to health	biomedical research institutes in a coordinated manner to address an issue of common public health to Member States: study of biological, epidemiological and sociological aspects of degenerative diseases.
n°04/13 Nov 2013	24 Months	Brazil and Uruguay	FOCEM: US\$ 5.719.708,43 Local Contributio n: Eligible – Governmen t of Rio Grande do Sul: US\$ 559.958,63; OSE: US\$ 449.401,68 Not Eligible: Governmen t of Rio Grande do Sul: US\$ 347.130,64; OSE: US\$ 564.324,86 Total: US\$ 7.640524,24	Integrated Urban Sanitation Acegua- Brazil Acegua- Uruguay	Project of Structural convergence, whose beneficiaries (Brazil and Uruguay) through Riograndense Sanitation Company (CORSAN) and Sanitary Works del Estado (OSE) aim at, in 24 months, the implementation of water infrastructure for containment and extraction of raw water, environmental sanitation and macro drainage.

Source: Governmental Authority. 2015

Other projects financed by the FOCEM are the FOCEM Auto and FOCEM P&G, which are sectorial projects based on the Program of Competitiveness Development of FOCEM. The first one has the purpose of developing the integration of the productive automotive chain of Mercosur, comprehending automobiles and auto parts. The aim is to strengthen the competitiveness of small auto parts providers, enabling the replacement of extra-bloc imports and increasing exports by technological training and access to business opportunities for Mercosur's companies²⁹ (ABDI [sd]).

²⁹Among the activities is important to highlight: (i) Consulting for continuous improvement of production systems; (ii) Training focused on methodologies for problem solving, measurement and metrology of production lines; (iii) Workshops with organizations, institutes and universities to address issues such as access to credit, metrology and standardization, business management, training and quality; (iv) Market studies to provide information to companies about the products able to "import substitution" within the block; (v) Development of an online manual on rules of supply, technical, marketing and legal support to supply components, systems and auto parts in Mercosur; (vi) To make two rounds of negotiations to around 200 companies from the automotive industry in Mercosur; (vii) To execute an Workshop to promote Innovation and Technological Diffusion, to companies, institutes, research centers, universities and business development centers; (viii) Implement a training program for professional specialization of automotive engineers; (ix) Create an Innovation Management Course for training managers innovation for the automotive industry and (x) Technology Round for companies, researchers and representatives of science and technology institutes (ABDI [sd]).

The second intends to assist small and medium companies (as industrial and service providers) which made part of the exploration, production and refining of oil chain and Mercosur gas. This project has the purpose of strength the oil and gas sector with the possibility of labor qualification, integration and complementation of the companies, in line with the main demands of the market and the needs of the anchor-enterprises of the Member States (ABDI [sd]).

It is important to highlight the progress of the Commission of Permanent Representatives of Mercosur through the FOCEM Working Group. Until now, this group has conducted 10 meetings, the last one was held on June 9 and 10, 2015, in Montevideo, Uruguay.

During this meeting, several issues were treated, for example, the resources regarding the approved projects, technical inspections and monitoring missions, and external audits, mostly for infrastructure projects. Among the planned external audits are those relating to FOCEM Auto Design and Research Project, Education and Biotechnology applied to Health (Executing Agency of Uruguay). On the rule of status of projects in technical analysis stage the FOCEM Working Group did not take notes of any project relating to trade in goods and services, but it just focus on the Modernization Project Enológica Reference Laboratory - LAREN and Social Mercosur Project: Strengthening the Mercosur Social Institute and the consolidation of the Strategic Social Action Plan. The last meeting also dealt with the exchange views on the elaboration of a Procedural Rule on plans for projects of accounts for the purpose of guiding the Executing Agencies in achieving accounting and financial information, to register the visibility achieved by the FOCEM in the restructuring of its electronic portal and the organization, management and procedures and positions of the FOCEM Technical Unit already addressed. Finally, the FOCEM Working Group also delineated the availability of the unallocated Fund's financial (bank balance and estimated availability for years to come).

TABLE 16
Availability of unallocated resources

ARGENTINA	40.439.468,63
BRAZIL	33.186.036,98
PARAGUAY	81.747.930,50
URUGUAY	41.595.360,34
VENEZUELA	30.983.404,00
PROGRAM IV	500.000,00
	228.452.200,45

Source: FOCEM

It can be inferred that the FOCEM has an important role in the development of economic, social and even physical structures of its Member States. The availability of non-refundable resources by the FOCEM is presented not only a regional alternative source to external financing but also as an autonomous tool for development, replacing the financial funds that act in the region in the sense of the North-South Cooperation. Thus, in comparison with other funds, the FOCEM's main advantage resides in the fact that the full financed amount is directed to development projects without the compromise to be re-funded. Otherwise, the other kinds of funding require that the money lent shall be returned to the finance institution plus interests.

4.3.3. The Caribbean Development Bank (CDB)

The Caribbean Development Bank (CDB) was established by its Constitutive Agreement signed on October, 1969, in Kingston Jamaica, and entered into force on January 1970. The Bank is

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a regional financial institution whose purpose is “to contribute to the harmonious economic growth and development of the member countries in the Caribbean and to promote economic co-operation and integration among them, having special and urgent regard to the needs of the less developed members of the region³⁰”.

In order to achieve this purpose, the CDB has the following functions:

- a. To assist its borrowing member countries to optimize the use of their resources, develop their economies, and expand production and trade;
- b. To promote private and public investment, encourages the development of the financial upturn in the Region, and facilitates business activity and expansion;
- c. To mobilize financial resources from both within and outside region for development;
- d. To provide technical assistance to its regional borrowing members;
- e. To support regional and local financial institutions and a regional market for credit and savings; and
- f. To support and stimulate the development of capital markets in the Region³¹.

Hence, the Bank aims to provide resources to poor communities to improve their access to basic services, enhance employability and reduce socio-economic vulnerability. Its objectives are: (i) the expansion and conservation of social and economic infrastructure; (ii) the improvement of the human resources base; and (iii) the promotion and strengthening of the communities’ capacity to initiate and manage change (CDB, 2014, p. 4).

Membership in the Bank is open to: (i) states and territories of the region; (ii) non-regional states which are members of the United Nations or any of its specialized agencies or of the International Atomic Energy Agency; and (iii) institutions³². Currently, the Bank is owned by 27 member countries, divided as follows:

- 19 Borrowing Member Countries: Anguilla, Antigua and Barbuda, The Bahamas, Barbados, Belize, British Virgin Islands, Cayman Islands, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, Turks and Caicos Islands.
- 3 Non-Borrowing Member Countries: Colombia, Mexico and Venezuela;
- 5 Non-Regional Members: Canada, China, Germany, Italy and United Kingdom (CDB, 2014, p. 3).

The voting power of each country is linked to its subscription to the Bank’s capital stock. Regional members are required to hold not less than 60% of the shares and non-regional members not more than 40% of the shares³³. It is important to highlight that only regional members can borrow from CDB. The Subscription to capital stock and voting power in the CDB is described in the next table:

³⁰ In accordance with Article 1 of the Agreement Establishing the Caribbean Development Bank.

³¹ In accordance with Article 2 of the Agreement Establishing the Caribbean Development Bank.

³² In accordance with Article 2 of the Agreement Establishing the Caribbean Development Bank.

³³ In accordance with Article 6, paragraph 2, of the Agreement Establishing the Caribbean Development Bank.

TABLE 17
Subscription to Capital Stock and Voting Power as at December 31, 2013
(expressed in thousands of United States Dollars)

Member	Total No. of Shares	Percent of Total	Total Subscribed capital	Callable capital	Paid-in capital	No. of votes	Percent of total votes
Regional States and Territories							
Jamaica	48,354	18.62	291,659	227,614	64,045	48,504	18.44
Trinidad and Tobago	48,354	18.62	291,659	227,614	64,045	48,504	18.44
Bahamas	14,258	5.49	86,001	67,115	18,886	14,408	5.48
Guyana	10,417	4.01	62,833	49,038	13,795	10,567	4.02
Colombia	7,795	3.00	47,017	36,691	10,326	7,945	3.02
Mexico	3,118	1.20	18,807	14,687	4,120	3,268	1.24
Venezuela	7,795	3.00	47,017	36,691	10,326	7,945	3.02
Barbados	9,074	3.49	54,732	42,717	12,015	9,224	3.51
Suriname	4,166	1.60	25,128	19,627	5,501	4,316	1.64
Belize	2,148	0.83	12,956	10,109	2,847	2,298	0.87
Dominica	2,148	0.83	12,956	10,109	2,847	2,298	0.87
Grenada	1,839	0.71	11,093	8,661	2,432	1,989	0.76
St. Lucia	2,148	0.83	12,956	10,109	2,847	2,298	0.87
St. Vincent and the Grenadines	2,148	0.83	12,956	10,109	2,847	2,298	0.87
Antigua and Barbuda	2,148	0.83	12,956	10,109	2,847	2,298	0.87
St. Kitts and Nevis	859	0.33	5,181	4,047	1,134	1,009	0.38
Anguilla/1	455	0.18	2,744	2,141	603))
Montserrat	533	0.21	3,215	2,509	706	2,737	1.04
British Virgin Islands	533	0.21	3,215	2,509	706))
Cayman Islands	533	0.21	3,215	2,509	706))
Turks and Caicos Islands	533	0.21	3,215	2,509	706))
Haiti	875	0.34	5,278	4,120	1,158	1,158	0.39
Sub-total	170,231	65.56	1,026,789	801,344	225,445	172,931	65.73
Non-Regional States							
Canada	26,004	10.02	156,849	122,408	34,441	26,154	9.94
United Kingdom	26,004	10.02	156,849	122,408	34,441	26,154	9.94
Italy	6,235	2.40	37,608	29,375	8,233	6,385	2.43
Germany	15,588	6.00	94,023	73,376	20,647	15,738	5.98
China	15,588	6.00	94,023	73,376	20,647	15,738	5.98
Sub-total	84,419	34.44	539,352	420,943	118,409	90,169	34.27
Total	259,650	100.00	1,566,141	1,222,287	343,854	263,100	100.00

Source: CDB, 2014, Appendix 4.

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It is possible to infer that, currently, regional states detain 65.73% of the CDB capital, while non-regional states have 34.27%. Among regional states, Jamaica and Trinidad and Tobago have the biggest percent of total votes, 18.44% each. Amid the non-regional states, Canada and the United Kingdom preset the biggest share of total votes, 9.94% each.

It is also worth to note that the Caribbean Development Bank also undertakes cooperation activities with countries and institutions in the Region, such as the CARICOM Secretariat, the Organization of Eastern Caribbean States (OECS) Secretariat and the Eastern Caribbean Central Bank. This cooperation expresses an effort to support economic and social development among its Borrowing Member Countries (CDB, 2014, p. 5-6).

The CDB is structured in 3 main administrative bodies: the Board of Governors, the Board of Directors, and the President. The Board of Governors is the most important body in which all the powers of CDB are vested in. It is composed by Governors nominated by Each Member Country that cast the votes in accordance with their voting power³⁴. The Board of Directors, by its turn, is responsible for the general policy and direction of the operations of CDB. The Board of Directors exercises all powers delegated to it by the Board of Governors and it takes decisions regarding: (i) loans, guarantees and other investment by the CDB; (ii) borrowing programs, technical assistance; (iii) approval of the Administrative Budget; (iv) submission of the accounts pertaining to each financial year for approval by the Board of Governors. The Board of Directors comprises 18 Directors, thirteen representing the Regional Members and five representing the non-regional Members³⁵. The President is the chief executive officer of the Bank and conducts, under the direction of the Board of Directors, the current business of the Bank. The President is appointed for a renewable five-year term, and he is assisted by the Vice-President (Corporate Services) and Bank Secretary (Operations)³⁶.

The Bank's financial resources consist of its Ordinary Capital Resources (OCR) and Special Funds Resources. The Ordinary Capital Resources include capital subscriptions from its members, reserves, market borrowings on the international capital markets as well as loans from other multilateral development banks. The Special Fund Resources (SFR) refers to the resources of any special fund³⁷.

Hence, the CDB's lending activities are divided into two major categories: (i) Ordinary Operations, financed from the Ordinary Capital Resources and (ii) Special Operations financed from the Special Fund Resources. A project may incorporate aspects financed as Ordinary Operations and other aspects financed as Special Operations.

In its operation, the Bank may provide or facilitate financing for any regional member or any political subdivision or any agency thereof, or any other entity or enterprise in public or private sector operating in the territory of such member, as well as for international regional agencies or other entities concerned with the economic development of the region³⁸.

In this sense, the CDB may carry out its operations in any of the following ways:

- a. By making or participating in direct loans with its unimpaired paid-up capital and with its reserves and undistributed surplus;

³⁴ In accordance with article 28 of the Agreement Establishing the Caribbean Development Bank.

³⁵ In accordance with article 29 and 30 of the Agreement Establishing the Caribbean Development Bank.

³⁶ In accordance with article 33 and 34 of the Agreement Establishing the Caribbean Development Bank.

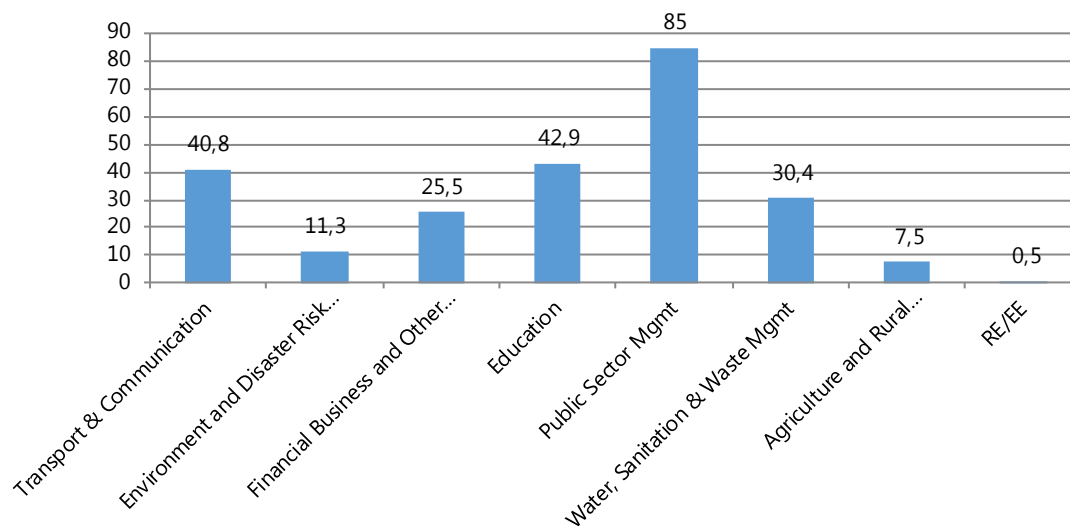
³⁷ In accordance with article 9 of the Agreement Establishing the Caribbean Development Bank.

³⁸ In accordance with article 13 of the Agreement Establishing the Caribbean Development Bank.

- b. By making or participating in direct loans with funds raised by the Bank in capital markets or borrowed or otherwise acquired by the Bank for inclusion in its ordinary capital resources;
- c. By investment of the funds in the equity capital of an entity or enterprise;
- d. By guaranteeing, whether primary or secondary obligor, in whole or in part, loans for economic development³⁹.

The CDB's projects are concentrated in areas such as: renewable energy and energy efficiency (RE/EE); education; agriculture; economic infrastructure; transportation; water and sanitation; gender equality; poverty reduction through the Basic Needs Trust Fund; environmental sustainability and technical cooperation. In 2014, the CDB approved 19 projects across eight sectors valued at US\$ 243.8 million. The projects that received the majority of CDB's fund in 2014 were, respectively, Public Sector Management (US\$ 85 million); Education (US\$ 42.9 million); and Transport and Communication (US\$ 40.8 million).

CHART 25
CBD's Project Approvals by Sector - 2014
(in millions of USD)



Source: Caribbean Development Bank. 2014 Annual Report, p. 15.

The three largest beneficiaries with projects in 2014 were, respectively, Jamaica (US\$ 50 million), Belize (US\$ 44.8 million) and Trinidad & Tobago (US\$ 40 million).

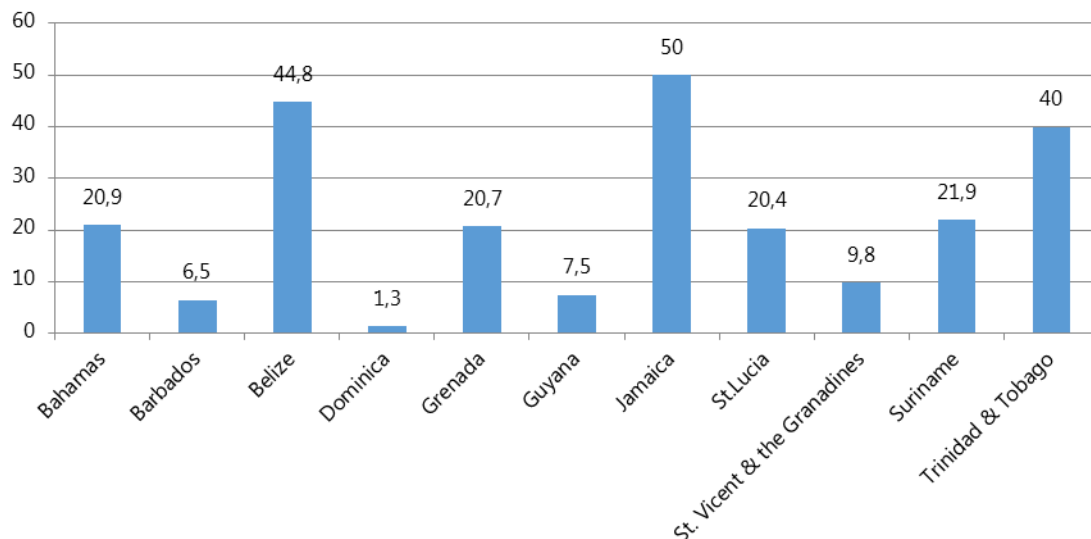
³⁹ In accordance with article 13 of the Agreement Establishing the Caribbean Development Bank.

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CHART 15

CDB's Project Approval by Country – 2014

(in millions of USD)



Source: Caribbean Development Bank. 2014 Annual Report, p. 15.

In the future, CDB shall maintain its focus on providing regional-makers and financial support to deal with the pressing challenges they face in their efforts to achieve long-term development (CDB, 2014, p. 10). According to its President, William Smith, the Bank is well-positioned as the focal point for extended partnerships on behalf of Borrowing Member Countries; and, this is demonstrated by the ongoing initiatives to mobilize financing for energy sector developments (CDB, 2014, p. 2).

4.3.4. The CARICOM Development Fund (CDF)

The Caribbean Community and Common Market (CARICOM) was established by the Treaty of Chaguaramas, which was signed by Barbados, Jamaica, Guyana and Trinidad & Tobago and came into effect on August 1, 1973. Subsequently, other 11 Caribbean States joined the Common Market: Antigua & Bermuda, The Bahamas, Belize, Dominica, Grenada, Haiti, Montserrat, Saint Lucia, St. Kitts and Nevis, St. Vincent and the Grenadines and Suriname. Currently, the Community has 15 Member States and 5 Associate Member (Anguilla; Bermuda; British Virgin Islands; Cayman Islands; Turks and Caicos Islands).

The CARICOM Development Fund (CDF) was established under article 158 of the Revised Treaty of Chaguaramas "for the purpose of providing financial or technical assistance to disadvantaged countries, regions and sectors"⁴⁰. The Development Fund may accept subventions from public or private sector entities of the Member States or from other entities external to the Community. Subventions shall not be accepted nor applied by the Development Fund on conditions which discriminate against Member States, regions or sectors⁴¹.

The CDF is the CARICOM's center-piece to address the disparities among the Member States of CARICOM which may result from the implementation of the CARICOM Single Market and Economy (CSME). However, it is important to stress that not all CARICOM Members are CDF's Members, the

⁴⁰ In accordance with Article 158, paragraph 1, of the Revised Treaty of Chaguaramas.

⁴¹ In accordance with Article 158, paragraph 3, of the Revised Treaty of Chaguaramas.

last only encompasses 12 of the 15 Single Market countries, which are: Antigua & Bermuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Saint Lucia, St. Kitts & Nevis, St. Vincent & the Grenadines, Suriname and Trinidad & Tobago. Hence, only the Bahamas, Haiti and Montserrat are not included in the CDF.

A Member State shall contribute or cause to be contributed to the CARICOM Development Fund, the amount set in the Annex I of the Agreement Relating to the Operation of The CARICOM Development Fund, which are⁴²:

TABLE 18
Assessed Contribution of Member States
(in millions of USD)

Member States	Contribution
More Developed Countries	
Barbados	11.48
Guyana	3.50
Jamaica	19.69
Suriname	4.54
Trinidad & Tobago	37.07
Less Developed Countries	
Antigua and Barbuda	2.23
Belize	3.05
Dominica	1.40
Grenada	1.76
St. Kitts and Nevis	1.61
Saint Lucia	2.37
St. Vincent and the Grenadines	1.64
Total	90.34

Source: Agreement Relating to the Operation of The CARICOM Development Fund. Annex I.

Subsequent contributions of a Member State shall in in the above mentioned amounts or in accordance with such formula as determined, from time to time, by the Community Council⁴³. Moreover, subventions for inclusion in the CDF may be accepted from public or private entities of Member States of the Community or from entities external to the Community⁴⁴.

The Agreement Relating to the operation of the CARICOM Development Fund was signed in July 2008 and the CDF began its operation on August 2009. The Headquarters of the Fund is located in Barbados⁴⁵. In order to accomplish its objectives, the CARICOM Development Fund's functions shall include assistance to: (i) address: economic dislocation and other adverse economic impact arising from the operations of the CARICOM Single Market and Economy (CSME); adverse social impact arising from the operations of the CSME; and, structural diversification and infrastructural development needs; and (ii) facilitate: regional investment promotion; and business development and enterprise competitiveness⁴⁶.

⁴² In accordance with Article VIII, of the Agreement Relating to the Operation of the CARICOM Development Fund.

⁴³ In accordance with article VIII, paragraph two, of the Agreement Relating to the Operation of the CARICOM Development Fund.

⁴⁴ In accordance with article VIII, paragraph three, of the Agreement Relating to the Operation of the CARICOM Development Fund.

⁴⁵ In accordance with article XXII of the Agreement Relating to the Operation of the CARICOM Development Fund.

⁴⁶ In accordance with article II of the Agreement Relating to the Operation of the CARICOM Development Fund.

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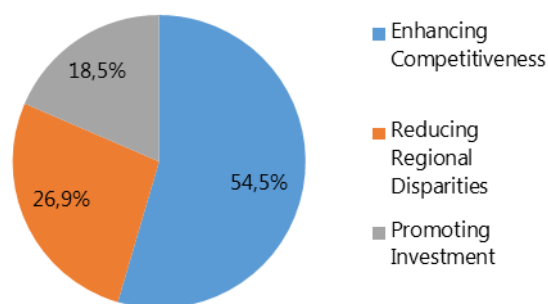
The resources of the CDF derive from: (i) contributions, (ii) subventions, (iii) net income earned from investments and loans from the CARICOM Development Fund; (iv) repayments of amounts lent from the CARICOM Development Fund; and (v) fees, charges and such other moneys that may accrue from the operations of the Fund.⁴⁷ Key areas of activity include support for small and medium-sized enterprises (SMEs), trade and export promotion, energy efficiency, strengthening managerial capacity and infrastructural works (CAF, 2013, p. 7).

Another important aspect of the CARICOM Development Fund concerns its dispute settlement system. In the case of a dispute between the Fund and a State Party, "contributor or donor concerning any matter arising out of, or in connection with the operation of the CARICOM Development Fund which cannot be settled by consultation between the parties, the disagreement shall be submitted to arbitration by a tribunal of three arbitrators⁴⁸." The three arbitrators shall be chosen in the following manner: one by the CARICOM Development Fund; one by the State Party, contributor or donor; and the third, unless the parties otherwise agree, by the President of the Caribbean Court of Justice⁴⁹.

At the end of 2013, CDF had provided program approvals for seven of eight eligible countries earmarked to benefit during the 2008-2014 contribution cycle. The total value of all the approved programs stood at US\$ 41.9 million (CAF, 2013, p. 18). In 2013, the CDF disbursed a total of US\$ 4.42 million in support of new and ongoing programs among five Member States: Belize, St. Lucia, St. Vincent & the Grenadines, St. Kitts and Nevis, Dominica. Loans accounted for 69% of the total disbursed and grants for the remaining 31% (CAF, 2013, p. 22).

With respect to the distribution of commitments to the CDF's three priorities in 2013, the largest portion, 54,4% of the approvals, went towards enhancing competitiveness. The second largest share of approvals, 26,9% was directed towards reducing disparities; and the remaining 18,5% was channeled to the promotion of investment.

CHART 16
Allocations among Thematic Priorities 2013



Source: CARICOM Development Fund. Annual Report 2013, p. 23.

Eligible recipients for CDF's financial and technical assistance are: (i) Member States; and (ii) subject to the approval of Member State: (a) any agency of such a Member State; (b) any entity in the public sector operating in such a Member State; (c) regional agencies and private sector

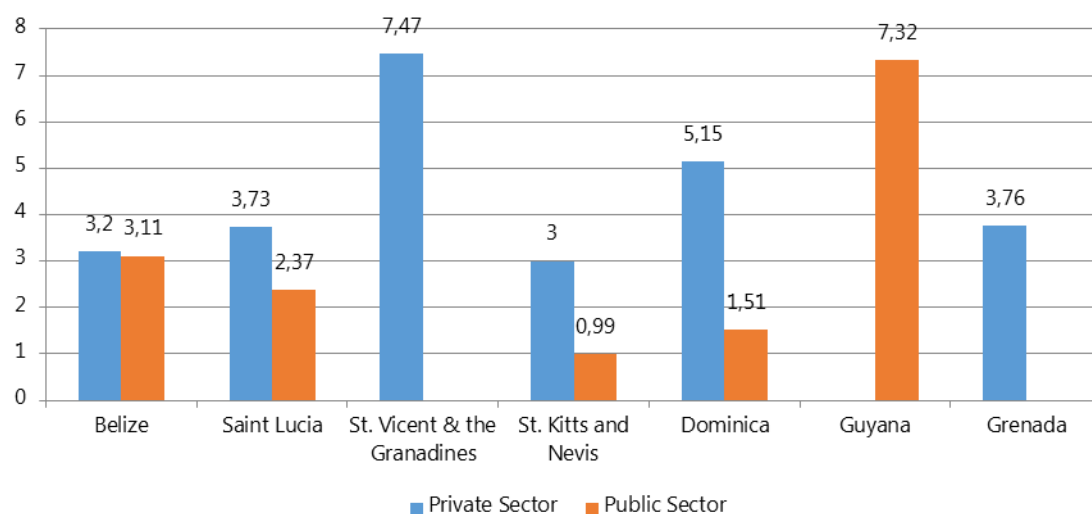
⁴⁷ In accordance with article XI of the Agreement Relating to the Operation of the CARICOM Development Fund.

⁴⁸ In accordance with article XXX of the Agreement Relating to the Operation of the CARICOM Development Fund.

⁴⁹ In accordance with article XXX of the Agreement Relating to the Operation of the CARICOM Development Fund.

entities that are concerned by the economic development of such a Member State⁵⁰. It is worth to note that 55% of all approved Country Assistance Programmes (CAPs) went to the public sector while 45% were approved to support the private sector. In 2013, CAPs for Guyana and St. Vincent and the Grenadines were almost exclusively to support public sector capital projects, as shown in the following chart.

CHART 26
Commitment to Public and Private Sectors 2013
(in millions of USD)



Source: CARICOM Development Fund. Annual Report 2013, p. 24.

Hence, the CARICOM Development Fund is helping not only the integration process of the Caribbean Community but also it is promoting investment and enhancing competitiveness in the region. The Fund is an important initiative to answer the development need's in a sub-regional level.

4.3.5. Latin American Reserve Fund (FLAR)

The Latin American Reserve Fund (*Fondo Latinoamericano de Reservas – FLAR*) is a regional fund for financial stabilization in Latin America, supplementing global and regional arrangements. The Fund provides high quality financial and technical services to the member countries and to other official clients, especially in assets management with proper risks control and according to the applicable legal system (FLAR, 2015). The Fund is headquartered in Bogotá, Colombia, and it may establish such branches, agencies or representatives offices as may be necessary to perform its duties, in any city of a member country or elsewhere⁵¹.

Originally, the Organization emerged as the Andean Reserve Fund (*Fondo Andino de Reservas – FAR*) in 1978 in the framework of the Cartagena Agreement. This Agreement created the Andean Community (*Comunidad Andina – CAM*) in 1969, a customs union comprising the South America Countries of: Bolivia, Colombia, Ecuador and Peru. The FAR was established in response to the need for the Andean countries to have their own financial institution that, through mutual cooperation, allows to address challenges arising from the imbalances of the external sector in their economies and facilitates the regional integration process (FLAR, 2015).

⁵⁰ In accordance with article XII, (2), of the Agreement Relating to the Operation of the CARICOM Development Fund.

⁵¹ In accordance with article 2 of the Agreement for the establishment of The Latin American Reserve Fund.

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In 1989, as an initiative of the Andean countries, the FAR was transformed into FLAR in order to expand it throughout Latin America based on the foundations of a fully operational institution. After transforming itself from an Andean Fund into a Latin American one, it achieved the adhesion of Costa Rica (1999), Uruguay (2008) and Paraguay (2013) (Ocampo, 2015, p. 160). Presently, the FLAR is composed by Bolivia, Colombia, Costa Rica, Ecuador, Paraguay, Peru, Uruguay and Venezuela. It is also worth noting that, at regional level, macroeconomic cooperation through reserve funds is at lower stage of development in relation to funding for development (FLAR, 2015).

Therefore, the Fund's objectives are: (i) to provide support to member countries balance of payments by granting credits or guaranteeing third-party loans; (ii) to improve investment conditions of international reserves made by member countries; and to (iii) contribute to the harmonization of member countries exchange, monetary and financial policies⁵². Among the advantages of having a regional fund, it can be highlighted: (i) the greater knowledge of the economic and political situations of the member countries; (ii) higher degree of reliability and cooperation among member countries; and (iii) the complement to the capacity of assistance of global funds, such as the IMF (FLAR, 2015).

The FLAR has a simple structure government, being composed by the Assembly, the Board of Directors and the Executive Presidency. The Assembly is formed by the Treasury or Finance Minister of each Member Country who is permanently entitled to one vote and, hence, to one chair⁵³. The Assembly is empowered to, for example: (i) formulate Fund's general policy and adopt the measures required to achieve its objectives; (ii) approve the annual Budget of the Fund, (iii) approve the distribution of profits and the establishment of reserves; (iv) authorize capital increases in the Fund.

The Board of Directors, by its turn, is made up of the Governors of the Central Banks of the Member Countries and the Executive President, who chair the Board without the right to vote⁵⁴. The Board of Directors is entitled to: (i) set forth the regulations needed to achieve the objectives of the Fund; (ii) appoint the Executive President of the Fund and remove him from office; (iii) approve new operation affecting the assets or liabilities of the Fund; (iv) approve balance of payments support operations; and (v) to propose capital increases in the Fund to the Assembly⁵⁵. At last, the Executive Presidency is the permanent technical body of the Fund. It carries out studies, submit to the Board of Directors all measures it deems appropriate for the achievement of the objectives of the Fund, and maintain direct contact with the central banks of member countries⁵⁶. The Executive President can be a national of any Latin American Country. He is the legal representative of the Fund and he shall be elected for a three year term, with the possibility of being reelected⁵⁷.

The Fund's subscribed capital is USD 3.609 million. Venezuela, Peru and Colombia have the biggest share of subscribed capital, each one with 18% of the total amount. The other members, Bolivia, Costa Rica, Ecuador, Paraguay and Uruguay present a participation of approximately 9% of the total subscribed capital. Hence, the FLAR's capital structure has the following division:

⁵² In accordance with article 3 of the Agreement for the establishment of The Latin American Reserve Fund.

⁵³ In accordance with article 14 of the Agreement for the establishment of The Latin American Reserve Fund.

⁵⁴ In accordance with article 21 of the Agreement for the establishment of The Latin American Reserve Fund.

⁵⁵ In accordance with article 26 of the Agreement for the establishment of The Latin American Reserve Fund.

⁵⁶ In accordance with article 27 of the Agreement for the establishment of The Latin American Reserve Fund.

⁵⁷ In accordance with article 28, 29 and 30 of the Agreement for the establishment of The Latin American Reserve Fund.

TABLE 19
Capital Structure of FLAR

Capital Structure of FLAR			
Member Countries	Subscribed Capital		Paid-in Capital
	Millions of USD	% of total	Millions of USD
Bolivia	328,1	9%	237,5
Colombia	656,3	18%	475,1
Costa Rica	328,1	9%	238,0
Ecuador	328,1	9%	237,5
Paraguay	328,1	9%	137,5
Peru	656,3	18%	475,0
Uruguay	328,1	9%	238,0
Venezuela	656,3	18%	475,2
Total paid-in capital	3.609,4	100%	2.513,8
Prudential Reserves			237,6

Source: Fondo Latinoamericano de Reservas [Portal WEB] 2015⁵⁸.

In order to obtain a credit approval, the requestor Central Bank shall present to the FLAR's Executive President an explanation of the monetary, credit, exchange, fiscal and foreign trade politic measures adopted by the national authorities and those that they pretend to adopt to correct or diminish the unbalance of payments. Regularly, the Fund has always guaranteed the program, presented by the corresponding central bank, without asking additional conditions in order to give credits. From a historical perspective, Central Banks have always paid their debts to FLAR punctually and in some cases they have even made prepayments (FLAR, 2015).

The Fund offers a diversity of services to members central banks and other official institutions in the region, such as: (i) risk measuring and control of investment portfolios; (ii) assets administration or portfolio's management; (iii) long term deposits and granting of credits lines to Member Central Banks (Balance of Payments, Central Bank Public Debt Restructuring, Liquidity, Contingency, Treasury) (FLAR, 2015). The following table presents the lines of Credit, its application and approval procedure.

TABLE 20
Lines of Credit: Credit Application and Approval Procedure

Type of Credit	Term	Access Limit ⁵⁹	Attribution for Approval	Specific Conditions
Balance of Payments	3 years with 1 year grace period for capital amortization.	2.5 times paid-in capital.	Directors	The Member Country must declare itself in situation of insufficiency and the Board must give it this qualification. The Member Country will attach to tits application a written report regarding the adopted measures, the measures that it will adopt and has adopted to reestablish the

⁵⁸ In accordance with article 5 of the Agreement for the establishment of The Latin American Reserve Fund.

⁵⁹ In the case of Balance of Payments, Debt Restructuring, Liquidity and Contingency credits, the Central Banks of Bolivia and Ecuador have Access to 0,1 additional with respect to other member countries.

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Type of Credit	Term	Access Limit ⁵⁹	Attribution for Approval	Specific Conditions
				equilibrium in the balance of payments. The Member Country must promise that, in case of implementing measures to resolve its deficit in the balance of payments, those will not affect import activities from the other member countries of the fund.
Central Bank Foreign external debt restructuring	3 years with 1 year grace period for capital amortization	1.5 times paid-in capital	Board	There are no specific conditions, but in practice, these could be defined, ad hoc, by the Board.
Liquidity	Up to 1 year	Paid-in capital	Executive President	There are no specific conditions, but the Presidency must evaluate if the country justifies appropriately its illiquidity situation and if suitable conditions are available to guarantee the repayment.
Contingency Funding	6 months renewable	2 times paid-in capital	Executive President	There must be a guaranty that satisfies the fund. This guaranty must be certified.
Treasury ⁶⁰	1-30 days	2 times paid-in capital	Executive President	The credit has to be supported by a signed General Repurchase Operation Agreement between the Central Bank and the fund. 50% of the disbursement must be guaranteed by titles which are negotiable in the international repos market and previously satisfactorily qualified for the fund. An institutions approved by the fund will have custody of these titles.

Source: Fondo Latinoamericano de Reservas [Portal WEB] 2015.

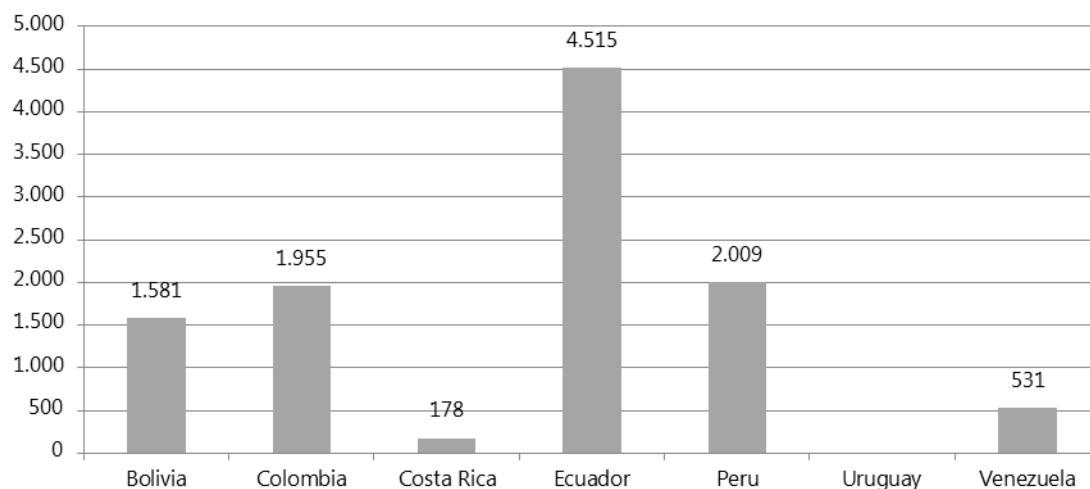
During the period of 1978 – 2014, Ecuador was the country which detained the highest amounts of credit approved, standing for US\$ 4.515 million. Consecutively, there were Peru, Colombia, Bolivia, Venezuela, Costa Rica and Uruguay. The following table presents the amount of credit approved by Member Country 1978 – 2014.

⁶⁰ It is not operational yet because it has to be supported by the signature of a General Repurchase Operation Agreement.

CHART 27

Amount of credit approved by Member Country 1978-2014

(in millions of USD)



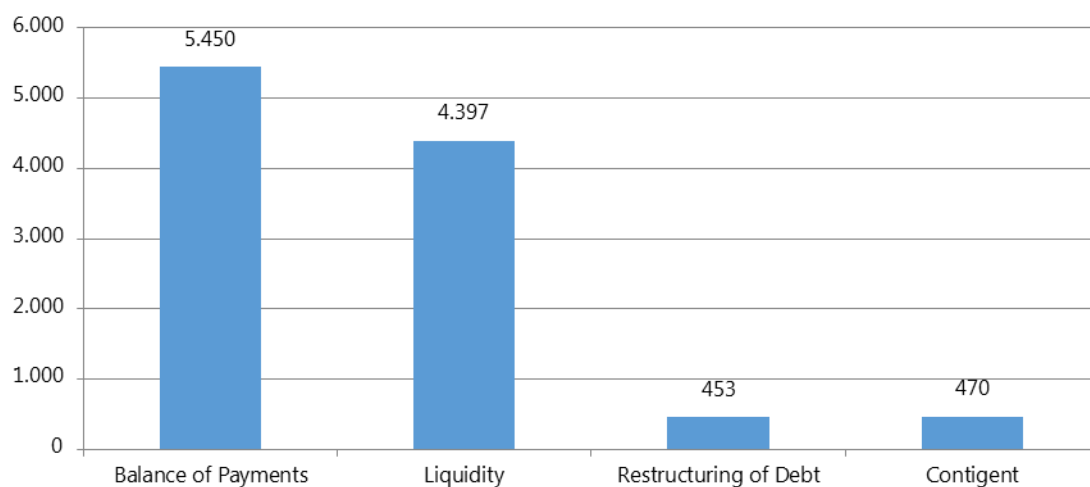
Source: Fondo Latinoamericano de Reservas [Portal WEB] 2015.

The great majority of credits approved between 1978 and 2014 were directed to solve problems in the balance of payments. The second most requested reason to ask for FLAR’s help was liquidity. Subsequently, there were restructuring of debt and contingent capital. The below described chart demonstrates the amount of credits approved by typo of credit in the period of 1978 – 2014.

CHART 28

Amount of Credits Approved by Type of Credit 1978 – 2014

(in millions of USD)



Source: Fondo Latinoamericano de Reservas [Portal WEB] 2015.

In sum, it can be asserted that FLAR has been a successful institution and, in fact, unique in the developing world, prospering for three and half decades. By covering the needs of small and medium-sized countries, it has the potential to be part of the Latin American Regional Monetary Fund of first resort, placing the IMF as a lender of last resort.

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4.3.6. ALBA Bank

The Bank of ALBA (BALBA) was established in January 2008 by the Presidents of the *Alianza Bolivariana para los Pueblos de Nuestra América – Tratado de Comercio de los Pueblos (ALBA-TCP)*. This Partnership constitutes an international organization of regional scope aimed at diminishing poverty and social exclusion in Latin America and the Caribbean. The Bank is composed by Venezuela, Cuba, Bolivia, Nicaragua, San Vicente y las Granadinas and Dominica. Membership is open to other Latin American and Caribbean countries as long as they sign the ALBA Constitutive Agreement. The Bank has its headquarters in Caracas, capital of Venezuela⁶¹.

The Bank's main objectives are to: (i) contribute to sustainable economic and social development, (ii) reduce poverty and asymmetries; (iii) strengthen the integration; (iv) promote a fair, dynamic, harmonic and equitable economic exchange among ALBA Members, based on the principles of solidarity, complementarity, cooperation and sovereignty⁶².

In order to achieve its purposes, the ALBA Bank is entitled to perform the following functions: (i) finance programs and projects for its shareholders; (ii) promote, create and manage reimbursable and non-reimbursable financing funds, aimed at promoting economic, social and environmental development; (iii) provide resources for technical assistance, feasibility studies, research and development, absorption and transfer of technology; (iv) develop and promote the practice of fair trade in goods and services; and (v) other activities that contribute to the ALBA Bank's objective⁶³. The institution finances programs and projects in the following areas:

- Economic development: in key sectors of the economy, aimed at improving the productivity and efficiency; job creation, scientific and technological development, innovation, promotion of productive chains, the protection of natural resources and environmental preservation.
- Social development: in health, education, housing, social security, social economy; as well as those aimed at the promotion and the strengthening of participatory democracy, reducing social exclusion, elimination of gender and ethnic discrimination; and others projects that contribute to improving the quality of life.
- Expansion and connection of the Members Countries' infrastructure directed to promote, strengthen and develop micro, small, medium production and associative economies, in all economic sectors, with the aim of enhancing their capacity to ensure, among other objectives, sovereignty and food security.
- Binational and grand-national companies or any other form of associative organization to promote investments of mutual interest that falls within the objectives of the ALBA⁶⁴.

The BALBA's administration is composed by two main bodies: the Ministerial Council and the Executive Board. The Ministerial Council is the supreme body of BALBA and it is formed by the Minister of Economy, or Finance, or the Central Bank's Chairman of each member country. It is responsible for formulating general short, medium and long term policies; approving the amendments made to the Constitutive Agreement proposed by the Executive Board; and approving the opening of sub-offices, branches or representative offices in BALBA's countries and any other future Member⁶⁵. The Executive Board is composed of representatives designated by Member States elected for a period of three years, renewable for equal and consecutive periods. Among its duties, the Executive Board has powers to ensure compliance of the economic and

⁶¹ In accordance with Article 1 of BALBA Constitutive Agreement.

⁶² In accordance with Article 3 of BALBA Constitutive Agreement.

⁶³ In accordance with Article 4 of BALBA Constitutive Agreement.

⁶⁴ In accordance with Article 4.1 of BALBA Constitutive Agreement.

⁶⁵ In accordance with Article 12 of BALBA Constitutive Agreement.

financial policy of the Bank, established by the Ministerial Council; to conduct business and activities of the Bank; to approve and modify the organizational structure and the internal regulations of the Bank; and to appoint special, general and legal representatives of the Bank⁶⁶.

The Bank offers a diversity of services to its Member Countries, such as: (i) grant loans, credit lines and other guarantees; (ii) issue, place, structure and manage all kinds of securities; (iii) provide portfolio management services, organize, establish and administer trusts, mandates and other trust operations; (iv) act as broker and custody; (v) provide treasury services to governmental, intergovernmental and international organizations and state-owned companies; (vi) and any other type of financial service or operation that contributes to the BALBA's objective⁶⁷.

The Bank's subscribed capital is USD 850 million. The BALBA's capital is divided into three classes:

TABLE 21
Classes of BALBA's Capital

Class	Holder
Class A	National Latin American and Caribbean countries that are part of ALBA and have acceded to the Bank's Constitutive Agreement.
Class B	Regional States Members or Non-Regional Members of ALBA as well as extra-regional States.
Class C	Central Banks; state-owned financial or non-financial entities, and multilateral lending agencies.

Source: Article 6.4 of BALBA Constitutive Agreement.

It is also worth noting that the ALBA Bank administers the Unitary System of Regional Compensation Payment (*Sistema Unitario de Compensación Regional de Pagos – SUCRE*). This system serves to channel international payments resulting from reciprocal trade transactions among Member Countries. This system is based on the use of a virtual currency, named SUCRE, for recording transactions between central banks. Thus, local payments (collection payments to exporters and importers) are performed with the respective currencies of the Member Countries (except in Ecuador, where the payments occur in dollars).

5. National Development Banks with international scope

5.1. National Bank for Economic and Social Development (BNDES)

The National Bank for Economic and Social Development (Banco Nacional de Desenvolvimento Econômico e Social – BNDES) is a federal government company aimed at granting long-term financing instruments for investments in all segments of the economy, such as, agriculture, industry, infrastructure, trade and services. The bank is also implementing lines of social investments, directed to education, health, family-based agriculture, basic sanitation and urban development (BNDES, 2015a).

The Bank was originally created to answer the Brazilian economic needs of infant-industries and basic infrastructure. Currently, the Bank is present in all sectors of the economy and serves clients from all regions of the country and different sizes, covering from micro and small enterprises to large-scale companies, as well as the public and third sectors (BNDES, 2015b).

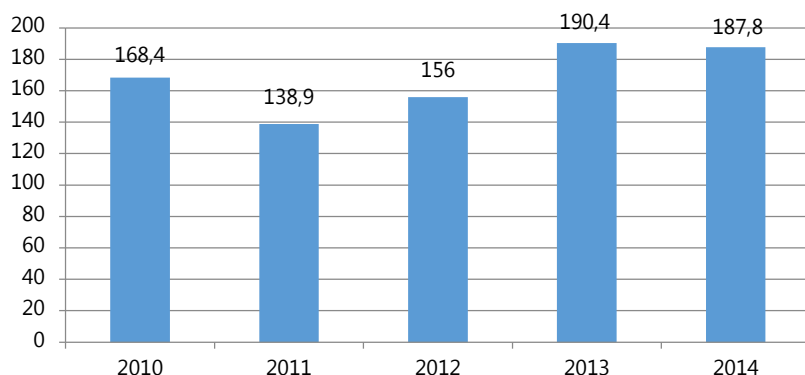
⁶⁶ In accordance with Article 13 of BALBA Constitutive Agreement.

⁶⁷ In accordance with Article 5 of BALBA Constitutive Agreement.

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In order to meet the varied needs for financial support, the Bank has a portfolio of policies, products and support instruments. This portfolio sets up reimbursable and non-reimbursable financing, fixed-and-variable-income market operations and guarantees (BNDES, 2015b, p. 14). In 2014, the BNDES disbursed some R\$ 187.8 billion in 1,130,202 operations with 277,085 clients.

CHART 29
BNDES Total Disbursements
 (in R\$ Billion)

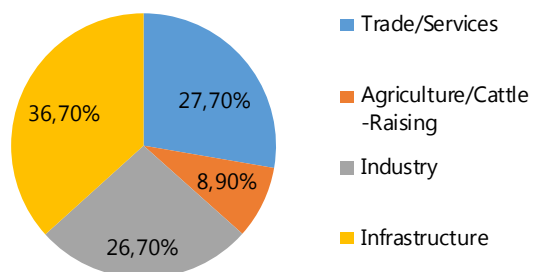


Source: BNDES – Annual Report 2014, p. 16.

The BNDES disbursements in the last years indicate the institutions efforts to maintain the offer of credit in the wake of the European crisis and that in 2008. Since 2013, the Bank has gradually begun to restrain its activities. As a result, for the second consecutive year, eligibility and approvals presented a 16% and 14% reduction, respectively (BNDES, 2015b, p. 16).

It is also important to highlight that in 2014 the BNDES disbursed R\$ 5.9 billion to innovation; R\$ 25.9 billion to social development and R\$ 28.3 billion to green economy. Regarding the Bank’s disbursement per sector, the majority of the funds were channeled to infrastructure (36.7%); followed by industry (26.7%), trade/services (27.7%), agriculture/cattle-raising (8.9%).

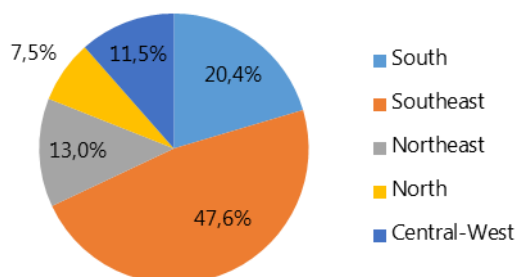
CHART 30
BNDES Distribution of Disbursement per sector
 (Percentage)



Source: BNDES – Annual Report 2014, p. 16.

In relation to the distribution of disbursements in Brazil, the southeast received the majority of the funds (47.6%), followed by the South (20.4%), the Northeast (13%), the Central-West (11.5%) and the North (7.5%).

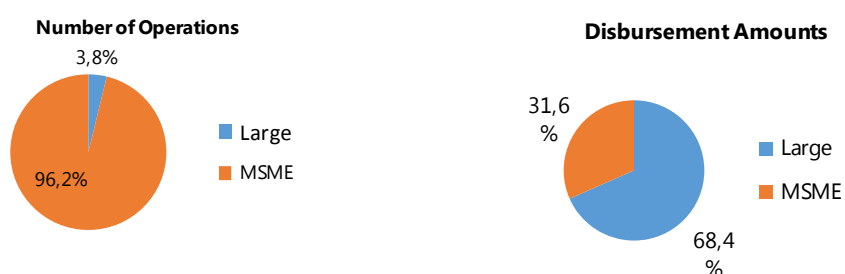
CHART 31
BNDES Distribution of Disbursements per Region
(Percentage)



Source: BNDES – Annual Report 2014, p. 16.

Another key element to remember is that support micro, small and medium-sized enterprises (MSME) and individuals remains expressive in the Bank’s policy: some 96% of the financial support operations implemented in 2014 were in this segment. However, despite the expressive number of operations directed to small and medium-sized enterprises, MSMEs only accounted for 31.6% of the 2014 disbursements, whereas large companies accounted for 68.4%. Hence, only 3.8% of the total number of operations accounted for 68.4% of the disbursement amount.

CHART 32
Distribution per Client Size



Source: BNDES – Annual Report 2014, p. 16.

From the 500 largest companies headquartered in Brazil, approximately 480 maintain banking relations with the BNDES. Provided that they are responsible for large-scale investments in the economy, larger companies are essential in developing the country (BNDES, 2015b).

Since the 1990s, BNDES has been financing projects overseas in order to support the insertion of Brazilian companies abroad. In a first moment, the Bank started to finance trade for Brazilian goods

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and services. In a second moment, it started to support foreign direct investments performed by Brazilian Companies (GUIMARÃES, RAMOS, RIBEIRO, MARQUES, SIAS, 2014, p. 50).

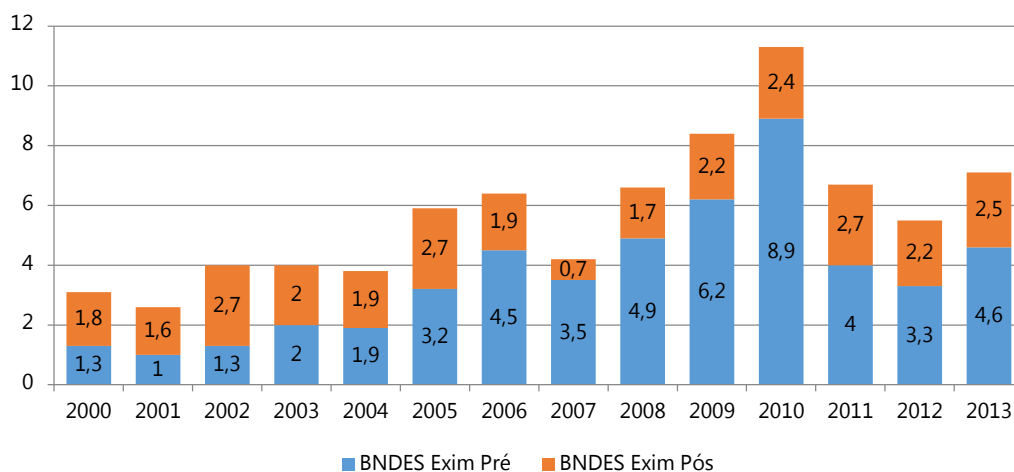
It is worth noting that to be eligible for the BNDE's support for internationalization, companies must be: (i) headquartered and administrated in Brazil and domestically controlled, including subsidiaries abroad; or (ii) foreign companies whose shareholders with more significant voting capital and more influence on activities are companies controlled by a government entity in Brazil or companies directly or indirectly controlled by an individual or group of individual residing and domiciled in Brazil (BNDES, 2015a).

The BNDES's mechanisms to support Brazilian companies abroad compromise investments in building new branches, expanding or modernizing installed plants, equity investments and working capital needs (BNDES, 2015a). The Bank's main products to support export and international insertion of Brazilian Companies are:

- BNDES Exim: It finances the production of Brazilian goods as services to be exported.
- BNDES Finem: It finances (over R\$ 20 million) the implementation, expansion and modernization projects of enterprises. Under BNDES Finem, the Bank has two credit lines: (i) support for internationalization, which provides support for the formation of working capital or investments of national companies in the international market; (ii) acquisition of capital goods, which provides support for the acquisition of capital goods associated with investment plans presented to the BNDES.
- BNDES Automatic: It finances (up to R\$ 20 million) the implementation, expansion and modernization projects of enterprises (BNDES, 2015a).

In the case of funding approval, the maximum support percentage is 60% of the investment (BNDES, 2015a). In the last ten years, BNDES disbursed more than US\$ 65 billion in export financing operations. The Bank's support to Brazilian export represented, on average, 10% of the total annual disbursement between 2008 and 2013 (GUIMARÃES, RAMOS, RIBEIRO, MARQUES, SIAS, 2014, p. 59).

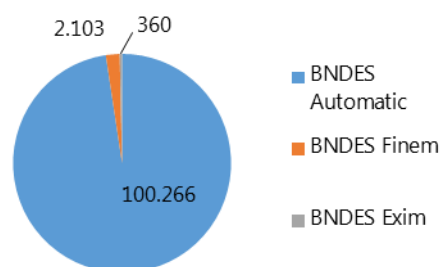
CHART 33
Evolution of BNDES Exim pre and post-shipment
 (US\$ Billion)



Source: GUIMARÃES, RAMOS, RIBEIRO, MARQUES, SIAS, 2014, p. 59.

In 2014, the BNDES Automatic was by far the Bank's product to support export and international insertion of Brazilian Companies that had the highest number of operations approved (100.266). Subsequently, there were BNDES Finem, with 2.103 operations, and BNDES Exim, with 360 operations.

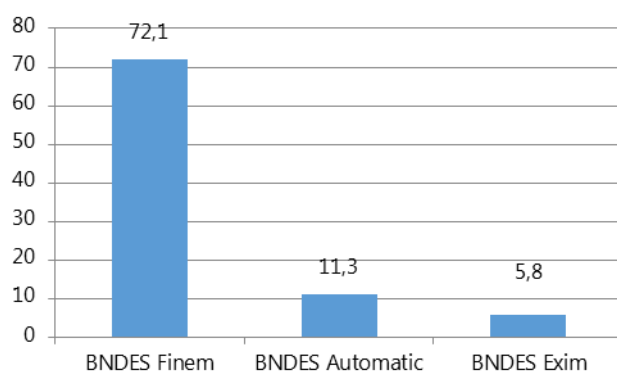
CHART 34
Number of total Operations per Product – BNDES 2014



Source: BNDES – Annual Report 2014, p. 15.

In terms of the amount of disbursements, BNDES Finem represented the biggest share of it, amounting to R\$ 72.1 billion. Next, there were BNDES Automatic, with R\$ 11.3 billion disbursed, and BNDES Exim, with R\$ 5.8 billion disbursed.

CHART 35
2014 BNDES Disbursements per Product
(in R\$ Billion)



Source: BNDES – Annual Report 2014, p. 15.

It is also important to highlight that, currently, the BNDES has 3 programs focused on the exports of goods and services and the internationalization of Brazilian companies. Those are: (i) BNDES Pro-Aeronautical-Export, which finances the production of goods and services of the Brazilian aeronautics industrial productive chain that are manufactured to be exported; (ii) BNDES Pro-plastic, which supports the internationalization of national companies of the plastic production chain; (iii) BNDES PSI – Pre-shipment Export, which finances in the pre-shipment stage the production of capital goods for export (2015a).

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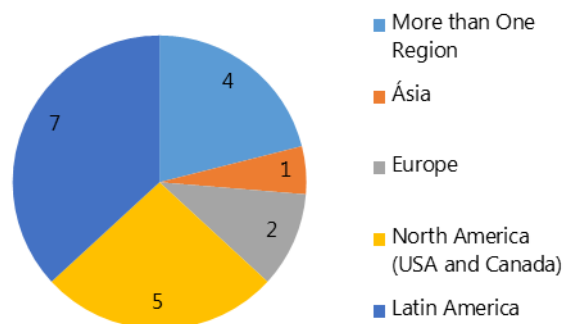
Historically, the great majority of the disbursed resources were channeled to Latin America. However, more recently, there is an increasing participation in African countries as significant destinations of the BNDES funds. This shows the growing importance of the commercial and investment relationship between Brazil and these regions. In order to boost this support and act respectively in Latin America and Africa, the Bank established two representative offices: one in Montevideo (Uruguay), in 2009, and one in Johannesburg, in 2013 (South Africa) (GUIMARÃES, RAMOS, RIBEIRO, MARQUES, SIAS, 2014, p. 50).

The fundable investments encompass: greenfield projects; acquisitions; facilities' expansion or modernization; marketing channels and research and development centers abroad. In order to access these endowments, the company must be a Brazilian-controlled company with its head office in Brazil or their subsidiaries overseas (GUIMARÃES, RAMOS, RIBEIRO, MARQUES, SIAS, 2014, p. 61-62).

Since BNDES started to support the internationalization of Brazilian companies, the Bank disbursed funds to 19 operations, of which, 8 were in the financing modality and 11 were in the shareholding modality. Latin America was the region that received the majority of operations, accounting for 7 of them (GUIMARÃES, RAMOS, RIBEIRO, MARQUES, SIAS, 2014, p. 62).

CHART 36

BNDES' Companies Internalization Credit Line – Number of Operations per Region

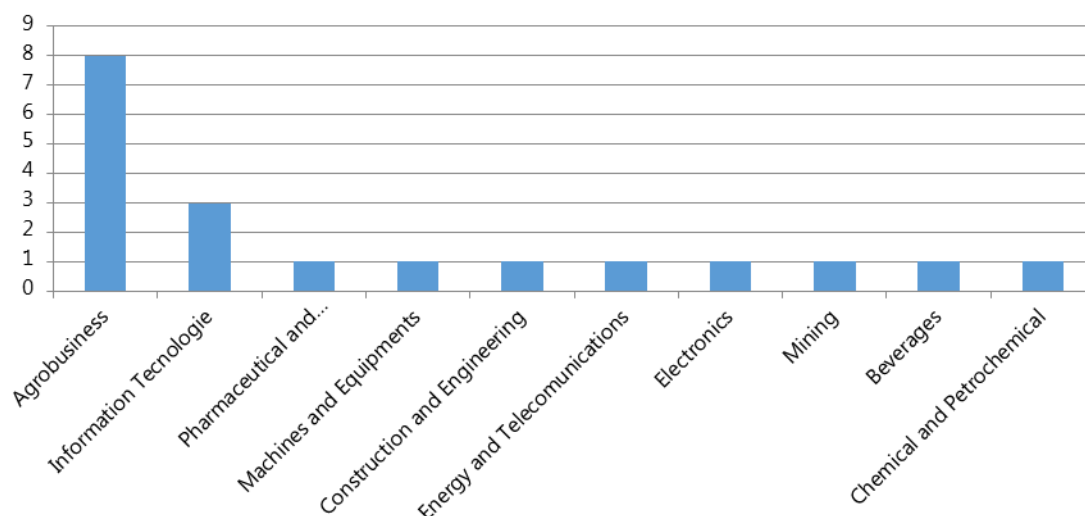


Source: GUIMARÃES, RAMOS, RIBEIRO, MARQUES, SIAS, 2014, p. 63.

Among Latin American countries, Argentina stands out as the main destination, with 3 operations. Peru, Costa Rica and Paraguay were also targets of the investments supported by the BNDES. In addition, through the deployment of a petrochemical complex in the State of Veracruz, the Bank financed the internationalization of Braskem in Mexico. Despite the Latin America importance, individually, the United States is the country which most receives BNDES financed operations (GUIMARÃES, RAMOS, RIBEIRO, MARQUES, SIAS, 2014, p. 64).

The investments performed by Brazilian companies financed by BNDES were concentrated in the following sectors: agrobusiness (8), information technology (1) and pharmaceutical and petrochemical (1). The Bank already disbursed the amount of R\$ 10.8 billion for the internalization of Brazilian Companies. The great majority of the operations compromised the acquisition of companies abroad (GUIMARÃES, RAMOS, RIBEIRO, MARQUES, SIAS, 2014, p. 62).

CHART 37
BNDES' Companies Internalization Credit Line – Number of Operations per Economic Sector



Source: GUIMARÃES, RAMOS, RIBEIRO, MARQUES, SIAS, 2014, p. 63.

All things considered, it can be asserted that BNDES has advanced in supporting the insertion of Brazilian companies overseas, with the expansion of the available financial instruments. The performance of Brazilian companies abroad is playing a significant role in fostering development, specially, in Latin America and the Caribbean. The region is the main destination of the Bank's fund, especially in the Petrochemical and Agrobusiness sectors.

6. Final Remarks

The Latin America and Caribbean financial architecture has evolved significantly in the last two decades. The financial systems have demonstrated relatively stable solvency ratios which helped them to cross considerably well the 2008 financial crisis. However, there are still some issues that need to be addressed, such as the lack of long-term financing instruments, the dependence on commercial banks and the shallowness of the system.

Regarding specific financing needs for regional development, it can be asserted that the areas that most need financial support in Latin America and Caribbean are: infrastructure, production and social development, small and medium-sized enterprises and climate change mitigation. On average, the national financial systems of LAC countries do not have enough capital to invest in those areas by themselves.

Hence, international financial institutions play a very important role in fostering development in the region, especially, multilateral development banks and monetary international funds. As analyzed in this chapter, the existing entities already address the financing needs faced by Latin America and Caribbean countries. As demonstrated, the funds of these institutions are normally channeled to infrastructure, credit for small and medium-sized enterprises and climate change mitigation.

Even though there are more than 100 financial institutions aimed at fostering development in the region, apparently, their role do not overlap. They act in a complementary way, boosting cooperation to tackle historical problems that hinder the countries' capability to improve the

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economies and the level of the quality of life of their population. Thus, it can be affirmed that the BRICS Development Bank will unite forces to the other regional financial entities in the task of solving the problems that normally developing countries face.

III. THE PROTECTION OF PUBLIC-PRIVATE INVESTMENTS IN LATIN AMERICA AND CARIBBEAN

1. Introduction

Foreign direct investments (FDI) have been at the top of the agenda for most developing countries. Often promoted by foreign companies abroad, the FDIs are fundamental tools to foster economic development in the Host Country, and collaterally to create new jobs, bring new technology, marketing techniques and management skills and to achieve new competitive markets. It is worth noting that with the productive internationalization of those companies they are also vulnerable to greater risks than those faced locally in their Home States.

In this sense, investing in a new territory encompasses a range of commercial and non-commercial risks, such as political instability, arbitrary measures and unpredictable government actions, for instance, nationalizations, expropriations, control transfer of foreign ownership or problems in the repatriation of investments and returns to the States of origin of the investment. For this reason, in order to remove or mitigate this vulnerability for the investors, it was created the International Investment Law, as a subsystem of International Law, which provides substantive rights and procedural means to enforce investor rights in detriment of State inconsistent actions, without limiting the scope of the policy space of the Host State.

Latin America and the Caribbean are not far away of this scenario. The IV Chapter will deal firstly with the historical and conceptual main conceptual issues related to foreign investments, along the 20th Century and the beginning of 21st Century, related to the shock between two main positions. The primary one favors the attraction of foreign investments to achieve more economic development, supported by the International Investment Law and its mechanisms to protect investors and, at the same time, to facilitate the entrance of foreign capital. The second position consists in a resistance movement, contrary to Investment Law, justified by the argument that the instruments of protection of Investment Law, as international investment agreements and investment arbitration, are threats to national sovereignty.

Secondly, it will be specified the most common standards of investment protection, the bilateral investment treaties, from the BRICS countries. It will be important to highlight the characteristics and evolutions of the models of BITs from each State, if its provisions are more favorable to liberalization or not and whether there are treaties between the BRICS nations and Latin America and the Caribbean countries.

Finally, the international financing in Latin America and the Caribbean is not only proportionated solely by private investors, but also by public-private partnerships (PPP), which are occupying a greater scope in financing infrastructure and services projects. In this part it will be discussed the architecture of the public-private partnerships, its purposes and the results of this type of mixed partnership in the Latin American and the Caribbean.

2. Sovereignty and Foreign Direct Investments

Before the creation of International Investment Law, which aims at regulate the protection of foreign investors abroad, foreign investments were limited to domestic law and was only treated

by International Law when it involved customary law and diplomatic protection. Through these mechanisms, only States, subjects legitimated before the international sphere, were able to protect its national citizens (including corporations), but not the sole individual, who are truly under jeopardy (CRAWFORD, 2012, p.702).

Notwithstanding, diplomatic protection used as a unilateral and national mechanism of defense against illicit acts was handled with abuses in the use of force and violence, in the practice called gunboat diplomacy. The most known case regarding this practice was the Caracas Incident, when German, Italian and Britain Navies blocked the port of Caracas to force the payment of debts.

Nonetheless, these preliminary protection systems of foreign investments were contested at the end of the 19th Century and at the beginning of 20th Century. The emergence of the Drago and Calvo Doctrines in Latin America brought limitations to the system. The first criticizes the external interference by the force in other States to solve debts and resolve concerns related to private properties and investments, and the second provides that the disputes should not surpass the juridical domestic borders of the States, taking the diplomatic protection or the international claims away, and should follow the law of the Host State, in equal conditions to national investors, without privileges (RIBEIRO, 2008, p.488; COSTA, 2010, p.62).

Along the 20th Century, many States which resisted to International Investment Law reviewed its position, mainly in the 1990s, facing the need of attracting investments as a tool to achieve economic development. From the point of view of Jorge Viñuales and Magnus Langer "a number of developing countries or of their political subdivisions have outsourced such activities to foreign investors, often because investors can more easily mobilize the necessary capital and technology to set up such facilities or provide such services" (VIÑUALES; LANGER, 2010).

The two main pillars of international investment framework can be examined by international agreements on promotion and protection of investments and investment arbitration. The bilateral investment treaties were recognized as the most popular substantive instruments which intends to strike a balance between the interests of investors and Host States, as well as provide a juridical protection from arbitrary State measures that could jeopardize investors. In the 1990s, it was taken as a market competition among developing nations to attract investors through the international juridical safeguard to investors.

Whether the adoption of investment treaties really contributed to the increase of investments is an uncertain inference and it is object of several studies. The fact is that Latin American countries opted to join in the network of investment agreements with the hope of obtaining economic returns. Regarding to the second pillar, it is important to highlight the creation of the International Centre for Settlement of Investment Disputes (ICSID) through the Washington Convention of 1965, an organism of the World Bank and leading institution devoted to international investment dispute mechanism. The Centre provides for settlement of disputes by conciliation, arbitration or fact-finding. As a consequence, Latin America participates in the framework of International Investment Law, and States, including Argentina, Uruguay, Peru, Ecuador, Venezuela, Bolivia and Paraguay joined already several bilateral investment treaties, bounding also to the arbitral jurisdiction of the ICSID.

However, Latin American countries have been reacting differently to International Investment Law and its mechanisms. Passed the excitement to join investment agreements to shift the attraction of foreign investments and before the existence of some economic crisis, the growth of international claims and the high condemnations at the investment arbitration jurisdiction, some of the Latin American nations started to question the acceptance of this regulatory framework.

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Bolivia was the first Latin American country to officially denounce the Washington Convention, on May 2nd, 2007. At the beginning of the first mandate of Evo Morales, in 2006, the government assumed several measures that affected foreign capital, as the nationalization of the exploration of hydrocarbons through the Decree n° 28.701. In this sense, in 2007, Bolivia manifested its intention to leave the ICSID system. In 2009, Morales raised the intention to bring a new Bolivian Constitution and, among other main provisions there was the reluctance to foreign investments and to international jurisdiction to dispute resolution. Article 366 of the Bolivian Constitution was modified and passed to provide that hydrocarbon producers could not claim Bolivia before international jurisdictions, nor to international arbitration or diplomatic protection. So, alleging constitutional violations, Bolivia opted to denounce ICSID Convention.

Another State which also raises questions to Investment Law and ICSID was Ecuador. The country also observed a liberalization policy during the 1990s, although with the election of Rafael Correa, in 2006, less liberal measures and procedures towards nationalizations were adopted. In September 2008 was enacted an amend of Ecuadorian Constitution, adding to article 422 the provision prohibiting the celebration of agreements or international instruments which remained to international arbitral jurisdictions, in contractual or trade disputes, between States and natural or juridical private persons. Thus, based on this constitutional sovereign provision, on December 4th, 2009, Ecuador denounced the Washington Convention and in 2010 denounced all the BITs already ratified by the country.

In the same line with these countries is also Venezuela. Before the rise of Hugo Chávez, there were several liberal measures in the Caldera's government which aimed at the attraction of investments in Venezuelan territory, for instance, the opening of the oil sector to foreign investor.

After the election of Chávez, in 1998, all these liberal measures adopted by past governments were revisited, adducing the saturation of the present economic system (VICENTELLI, 2010, p. 446). In 2001, it was promulgated a new law of hydrocarbon, with the purpose of implementing nationalist policies concerning natural resources, as the "Plena Soberanía Petrolera" and the "Siembra Petrolera", which involve the negotiation of contracts in oil and gas between private investors. This new framework leads the foreign investors, who act in the exploration of natural resources, as ExxonMobil and Conoco Philips, to claim against Venezuela in the ICSID jurisdiction at the end of 2007. Moreover, several expropriations and nationalizations were implemented on agricultural farms, as Hato La Marqueseña and Hato El Charcote. Since then, other sectors were targets to expropriations, such as the telecommunication, energy, and cement fields. All of them decided to claim against Venezuela through arbitration. Ending this period, Venezuela denounced the BIT with Netherlands at the end of 2008.

Another change in Venezuelan was the constitutional modification. In 1999, Hugo Chávez promulgated a new Constitution with two new standards inferred against the submission of disputes between investors and States to investment arbitration. The first is article 151, which provides that in public interests contracts, any dispute will be submitted to national tribunals only, and not to foreign or international tribunals. The second is article 301, which provides that it is not allowed to conceive to persons, companies or foreign bodies more beneficial regimes than what was established to national ones. Furthermore, foreign investors are submitted to the same conditions as them to the national (PONS, 2013).

It is possible to infer that Venezuela is resistant to foreign investors as well as to international investment standards of protection motivated by the safeguard of national sovereignty. This position implies in taking actions contrary to the welfare of investors, for instance, making suddenly expropriations or nationalizations and denouncing BITs already signed and the

Washington Convention (the last in 2012). The investment arbitration is seen as a tool to submit the sovereign State to an independent forum which could mean to favor foreign investors over the nationals.

In summary, Latin American countries passed through a process of a prior rejection to intense trade liberalization during the 1990s, in which they bounded to the BITs and investment arbitration in order to attract more investments to their territories and to boost economic development. Later, with the ascendancy of nationalist governments in Bolivia, Ecuador and Venezuela, many of the liberal measures adopted in the previous period were derogated by constitutional amendments and domestic laws on hydrocarbons, the main source of economic exploitation in these States. These legislative changes have sealed the opposition of States to the regime of investment agreements and investment arbitration. The biggest criticism is that this system enables the interference of an international jurisdiction that could favor the companies in detriment of the national sovereignty.

3. Bilateral Investment Treaties from the Brics States

The bilateral investment treaties are defined as international agreements that promote and protect investments by private investors in the territory of the Host State by enunciating substantive rules that governs the Host State's treatment of the foreign investment and by establishing a dispute resolution mechanism valid to be set if any of the parts disrespect provisions or violate the rights of the other party. In sum:

"the role of the BIT is to function as an instrument which strikes a balance between the interest of the investor seeking protection of the investment from arbitrary legislative or administrative action of the Host State and the interest of the Host State in the creation of favorable conditions for the flow of investment into its territory in a manner which accords with the development priorities and objective of that State" (BAPTISTA, 1998, p. 18).

The BITs were originated in 1959 through the first bilateral investment treaty between Germany and Pakistan. During the 20th Century, the BITs were signed mainly between developed countries or developed and developing nations. The last examples made part of a liberal conjuncture deepened mainly in the 1990s, when developing countries decided to handle the BITs as instruments to foster the attraction of investments in their territories.

Surpassed the political and economic transformations occurred in the end of the 20th Century, the 21st century has begun with a new features for international investments. It was observed the emergence of south-south investment agreements, in particular, because some developing countries passed to the condition of sole capital-importing States for the position of capital-exporters. As part of a modernizing agenda, some of the fastest growing emerging economies in the world, the BRICS, decided to upgrade their framework on investment, each one with its own peculiarity, as shown at the following.

3.1. Brazil

Brazil has always been recognized as a major receptor of investments, keeping its receptivity level even without international legal protection. Even though the Brazilian State has always been resistant to investment agreements and to investor-State arbitration, in the early 1990s, Brazil

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signed 14 bilateral investment treaties⁶⁸. The treaties were originally well received by the congressmen, but the parliamentary commissions have not approved any of them. The main and most severe criticisms for this type of agreement refer crucially to aspects such as the establishment of international investment arbitration and the regime of expropriation.

Regarding the first issue, the resistance embraces the idea that investment arbitration favors foreign investors instead of national ones, who do not have access to this type of international protection. Moreover, Brazilian sovereignty is disrespected when these treaties refer to jurisdictions other than the national, once foreign investors are exempt of exhausting domestic legal resources. Finally, investor-State arbitration violates sovereignty due to the submission of the State to a non-national authority (ARAÚJO, SOUZA JÚNIOR, 1998; MAGALHÃES, 1997). According to this position, it is also worth noting that Brazil has never ratified the Washington Convention of 1965, which originated the ICSID.

Relating to the second issue, it was provided in the Brazilian bilateral investment treaty that compensation for nationalization or expropriation would be prompt, adequate and effective. The Federal Constitution of Brazil has established two exceptions to this provision: (i) the expropriation-sanction carried out on behalf of urban policy (urban expropriation) and (ii) the rural property expropriation for agrarian reform purposes. In these cases, as provided by the general rule, compensation should be prompt and adequate. In the first case it can be accomplished through government bonds, previously approved by the Senate, redeemable within up to 10 years in annual, equal and successive installment, ensuring the real value of the compensation and legal interest. In the second case, it may be paid by agrarian debt bonds, with preservation of real value, redeemable within 20 years from the second year of issue and the use of which will be defined by law. Thus, the fact that Brazilian treaty provided general rules for compensation and that the Federal Constitution has hypotheses that were not covered by the investment treaty has generated controversy between the National Congress.

In this sense, bilateral investment treaties were withdrawn from the agenda of the Congress and Brazil remained as an important foreign investment destination even in the absence of such agreements. However, the beginning of the 21st century has begun with a new initiative from Brazil. The Brazilian enterprises have begun to spread around the world, mainly in the Latin American countries and in the African continent. For this reason, Brazil left its status of the sole recipient of foreign investments to assume the condition of both recipient and exporter of foreign capitals.

The Brazilian investments abroad consists both in private and public enterprises, focused on several areas as infrastructure, steel, information technology services, mineral extraction, food industry, oil and gas, and others. To illustrate the range of Brazilian multinationals it is worth quoting some of them: Odebrecht, Gerdau, Marfrig, JBS, Vale, Marcopolo, Petrobrás, among others (FDC, 2015).

Considering the current situation of expansion of the Brazilian companies abroad and the vulnerability of the Brazilian investors it raises the need of international juridical protection to cover Brazilian investors abroad. As in the past Brazil denied the traditional bilateral investment treaty model, the solution was to develop an alternative model to replace it since all the political and legal risks of investing abroad came along with the benefits of this new status.

⁶⁸ Brazil signed 14 bilateral investment treaties with: Portugal, Chile, United Kingdom, Switzerland, Denmark, Finland, France, Germany, Italy, Venezuela, Cuba, Netherlands e Belgium. Moreover, Brazil also signed investment guarantee agreements with the United States, to protect American investments in Brazil through the Overseas Private Investment Corporation (OPIC), an agency maintained by the White House in order to encourage American companies abroad.

In 2015, the Ministry of Foreign Relations together with the Ministry of Development, Industry and Trade and the Ministry of Finance, supported by the biggest entrepreneurs associations CNI (Confederação Nacional da Indústria) and FIESP (Federação das Indústrias do Estado de São Paulo), designed a new model of investment agreement: the Cooperation and Facilitation Investment Agreement (CFIA).

Already signed with Mozambique, Angola, Mexico and Malawi, this agreement has in its core the mitigation of risks and the prevention of investment disputes with a dispute settlement system formed by a negotiation phase with the participation of Focal Points or Ombudsmen⁶⁹. The Ombudsman consists in a person who supports investors in peacefully resolving conflicts and improving the business environment, establishing a negotiation channel between investors and States to achieve a pacific solution, which will satisfy the interests of both parties. In this system, investors will negotiate firstly with their Home States to convince them to endorse its claim and negotiate with the Host State. If the State accepts to be claimant it will move on with the negotiation, but if the negotiation fails, *in ultima ratio* and in contrast with the Brazilian BIT from the 1990's, the claim can be taken to the State-State arbitration mechanism.

TABLE 22
CFIAs – Brazil

States	Date of Signature	Date of Entry in Force
Mozambique	30/03/2015	-
Angola	01/04/2015	-
Mexico	27/05/2015	-
Malawi	25/06/2015	-

Source: CCGI-FGV.

3.2. Russia

Russia concluded its first BIT with Finland in 1989, proceeding with other Organization for Economic Co-operation and Development (OECD) countries in the years following. In 1992, a BIT model was adopted, searching for enhancing liberalization and attract more foreign investors. After Vladimir Putin became president, new policies were developed and in 2001 a second and more conservative model was adopted.

The second BIT model, still in force, removed many of the most substantial protections provided in the old one. Some critics say that this was a government strategy to restrict foreign firms to entry into Russia, even though it also endangered Russian firms overseas. This idea seems plausible when noticed that almost three-quarters of the Russian BITs were signed before 2001 and the size and development degree of the partners suggest that the main objective was to attract international investments. On the other hand, the BITs signed after 2001 reflect the new Russian policy with a visible shift in the focus of negotiations, focusing on spreading Russia investments and presence abroad, mainly in Africa, Asia and Middle East.

Given these facts, one can infer that Russia's BITs model shows that for a number of areas they follow OECD practices, but for another part they diverge from OECD practices, mainly related to

⁶⁹This concept was originated in Scandinavia to define a person designated by the State to investigate complaints department has fallen below acceptable standards of administration) by officials or public institutions. The Ombudsman is recognized as an efficient path to dispute resolution in such different areas, including investments. In this context, the United Nations Conference on Trade and Development (UNCTAD) recommended to other countries the experience of South Korea as a bench-mark of best practices to promote foreign investment.

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investment protection. For instance, some issues, as regards the scope of Most-favored nation (MFN) and national treatment, assessment of property value for the purpose of compensation for expropriation and the inclusion or not of umbrella clauses, the performance requirement, and key personnel (OECD, 2006).

Concerning dispute resolution provisions, some of its BIT do not include clauses on subrogation and, consent to arbitration. Furthermore, they define in a different manner the scope of arbitration. A number of Russian BITs concluded in the late 1980s and in the 1990s include an arbitration clause of limited scope, providing consent to resolve only disputes related to the "amount or mode of payment of compensation for expropriation". The scope of the arbitration clause of several other BITs is limited to questions regarding the breach of the free transfer provision, as well as the amount of compensation for expropriation. Also, some Russian BITs specify closed lists of issues that can be brought to investor-state arbitration, such as the effects of a measure taken by the host state on the management, use, enjoyment or disposal of an investment. Notwithstanding, arbitration clauses in more recent Russian BITs are often broad (COLLINS, 2013).

Since Russia have signed the ICSID convention in 1992, but have not ratified it, Russian BITs in force refers to a "competent court of arbitration of the Contracting Party" alongside references to competent State Courts as a possible avenue of recourse for the investor. It is unclear whether this is a reference to the system of Russian State Commercial Courts (known in Russia as "arbitration" courts), or whether this is indeed a submission to the jurisdiction of a local arbitral institution of the host state. Furthermore, several BITs separately list the option of "an international arbitration court of one of the Chambers of commerce with the consent of both parties to the dispute" (COLLINS, 2013).

The 1992 and 2001 model of BITs, like the majority of Russian BITs, do not include umbrella clauses⁷⁰. The few Russian BITs that contain it are with European (ie France, Germany and Denmark) or emergent countries (ie China and Korea) and stipulate that the Host State shall observe "any obligation" it may have "entered into with regard to" investments of the other Contracting Party's investors.

Since the beginning, Russia has signed 73 BITs of which 57 are already in force. Four of them are with the BRICS States: two with China, one terminated, and the other in force since 2009; India (in force since 1996) and South Africa (in force since 2000). Although the BIT models used for these treaties have similar structures, the Russia-China BIT have some specificities related to investment protection, since there is an additional protocol to rule over the matter (only for China, excluding Hong Kong and Macao) and the MNF treatment is broadly then the India case, for example, without exceptions as taxations and free trade areas.

Concerning Latin America and The Caribbean, these are the following existing BITs:

⁷⁰ "An umbrella clause protects investments by bringing obligations or commitments that the host state entered into in connection with a foreign investment under the protective "umbrella" of the BIT. Investors often rely on an umbrella clause as a catch-all provision to pursue claims when a host state's actions do not otherwise breach the BIT. Umbrella clauses are usually broadly written to cover every conceivable obligation of the host state" (PRATICAL LAW [nd]).

TABLE 23
BITs Russia – Latin America and The Caribbean

States	Date of Signature	Date of Entry in Force
Argentina	25/06/1998	20/11/2000
Cuba	07/07/1993	08/07/1996
Ecuador	25/04/1996	-
Guatemala	27/11/2013	-
Nicaragua	26/01/2012	28/08/2013
Venezuela	07/11/2008	26/11/2009

Source: UNCTAD.

3.3. India

India has started to use BITs in 1986, although its first official model was adopted only in 1993. Later, India launched a review of its investment treaties after a public outcry over arbitration notices served by 17 foreign companies that challenged several policy measures and demanded billions of dollars in compensation for the alleged violation of India's BITs. As a result, the efforts promoted by an inter-ministerial working group led by the Ministry of Finance together with experts from international institutions, led to a BIT signed in December of 2013 with the United Arab Emirates, inaugurating its new and current model.

Specialists considered that India's new BIT model is a major improvement on the previous one, even that some important questions are still outside its scopes, such as taxation, intellectual property rights, states subsidies, government procurement, public health and safety, environmental protection and financial stability. Also, there are no expectations that investment protection measures contained in free trade agreements with Singapore, South Korea, and Japan would be renegotiated (RANJAN, 2014).

There are some expressive changes in relation to the previous model that should be highlighted. The first one is the new definition of investment, shifting the use of the 1993's asset-based concept, which included every kind of asset, to an enterprise-based definition of investment, narrowing it to FDI to deny investment protection to the so-called "mailbox companies" – those with minimal commercial presence in the home country (COLLINS, 2013).

Another change was the drop of the MNF treatment, mainly related to the lost case against the Australian mining company White Industries in 2011, when clauses contained in the India-Kuwait BIT were applied in favor of the investor and India was condemned. In the other hand, national treatment clause has been inserted, but its scope is restricted to "in like circumstances".

The new model retains the investor-state dispute settlement (ISDS) system but it requires an investor to exhaust all local remedies (judicial and administrative) before initiating international arbitration. However, the new model contains binding obligations on investors related to taxation, corruption and disclosures. Any breach on those matters can imply in legal actions by the host country. Other provisions have also been added to improve ISDS transparency, as the introduction of detailed disclosure norms and codes of conduct for arbitrators (COLLINS, 2013).

Since the beginning, India has already signed 84 BITs of which 69 are already in force. The major part of those agreements refers to agreements with developing countries from Asia, Africa, and Eastern Europe. However, the main focus is the ongoing negotiation on a BIT with the United

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States that aims to facilitate greater cross-border investment flows. In addition, India is not a member of ICSID Convention.

Concerning to BRICs countries, there are only two BITs signed, one with Russia (in force since 1996) and other with China (in force since 2007). The India-Russia BIT brought some interesting to the spotlight in the last years. Although the relationship between the two parties has been cooperative, the revocation of its 21 telecom 2G licenses in 2012 affected the Russian conglomerate Sistema. Since then the Russian government started a sensitive dialog to amend the BIT with unambiguous safeguards to protect large-scale Russian investments in the telecom sector in India and avoid new episodes to happen.

Concerning China, in 2014 the Chinese president Xi Jinping negotiated a US\$100 billion of investment commitments over five years in India, involving sectors like energy, modernization of industrial parks and railways. Although there is some controversy about the direct relation about BITs and the effective attraction of investments, in this case there is a strong belief that the India-China BIT clause that provides arbitration for "any dispute" may be an incentive. As pointed out above, this is not the current position of the Indian model.

In the last years, India is also looking for Latin America and The Caribbean, as it is shown in the table below:

TABLE 24
BITs India – Latin America and the Caribbean

States	Date of Signature	Date of Entry in Force
Argentina	20/08/1999	12/08/2002
Colombia	10/11/2009	03/07/2013
Mexico	21/05/2007	23/02/2008
Uruguay	11/02/2008	-

Source: UNCTAD

3.4. China

China consists in the second largest economy of the world and in a dynamic actor for international trade and investments. Concerning the last, the country has passed by a transition since the 1980s, as not only a mere capital-importer but also to an active position as a significant capital-exporter. During this pathway, the Chinese State has adopted international agreements on promotion and protection of investments, in particular, the bilateral investment treaties, which have been progressed along the years in consonance with the economic context alive.

China has been an active signatory of investment agreements and, in accordance with the spread of treaty-making practice in the 1990s, the Asian country mainly focus on the bilateral investment treaties, besides it has also others investment agreements involving more countries⁷¹.

According to The United Nations Conference on Trade and Development, until 2014, the Asian country has signed 130 bilateral treaties, 108 in force. The negotiation of these Chinese international standards can be classified in four distinct periods (UNCTAD [sd]).The first one was launched in 1982, with the first BIT signed between China and Sweden. Based on the European capital-exporter countries model, the agreement had a number of restrictions, including the scope

⁷¹ According to the UNCTAD, China has signed also 19 other international investment agreements and of them, only 16 are in force.

of the Investor-State Dispute Settlement Clause, only covering the amount of compensation in case of expropriation, refusing the National Treatment Clause and remaining the transfer of investment-related to funds to national law.

The second model, negotiated in the 1990s, was focused on the south-south cooperation between developing countries, mainly with countries from Asia, Africa and Latin America or transition economies. The Chinese BITs in this period proliferated as never before, but regarding its substantive issues, it followed the traditional approach of the first treaties. Here, China rarely includes the provision of national treatment, because intended to protect its infant industry and state-owned enterprises from competition with foreign companies (ELKEMANN; RUPPEL, 2015).

The third template started in 1998, with the China-Barbados agreement. The innovation of this new standard was the negotiation in a more liberal basis that included advanced approval, granting foreign investors access to international investment arbitration. It consists in a broad clause, allowing any dispute between the parts. China, however, rescinds its resistance with National Treatment, because this clause varies according the international partner. For instance, on the one side, when China signed a BIT with capital-exporter countries it was provided that the National Treatment Clause would exclude only the non-conforming measures that existed before the enforcement of the treaty; on the other side, in the agreements negotiated with developing countries, national treatment should be according the domestic law of the Host State.

Finally, the fourth phase started in 2008, and the intention was to originate a more balanced pattern of BIT. According to Axel Berger, the model is incomplete and incoherent because China continued to negotiate investment agreements that follows the traditional pattern with high levels of protection for foreign investors, ignoring most of the provisions of the Host Country to regulate foreign investors. The author affirms it is incoherent because the provisions (often compared to NAFTA provisions due to its higher degree of liberalization) are unequally incorporated in the Chinese BITs. The provisions have been formulated differently in several of these treaties, so that there is a certain level of variation that represents the intentions of the parties involved in the BITs post-2008, in particular, considering the Asian country as a greater capital-exporter.

Focusing on the last model of Chinese BIT, it is important to highlight some provisions. In spite of its resistant behavior, China signed pre-establishment most favored nation treatment clauses, mainly after 2011, on the BITs with Uzbekistan, Japan and Korea (trilateral investment agreement), Taiwan, Canada and Tanzania. Another provision is the clause that excludes letter box companies⁷² (provision not present on the treaty with Malta) and the emergence of the clause of substantive business activity, including the definition of the type of investor covered by the treaty. The National Treatment also appears, and has a strict interpretation which means that foreign investors should only be accorded national treatment in situations where they are treated differently from national investors in the same sectors and under the same circumstances. After 2008, the concept of fair and equitable treatment is closer to the NAFTA approach, stating that investors are not denied justice or treated unfairly or inequitably in any legal or administrative proceeding or, as in the China-Mexico BIT as the "international minimum standard of treatment of aliens as evidence of State practice and opinion juris". It is important to highlight that in the China-Colombia BIT, there is a reference to customary Law in article 4, in which fair and equitable treatment must be in accordance with customary international law. So that, it can be inferred that fair and equitable treatment varied in Chinese investment treaties after these three conceptions.

⁷² The letter box companies consist in enterprises that are established in a respective State, with more beneficial law compared to others (including the investment law regime), but are active in business in another State.

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Concerning the free transfer of capital, since 2000 the treaties with developed countries omit the reference of national Law, allowing the free transfer of funds in and out of the host country. This new less restrictive clause is explained by “the stepwise liberalization of China’s capital control and exchange rate regimes”. The exception is when there is a crisis in the balance of payments, as in the case of bankruptcy or insolvency proceedings. The recent Colombian-Chinese BIT includes a more extensive general exception clause encompassing issues such as essential security, prudential measures and taxation.

Although China is part of ICSID convention of 1993, it continued to make BITs without explicit mention to ICSID arbitration. Nowadays, a clear remission can be seen in several bilateral treaties as an important part of the architecture of the agreement.

China also has negotiated BITs with BRICS countries. The treaties were signed with India (2006), two with the Russia Federation (in 1990, then it was terminated; and in 2006) and South Africa (1997). A fundamental bias of the Chinese investment policy that has been seen in the last years is the Sino-African BITs, as a consequence of the South-South BITs tendency.

Africa is emerging as an important pathway for China’s foreign direct investments⁷³, mainly because of its natural resources, such as oil, diamonds, chromium, cobalt, ores, as well as large infrastructure projects. South Africa is the largest recipient of Chinese investments in the continent: in 2012, China’s foreign direct investments in the country achieved US\$ 4,6 billion.

The Sino-African BIT has the same provisions founded in the worldwide practice, but is clear that its focus is the promotion of investments, with several specificities which clarify this goal, and protection. Most of the BITs leave the control and protection to the discretion of the domestic law of the Host State – it shows that it still remains a reluctance to liberalization existing investment regimes. One of the peculiarities of this model is the investment protection only after the admission of the foreign direct investment project, in opposition to the pre-establishment model (more common in the USA, Japan and Canada practice).

Another important feature is the existence of non-tariff barriers even in the BIT context, essentially provisions on assistance, facilities for obtaining visa and working permissions, and other necessities permits, as well as delays of customs clearance procedures, complex documentation requirement, procedures at the borders and measures related to the entry and establishment (ELKEMANN; RUPPEL, 2015). National treatment is granted of most Sino-African BITs with no prejudice of domestic law, restricting the standard to the treatment offered by national regulations. In this sense, there is also in this model a provision that grants national treatment – not only the regular most-favored nation treatment – in the case of wars and civil war.

In recent years there was a proliferation of Chinese BITs also in Latin America, as shows in the table below:

⁷³ Africa is the fourth most important destination of Chinese investment flows, after Asia (Hong Kong), Latin America and the Caribbean.

TABLE 25
BITs China- Latin America and the Caribbean

States	Date of Signature	Date of Entry into Force
Argentina	05/11/1992	01/08/1994
Bahamas	04/09/2009	Signed (not in force)
Barbados	20/07/1998	01/10/1999
Pl. State of Bolivia	08/05/1992	01/09/1996
Chile	23/03/1994	01/08/1995
Colombia	22/11/2008	02/07/2013
Costa Rica	24/10/2007	Signed (not in force)
Cuba	24/04/1995	01/08/1996
Ecuador	21/03/1994	01/07/1997
Guyana	27/03/2003	26/10/2004
Jamaica	26/10/1994	01/04/1996
Mexico	11/07/2008	06/06/2009
Peru	09/06/1994	01/02/1995
Uruguay	02/12/1993	01/12/1997

Source: UNCTAD

3.5. South Africa

South Africa has not always been a traditional supporter of investment agreements. During the Apartheid period (1948-1994), the African country did not enter into such regime. Even though in consonance with the new economic outlook and the international investment practices of the 1990s, South Africa launched its first BIT with United Kingdom in 1994, following a flurry of investment agreements with developed countries. This first generation of BITs, based on the OECD template of BITs, represented an important role of a wider policy of opening the country to foreign investors, as part of the Growth, Employment and Redistribution Strategy (GEARS) (PETERSON, 2006, p. 06).

Despite being a capital-importer country, South African business have been expanding their capital abroad, becoming one of the top 10 investors and trading partner of many African countries, particularly in the Southern African region, as Zimbabwe and Mozambique⁷⁴, displacing companies from Europe, mainly in nations that are former colonies and United States.

The South African BIT provided many assurances, as the protection in case of expropriation, followed by compensation, repatriation of capital, fair and equitable treatment from foreign investors compared to national ones, among other provisions. The BITs arose with some concerns, mainly regarding to the Government's Black Economic Empowerment (BEE) policies and to international investment arbitration⁷⁵. The BEE follows the South African constitutional provision to

⁷⁴ South Africa is also a greater investor in Morocco, Ghana, Mali, Nigeria and the Democratic Republic of Congo (PETERSON, 2006, p. 08).

⁷⁵ According to Luke Eric Peterson, there are two main disputes arose concerning the South African BIT: "in the first dispute, which arose in 2004, a Swiss investor who had acquired a private game reserve which was subject to poaching, vandalism and theft alleged that the Government had failed in its treaty obligations to provide "protection and security". The second dispute, which arose in 2006, under the Italian treaty, dealt with alleged expropriation of mineral rights, a failure to apply "fair and equitable treatment" and specifically objected to the application of black economic empowerment (BEE) rules" (PETERSOB, 2006). However, the review of the South African BIT framework was triggered by an investment dispute claimed under the ICSID additional facility in 2007. Investors from Luxembourg claimed that the BEE provisions of the MPRDA amounted to expropriation of their mineral rights. The case was settled in 2010 and did not go to full-blown arbitration.

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reverse the injustices caused by apartheid regime. This policy can be found in the South African Mineral and Petroleum Resource Development Act (MPRDA), which requests previously disadvantaged people to hold partial shareholding in the mining companies. (LANG; GILFILLAN, 2013).

After so many debates and the intention to reshape its investment framework, South Africa decided to terminate its BITs with individual countries, such as Spain, the Netherlands, Switzerland, Germany, Belgium and Luxemburg, and, in 2013, the country proposed a draft of a Promotion and Protection Investment Bill. The purpose of the South African Department of Trade and Industry in changing the investment regulation is to review and strengthen the South African investment law in order to attract more foreign direct investment, at the same time maintaining its sovereignty.

The draft of the new Bill intends to substitute the international agreements, granting significant changes to investor rights. It establishes the concept of investment, the limit of investor rights (it does not includes fair and equitable treatment) and dispute resolution (with no remission to arbitration and the establishment of an initial process of mediation), among other things. Moreover, under the point of view of investors, the rights of compensation was diminished in the case of expropriation compared to the provisions shaped into the BITs, because "the element of objectivity needs to be instilled in the valuation of "just and equitable" compensation" (LANG; GILFILLAN, 2013).

Notwithstanding the termination of some BITs, South Africa already signed 40 BITs, being 17 in force, including among BRICS countries: one with China and one with Russian Federation. The country has never been part of the ICSID, but was encompassed by its jurisdiction because of the complementary mechanism, which enables non-members countries to access the ICSID even though they did not sign the Washington Convention.

Finally, South Africa also signed some BITs with Latin American and The Caribbean, as can be seen below:

TABLE 26

BITs South Africa- Latin America and The Caribbean:

States	Date of Signature	Date of Entry in Force
Argentina	23/07/1998	01/01/2001
Chile	12/11/1998	Signed (not in force)
Cuba	08/12/1995	07/04/1997
Paraguay	03/04/1974	16/06/1974

Source: UNCTAD

Thus, it is possible to infer that there are so many different international investment frameworks, including between the BRICS countries. Even though the group had been initiated as a political coordination group, this juridical difference did not influenced the investment policy of each country of the group. Therefore, the international investment law framework of the Members will not interfere in the future investments that will be made by the New Development Bank.

4. Public-Private Partnerships

4.1. Introduction

In the contemporary outlook, Public-Private Partnerships have an important role for mobilizing resources and attracting new investments. The association of the public and private

sectors to sponsor public endeavors, such as infrastructure projects and public services, is a new trend which has been adopted by many countries in the last years.

PPPs consist in a contract between the public authorities and the private partner “that takes advantage of the efficiency of each of the partners in managing the particular risks involved in an infrastructure project” (THE WORLD BANK, 2012b, p. 20). The main reasons for promoting this type of investment is: (i) to supplement existing shortcomings in public services infrastructure; (ii) to introduce new forms of financing infrastructure and public services investments, transferring the onus to manage financing to the private sector and alleviating—partially or completely—fiscal pressure on the Government; (iii) to improve the quality and efficiency of the services provided (THE WORLD BANK, 2012b, p. 20).

Since the early 1980s, there has been a shift in the performance of the public and private sectors in the provision of infrastructure (electricity, water and sanitation, telecommunication, road, railroad, port, and airport), which has boosted public-private partnership projects. According to The Economic Commission for Latin America and the Caribbean (ECLAC), the Latin American States are ever more turning to public-privates partnerships as a mechanism to increase infrastructure investments and provide better public works (ECLAC, 2015a, p. 103)⁷⁶.

The high number of projects made in the region is directly related to the capacity of innovation and the social impact leveraged by PPPs. For instance, the exploitation project of the Line 4 of the Subway of São Paulo (Brazil); the Residual Water Treatment de Atotonilco de Tula (La Planta de Tratamiento de Aguas Residuales de Atotonilco de Tula) (Mexico); the North IIRSA Roads in Peru (Peru); Maravilha Port (Porto Maravilha) (Brazil); the Hospitals of Toluca and Tlalnepantla (Mexico); the Suburb Hospital (Brazil); the Penitentiary Complex of Ribeirão das Neves (Brazil) among other examples (MAGRO, 2015, p.26).

Thus, regarding the importance of this type of partnership, in this chapter it will be addressed firstly the characterization of the PPPs and its main elements and purposes, the juridical framework for PPPs in some Latin American and Caribbean countries, the examples of well-succeeded PPPs in the region, the benefits of this pattern of financing, the problems faced by the PPPs, and, finally, the perspectives of this model.

4.2. Infrastructure Investments with Private Participation in Latin America and the Caribbean

According to the 2014 Global PPI Update, developed by the World Bank Group, “investment commitments in projects with private participation in the energy, transport, and water and sanitation sectors increased 6% to US\$107,5 billion in real terms from 2013 to 2014—the fourth-highest level of investment ever recorded” (WORLD BANK GROUP, 2015, p.01). In this context, in 2014, the investment commitments in infrastructure projects financed by the private sector in developing countries totaled US\$107,5 billion, representing a 6% increase from 2013 (US\$101,9 billion).

New projects were focused in the following fields: (i) energy (157 projects); (ii) transport (49 projects), and (iii) water and sanitation (33 projects). Even though the energy sector had more new projects, accounting US\$48,2 billion or 45% of the total amount, the sector with the largest

⁷⁶In the 1990s the major part of the concessions contracts in Latin America encompasses the Brownfield projects, the maintenance and exploitation or the extension of infrastructures already done. One of the exceptions regards to Mexico, where there is some greenfield projects. The last ones started to achieve more importance in the last years with investments in the energetic area, associated with new constructions and greenfield projects (MAGRO, 2015, p. 25).

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investment was transport, with US\$55,3 billion, or 51% of total global investment. Water and sanitation had US\$ 4,1billion, 4% of total investment committed (WORLD BANK GROUP, 2015, p.04).

Five developing countries had the highest level of investment in 2014, being (1) Brazil; (2) Turkey; (3) Peru; (4) Colombia; and (5) India. They capture the amount of US\$ 78 billion, representing 73% of investment commitments in the developing world in 2014 - more than a half are Latin American countries. Latin America and the Caribbean captured US\$ 69.1 billion of the total amount, 64% of global investment, the largest share among any region. Much of this value is associated to the increase of projects involving private sector in Brazil, Colombia, and Peru combined (55% of global total) (WORLD BANK GROUP, 2015, p. 02).

In analyzing these three most receptive Latin American nations, Brazil continued to attract investments: US\$ 44,2 billion, or 41% of global infrastructure investment, spread across distinct subsectors. The investments in "roads reached US\$15.9 billion; airports captured US\$12.9 billion; rail had US\$3.8 billion; and electricity generation received US\$9.2 billion" (WORLD BANK GROUP, 2015, p.03). Peru deals 11 projects for US\$8.1 billion, and 8 of the 11 deals were concentrated in the area of energy, but the largest project was in transports (US\$5.3 billion), related to Lima Metro Line 2⁷⁷. Peru also had one of the largest water deals (US\$715 million) regarding Chavimochic III Water Project⁷⁸. Colombia has 12 projects accounting in the total US\$ 7 billion, 3 of them in energy area and 9 in transport. The top five projects in Colombia deals with road projects, including the largest one, the Autopista Rio Magdalena 2 (a two-lane highway of 150KM with numerous bridges and tunnels), the second phase of a nine-part project called Autopistas de la Prosperidad (US\$ 1.4 billion).

Concerning the main investment areas in Latin American and the Caribbean, roads are where exist the most attractive investments, totalizing US\$ 28.5 billion, in 33 projects, nearly the same number as in 2013. From the top five road projects, four of them are in Brazil. Airports are the second highest investment area, with US\$13.2 billion, dedicated to five largest projects. The first largest work is the Rio de Janeiro's Galeão Airport, a concession that totaled for over US\$ 10 billion⁷⁹. There are three large rail projects - one in each country - financed in Brazil, China, and Peru and the largest project consists in Lima Metro Line 2, which is subsidized by the Government of Peru with a US\$ 3 billion capital grant (WORLD BANK GROUP, 2015, p. 05). The investments in sea ports are falling down in the last years, amounting 8 projects and US\$ 3.2 billion.

The energy investments totalized US\$ 48.2 billion, 45% of the global investment in 2014. Of this amount, US\$41.3 billion was new investment (greenfield) and US\$6.9 billion was capacity expansion (brownfield). Considering the emphasis of some countries in natural gas, even though only US\$ 2.7 billion of the total is destined to the area, "Mexico accounted for most of the increase with three new gas pipelines reaching closure (Los Ramones 1, Sonora and Tamazunchale El Sauz" (WORLD BANK GROUP, 2015, p. 05), as part of a larger reform in the sector. The electricity projects still receive the majority of projects, totalizing 151 (US\$ 45.4 billion), although the electricity subsector continue in decline, with 22% lower investment and 30% fewer projects than in 2013. "Generation projects accounted for US\$39.9 billion of the total, while distribution and transmission projects accounted for US\$3.8 billion and US\$1.6 billion, respectively" (WORLD BANK GROUP,

⁷⁷ According to the World Bank Group, "the 35-year BOT metro line will stretch 35 kilometers and eventually connect Lima with Callao, including the international airport. Line 1 began operation in 2012, and the Peruvian government plans to launch the tender process for Line 3 late 2015" (WORLD BANK GROUP, 2015, p.03)

⁷⁸ Located in the La Libertad region, the 25-year BOT concession is the third phase of a project that will irrigate 111,000 hectares of farmland in hopes of boosting agricultural production and exports.

⁷⁹ According to 2014 Global PPI Update: "Of this amount, US\$8 billion was a payment to the government".

2015, p. 05). Of all electricity generation, nearly US\$22 billion is in renewable energy (mainly wind and solar). The water sector receive US\$ 4.1 billion in investment, a percentage 8% higher than the five-year moving average of US\$ 3.7 billion and the two more recently highest projects are : (i) the El Zapotillo Aqueduct in Mexico (US\$987 million) and (ii) the Sao Lourenco Water Treatment Plant in Brazil (US\$1.1 billion).

Finally, Latin America and the Caribbean “has shown a strong upward trend since 2010, when it captured 21% of the global total; in 2011 it grew to 32%; in 2012 it was 51%; and in 2013 it was 47% of global PPI” (WORLD BANK GROUP, 2015, p. 07). There were 110 projects: (i) 72 in energy; (ii) 26 in transport and (iii) 12 in water. The leader in new investment was in Brazil with 51 projects, followed by Chile and Colombia each with 12, and Mexico and Peru each with 11. Additionally, 13 investments projects were made in Guatemala (4), Uruguay (4), Honduras (3), Costa Rica (1), and Haiti (1), amounting US\$1.5 billion (WORLD BANK GROUP, 2015, p. 07).

4.3. The Development of Public-Private Partnerships in Latin America and the Caribbean

4.3.1. PPPs: Characteristics and Purposes

In the 1980s, the first Latin American and the Caribbean nations to adopt PPPs as an opportunity to move on promoting public works through “projects where the government authorizes operating authority to a private company” (EIU, 2009, p.3) were Mexico and Argentina, inspired by the previous experiences in European countries as England and Spain. Then, during the 1990s, it was observed more precisely that the public sectors had serious difficulties in affording capital and covering alone all the needs of the region. For this reason, a series of measures have been taken, as structural and regulatory reforms, to promote new models of collaboration, deepening a synergy between public and private sector to combine both sources of financing. Public-private partnerships have been proliferated as an important contractual mechanism in Latin America and the Caribbean and this was adopted later by Chile, in 1991, together with Colombia and a few years later by other countries like Brazil, Peru and Colombia.

These partnerships consist in contracts between a public entity – ministries, regions, states, municipalities, decentralized agencies, public companies – and a private entity, aiming at the construction of a work seen as a public interest investment. The point is that each nation has a definition about PPPs, including the Latin American and Caribbean countries, with its own characteristics, purposes and process, even though they follow normally the same direction.

The Argentinian Decree n° 967/2005 provides a definition of PPP as the public-private partnership contracts that embodied “cooperation instrument between the public and private sectors, designed to establish a binding obligation between the parties so that they may enter into a partnership to carry out public works or other delegable activities, in which risks are shared and operations streamlined”⁸⁰. To Brazil, according to the Law n° 11.079/2004, art. 2: “a public-private partnership is a contract that may take the form of a sponsored or administrative concession”⁸¹. Concessions without payments by the public sector are not considered public-private concessions and the law forbids public-private partnerships contracts valued in less 20 million reais, with term of less than five years, or if the sole object is to supply labor, to supply and install equipment, or to carry out public works. To Chile, public-private partnerships consist in the execution, repair, maintenance or operation of public works and services as well as the use and enjoyment of

⁸⁰ National Regime of Public-Private Partnership (Regimen Nacional de Asociacion Publico-Privada). Decree n °967/2005, art. 1.

⁸¹General rules for bidding and contracting of public-private partnership within the public administration. Law n° 11.079/2004., art. 2.

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national assets or State-owned properties destined for the development of agreed services areas, the supply of equipment or the provision of associated services and the concessions have the maximum of 50 years. (ECLAC, 2015a, p.103-104).

Thus, it is possible to infer that the PPPs encompass three main elements: (i) a long-term contract between the public and private sectors; (ii) public works, normally associated to infrastructure and (iii) the distribution of risks and tasks to the private sector (ECLAC, 2015a, p. 103).

Firstly, the architecture of the PPPs associates the allocation of risk between the private sector and the government through contracts, which establish the partnership, the criteria of participation and the share of responsibility for each one of the parts involved in the development of the projects contemplating public assets. These contracts are materialized often by concession contracts through a bidding process, but the fact is that each Latin American and the Caribbean country has its own regulatory framework governing concessions, definitions and public bids process.

In the 1990s, the majority of concession contracts referred to brownfield projects, which covers the maintenance, exploitation or the expansion of any existing infrastructure, often bounded to a transport infrastructure. In the last years the greenfield projects, which involve new structures, gain prominence because of the high level of new energetic projects in the region. Other types of contracts, as the management/administration contracts and tenancy contracts have less developed along of the years (MAGRO, 2015, p.25).

Particularly, the main species of PPP contracts are the Build-Own-Operate-Transfer (BOOT) contracts and the Build-Operate-Transfer (BOT) contracts. The difference between them consists in the rights to the public infrastructure to be constructed. In BOOT contracts, it is provided that one of the parties (the concession grantor) will transfer rights of ownership over the public work (to be constructed) to the other party (the concessionaire). In this sense, the latter will be able to operate the infrastructure for the concession period, and after the end of the contract, both the assets and the public works will be transferred to the concession grantor. In a BOT contract, the right of exploitation of the infrastructure or service to be assembled is granted for a concession time and will later be transferred back to the concession grantor (THE WORLD BANK, 2012b, p. 21). There are other types of PPPs contracts that can be related in the follow:

TABLE 27
Types of PPP Contracts

Types of PPPs	Mode of Entry	Operation and Maintenance	Investment	Ultimate Ownership	Market Risk	Duration (years)
management contract	Contract	Private	Public	Public	Public	3-5
leasing	Contract	Private	Public	Public	Semi-private	8-15
rehabilitate, operate and transfer	Concession	Private	Private	Public	Semi-private	20-30
rehabilitate, lease/rent and transfer	Concession	Private	Private	Public	Semi-private	20-30
merchant	Greenfield	Private	Private	Public	Semi-private	20-30
build,	Concession	Private	Private	Public	Private	20-30

Types of PPPs	Mode of Entry	Operation and Maintenance	Investment	Ultimate Ownership	Market Risk	Duration (years)
rehabilitate, operate and transfer	n					
build, own and transfer	Greenfield	Private	Private	Semi-private	Private	20-30
build, own, operate and transfer	Greenfield	Private	Private	Semi-private	Private	20-30
build lease and own	Greenfield	Private	Private	Private	Private	+30
build, own and operate	Greenfield	Private	Private	Private	Private	+30
partial privatization	Divesture	Private	Private	Private	Private	+30
full privatization	Divesture	Private	Private	Private	Private	Indefinite

Source: *The World Bank, 2012b, p.21.*

Whilst some countries have the entire regulatory framework needed for the regulation and execution of concessions at the national level, others have also competent agencies to support this implementation and the well-functioning of the PPPs, as well as to the allocation of liabilities between public and private institutions. Regarding the last, it is worth noting that some critics addresses that the agencies are "inadequate to one degree or another and are generally prone to political interference". Therefore, there are some Latin American and the Caribbean nations that do not have neither agencies, nor are neutral of political interferences⁸² (EIU, 2009, p. 12-13, p. 35).

The regulatory and institutional framework have enhanced in many countries, followed by the update in their PPP, its concession regulations and the creation of new PPP agencies or specialized units within current institutions. Thus, "these regulatory and institutional improvements have been boosted by increasing operational maturity as more countries have gained experience with the PPP model" (THE ECONOMIST, 2014, p. 05). Notwithstanding, each Latin American and Caribbean nation has its own legislative and institutional framework. To illustrate the divergent framework and institutions of domestic rules and the interest of the States in the PPP model, containing or not competent agencies and units, it is relevant to quote some legislative examples.

Argentina had its original concession contract law dated from 1967, which was modified in 1989 to regulate private project initiatives and to allow states and municipalities to use it⁸³. In 2000, a new law was enacted "to facilitate projects where the government finances over 40% of investment through deferred payments and private concessionaires provide services" (EIU, 2009, p. 16). The Sector-specific law also passed to set regulating entities for transport and water sectors to control tariff levels and guarantee service quality. The Law n° 1299/2000 and the Decree n° 678/2001

⁸²"Chile is the best in the region; its agencies generally have comprehensive project planning, design and financing expertise (though not necessarily on a consistent basis). Argentina, Brazil and Colombia follow close behind, with some of the necessary expertise in place" (EIU, 2009, p.13).

⁸³The research made by The Economist points out that the Argentinian framework "has enabled over 10,000 kilometers worth of highways to be contracted to private providers, as well as railway projects, ports, and sanitary services". (EIU, 2009, p. 16)

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stated an infrastructure-development trust fund to warrant future financial commitments to concessionaires.

In adopting the PPP model, Brazil has successfully regulated it by a range of norms, as the 1995 Lease Law, the 2004 Private Public Association Law (Law n° 11.079/2004, modified by the Law 12.766/212), the 1986 Public Contracting Law, the 1993 Public Tendering Law and individual laws in nine states⁸⁴. Moreover, contracts with mixed financing by users and the government are submitted “to congressional approval if the state contributes more than 30% of project’s resources” (EIU, 2009, p.17). In 2007, the Brazilian Federal Government launched the Growth Acceleration Program (Programa de Aceleração do Crescimento – PAC), which delivered significant mechanisms to attract investments to infrastructure projects. One of these mechanisms was the Special Incentives Regime for the Development of Infrastructure (Regime Especial de Incentivos para o Desenvolvimento da Infraestrutura – REIDI). In 2012, the Brazilian State launched the Logistic Investment Programme (LIP) for ports, highways, railroads and urban mobility, a fast-track programme to foster implementation of these public works. In this sense, “technical capacity has been the main bottleneck for PPPs, as the government has been working to build institutional knowledge and to ensure that projects are properly structured and launched” (EIU, 2009, p. 27). The concession projects are supervised in its different stages by agencies or local units, but the supervisory responsibilities are not always assigned to the same entity in all cases. For instance, federal-level transport-project operations are supervised by the National Transport Regulating Entity (Agência Nacional de Transportes Terrestres – ANTT); the Ministry of Transport is liable for project planning and design; and the municipalities supervise projects for water and sanitary services (EIU, 2009, p. 27).

Until 2012, Colombia did not have any special law for concessions, but the Colombian State made it possible to contract out public services through the General Public Acquisitions Act (Act n° 80/1993) and other specific sector laws, such as the Transport Law n° 105/1993 and the Debt Law n° 185/1995, authorizing commit funds for highways, facilitating the infrastructure development through concessions. Moreover, the Economic Council of Ministers also handed down resolutions that change some aspects of the regulations, updating them. However, the absence of a concrete definition for much fundamental provisions from the concession contracts lead to many renegotiations, delays and over costs. Because of that, in 2012 was enacted a PPP Law in Colombia, standardizing criteria for the contracts, transforming the adjudication criteria more objective, once the old conditions used to limit the possibilities of renegotiation (MAGRO, 2015, p.32). Besides, “in Colombia, there are no oversight institutions to act as a counterweight to the concessions unit, meaning contracts and their modifications are not publicized and no independent regulatory body oversees service quality” (THE ECONOMIST, 2014, p.12).

Ecuador has two main periods concerning its regulatory concession framework. In 1993, the country instituted the State Modernization Act to delegate public services to private sector, including transport, drinking-water and drainage sectors, as well as it was established a National Council with ministerial powers to supervise PPP processes. In addition, several specific law sectors appeared along the years and, together with the Modernization Act, facilitated the private capital participation in ports, highways, airports and water and drainage systems. However, in 2008 it was enacted a new Constitution followed by some significant changes, for instance, the exclusive competence of the government to ensure universal service provision, ensuring fair prices (art. 314). Another provision is that the State could, only as an exception, delegate the exercise of these

⁸⁴ Because Brazil has a federal structure, the federal district and municipals are able to enact specific legislation.

services out to private sector (art. 316) and the public water and drainage services and the supply of drinking water would be rendered exclusively by State-owned or community bodies⁸⁵.

Nowadays, Mexico also enhanced its legislation to establish a common definition and scope to PPP through the Law of Public-Private Partnership enacted in January 2012, updating the existing normative and creating new mechanisms for the implementation of the partnership at the federal level, being "mandatory at the state level when the federal government provides financing for more than 50% of the project". Mexico has developed a new form of long-term contract to the development of private infrastructure services, and notwithstanding, "any commercial risk borne by the state must be specially and explicitly laid out in the bidding documents as well as in the contract for each project". Then, the new PPP law assists the federal government to promote projects for transport, such as inter-state roads, airports, maritime ports and railroads (EIU, 2014, p.37). Finally, "while granting authority is not centralized in a single unit or agency in Mexico, the agencies that do award PPP contracts are not subject to any significant independent oversight" (EIU, 2014, p.12).

Finally, Chile has a well-structured investment evaluation system applicable for public projects as well as PPP projects. The first rule regarding to PPPs was the Law-Decree n° 164/1991, and later, it was enacted the Concession Law (Law n° 900/1996), eliminating impairs to financing projects and implementing maximum terms of fifty years to concessions, besides the majority of them encompass 20 to 30 years. Then, this model law was updated by the new Concession Law (Law n°20.410/2010). In the Chilean territory the concession contracts are subscribed by the Ministry of Public Works (Ministerio de Obras Públicas), Ministry of Finance and the President and the accountability is made by the General Comptroller of the Republic. Moreover, Chile includes the conflict resolution through an *ad hoc* Arbitral Commission to each contract (MAGRO, 2015, p.34). It is worth noting that the "electricity industry has its own legal framework for granting indefinite concessions, and today the vast majority of the electricity-generation industry is in the private-sector hands" (EIU, 2014, p.28).

In summary, the PPP model adopted in the majority of Latin America and the Caribbean countries is bounded to specific subjects important to the development of the concession contracts, such as term duration, supervision criteria and the control of the accomplishment. The financing is usually provided by private entity and, according to the contract, it has been involved also the construction, operation and maintenance risks (transferred to the private sector). "However, the public-sector body remains responsible for policy oversight and regulation, and the infrastructure generally reverts to public-sector control at the end of the contract term" (MAGRO, 2015, p. 33; p. 45-46).

Secondly, the private sector becomes primordial in the maintenance and exploitation of infrastructure projects or in the development of an essential service. They are applied to areas like transport and energy infrastructures, telecommunications, provisions of potable water and sanitation, including an array of projects such as construction and operation of ports, bridges, canals, airports, railways and waste management facilities. Nowadays other public services as education and health, as well as jails are also target to PPPs model (ECLAC, 2015a, p. 103).

The experience of Latin American States in PPPs is diverse for each country and has been divided among many different types of projects. The majority of them are related to transports (mainly the

⁸⁵ It is important to highlight that these initiatives left the concessions vulnerable to expropriation and obligatory contract changes as well as diminished the likelihood of new projects. After that, Ecuador has already tried to annul existing concessions, as the Port of Manta, the Quito airport and selected drinking-water concessions (EIU, 2009, p. 20).

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road infrastructure) and energy and they overcome also the projects of water supply, sanitation⁸⁶ or telecommunications.

Chile is the most successful example of the implementation of PPPs in Latin America and almost half of the public investments have been conducted through concession programs, even though they are centralized at the national level. The country is "at or near to the top of all of the category rankings, including its regulatory and institutional framework, but lags in terms of subnational activity" (EIU, 2014, p. 10). One example of PPP in Chile is the first concession to use this bidding mechanism formally stated by the Chilean Concession Law: the process for the Route 68, Santiago-Valparaíso. Route 68 consist in a road connecting the city of Santiago to Valparaíso and the concession was granted in 1998, after a 3 year preparation process that included the definitions of the final engineering, of environmental projects, of traffic studies and of the regional impact (WORLD BANK, 2012b, p.101). The Chilean State has initiated its PPPs also in projects in education and health areas as the hospital complex of Salvador Infante, from Maipú and La Flórida. And concerning the the penitentiary sector, in 2000 was launched the Concession Program to Penitentiary Infrastructure of Chile (Programa de Concesiones de Infraestructura Penitenciaria de Chile).

Brazil has broad experience with PPPs in the national and subnational level, but the subnational PPPs surpassed federal-level in volume. There have been 66 PPP contracts signed at the state and city levels (and three states account for one-third of total PPP activity, Minas Gerais, Bahia e São Paulo), compared with just one at the federal level (EIU, 2014, p.24). At the subnational level, Minas Gerais lead the PPPs with seven PPP contracts, a "broad PPP programme spanning education, health, solid waste management, roads, airports and an internationally renowned prison complex" (EIU, 2014, p.15) and green PPPs in the eco-tourism sector.

Furthermore, Brazil has seen a wave of investment in airports due to the 2014 World Cup and the 2016 Olympic Games. The State operator Infraero has awarded concessions to consortiums for some of the country's largest airports, at the same time maintaining a minority stake in each of the concessions. In 2012 has begun the first phase of airport concessions in Brazil included the International Airport of Brasília, President Juscelino Kubitschek, International Airport of Guarulhos/Cumbica - André Franco Montoro and Viracopos Airport, in Campinas⁸⁷. The second phase contemplated the contemplated the International Airport of Rio de Janeiro - Galeão and the International Airport of Belo Horizonte - Tancredo Neves (Confins). In July, 9th 2015 was lauched the Investment Plan in Logistics 2015-2018, which includes the concession over four more airports from Infraero Network: Pinto Martins International Airport, in Fortaleza; International Airport of Salvador- Deputado Luís Eduardo Magalhães, in Salvador; International Airport of Florianópolis - Hercílio Luz, in Florianópolis and Salgado Filho's International Airport, in Porto Alegre (INFRAERO, 2015).

In July 2012, with support from the International Finance Corporation (IFC), Brazil's first public-private partnership in the education sector was launched, with the purpose to construct 32

⁸⁶According to José Magro, Latin America is the second most active region in the development of PPP in water supply and sanitation (MAGRO, 2015, p. 24).

⁸⁷ The consortium Inframérica, composed by the Argentina Corporación América and Engevix Group, has maintained and operated International Airport of Brasília since 2012 on a 25-year concession contract and the same consortium also built and operates the new airport of Natal (the only airport in Brazil in which Infraero does not have a stake in the concession). São Paulo's Guarulhos Airport reopened in 2014 after a US\$ 1.3 billion upgrade by its operators and Belo Horizonte's airport was supported by a 30-year concession in 2014, which has pledged to invest US\$ 660 million, gained by the Invepar Consortium, composed by Invepar and ACSA from South Africa. Rio de Janeiro's airport (Galeão) is operated by Odebrecht (a leading construction company in Brazil) and Singapore's Changi Airport, which will invest a further US\$ 888 million before the start of the Olympic Games in 2016.

preschool facilities and five primary schools in Minas Gerais, a 20-year concession won by the consortium led by Odebrecht. This consortium will also promote non-pedagogical services, maintenance and security and the municipal authorities are free to concentrate the quality of educational delivery⁸⁸. In April 2009, the IFC together with the Bahia state government implemented a PPP with the purpose to operation and management of the Hospital do Subúrbio, which is already under construction. The project involves “a ten-year concession contract that transferred the hospital’s operation and management – including clinical and non-clinical services – to the private partner” (EIU, 2014, p. 16). This is the first PPP in the healthcare sector in Brazil.

In Colombia, it is worth noting the experience in the concession made in the El Dorado Airport. In the Master Plan of 2001 it was provided the prevision of air traffic based on projections of predictable elements from socioeconomic basis, putting Bogotá as an international hub moving almost the double of the previous demand expected. The concession contract was for the construction of the second runway of the El Dorado Airport and its complimentary works, as provision, installation, equipment testing and maintenance of the second runway, the previous runway and additional works. Moreover, the Special Civil Aeronautics Administrative Unit (AEROCIVIL), the concession granting authority, guarantees the concessionaire a minimum flow of revenues and “the traffic guarantees (transactions) were granted for each kind of aircraft during the 20 years of the concession, which multiplied by the tariffs proposed by the concessionaire, would result in the guaranteed minimum revenues” (WORLD BANK, 2012b, p.97). The concession for the El Dorado Airport was granted to the CODAD S.A. Development Company on May 15th, 1995, which involved firms such as Ogden Corporation (USA), Dragados y Construcciones (Spain) and Conconcreto (Colombia) and two private shareholders.

According to the Programme for the Promotion of Public-Private Partnerships in Mexican States (Programa para el Impulso de Asociaciones Público-Privadas en Estados Mexicanos—PIAPPEM) and the International Development Bank’s Multilateral Investment Fund (MIF), Mexico has 20 subnational PPPs and 29 national PPPs and concessions at the federal level⁸⁹ (EIU, 2014, p.16). A good example of the implementation of PPP in Mexico is the Residual Water Treatment de Atotonilco de Tula (La Planta de Tratamiento de Aguas Residuales de Atotonilco de Tula), the largest wastewater treatment plant in Mexico and one of the largest of the world, an investment of US\$ 793 million. The plant will have the capacity to treat 1.99mn cubic per day and the first phase of the plant - pre-treatment - was completed in October 2012 (BUSINESS MONITOR INTERNATIONAL, 2013, p.44).

The third element addressed that the private sector must control the risks, which the market can assume or diversify and transfer to the public sector the risks that anyway can be controlled. In Latin America there are modalities of allocation of different risks, especially the risk of traffic or application, which once it is transferred to the private sector, which often requires certain guarantees or commitments from of the government. However, the private sector, facing the poor financial performance of some projects and high financial, technical, environmental and political risks, it has not enough confidence to tackle this type of financing, leading to the need of some public financial support, through guarantees or grants, which reduce some of these risks (MAGRO, 2015, p.40).

A financial guarantee is defined as “a non-cancelable indemnity bond that guarantees timely payment of interest and repayment of principal to the buyers (holders) of a debt security,

⁸⁸Moreover, “the private partner will be assessed according to a set of performance and availability indicators, which will then be assessed on a cost basis” (THE ECONOMIST, 2014, p.15)

⁸⁹ It is important to highlight that both Brazil and Mexico “face some similar challenges, such as administrative capacity, contract design, financing issues and political will” (THE ECONOMIST, 2014, p.24)

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therefore, the guarantor pays in case the first party (issuer of the security) fails to do so" (THE WORLD BANK, 2012a, p. 15). A financial guarantee can be also "defined as a "credit enhancement" product, a technique used by debt issuers to raise the credit rating of their offering, and thereby lower their financing cost" (THE WORLD BANK, 2012a, p.40).

In PPPs structures, the financing of projects are established through the Project Finance technique, "whose main payment source is the cash flow that will be generated by the Project itself" (THE WORLD BANK 2012a, p.38). It is the sponsor who will be full liable in the follow cases: (i) when the construction stage is guaranteed (ii) in case the Project's income is affected (proper management) (THE WORLD BANK 2012a, p.38). Thus, the financial structure aims to guarantee that the project has an appropriate financial strength for the objective risk level to be achieved.

4.3.2. Financial guarantees

The two types of financial guarantees are: (i) Full Wrap, and (ii) Partial Credit Guarantees (PCGs). A full wrap guarantee has the benefit of being able to tell investors that "all risks" of the project are covered; it is unconditional, irrevocable and covers 100% of each and every principal and interest. The Partial Credit Guarantees guarantee timely payment, "they are unconditional but for the "limit amount", normally a percentage of the principal amount of the guaranteed obligation" (THE WORLD BANK, 2012a, p.43).

According to the World Bank:

"The use of financial guarantees with monolines for the financing of PPP projects has been a best practice in itself. It brought about a structural innovation into the PPP finance business, traditionally dominated by the commercial banks which provided long term loans to finance the projects. The financial guarantees were able to open access to the capital markets, to the large institutional investors who have strong appetite to invest in long term instruments with fixed rate, a type of financing rarely seen or available in the bank market" (THE WORLD BANK, 2012a, p.18).

Moreover, the guarantees also can be granted in order to generate the necessary support that PPP projects require to be financed by the banking and capital markets. As examples of public financial guarantee in Latin America and the Caribbean, there is the Financial Guarantees provided by Fondo Nacional de Infraestructura (FONADIN) and Banco Nacional de Obras y Servicios Públicos S.N.C. (BANOBRAS) in Mexico. BANOBRAS is the development bank of the Mexican Federal Government, with the main objective to support, "through an array of financial products and services, the subnational public sector, composed by the Mexican states and municipalities, as well as private sector clients involved in the development of infrastructure through PPPs" (THE WORLD BANK, 2012a, p.50)⁹⁰. Finally, BANOBRAS Bank offers two categories of financial guarantees: (i) Partial Credit Guarantees, in which they are denominate "Timely Payment Guarantees" and (ii) Contract Payment Enhancement Guarantee (CPEG).

Another type of public financial guarantee, in Brazil, is the PPP Guarantee Funds (Fundo Garantidor de Parcerias - FGP). The FGP affords payment guarantees for money liabilities assumed by public entities in PPP projects, reducing the risk of government insolvency. According to the PPP Law, this mechanism allows for the government entity to purchase services "through deferred payments in

⁹⁰ According to the World Bank "PPP projects have been supported by long term credit facilities conceded by the bank, even though, since 2007, BANOBRAS added financial guarantees to their portfolio and has a specialized team in charge of this product" (THE WORLD BANK, 2012a, p.50).

the time which are related to the availability of the services and which allow the possibility for such government payments or commitments to be guaranteed" (THE WORLD BANK, 2012a, p.20). Whether the fees paid by users are not enough to fund the infrastructure and the service costs, then the government is allowed to complement these fees with deferred payments or subsidies. Therefore, the fund is an important mechanism providing the necessary security to private investors under the PPPs.

There are alternative models used in the Brazilian states aiming to guarantee the payment of PPP projects, as "the creation of special accounts in banks (escrow accounts), trustees, and pledge of the committed revenues have allowed to make long-term financing with domestic banks feasible" (THE WORLD BANK, 2012a, p.23). In the case of Bahia state, the Agência de Fomento do Estado da Bahia S/A-DESENBÁHIA (Development Agency of the State of Bahia S/A) has allowed the state resources to be moved in a separate bank account, with the specific purpose to guarantee PPP contracts where the state of Bahia is acting as a public partner.

One frequent mechanism of guarantee in Latin America is the Minimum Income Warrants (or minimum guaranteed revenue). It consists in a system provided by the users or, when the cost exceeds users capacity to pay, is cofinanced by the Government. The contract sets service indicators reflecting the requirements of the service to be provided to users and its price; it also specifies arrangements for evaluating the service provided by setting levels of service. On the basis of these relationships and of the features of the project, the risk allocation between the concession grantor and the concessionaire is established (THE WORLD BANK, 2012a, p. 23)⁹¹. Latin American States that have used this type of guarantee extensively have been Chile, Colombia and Peru.

For instance, Chile and Colombia implemented in its PPPs models specific mechanisms to mitigate risks through minimum income warrants and the concession of variable deadlines in order to the accumulated incomes, updated or not. Mexico also established the Compromise of Subordinated Input, a liquidity mechanism which deals with the concession of guarantees by the government to facilitate to the concessionary the amortization of the loans from the finance contract (liquidity guarantees to debt service). Finally, Peru also assumed the risks of infrastructure constructions, an event that occurred with the construction of the four concessions, which encompasses the Transoceanic Road project (MAGRO, 2015, p. 40).

However, even with the private infrastructure and services investment increasing, the financial facilities to support PPPs have developed in a slow manner since 2012, "indicating little chance in terms of deepening financial markets or tools and products that facilitate private infrastructure investment" (EIU, 2014, p. 10).

According to José Manuel Vassallo Magro, the main problems and shortages in the execution of PPPs in Latin America are related to licensors administration, for instance the unknown of the bidding process, the failure of accomplishment of the concession contracts and the absence of a juridical and transparent framework. In this sense, this situation is bringing difficulties in the renegotiation of some concessions in the airports of Honduras, the rescission of the concession

⁹¹ According to the World Bank: "In Mexico, it was the economic situation, the high tolls and the existence of alternatives to the toll roads that finally caused the collapse of the Mexican concessions. Yet the concessions were structured with minimum guaranteed revenue and termination clauses allowing operators to terminate the contract and return it to the Government, together with clauses establishing that the assets being returned should be appraised at the value of the intangible asset or the value of the asset less what had already been recovered. With these clauses, the Government ended up paying roughly the cost of the unrecovered investment, although in the Mexican case tolls had been reduced to levels that would not enable the operator to recover its investment if the concession had continued" (THE WORLD BANK, 2012b, p.38).

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contract in Argentina and the suspension of many concessions because of the government change in Ecuador. Other problems regard to the pay increases in a concession tolls in Peru, the suspension of a bidding process in Uruguay and the rescue of several road concessions in Mexico (MAGRO, 2015, p.26).

Some governments of Latin American countries have institutions, mainly development financial bank institutions – with government participation – to finance part of the investment project infrastructures that are not assumed by the private sector. In the region, financing by development banks has been historically very important to carry out infrastructure projects. For example, in Brazil, most of the projects and road infrastructure construction of sports infrastructure in the 2014 World Cup was financed with a fund of US\$ 2,90 billions from the National Development Bank (BNDES) from Brazil. For its turn, Mexico also provided significant amounts of investment for development different infrastructures for years, recurrent grants loan guarantees on private participation projects through the BANOBRAS.

In Chile, the most used financing mechanism has been the model Project Finance and the first infrastructure concessions were financed through domestic banks, but the largest volume of investment that would be needed in the country for the development of infrastructure was led by the Public Work Ministry. As a result, several years ago, increasing of financing by foreign banks began, mainly Spanish banks.

The multilateral banks have also been very active in financing infrastructures in Latin America. In Chile, for instance, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), both connected to the World Bank; the Interamerican Development Bank (IDB), the European Bank for Reconstruction and Development (EBRD) and the Asian Development Bank (ADB) are financing projects (MAGRO, 2015, p.42).

However, along the years, some countries changed the form of financing. The financing scheme made by Mexico can be distinguished in three different stages. Initially, the first PPP financed with contributions of capital from both public and private capital, through loans from local banks. Subsequently, under the National Highway Program, concessionaires left to receive aid from the government and the funding came entirely from the private sector, through capital contributions and loans bank. However, in recent APPs carried out within this program, the government granted partial investment subsidies in cases when the highway did not offer sufficient profitability to the private sector. This program resulted in major financial problems, mainly in the concessions that had acquired debt with international banks, which led to the need to rescue 23 of the 52 highways that had been granted. This resulted in significant losses of capital and the injection of repayable funds by the Federal Government, which had to admit the debt bank. Mexico has been in continuous search for new funding sources, as the debt bonds and credit hiring structured by central governments and subnationals. Nowadays, this nation is promoting financing infrastructure through private equity funds, through Development Certificates, with the aim of attracting resources from pension funds and insurers. To obtain successful growth thereof, it is proposed that funds infrastructures provide capital for infrastructure development of all kinds, and provides it with a rigorous analysis of the projects to capture the liquidity of the pension funds (MAGRO, 2015, p.43).

4.3.3. The BRICS Business Council

In the context of the prioritization of infrastructure and public work investments, the foundation of the BRICS Business Council, created in the Durban Summit, in 2013, and the participation of this forum to enhance investments through coordination between the private

initiatives in the BRICS countries is remarkable. The purpose of the group is turning a consultative forum, creating a joint channel between the governments and the business sector in the BRICS, in order to respect the view of the private sector in negotiations and cooperation initiatives between the States. The proposed areas of cooperation contained in the Declaration on the Establishment of the BRICS Business Council, elaborated in 2013, include infrastructure at the first position, followed by mining and mineral beneficiation, pharmaceuticals, agro processing, services including financial, ICT, healthcare and tourism, manufacturing development, small, medium and macro enterprise development, sustainable development, skills development and the transfer of technology (BRICS BUSINESS COUNCIL, 2013).

In July 9th, 2015, in the II BRICS Business Council Summit, occurred in Ufa, Russia, there was delivered a set of actions and initiatives to increase trade and investment opportunities for the group of countries. The Declaration on Investment Principles emphasizes the importance of promoting domestic environments conducive to attract foreign investments including stable growth, adequate infrastructure, adequately developed human resources and protection of intellectual property rights (BRICS BUSINESS COUNCIL, 2015a). In the Second Annual Report 2015-2016, it is provided in the Key Recommendations for the BRICS Governments the necessity of cooperation in the infrastructure development. According to the document, invest in infrastructure, particularly in integral development projects, ensure not only the basis for economic growth, but also for improvement of the population's quality of life, promote environment preservation; and cooperate with the existing regional physical integration initiatives within the five countries (BRICS BUSINESS COUNCIL, 2015a).

In this context, it was created the infrastructure Working Group, aiming at tracking existing regional physical integration initiatives within the five BRICS countries. It focuses attention on the Regional Integration Priority Agenda (IPA) in selected regions raised in the Infrastructure Working Group Report as priorities in the 2015-2016's mandate. The first is the Integration Priority Project Agenda in Latin America, "made of national, binational and multinational projects with a high impact on the physical integration of the region. The projects seek to increase different transportation modes in a viable and suitable way" (BRICS BUSINESS COUNCIL, 2015a, p.42). Besides, it is specified that all the members of the Infrastructure and Planning Council (Conselho de Infraestrutura e Planejamento - COSIPLAN) are represented, and there is a balance in the number of projects endorsed by each of them. The others projects are the Programme for Infrastructure Development in Africa (PIDA), the Belt and Road Initiative and the Trans-Eurasian "Razvitie", both in Eurasia.

Thus, it is worth noting the disposal of the New Development Bank towards infrastructure projects not only in the BRICS countries, but also in Latin America and the Caribbean as a whole, as the first issue of the Working Group in Infrastructure. The purpose is to support new projects to the respective regions, including South America, as well as to improve the existing infrastructure in the countries. It is still not explicit the form of the projects able to be financed, but considering the high incidence of PPPs in the region, the financing of this type of association is expected.

Business Interests related in the BRICS Business Council Second Annual Report (2015) (organized by country and respective region)

The business interests were listed by country and respective region, considering the affected countries.

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Brazil

1. Bioceanic Railway Corridor Paranaguá – Antofagasta [Brazil, Argentina, Chile, Paraguay];
2. Northeast access to Amazon River [Brazil, Colômbia, Equador, Peru];
3. Road Connection Foz do Iguaçu – Ciudad del Este – Asunción – Clorinda [Brazil, Argentina, Paraguay];
4. Navigation improvement in the Plata River Basin [Brazil, Argentina, Bolívia, Paraguay, Uruguay];
5. Transoceanic Corridor Brazil – Peru [Brazil, Peru];
6. São Luiz do Tapajós Hydro Power Plant [Brazil];
7. TCP terminal in Paranaguá Port [Brazil];
8. Lucas-Campinorte Railway [Brazil];
9. Rio de Janeiro-São Paulo High Speed Railway [Brazil]
10. Madeira Amazonas Logistic Corridor [Brazil]
11. Santarém – Tapajós Logistic Corridor [Brazil]
12. Tocantins Logistic Corridor [Brazil]
13. East-West Logistic Corridor [Brazil]
14. The equipment transportation and logistics opportunities in the wind power projects in Brazil [China];

Russia

1. Moscow-Kazan-Yekaterinburg High Speed Railway Project [Russia];
2. The port investment and terminal operation projects in Russia [Russia];

India

1. The project of Bank of China establishing branch in Mumbai [India];
2. Mysore-Bangalore-Chennai railway project [India] ;
3. The six-lane road and bridge project in Bihar [India];

China

1. “The Silk Road Economic Belt and 21st Century Maritime Silk Road” National Initiative (One Belt and One Road). [China and other countries];

South Africa

1. The investment and equipment transportation opportunities in nuclear power projects in South Africa [South Africa];
2. The equipment transportation and logistics opportunities in the wind power projects in South Africa [South Africa];
3. The project of rebuilding the old Durban airport to a large sea port [South Africa];
4. The THABAMETSI coal power plant project in South Africa [South Africa];
5. Durban-Johannesburg high speed railway project [South Africa];
6. Free State N8 Corridor project [South Africa].

5. Final remarks

In summary, the PPPs have as main benefit to “provide funding for infrastructure investment without exerting pressure on the fiscal space, since they mobilize private financial resources”

(ECLAC, 2015a, p.104). Moreover, it is an opportunity to incorporate the technical expertise of the private sector, bringing new technologies and innovation to foster efficiency for the public services, transferring the responsibility and tasks to private sector and certain risks. The ECLAC highlights in its study that it is an opportunity to implement larger projects, taking advantage of economies of scale and increasing profitability. Another benefit is the financial sustainability, in which “the foundations of the financial framework must be laid at the inception of relationship of trust, implementation of results-based tool, cost-effectiveness analysis, evaluation mechanisms and constant monitoring” (ECLAC, 2015a, p.105).

For all these reasons, coordination between public and private sectors through PPPs consist in an important issue to attract more investments and foster development and welfare to the Latin American and the Caribbean countries. As demonstrated, the region is very favorable to PPPs and has so many different well succeeded examples of PPPs that reinforce the success of the initiative, being accepted to the public and private sectors as well as to civil society.

IV. THE NEW DEVELOPMENT BANK

1. Introduction

For some, BRICS' countries initiative to establish a development bank and a contingent reserve agreement has a somewhat 'empty symbolism' (Eichengreen 2014). For others, that means a step forward to a process of progressive institutionalization of the BRICS brand (Stuenkel 2015:97). In all cases, both the New Development Bank (NDB) and the Contingent Reserve Agreement (CRA) have resulted in formal agreements with some degree of rights and obligations for each of the BRICS.

This chapter analyzes the main features of the New Development Bank and the Contingent Reserve Agreement approved by BRICS' countries in the last year and yet to be implemented. After the formal inclusion of South Africa in the 2011 Summit in Sanya, many have raised their concerns on BRICS' countries capacities to engage in something concrete together (Patel 2012). Others have argued that the BRICS' countries should work on a *non-western vision* of international politics (Saran and Sharan 2012). During the 2012 Summit in New Delhi, the Delhi Declaration stated that the leaders of BRICS' countries had been considering *the possibility of setting up a New Development Bank for mobilizing resources for infrastructure and sustainable development projects in BRICS and other emerging economies and developing countries* (para. 13). Also, this initiative should be a *supplement* to other multilateral and regional financial institutions' efforts for global growth and development. The Delhi Action Plan determined that experts on the matter would meet in order to advance on the feasibility and viability examination of a NDB for the subsequent summit.

In the 2013 Summit in Durban, BRICS Leaders reaffirmed in the Durban (eThekweni) Declaration the hurdles faced by developing economies in the infrastructure sector *due to insufficient long-term financing and foreign direct investment, especially investment in capital stock* (para. 9). BRICS leaders also welcomed the report from their Finance Ministers (see 2012 Delhi Declaration) attesting that a development bank would be feasible and viable. Furthermore, they agreed to establish the *New Development Bank* (NDB) with an initial authorized capital of US\$ 100 billion.

The 2013 Durban Declaration added the discussion of a Contingent Reserve Agreement (para. 9-11) in which Finance Ministers and Central Bank Governors would build a financial safety net. In accordance to the Declaration, *the establishment of a self-managed contingent reserve agreement would have a positive precautionary effect, help BRICS countries forestall short-term liquidity*

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pressures, provide mutual support and further strengthen financial stability (para. 10). Such CRA would have an initial size of USD 100 billion.

BRICS' countries also informed that their Export-Import Banks (EXIM) and development banks have reached two major agreements: (i) the *Multilateral Agreement on Cooperation and Co-financing for Sustainable Development*; and (ii) the *Multilateral Agreement on Infrastructure Co-financing for Africa* (para. 12). That additional initiative puts into question whether the NDB will largely focus on general developing countries or on African economies for providing funds for infrastructure projects.

In spite of the concerns on the rivalry that might be created between the NDB and other financial institutions and development banks, para. 14 of the 2013 Durban Declaration reassure the following:

14. We emphasize the importance of ensuring steady, adequate and predictable access to long term finance for developing countries from a variety of sources. We would like to see concerted global effort towards infrastructure financing and investment through the instrumentality of adequately resourced Multilateral Development Banks (MDBs) and Regional Development Banks (RDBs). We urge all parties to work towards an ambitious International Development Association (IDA) replenishment.

This paragraph is followed by the intention of each BRICS country to consult with their Permanent Missions and/or Embassies in New York, Rome, Paris, Washington D.C., Nairobi and Geneva. In other words, BRICS countries were to consult with all their diplomatic structures placed at the headquarters of all relevant financial institutions and development bank for the developing world. That might indicate that the NDB will possibly dispute with traditional multilateral institutions such as the World Bank Group and the International Monetary Fund adequate investment policies for developing economies (Wildau 2015). The 2013 Durban Declaration did not refer to the World Bank Group in any point and, for the IMF, it only urged for the completion of its quota reform in order to strengthen the voice of the developing world. BRICS Leaders also released a Statement on the Establishment of the BRICS-Led Development Bank, which included the CRA.

The 2013 Summit in Durban showed the importance that African countries are gaining amongst BRICS countries. It is not new that the international trade between the African continent and the BRICS countries has slightly grown over the last decade. However, Stuenkel points out an interesting point as to BRICS countries would invest in *the promotion of African infrastructure development through the establishment of a BRICS-Led Development Bank* (Stuenkel 2015:103). If that sorts out to be true, it will be inevitable to wonder 'what about Latin America?'

In 2014, BRICS Leaders finally approved the creation of the first BRICS institution: the New Development Bank (NDB). The CRA was also adopted at the same summit. The NDB was created bearing in mind that developing countries have insufficient investments in infrastructure and in sustainable development initiatives as stated in para. 11 of the 2014 Fortaleza Declaration. BRICS Leaders have also reminded of the supplementary aspect of the NDB towards *the efforts of multilateral and regional financial institutions for global development* in order to achieve collectively a *strong, sustainable and balanced growth*. In the same document, BRICS Leaders also informed on the conclusion of an agreement to enhancing and strengthening of BRICS countries financial ties among themselves due to the efforts of their own individual development banks.

The 2015 Ufa Declaration reaffirmed the entry into force of the NDB and the CRA Agreements (para. 2) and welcomed the inaugural meeting of the Board of Governors chaired by Russia (para. 15). BRICS Leaders are also expecting the NDB to start receiving the first investment projects by the first semester of 2016 (para. 15), which means a great step towards the main goal of such bank as to *serve as a powerful instrument for financing infrastructure investment and sustainable development projects in the BRICS and other developing countries and emerging market economies and for enhancing economic cooperation between our [BRICS and emerging market economies] countries* (para. 15).

In accordance with the Presidential Message to the Brazilian National Congress the NDB was created to gather resources for infrastructure and sustainable development projects within BRICS countries and in other emerging economies and developing countries. Furthermore, the NDB is created as a supplementary mechanism to other multilateral, regional and national development banks bearing in mind the investment gap in both aforementioned sectors and the rise on investment demands faced by those countries and economies (BRASIL 2015, para. 1).

The Preamble of the Agreement on the New Development Bank (ANDB) states that such initiative is a *powerful instrument for increasing their [BRICS countries] economic cooperation*. The first conclusion drafted from the NDB is BRICS countries concerns on showing effective and institutionalized economic integration in order to respond to international community criticisms on the highly political and less effective agenda led by BRICS countries.

The NDB can support both public and private projects through loans, guarantees, equity participation and other financial instruments (Article 1). Furthermore, the NDB shall act in cooperation with other international organization and financial entities. Projects can also require technical assistance from the NDB.

As for the Contingent Reserve Agreement, BRICS countries have decided to create a structure capable of granting loans and financial help during financial distress in developing countries and emerging economies. Some has said that such structure can challenge or rival the IMF.

2. Main Characteristics

Article 2 of the ANDB establishes that each BRICS country is a founding member of the NDB and an enlargement is possible for borrowing and non-borrowing members (as it happens in the IADB). The only admissibility requirement is to be a member of the United Nations.

The NDB will count on a US\$ 50 billion of subscribed capital and an initial authorized capital of US\$ 100 billion. The voting power in the NDB is determined by the amount of subscribed shares of each member in the capital stock of the NDB. The first US\$ 50 billion of subscribed capital shall be equally distributed amongst BRICS countries.

The Board of Governors, the Board of Directors, a President and a Vice-President are the main decision-making organs of the NDB and the meetings shall take place at the NDB's headquarters in Shanghai, China (Article 3 of the ANDB). The ANDB has also an Annex with the Articles of Agreement of the New Development Bank (Articles of Agreement) in which all the structure and NDB's activities are stretched out. BRICS countries considered, in the Preamble of the Articles of Agreement, that the NDB is necessary to *creating a new international financial institution in order to intermediate resources for the purposes of enhance the economic cooperation amongst BRICS countries, of providing resources for infrastructure and sustainable development projects in the BRICS countries and other emerging economies and developing countries*.

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2.1. Functions and Purposes of the NDB

Article 3 of the Articles of Agreement establishes NDB's main functions. The NDB shall use the resources of the bank to support infrastructure and sustainable development projects, whether public or private in nature, by means of loans, guarantees, equity participation and other financial instruments compatible with sound banking principles. Only emerging economies, developing countries and the BRICS countries can apply for such a support (Article 3(i)).

It is also upon the NDB to decide whether to cooperate with other international organizations, public or private national entities, with special consideration for international financial institutions and national development banks (Article 3(ii)).

The NDB can also provide technical assistance (Article 3(iii)) and support projects that might involve more than one country (Article 3(iv)). Finally, the NDB can create Special Funds to be administered by the Board of Governors (Article 3(v)).

Transparency and accountability are also concerns of the BRICS countries for the NDB operations. Therefore, the NDB shall have its accounts audited in a yearly basis. The results shall be published in a report-format and the NDB shall also inform members on the financial position and profit-and-loss statements in a quarterly basis. These statements shall show the results of the NDB's ordinary operations (Article 14 of the Articles of Agreement). Finally, the NDB shall elaborate its own Rules of Procedures in order to reassure transparency and proceedings for accessing NDB's documents (Article 15 of the Articles of Agreement).

2.2. Headquarters, Membership and Voting Powers

BRICS countries decided that the NDB will have its headquarters in Shanghai and regional offices as necessary to exercise its functions. Article 4.b of the ANDB established that the first regional office shall be in Johannesburg, South Africa.

Brazil, Russian Federation, India, China and South Africa are the founding members of the NDB. Nevertheless, other UN members will, in the future, be able to apply for a NDB's membership (Article 5.b of the Articles of Agreement). A special majority shall be obtained for a new member to be accepted. New members can opt for a borrowing or non-borrowing memberships⁹².

The voting power of each of its members depends on the number of subscribed shares in the capital stock of the NDB. If, for any reason, a member does not comply with any of his duties towards paid-in shares (see Article 7 of the Articles of Agreement), the member is suspended until it complies with its obligations. A suspended member cannot use the percentage of its voting power for which it has not subscribed in the capital stock.

In the Board of Governors, each governor votes for a member and not on the basis of that member's subscribed shares. On the contrary, in the Board of Directors, each director votes on the basis of the subscribed shares that led to his/her election. It is a similar system to the World Bank and the IMF in the sense that the director is elected by a country or a group of country and he/she represents the amount of shares of this country or group of countries. Furthermore, that also means that the vote does not need to be casted as a unit, since the countries he/she would represent might have different opinions in a given situation.

⁹² That is a common policy among investment banks such as the IADB, as shown in Chapter 3.

The general voting rule is simple majority of the subscribed shares. There are some cases in which the voting rule requires a qualified majority, which means that two thirds of the total voting power of NDB Members shall be obtained for a measure to be approved. That would happen if the Board of Governors decides to change the quarterly meetings periodicity of the Board of Directors or even transform it into a resident board (Article 12 (g)). If such thing happens, then the President of the Bank shall serve as the chairperson of the Board of Directors meeting, otherwise, Board of Directors shall remain as a non-resident one. That might also happen if the Board of Governors decides upon the establishment and the rules for the administration of special funds (Article 23).

Finally, there is the special majority voting rule, which means that not only the two thirds of the voting power of NDB Members are required but also that four out five of the founding members approve the measure at stake. There are a certain number of actions that requires a special majority vote to be approved:

TABLE 28
Actions that need a Special Majority Vote for approval

Action	Body	Legal Reference	Brief Description
New Memberships	BoG ²	Article 5(b)	The approval of new memberships requires a special majority vote for approval.
Capital Stock	BoG ²	Article 7(d)	The BoG ² might vote on the increase of authorized and subscribed capital stock of the NDB or even the proportion between paid-in shares and callable shares of each member.
Subscription of Shares	BoG ²	Article 8	The BoG ² can also vote on the number of shares to be initially subscribed by each new member in their accession procedure.
BoD ¹	BoG ²	Article 12(b)	The BoG ² can ascertain a methodology for the election of additional directors and alternates to the maximum of 10 members in the BoD ¹ (5 from founding members and possibly another 5 after new accessions).
President and Staff	BoG ²	Article 13(a)	The BoG ² can remove a President from office by a special majority vote.
Methods of Operation	BoG ²	Article 19(d)	It is also possible to approve a general policy to develop NDB's operations for public and private projects submitted by non-members. However, the project in reference must be of the interest of a member to be voted by the BoG ² .
Methods of Operation	BoD ¹	Article 19(e)	The BoD ¹ can approve a project – public or private – originated in a non-member.
Suspensions	BoG ²	Article 37(a)	The BoG ² can only suspend a member for failing to fulfill any of its obligations to the NDB by a special majority vote.
Termination	BoG ²	Article 41	The BoG ² can decide to terminate the NDB's operations.
Distribution of Assets	BoG ²	Article 43	If a termination decision is approved, the BoG ² is also responsible for distributing the assets to members on the account of their subscriptions to the capital stock of the NDB.
Amendments	BoG ²	Article 44	The BoG ² can amend the Articles of Agreement if a special majority vote is reached.

Source: *Articles of Agreement of the Agreement of the New Development Bank (2014)*. ¹BoD: Board of Directors; and ²BoG: Board of Governors.

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The voting system obviously favors the founding members of the NDB and it is crystal clear that the Board of Governors has essential attributions. The Board of Governors concentrates the majority of the cases that a special majority vote system is required. It is also worth noting that only two cases requires a qualified majority, which means that the NDB has highly focused in a more restrictive voting system in order to invest in almost all consensual decisions amongst founding members – at least in the earliest years of the bank activities.

2.3. Subscribed and Authorized Capital and Shares

The initial authorized capital of the NDB is of US\$ 100 billion (Article 7(a)). This capital shall be divided into one million shares of US\$ 100 thousand par value each (Article 7(b)). One share is the minimum amount for a single country to subscribe for participation.

The initial subscribed capital of the NDB is of US\$ 50 billion. Such subscribed capital stock shall be divided into callable shares and paid-in shares in a proportion of four to one, which means that callable shares will worth US\$ 40 billion and paid-in shares will consist of US\$ 10 billion of par value (Article 7(c)). The Board of Governors, by a special majority, can approve an increase of the authorized and subscribed capital stock of the NDB – including the proportion of callable and paid-in shares – for which each member shall have the opportunity and not the obligation to subscribe. The capital stock of the NDB has to be reviewed by the Board of Governors in each five-year interval (Article 7(e)).

Founding members shall subscribe to an amount of shares described in Attachment 1 of the Articles of Agreement as follows:

Attachment 1

Shares of Initial Subscribed Capital Stock of Founding Members:

Each founding member shall initially subscribe 100,000 (one hundred thousand) shares, in a total of ten billion dollars (US\$ 10,000,000,000), of which 20,000 (twenty thousand) shares correspond to paid in capital, in a total of two billion dollars (US\$ 2,000,000,000) and 80,000 (eighty thousand) shares correspond to callable capital, in a total of eight billion dollars (US\$ 8,000,000,000).

It means that each founding member shall have 100,000 shares of initial subscribed capital stock divided in 20,000 shares of paid in capital and 80,000 shares of callable capital, in which each share is worth USD 100,000. In addition, there shall be no authorization to any member to increasing subscribed shares or right to waive them, which effect is to reduce founding members' voting power below 55% of the total voting power or to increase the voting power of non-borrowing members' above 20% of the total voting power. Furthermore, a non-founding member cannot possess more than 7% of the total voting power individually (Article 8(c)(i)(ii)(iii)).

All shares are only transferable to the bank and they cannot be pledged or encumbered (Article 8(f)). Following the same path, members cannot be liable for NDB's obligations and members' liability on their shares resides only on the unpaid portion of their issue price (Article 8(d) and (e)).

Initially subscribed payments for paid-in capital stock of the NDB shall be made in seven installments throughout the next seven years. The Board of Governors is responsible for determining the dates for the payment of each installment. The Table below shows projections on the date of the payment of each installment taking into consideration that the Agreement on the NDB entered in force in July 2015.

TABLE 29
Scheduled Installment the Initially Subscribed Payments per country

Installment	When payments are likely to happen¹	Paid in capital per country
1 (after six months)	January 2016	US\$ 150,000,000.00
2 (after 18 months)	July 2017	US\$ 250,000,000.00
3 (after 1 year)	July 2018	US\$ 300,000,000.00
4 (after 1 year)	July 2019	US\$ 300,000,000.00
5 (after 1 year)	July 2020	US\$ 300,000,000.00
6 (after 1 year)	July 2021	US\$ 350,000,000.00
7 (after 1 year)	July 2022	US\$ 350,000,000.00
TOTAL	July 2022	US\$ 2,000,000,000.00

Source: Articles of Agreement 2014. ¹The Agreement on the New Development Bank entered into force was in July 2015

In accordance to Attachment 2 of the Articles of Agreement of the NDB, founding members shall make the first subscription of initial shares on January 2016, since the Agreement entered into force on July 2015. In 2016, the NDB shall receive US\$ 150 million from each founding member, which means a US\$ 750 million total. The rest of the installment schedule will take place until July 2022, when the last installment shall be paid by each founding member, which means that the NDB shall have US\$ 10 billion in paid-in capital stock from BRICS countries.

As for callable shares, which will compose the callable capital stock of the NDB, they will only be subscribed by demand of the NDB itself in order to “meet its obligations incurred on borrowing of funds for inclusion in its ordinary capital resources or guarantees chargeable to such resources”.

On the demand of the NDB, the founding member may choose whether it would prefer the payment to be in convertible currency or in the currency required to discharge the obligation of the NDB for the purpose of which the call is made. That means that if the bank calls founding members to subscribe a certain amount of callable shares for meeting an obligation in RMB, it means that each founding member can choose between paying their share in USD or in RMB.

When the NDB decides upon calling members to subscribe some of their callable shares, it has to make it in an uniform way so no founding member will contribute with more shares than the other in such occasions.

2.4. Board of Governors

All the powers of the NDB are entrusted to the Board of Governors (BoG). It consists of one governor and one alternate pointed out by each member. There is no procedure for each member to follow in order to select its governor. The only requirement is that the governor appointed shall be at ministerial level. One of the governors shall act as the chairperson of the BoG in a one-year term.

The BoG must meet at least once a year by its own will or by the calling of the Board of Directors (BoD). A meeting to happen requires the presence of the majority of the governors and two thirds of the total voting power (Article 11(d)).

In order to expedite the process, the BoG may establish a regulation with procedures for Directors to obtain the BoG approval without the need of a BoG meeting (Article 11(e)).

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A governor shall receive no compensation and it is upon the Board of Governors to rule on the salary and terms of the contract of service of the President of the NDB (Article 11(g) and (h)).

The main functions of the Board of Governors are enshrined in Article 11(b):

TABLE 30
Board of Governors' Powers

1.	Admission and conditions of the admission of new members;
2.	Increasing or decreasing of capital stock;
3.	Suspending of a member
4.	Amending the Agreement
5.	Deciding appeals from interpretations of the Agreement given by the Directors;
6.	Authorizing the conclusion of general agreements for cooperation with other international organizations;
7.	Determining the distribution of the new income of the NDB;
8.	Terminating the operations of the NDB and distributing its assets;
9.	Deciding on the number of additional Vice-Presidents;
10.	Electing the President of the NDB;
11.	Approving proposals by the Board of Directors to call capital;
12.	Approving the General Strategy of the Bank every five years;
13.	The Board of Governors also keeps full power to exercise authority over any competence described in Article 12(a) of the Board of Directors.

Source: Articles of Agreement of the Agreement of the New Development Bank (2014). ¹BoD: Board of Directors; and ²BoG: Board of Governors.

The Board of Governors is the ministerial level board responsible for making the main decisions on the operation of the NDB and criteria for accession of new members and authority to conclude cooperation treaties with other international organizations. Therefore, it is within the Board of Governors that any cooperation among the NDB and any Latin American institution shall be assessed.

2.5. Board of Directors

The Board of Directors (BoD) is responsible for the day-to-day operations of the NDB. The BoG can delegate competences to the BoD when the latter decides so (except for those competences listed in Article 11(b)). Despite of that, the Board of Directors has three activities established by the Articles of Agreement of the NDB:

TABLE 31
Board of Directors' Powers

1.	Taking decisions concerning business strategies, country strategies, loans, guarantees, equity investments, borrowing by the NDB, setting basic operational procedures and charges, furnishing of technical assistance and other operations of the NDB. The Board of Governors can establish general directions to be followed by the Board of Directors in any of those decisions;
2.	Submitting the accounts for each financial year for approval of the BoG at each annual meeting;
3.	Approval of the budget of the NDB; and
4.	It is important to highlight that the BoG can arrogate those competences if the it considers that it can exercise such authority in better terms than the BoD (see Article 11(i)).

Source: Articles of Agreement of the Agreement of the New Development Bank (2014). ¹BoD: Board of Directors; and ²BoG: Board of Governors.

2.6. President, Vice-President and Staff (Article 13)

The President is the chief of the operating staff of the NDB and he/she shall conduct the day-to-day business of the bank under the supervision of the Directors. The President must also be a national of one of the founding members in a rotational basis. Furthermore, the President cannot also be a Governor or a Director. However, he/she can participate in the Board of Governors and/or the Board of Directors meetings but he/she cannot vote. A special majority is required for the Board of Governors remove the President from office.

As chief of the operating staff, the President is responsible for admission and dismissal of officers and staff as well as recommending the admission and the dismissal of Vice-Presidents to the Board of Governors. The President also heads the Credit and Investment Committee, which is responsible for ruling on loans, guarantees, equity investments and technical assistance.

There are as many Vice-Presidents as the number of founding members expect for the member whose national is holding the Presidency of the NDB. The Board of Governors is competent to appoint Vice-Presidents on the recommendation of the President. The Board of Directors establishes what functions should be performed by Vice-Presidents in the administration of the NDB.

The first Vice-Presidents shall have a 6-year term. The next ones and the President shall have a 5-year term without reelection.

The President, Vice-Presidents and Staff Members shall take economically-based decisions only in an impartial way and they should abstain from interfering in any political affairs of any member, influence or be influenced by such political matters in their decision-making process. Lastly, the President, Vice-Presidents, Officers and Staff Members ought to discharge their duties on the NDB's behalf and must not be under any other authority. Members shall also refrain from influencing or attempt to influence any of them in the exercise of their duties.

2.7. Credit and Investment Committee

The Credit and Investment Committee (CIC) is headed by the President and composed by the President and Vice-Presidents. Such Committee is responsible for deciding upon loans, guarantees, equity investments and technical assistance. However, the Board of Directors established what the amount limit is to grant such resources and if no Board of Directors member raises an objection within thirty days after the submission of the project to the Board, then, it can be approved.

3. Financing Requirements and Guarantees

Chapter IV of the Articles of Agreement explains NDB's operations. First, the NDB shall decide upon any operation bearing in mind its purpose and functions, as already detailed in Articles 2 and 3. Second, each members' central bank will act as a depository for keeping NDB's holdings of that member's currency and other assets of the NDB (Article 17).

The first part of this section will describe the operations of which the NDB is entitled to, its methods and limits. The second will deal with the principles enshrined in the Articles of Agreement that shall govern NDB's operations throughout time, including special funds (aforementioned). The third part will analyze the borrowing powers of the NDB. Finally, the section will further examine the status and immunities of the NDB for its members.

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3.1. Operations and Methods of Operations

There are only ordinary and special operations (Article 18 of Articles of Agreement). All operations are ordinary if NDB's ordinary capital resources finance them. All operations are special if the resource comes from a special fund (see Article 23 of the Articles of Agreement). Thus, what is NDB's ordinary capital? Article 18(b) provides a list:

- *Subscribed capital stock of the NDB, including both paid-in and callable shares, except such part thereof as may be set aside into one or more Special Funds.* That means that, in general, all subscribed capital stock is ordinary capital unless the Board of Governors has decided upon reserving any amount of it for the creation of a special fund as for Article 23 of the Articles of Agreement;
- *Funds raised by borrowings of the NDB by virtue of powers conferred by Chapter 5 of the Articles of Agreement, on borrowing and additional powers, to which the commitment to calls provided for in item (c) of Article 9 is applicable,* that consists on the use of payments of certain amount of subscribed callable shares to meet NDB's obligations incurred on borrowing funds for inclusion in its ordinary capital resources or guarantees;
- *Funds received in repayment of loans and guarantees and proceeds from the disposal of equity investments made with the resources indicated above.* If a country has borrowed money from the NDB by using resources from the subscribed capital stock or funds raised by borrowings, then the repayment of such loans and guarantees shall return to the ordinary capital stock of the NDB;
- *Income derived from loans and equity investments made from the aforementioned funds or from guarantees to which the commitment to calls set forth in item (c) of Article 9 of the Articles of Agreement is applicable.* If any loan or equity investment is made through a decision of the Board of Governors to call shares from members, then the income derived from that call shall be part of the ordinary capital stock of the NDB; and
- *Any other funds or income received by the NDB which do not form part of its Special Funds resources.* That item practically reaffirms the residual concept of ordinary capital stock of the NDB, which means that everything, in theory, shall be considered as ordinary capital stock except for specifically created special funds that shall follow rules set forth in Article 23.

The NDB shall maintain a very strict separated account for ordinary and special capital resources for using, holding, committing, investing, or disposing in any other way. The (quarterly) financial statements shall demonstrate separately which are ordinary operations and which of them are special operations (Article 18(c)). Ordinary capital resources shall not be used as a form of compensation of losses and liabilities arising out of special operations or other sort of activity derived from Special Funds resources. All expenses shall be accounted for in the specific rubric whether ordinary or special capital resource.

With such strict separation between ordinary and special capital resources, the NDB has determined methods of operation described in Article 19. See Table below:

TABLE 32
NDB's Methods of Operation

Category	List of Operations	Which capacity
General Operations involving the financing of a project.	Public or private projects; public-private partnerships; invest in the equity; underwrite the equity issue of securities; facilitate access of international capital markets	<i>may guarantee; may participate in, make loans of support through any other financial instrument.</i>

Category	List of Operations	Which capacity
	(industrial, agricultural or services). Requirement: it has to be within a borrowing member country.	
General Operations not involving the financing of a project.	Technical assistance Requirement: only for projects that the NDB will support.	Preparation or implementation of projects.
General Operations involving cooperation	Projects in general – within the mandate of the NDB. Requirement: the other institution shall be an international financial institution, a commercial bank or other suitable entities.	may co-finance, guarantee or co-guarantee.
Operations approved by a special majority of the Board of Governors	Authorize the NDB to develop any operation listed above in non-member emerging economies or developing countries. Requirement: the projects shall involve a material interest of a member.	Approve a General Policy
Operations approved by a special majority of the Board of Directors	All operations listed above. Requirement: sovereign guaranteed operations in non-members will be priced in full consideration of the sovereign risks involved.	Approve specific public or private projects in a non-member emerging economy or developing country.

Source: Articles of Agreement of the NDB – Article 19.

The Articles of Agreement also requires the NDB not to exceed the total amount of its unimpaired subscribed capital, reserves and surplus in its ordinary capital resources as much as the total amount prescribed in the regulations of Special Funds in respect of their operations (Article 20). Finally, the NDB shall seek diversification of investments in equity capital refraining from take any responsibility in managing any entity or enterprise in which it has an investment with the only possible exception that such measure is necessary to secure the investment.

3.2. Operations' principles

The NDB has also established some principles by which its operations shall abide. First, the NDB shall follow standard banking principles regarding to all its operations, considering all the risks of each of them and providing adequate remuneration (Article 21(i)).

Second, the NDB shall refrain from financing projects in a country that its government opposes to it (Article 21(ii)).

Third, when assessing or referring to geographical locations, territories or other designations in the design of a country program or strategy, the NDB shall abstain from making any judgement as to the legal or other status of any territory or area (Article 21(iii)).

Fourth, the NDB shall seek diversification of its investments in order to avoid disproportionate amount of its resources to be used in the benefit of any particular member. That clause should prevent a certain geographical area or territory from heavily benefiting NDB's project financing in detriment of other emerging economies and developing countries (Article 21(iv)).

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Fifth, there will be no restrictions concerning the procurement of goods and services from the proceeds of any loan, investment or other financing in the ordinary or special of operations of the NDB. It means that the NDB shall not determine from which country members those goods and services should come from and, in all appropriate cases, the NDB shall make its loans and other operations *conditional on invitations to all member countries to tender being arranged* (Article 21(v)).

Sixth, only procurement in member countries of goods and services produced in member countries are possible in the case of any ordinary operation established by the NDB. However, the Board of Directors can make exceptions for procurement in non-member country of goods and services produced in a non-member country (Article 21(vi)).

Last, the NDB shall oversee the use of the resources provided as loans or guarantees to reassure that they are only used for the purposes for which they were originally granted. Furthermore, the NDB shall consider the principles of economy and efficiency when overseeing such grants (Article 21(vii)).

The Articles of Agreement has also determined terms and conditions for the contracts in which the NDB is part of. Therefore, in the case of loans made, participated in, or guaranteed by the NDB (and equity investments), the contract shall be bound by the terms and conditions in accordance with the policies established by the Board of Directors such as: payment of principal; payment of interest; payment of other fees, charges, commissions, maturities, currency; dates of payment. The NDB shall adopt policies in order to secure its income.

As the NDB shall establish in the terms and conditions rules for payment of currencies, the NDB has also been allowed to finance projects in the local currency of the country of execution of the project in order to avoid currency mismatching (Article 24).

In case of default on any loans in which the NDB has a part of, the NDB shall first considers actions to recover the loans made, participated in or guaranteed by and, only after, the modification of the terms and conditions, except for currency of repayment, which shall remain the same. If the NDB cannot recover the credit in case of default, it shall seek assistance from local authorities of the country in which the operation takes place.

If the loss is inevitable, the NDB shall charge such loss in its ordinary operation in that order: (i) provisions of the NDB; (ii) net income; (iii) against special reserve; (iv) against the general reserve and surpluses; (v) against unimpaired paid-in capital; and (vi) against an appropriate amount of the uncalled subscribed callable capital for which the Board of Governors shall call members to subscribe under the rules of Article 9(c) and Article 9(d).

3.3. Borrowing powers and other attributions

Besides the operations aforementioned, the NDB has also other powers involving borrowing and other activities as for Article 26.

The NDB can borrow funds in member countries or elsewhere. In such case, the collateral or other security shall be furnished with the NDB taking into consideration that: (i) the member country shall approve the sale of NDB's obligations in its territory; (ii) the member country shall approve the NDB's obligations in its territory to be denominated in its currency; (iii) such approval shall also be obtained for exchanging proceeds with no restrictions on any currency; (iv) the NDB shall consider that its borrowing shall be diversified, thus before determining selling any further

obligations in a certain territory, it shall evaluate previous borrowings in other countries, in that country in order to diversify it as much as possible (Article 26(a)).

After obtaining the approval of the country in which the securities are located, the NDB can buy or sell them. Furthermore, the NDB can guarantee securities in which it has invested to make the sale more competitive. In addition, if the securities and guarantees have similar purpose to the NDB's than it can underwrite or participate in the underwriting of securities issued or guaranteed by any entity or enterprise.

All securities issued or guaranteed by the NDB shall have a notice informing that such operation is not an obligation of any government, unless it is determined so, therefore, there should be a notice informing to which government such operation is an obligation to (Article 27).

The NDB can also invest in funds that are not needed in its operations with the purpose for pensions or similar. Lastly, the NDB can establish additional rules necessary to the exercise of such powers since they are consistent with the provisions of the Articles of Agreement, purpose and functions of the NDB (Article 26(f)).

3.4. NDB's status and immunities

BRICS countries conferred full international personality to the NDB with full capacity to engage in contracts, to acquire and dispose of immovable and movable property, and to institute legal proceedings (Article 29).

Any legal questioning or litigation against the NDB shall be taken solely in cases in which the NDB exercises its powers to *borrow money, to guarantee obligations, or to buy and sell or underwrite the sale of securities*. In all other cases, the NDB has immunity from every form of legal process (Article 30(a)). Furthermore, if it shall be the case to litigate against the NDB, such legal process shall take place in a court of competent jurisdiction, which means in the territory of a country in which the NDB has its headquarters, offices, or has appointed an agent for the purpose of accepting service or notice of process or, yet, if such agent has authority to issue or to guarantee securities.

Despite of that, any member or affiliated agency or entity shall engage in a legal process against the NDB. Members and all agencies and entities direct or indirectly connected to them shall make use of the special procedures for the settlement of controversies between the NDB and its members as set forth in Chapter VIII of the Articles of Agreement. If it is an interpretation matter, the Board of Directors is competent to rule on the meaning of any query raised by members with an appeal to the Board of Governors that shall give the final decision. However, the decision of the Bank of Directors may be applied while the Board of Governors does not reach a final understanding on the matter under scrutiny (Article 45). If there is a disagreement regarding an operation, arbitration shall take place. The arbitration shall be a tribunal of three arbitrators, in which one is appointed by the NDB, a second one by the affected member and the last one an authority approved by the Board of Governors unless the parties disagree upon that. The arbitrator appointed by the Board of Governors should have the power to ascertain the proceedings if the parties disagree upon that (Article 46). On the other hand, if there is a disagreement between the NDB and a borrowing member, the settlement of controversies shall be governed by what is disposed in the respective contract.

In any case shall the property and assets of the NDB be subject to seizure, attachment or execution before a final decision is delivered against the NDB regardless their location or who to be in

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possession of them. The same follows for search, requisition, confiscation, expropriation or any other form of taking or foreclosure of property and assets of the NDB. In the same way, all documents and NDB's archives are inviolable regardless the location. Property and assets are also exempt from restrictions, regulations, controls and moratoria of any nature at the extent necessary to carry out their functions and purpose (Articles 30 and 31).

Furthermore, the NDB, its property, assets, transfers, operations and transactions in accordance with the Articles of Agreement shall benefit from tax immunity and customs duties. Such immunities include taxation and duties levied on salaries of employees, directors, alternates, officers paid for by the NDB and other obligations or securities guaranteed by the NDB. Solely the Board of Directors can waive any of those immunities, privileges and exemptions conferred under Articles 30 to 36 of the Articles of Agreements.

3.5. The NDB and the BRICS' National Development Banks

During the 7th BRICS Summit in Ufa (Russia), a Memorandum of Understanding (MoU) was signed between the New Development Bank and the National Development Banks of each BRICS country: (i) Nacional Bank for Economic and Social Development – BNDES (Brazil); (ii) State Corporation Bank for Development and Foreign Economic Affairs – Vnesheconombank (Russia); (iii) Export-Import Bank of India; (iv) China Development Bank Corporation; and (v) Development Bank of Southern Africa Limited.

The MoU was signed in order to enhance the dialogue and to explore areas of cooperation with the New Development Bank on matters of mutual interest, strengthening and increasing trade and economic relations among the member countries. Therefore, the Parties intend to cooperate with the New Development Bank of missions, policies and procedures, including in areas of infrastructure and sustainable development projects. The MoU also provides that the mobilization of resources for infrastructure and sustainable development are not only directed to projects in BRICS countries but also in other emerging economies and developing countries⁹³.

In this sense, the Parties agreed to take coordinated steps towards forming a mutually beneficial partnership. Therefore, the Parties intend to engage in the following forms of interaction within the areas of infrastructure and sustainable development as well as other areas of mutual interest:

- Agreements, including loan facilities, currency swaps and issuance of bonds;
- Joint programs for project finance;
- Information sharing on potential projects, and mechanisms for project monitoring;
- Guarantees and counter-guarantees to secure obligations, including in respect of securities issued by the Parties;
- Investment funds to finance projects in sectors and industries that are priority for the Parties;
- Experience and knowledge sharing through consultations, conferences, round tables, etc.
- Regular dialogue and meetings between the Parties and the New Development Bank⁹⁴.

It is important to highlight that MoU is a statement of good faith. It is not an international agreement nor does it create legally binding rights or obligations, financial or otherwise, on the Parties or their officers or employees. Hence, any of the above mentioned forms of cooperation will be discussed by the Parties separately from the MoU, on each individual project, under specific

⁹³ Article 1 of the Memorandum of Understanding on Cooperation with the New Development Bank.

⁹⁴ Article 2 of the Memorandum of Understanding on Cooperation with the New Development Bank.

agreements⁹⁵. Besides, all information received by each Party under the MoU “shall be subject to the treatment of confidentiality by the recipient Party and may not be disclosed, without the prior written consent of the disclosing Party, to any third parties⁹⁶.”

The MoU will remain in effect for two years from the date of its signature, except if it is extended in writing by common consent of the Parties. The total MoU’s term cannot exceed 60 months⁹⁷. The terms of the MoU may also be modified at any time as long as in written and under the Parties’ common consent⁹⁸. Any dispute arising from the commitments under the MoU shall be resolved by the Parties through negotiations⁹⁹.

The Memorandum of Understanding between the New Development Bank and BRICS National Development Banks constitutes an important initiative to raise the necessary funds for strategic development projects. The Document represents a first step to enhance the cooperation between those financial institutions, encouraging the implementation of joint programs and the share of experience and knowledge.

4. Contingent Reserve Agreement (CRA)

Alongside with the NDB, BRICS countries also concluded an agreement on contingent reserve. The main idea is to have a US\$ 100 billion as of resources split amongst BRICS Countries for parties’ requests in a financial instability situation as shows the Table below:

TABLE 33
Commitments of each of BRICS Countries to the CRA

Country	Amount
Brazil	US\$ 18 billion
Russian Federation	US\$ 18 billion
India	US\$ 18 billion
China	US\$ 41 billion
South Africa	US\$ 5 billion

Source: Contingent Reserve Agreement (CRA) Article 2(a).

At any time, parties can request access to committed resources and it will have access to it if the other parties (which are providing the resources) agree upon that. An agreement on such subject does not have any impact on the ownership rights and possession of the resources each party commits to the CRA (Article 2(b)).

BRICS countries established two organs to take decisions in respect of the CRA: (i) the Council of CRA Governors (or “Governing Council”); and (ii) the Standing Committee. The CRA, as opposed to the NDB, does not possess “independent international legal personality”. For that reason, it cannot conclude agreements or engage in legal processes (Article 19). BRICS countries consider that an international organization or organism under their umbrella is not necessary to address a contingent system to support countries in financial distress. The consequence is that the lack of institutionalization can leave room for the use of politics over technical decisions.

⁹⁵ Article 3 of the Memorandum of Understanding on Cooperation with the New Development Bank.

⁹⁶ Article 4 of the Memorandum of Understanding on Cooperation with the New Development Bank.

⁹⁷ Article 6 of the Memorandum of Understanding on Cooperation with the New Development Bank.

⁹⁸ Article 7 (b) of the Memorandum of Understanding on Cooperation with the New Development Bank.

⁹⁹ Article 7 (c) of the Memorandum of Understanding on Cooperation with the New Development Bank.

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The Governing Council and the Standing Committee shall be coordinated by the Party chairing the BRICS. The coordinator is responsible for summing and chairing meetings of both bodies, coordinate the voting procedures, inform parties on the activation and renewal of liquidity or precautionary instruments and, lastly, provide secretariat services for time in which it chairs the BRICS. CRA Article 9(c) impedes Requesting Parties and parties that opt out from being Providing Parties to serve as coordinators. In such a case, the next chair of the BRICS shall take place.

4.1. The Governing Council

The Governing Council is the ministerial body at the CRA. Each member shall appoint one Governor and one alternate Governor. The appointed one must be a Finance Minister, a Central Bank Governor, or an equivalent. All decisions are consensus-made. There are fifteen strategic decisions described in the CRA Article 2(b) that authorizes the Governing Council to call:

TABLE 34

List of Strategic Decisions the Governing Council can make under the CRA

1.	Review and modify the size of the committed resources of the CRA as well as approve changes in the size of individual commitments.
2.	Approve the entry of new countries as Parties to the CRA.
3.	Review and modify the CRA's instruments.
4.	Review and modify the framework for maturities, number of renewals, interest rates, spreads, and fees.
5.	Review and modify the preconditions for drawings and renewals.
6.	Review and modify the provisions concerning default and sanctions.
7.	Review and modify the provisions concerning access limits and multipliers.
8.	Review and modify the percentage of access de-linked from IMF arrangements.
9.	Decide upon the creation of a permanent secretariat or the establishment of a dedicated surveillance.
10.	Approve its own procedural rules.
11.	Review and modify the rules pertaining to the appointment and functions of the coordinator for the Governing Council and the Standing Committee.
12.	Review and modify voting power and decision rules of the Standing Committee.
13.	Review and modify the authority and functions of the Standing Committee.
14.	Approve the procedural rules concerning the functioning of the Standing Committee.
15.	Decide upon any other issues not specifically attributed to the Standing Committee.

Source: CRA Article 2(b).

Under the Governing Council's responsibilities is the approval of new countries as parties of the CRA, which means that such instrument comprises future enlargements. Therefore, it is worth wondering if acceding countries to the NDB will also be invited to comply with CRA's rules. That is not a requirement so far but as the CRA has a more political structure; it suggests that BRICS countries would like to build some sort of connection between both instruments. It could lead to a very comprehensive politic strategy in which countries seeking for loans and grants for their development projects should consider getting in line with the rules on contingent reserves for moments of financial instability.

The Governing Council has the ultimate power to review and modify all relevant aspects of the CRA, which includes preconditions for drawings and renewals, interest rates, sanctions, limits, spreads, maturities. Perhaps that should help explaining the formal clause forbidding unilateral reserves to the agreement enshrined in Article 22(e). The instruments also confer powers to the

CRA to deal with the relationship between parties and the IMF in the sense of accessing de-linked from IMF arrangements. It suggests that the CRA could exercise power over the relationship between its members and the IMF not exactly as supplementary institutions as BRICS countries have claimed in their Summit Declarations since 2012.

Despite of not having international personality, the CRA confers to the Governing Council powers to decide upon the establishment of a permanent secretariat and a surveillance unit, which is pretty much a process GATT has already experienced in the past. Therefore, such provision suggests that BRICS countries do consider the possibility of strengthening institutional aspects of the CRA once the organism gets bigger and effective. Finally, the Governing Council can also review and modify aspects within the Standing Committee obligations, function and competences.

4.2. The Standing Committee

The Standing Committee is the executive body of the CRA, responsible for making operational decisions. Each Party shall appoint one Director and one alternate Director preferably from central bank officials. Unlike the Governing Council, decisions are not forcibly by consensus. It is possible to come to a decision by weighted voting or consensus reached out on among providing parties:

TABLE 35
List of Decisions that the Standing Committee can make under the CRA by voting requirement

N.	Decision	Voting Requirement
1.	Prepare and submit to the Governing Council its own procedural rules.	Consensus
2.	Approve requests for support through the liquidity or precautionary instruments.	Simple Majority of Weighted Voting of Providing Parties.
3.	Approve requests for renewals of support through the liquidity or precautionary instruments.	
4.	Approve operational procedures for the liquidity and precautionary instruments.	Consensus
5.	In exceptional circumstances, determine the waiver of conditions of approval, safeguards and required documents under the Contingent Reserve Agreement.	Consensus of Providing Parties.
6.	Approve a Party's encashment request.	
7.	Decide whether to impose sanctions in case of breach of the Contingent Reserve Agreement provisions.	
8.	Carry out other functions attributed to it by the Governing Council.	Consensus

Source: CRA Articles 2(c) and 2(d).

The Governing Council has only one voting process, which is decision by consensus. The Standing Committee has three different voting processes depending on the subject. For general attributions and residual competences (numbers 1, 4 and 8 of the Table above), the voting system is decision by consensus. However, if the subject under scrutiny concerns a parties request involving access or rules for accessing or repayment of resources to the CRA (numbers 5, 6 and 7 of the Table above), the Standing Committee shall adopt the voting by consensus but only amongst providing parties, which means that the party who benefited from such recourses does not vote. Finally, if the matter relates to supports through the liquidity or precautionary instruments (numbers 2 and 3 of the

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Table above), the Standing Committee shall use the voting by simple majority of weighted voting or providing parties. Another time, in this system, parties requesting such a support cannot vote in the process.

The weighted voting consists of two conditions. First, five percent of the total voting will be equally distributed amongst the parties. Second, the rest shall be divided accordingly to each party's individual commitments. The Table below shows how should be the division of the votes among BRICS countries – for now, the only parties to the CRA:

TABLE 36
Weighted Voting Simulation to Each Party of the CRA (2015)

Party	Individual commitment	5% equally shared	95% distributed according to the size of individual commitment	TOTAL Weighted Vote Power
Brazil	US\$ 18 billion	1%	17.10%	18.10%
Russian Federation	US\$ 18 billion	1%	17.10%	18.10%
India	US\$ 18 billion	1%	17.10%	18.10%
China	US\$ 41 billion	1%	38.95%	39.95%
South Africa	US\$ 5 billion	1%	4.75%	5.75%
TOTAL	US\$ 100 billion	5%	95%	100%

Source: CRA Articles 1(a) and 3(e).

The way the Parties established the weighted voting shows concerns about single decisions on the matters of supports through liquidity and precautionary instruments. If the total voting power was distributed equally to each party in accordance with its individual commitments, the result would be Brazil, the Russian Federation and India with 18% each, China with 41% and South Africa with 5%. Furthermore, the party requesting the support is not considered in the weighted voting system of the CRA. Therefore, if Brazil requested a support or its renewal through the liquidity and precautionary instruments, only 82% of the total voting power would be eligible to vote, requiring simple majority to be approved. It means that if China had 41% of the votes, it would have a veto power on such requests arising from Brazil, the Russian Federation or India.

To avoid such concentration of power, which contrasts with the veto power the United States have in the International Monetary Fund and the World Bank Group – enough to block the approval of any measure, parties decided to spare 5% of the total voting power to distribute equally. By that system, if Brazil requests the support or its renewal, 81.90% of the votes are considered, which means a simple majority of 40.95% + 1 vote. However, China has only 39.95%, not enough to block the approval of any such requests made by Brazil, the Russian Federation or India.

4.3. Instruments at disposal

There are two instruments under the CRA (Article 4): (i) "a liquidity instrument to provide support in response to short-term balance of payments pressures"; and (ii) "a precautionary instrument committing to provide support in light of potential short-term balance of payments pressures."

4.4. Breach of obligations and sanctions

Requesting Parties who fails to fulfill its payment obligations on the Maturity Date of Drawing¹⁰⁰ and it is not corrected within seven days after that shall result in sanctions as follows:

Article 16 – Breaches of Obligations and Sanctions

- a. Failure by a Requesting Party to fulfill payment obligations on the Maturity Date of a Drawing or a renewal of Drawing, unless corrected within 7 days, shall result in the following:
 - (i) all outstanding obligations of the Requesting Party to repay the Providing Parties under this Treaty shall be immediately due and payable;
 - (ii) the Requesting Party's eligibility to further Drawings or renewals of Drawings under this Treaty shall be suspended;
 - (iii) any undrawn portion of a precautionary instrument of the Requesting Party shall be cancelled; and
 - (iv) any payments by the Requesting Party of its overdue obligations to the Providing Parties must be made on the same date and in proportion to the amounts due to each Party.

The Requesting Party who fails to comply with its payment obligations shall have its right to request further drawings suspended and it shall pay immediately all its outstanding obligations, being subject to the abrogation of any undrawn portion of a precautionary instrument. When the default Party delivers any payments, it shall pay each Providing Party in proportion to their individual amounts and all on the same date. Such measures shall not apply if it is the case of *force majeure* (Article 16(b)).

Nevertheless, if the Requesting Party is on an unjustified and/or persistent delay in fulfilling its payment obligations, the Requesting Party shall be suspended from its right to participate in any decisions under the CRA. That option should be considered by Providing Parties only after 30 days of unfulfilled payment obligations (Article 16(c)). If the Requesting Party continues to fail to settle overdue payment obligations "after the expiration of a reasonable period following the decision under paragraph (c)" (or, the suspension from participating in the decision-making process of the CRA), the Providing Parties can require the Requesting Party to withdraw the CRA (Article 16(d)). The provision has an open deadline, which means that such "reasonable period" is under the Providing Parties discretion to define.

Providing Parties can decide upon the need for Requesting Party in breach of its payment obligations to preserve the net present value of such obligations (Article 16(e)). Another option requires the Providing Parties to decide by consensus in the Governing Council to novate its obligations under the CRA, e.g. issuing marketable debt securities not under the subject to the Requesting Party's jurisdiction. The Requesting Party might not withhold consent to terms and conditions to that action without justification (Article 16(f)).

Finally, still on failure to fulfill payment obligations, the Requesting Party may have to pay a late fee to be added up to the interest rate applied to the swap transaction to which the payment is overdue. Such late fee may increase overtime during a predetermined limit (Article 16(g)).

If the Requesting Party is in breach of its obligations under the CRA other than failure of fulfill payment obligations, the sanctions are different in accordance with Article 16(h):

¹⁰⁰ As defined by CRA Article 8: "'Maturity Date' of a Drawing or renewal of Drawing shall mean the date in which the spot market exchange rate for the Drawing or renewal of Drawing is established".

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Article 16 – Breaches of Obligations and Sanctions

(...) h. In case of a breach of any obligation under this Treaty, other than failure by a Requesting Party to fulfill payment obligations, the following sanctions may apply:

- (i) all outstanding payment obligations under this Treaty shall be immediately due and payable;
- (ii) eligibility to further Drawings or renewals of Drawings under this Treaty shall be suspended;
- (iii) any undrawn portion of a precautionary instrument shall be cancelled;
- (iv) the right to participate in any decisions under this Treaty may be suspended;
- (v) after the expiration of a reasonable period following the decision under item (iv), the Governing Council may require the Party to withdraw from this Treaty.

In a simplified wording, the sanctions for obligations not related to failure of fulfillment of payment obligations will have parallel consequences to the sanctions aforementioned when a failure to fulfill payment obligations would be in order. The Agreement also established the proportionality principle by which the sanction applied should be commensurate with the seriousness of the breach (Article 16(i)).

4.5. Dispute Settlement

Disputes regarding the interpretation of the CRA shall be solved by consultations with the Governing Council. In case of litigation on the performance, interpretation, construction, breach, termination or invalidity of any provision in the CRA that cannot be solved amicably in the Governing Council shall resume to an arbitration proceeding under the Arbitration Rules of UNCITRAL (excluded Article 26 of such rules). The arbitration will be in English and with a composition of three arbitrators. Parties shall also refrain from utilizing arguments before arbitral tribunals or before courts solely based on their condition as sovereign states:

Article 20 – Dispute Settlement

(...)

c. The Parties agree that in any such arbitration and in any legal proceedings for the recognition of an award rendered in an arbitration conducted pursuant to this Article, including any proceeding required for the purposes of converting an arbitral award into a judgement, they shall not raise any defense which they could not raise but for the fact that they are sovereign state entities.

4.6. The CRA and IMF

The Contingent Reserve Arrangement is not a disconnected international body. On the contrary, it has connections with other financial institutions, such as the International Monetary Fund (IMF). The CRA's instruments, the liquidity instrument and the precautionary instrument, for example, may have IMF-linked and de-linked portions.

Hence, the total amount available under both instruments may be provided by CRA and IMF's funds. Whenever the Requesting Party meets the conditions, a portion (the de-linked portion), equal to 30% of the maximum access for each Party, shall be available subject only to the agreement of the Providing Parties (article 5 (c)). The remaining 70% of the maximum access, the IMF-linked portion, shall be available to the Requesting Party, as long as:

1. The agreement of the Providing Parties, which shall be granted whenever the Requesting Party meets the conditions stipulated, and;
2. Evidence of the existence of an on-track arrangement between the IMF and the Requesting Party that involves a commitment of the IMF to provide financing to the Requesting Party

based on the conditionality, and the compliance of the requesting Party with the terms and conditions of the arrangement (Article 5 (d)).

Besides, if a Requesting Party has an on-track arrangement with the IMF, it shall be able to access up to 100 of its access limit whereas the provisions above described are fulfilled (Article 5 (f)). The Requesting Party shall also comply with the IMF's surveillance and provision of information obligations (Article 14 (b)). Moreover, the Governing Council is authorized to review and modify the percentage of access de-linked from IMF arrangements.

Accordingly, it can be affirmed that the relationship between the CRA and the IMF is a complementary one. Both institutions combine strengths to foster global monetary cooperation and secure financial stability. Nevertheless, this mechanism enables the BRICS countries to have more control and lobbying power over the IMF's operations directed to CRA's Members.

5. Final Remarks

The New Development Bank and the Contingent Reserve Arrangement emerge as alternatives to the traditional international institutions such as the World Bank Group and the International Monetary Fund. In these new fora, developing countries may find the necessary funding to address historical infrastructure gaps and face problems in the balance of payments in a more favorable manner.

The NDB and CRA do not intend to antagonize with other international financial organizations. On the contrary, they were created in order to add up resources to tackle financing needs for development, especially for countries that normally face constraints in accessing such funding. Thereby, when fully operational, these two financial institutions may result in the rebalance of the economic global governance.

CONCLUSIONS AND RECOMMENDATIONS

Throughout the analysis developed in this study, it could be observed the increasing importance of the economic and financial ties between Latin America and the Caribbean with the BRICS grouping. The lack of funds to Latin America and the Caribbean hinders the rate of motion in which the countries can implement public policies focused on development. Currently, there is not enough money to finance strategic areas aimed at lifting people out of poverty and promoting vital reforms that can ensure sustained and inclusive growth in the medium and long term.

By analyzing the last commitments and disbursements of the World Bank, it is possible to note a slight decline in the amount of funds directed to the region in the recent years. The World Bank is no longer the most important source of development financing in Latin America and the Caribbean. In comparison with the disbursements made by the Inter-American Development Bank (IDB) in 2014, for example, the latter exceeded in US\$ 3.5 billion the disbursements carried out by the former. The regionalization of development banks as well as the monetary funds have contributed to address local problems and assure international financial stability in a more appropriate and precise manner. Due to their proximity with local problems faced by LAC countries, these regional institutions can provide credit and loans that answer their flexibility needs.

But not only regional financial entities are playing an important role in promoting progress among nations, there is also an increasing participation of sub-regional financial entities in fostering development in the region. Special attention should be drawn to initiatives such as The Andean Development Corporation (CAF), the Fund for Structural Convergence of Mercosur (FOCEM), and The Caribbean Development Bank (CDB). These international organisms have been financing key-projects, especially in smaller and less developed countries. Even though sub-regional development banks have considerably enhanced their lending volume and relative share of total lending in Latin America and the Caribbean, there are still some specific areas that need more consideration.

There is a scarcity of credit to small and medium-sized enterprises (SMEs). Currently, commercial banks do not provide the necessary financial products for SMEs that could enhance their competitiveness in the global market. In addition, there are not enough funds to prevent the effects of climate change. This issue is particularly important to the Caribbean Islands, probably the most affected by the rise of sea level and the intensification of the force of hurricanes. On average, the national financial systems of LAC countries do not have enough capital to invest in those areas by themselves.

It is well-known that infrastructure is one of the key factors to foster economic and social growth, inasmuch as it consists in a fundamental element required to the production and to generation of wealth as well as in improving people's economic and social welfare. In this context, many emerging States require an increase in infrastructure investment in order to alleviate growth constraints, answer to the urbanization process and the respective pressures raised, as well as to foster development and follow the environmental purposes.

Besides, even though Latin America and the Caribbean invest expressive resources in public works and infrastructure through public and private financing, the infrastructure gap in the region still persists. It was verified that despite the progress made by individual Latin American and the Caribbean countries or sectors in recent years, the shortcoming of basic infrastructure is particularly striking when the region is compared not only with developed countries, but also with other developing countries that had a similar infrastructure endowment level.

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This situation has been minimized mainly by the public-private partnerships, which brings more efficiency and better performance to public works in the region. Projects in the subareas of roads, energy, water and sanitation, telecommunication, ports and airports have been leveraged mainly in Brazil, Colombia and Peru in 2014. Thereby, the private sector becomes primordial in the maintenance and exploitation of infrastructure projects. To assure the private sector it is needed guarantees and the financial facilities in order to support the PPPs projects, which are provided frequently by the development regional banks. Moreover, some Latin American States have development financial institutions which the aim to finance part of the investment project infrastructures that are not assumed by the private sector. However, the funds of these national financial banks do not cover all the needs to foster infrastructure in Latin America, meaning that the region request more available capital to invest and finance these projects. However, these regional funds have shown insufficient to provide all resources to make a major investment in infrastructure in Latin America as desired by the countries.

As a result, the New Development Bank emerges as an important alternative to Latin American and Caribbean countries. Apparently, the role that it will play converges with the other regional and sub-regional financial institutions, adding more funds to the yet scarce developing finance scene. It remains unclear the types of projects the NDB will invest, but early discussions suggest that the focus will be infrastructure and energy, which is aligned with the fragilities and needs of Latin American.

The creation of the New Development Bank establishes a new financial cooperation which aims to engage these emerging countries, offering policy and development options. This initiative, announced in the BRICS Summit in New Delhi, in 2012, and implemented in the BRICS Summit in Fortaleza, in 2014, symbolizes a significant step towards institutionalizing the BRICS grouping with the approval of the Agreement on the New Development Bank.

Nowadays, it is possible to understand that the BRICS do not consist only in a political group, but also in a grouping that has evolved to a new platform towards the landscape of new governance, differently from the international governance established in Bretton Woods, in 1944. Since then, it was observed the consolidation of the United States and Europe as the center of financing as the most powerful providers. However, with the rise of Brazil, Russia, India, China and South Africa in the international realm, the USA and EU role as the primary financing providers is changing.

The BRICS is a political group that intends to rebalance the prevailing global governance. The New Development Bank and the Contingent Reserve Arrangement stand out as first step in order to accomplish this goal.

BIBLIOGRAPHY

- ABDI – Agência Brasileira de Desenvolvimento Industrial. *FOCEM*. [Portal Web]. Available at: http://www.abdi.com.br/Paginas/acao_resumo.aspx?i=105 [Accessed: 2015, July 27].
- Agnoli, M.; Vilán, D. (February, 2008). Financing trends in Latin America: a bumpy road towards stability. *BIS Papers* [On-line Journal], N. 36. Available at: <https://www.bis.org/publ/bppdf/bispap36.htm> [Accessed: 2015, July 30]
- Allen, K (July 8, 2015). Why is China's stock market in crisis? *The Guardian* [On Line Journal]. Available at: <http://www.theguardian.com/business/2015/jul/08/china-stock-market-crisis-explained> [Accessed in: 2015, July 25]
- Alvarez, J E. (2011). *The Public International Law Regime Governing International Investment*. The Hague: Pocketbooks of The Hague Academy of International Law.
- Amaral, Delcídio do (2015). *Parecer da Comissão de Relações Exteriores e Defesa Nacional, sobre o Projeto de Decreto Legislativo nº 157, de 2015 (PDC nº 63, de 2015, na origem), da Comissão de Relações Exteriores e de Defesa Nacional da Câmara dos Deputados, que aprova o texto do Acordo sobre o Novo Banco de Desenvolvimento (NDB), celebrado em Fortaleza, em 15 de julho de 2014*. [On line Document]. Available at: <http://www.senado.gov.br/atividade/materia/getPDF.asp?t=167178&tp=1> [Accessed in: 2015, August 25]
- Araújo, Nádia de; Noronha, Carolina. (2015). Os investimentos internacionais no Mercosul: o exemplo bem sucedido do FOCEM. *Revista da Secretaria do Tribunal Permanente de Revisão*. ano 3, nº 5; p. 255-265.
- Araújo, Nádia de; Souza Junior, Lauro de Gama e. (1998) Os acordos bilaterais de investimento com a participação do Brasil e o direito interno – análise das questões jurídicas In Casella, P.; Mercadante, A. (Coord). *Guerra comercial ou integração mundial pelo comércio?: a OMC e o Brasil*. São Paulo: LTR, p.460-496.
- Association of Caribbean States. [Portal Web]. Available at: <http://www.acs-aec.org> [Accessed: 2015, July 30]
- Avalle, Oscar. The Multilateral Development Banks in Latin American and the Caribbean Region. In: Vermont Journal of Environmental Law. Vol. 6, Issue 2, 2005, p. 193 – 212.
- Bank for Development and Foreign Economic Affairs (VEB). (2015a). About VEB. Available at: <http://www.veb.ru/en/about/today/> [Accessed in: 2015, August 20]
- Bank for Development and Foreign Economic Affairs (VEB). (2015b). Development Banking in Russia. [On-line document]. Available at: <http://veb.ru/common/upload/pdf/277390-Vnesheconomban.pdf> [Accessed in: 2015, August 24]
- Bank for Development and Foreign Economic Affairs (VEB). (2014). 2013 Annual Report. [On-line document]. Available at: <http://veb.ru/common/upload/files/veb/reports/annual/VEB Annual 2013 eng.pdf> [Accessed in: 2015, August 24]

124

Babtista, L. (1998). *Os investimentos internacionais no direito comparado e brasileiro*. Porto Alegre: Livraria do Advogado.

Bloomgarden, D. (June 10, 2015). *The "Latinization" of public-private partnerships: What the world can learn from Latin America and the Caribbean*. [On line Document]. Available at: <http://goo.gl/TAK3O1> [Accessed in: 2015, June 10].

Brasil. Poder Executivo (2014). *Mensagem nº 444, de 2014*. Submete à Consideração do Congresso Nacional o Texto do Acordo sobre o Novo Banco de Desenvolvimento (NBD), celebrado em Fortaleza, em 15 de julho de 2014.

BRICS (July, 2015). *Memorandum of Understanding on Cooperation with the New Development Bank*.

BRICS Business Council (2015a). *Second Annual Report 2015-2016 Facing Challenges, building confidence*. Available at: http://arquivos.portaldaindustria.com.br/app/conteudo_18/2015/07/09/9148/BRICSRelatorioAnual.pdf [Accessed in: 2015, July 28].

_____. (2015b). *Declaration on Investment Principles*. Available at: http://arquivos.portaldaindustria.com.br/app/conteudo_18/2015/07/09/9148/BRICSDeclarao deInvestimentos.pdf [Accessed in: 2015, July 28].

_____. (2013). *Declaration on the establishment of the BRICS business council*. Available at: http://arquivos.portaldaindustria.com.br/app/conteudo_18/2014/10/31/7707/Declarao Esta belecimento Conselho Empresarial BRICS 27.03.201313.pdf [Accessed in: 2015, August 28]

Business Monitor International. (2013). *Mexico Infrastructure Report Includes 10-year forecasts to 2022*. London: Business Monitor International. Available at: <http://www.pwc.com/mx/es/industrias/proyectos-capital/archivo/2014-01-infraestructure-report.pdf>. [Accessed in: 2015, 27 aug].

Caribbean Development Bank (CDB). (2014) *CDB – Its Purpose, Role and Function*. April 30, 2014. [Portal Web]. Available at: <http://www.caribank.org/uploads/2012/05/cdbpurpose-rev2014.pdf> [Accessed: 2015, August 4]

_____. (2014) *2014 Annual Report*. [Portal Web]. Available at: <https://www.caribank.org/wp-content/uploads/2013/01/CDB-Annual-Report-2015-Vol-1-FAW-27JUN2015.pdf> [Accessed: 2015, August 4]

CARICOM Development Fund (CDF). *Annual Report 2013*. [Portal Web]. Available at: http://www.caricomdevelopmentfund.org/website/images/stories/documents/cdf_annual_report_2013.pdf [Accessed: 2015, July 24]

César, Gustavo Rojas de Cerqueira. (2015). *FOCEM: Evaluación sobre su desempeño y posibilidades de reforma*.

Cable News Network (CNN). (April 21, 2015). *Sanctions will cost Russia more than \$100 billion*. [On line Journal] Available at: <http://money.cnn.com/2015/04/21/news/economy/russia-ukraine-sanctions-price/> [Accessed: 2015, July 25]

Collins, D. (2013). *The BRIC States and Outward Foreign Direct Investment*. Oxford: Oxford University Press.

- Conselho Empresarial Brasil-China (CEBC). (2014). *Boletim de Investimentos Chineses no Brasil 2012 – 2013*. Available: [http://www.cebc.org.br/sites/default/files/boletim de investimentos - final 0.pdf](http://www.cebc.org.br/sites/default/files/boletim%20de%20investimentos%20-%20final%200.pdf) [Accessed in: 2015, August 12].
- Costa, J. (2010). *Direito internacional do investimento estrangeiro*. Curitiba: Juruá.
- China Development Bank (CDB). (2015a). About CDB. [Portal Web]. Available at: <http://www.cdb.com.cn/English/Column.asp?ColumnId=99> [Accessed in: 2015, August 20]
- China Development Bank (CDB). (2015b) 2014 Annual Report. [On-line Document]. Available at: <http://www.cdb.com.cn/English/Column.asp?ColumnId=91> [Accessed in: 2015, August 20]
- Crawford, J. (2012). *Brownlie's principles of public international law*. 18ed. Oxford: Oxford University Press.
- Development Bank of Latin America (CAF). (2015). *Asociación Público Privada en América Latina: Aprendiendo de la experiencia*. [On-line Document]. Available at: <http://scioteca.caf.com/handle/123456789/758> [Accessed in: 2015, July 21]
- _____. About CAF. 2015a. [Portal Web]. Available at: <http://www.caf.com/en/about-caf/> [Accessed in: 2015, July 21]
- _____. CAF Fact Sheet – 2015. 2015b [Portal Web]. 2015b. Available at: <file:///C:/Users/alebe.mesquita/Dropbox/1-SELA/Bibliografia/CAF/caf%20hoja%20resumen%202015%20espanol.pdf> [Accessed in: 2015, July 21]
- Dolzer, R.; Schreuer, C. (2008). *Principles of international investment law*. New York: Oxford University Press.
- Eavis, P. (August 13, 2015). China's Renminbi Devaluation May Initiate New Phase in Global Currency War. *The New York Times* [On Line Journal]. Available at: <http://www.nytimes.com/2015/08/14/business/dealbook/chinas-renminbi-devaluation-may-initiate-new-phase-in-global-currency-war.html> [Accessed: 2015, August 30]
- Economic Commission for Latin America and the Caribbean (ECLAC). (2015a). *Economic Survey of Latin America and the Caribbean: challenges in boosting the investment cycle to reinvigorate growth*. [On-line Document]. Available at: <http://www.cepal.org/en/node/33006> [Accessed in: 2015, July 28]
- _____. (2015b). Financing for Development in Latin America and the Caribbean: a strategic analysis from a middle-income country perspective. [On-line Document]. Available at: http://repositorio.cepal.org/bitstream/handle/11362/37769/S1500126_en.pdf [Accessed in: 2015, July 28]
- Economist Intelligence Unit (EIU). (2009). Economist Intelligence Unit. *Partnerships for progress? Evaluating the environment for public-private partnerships in Latin America and the Caribbean*. New York: EIU.
- _____. (2014). Evaluating the environment for public-private partnerships in Latin America and the Caribbean: The 2014 Infrascope. New York: EIU. Available at: <http://idbdocs.iadb.org/wsdocs/getDocument.aspx?DOCNUM=39560897> [Accessed in: 2015, August 18]

126

Export-Import Bank of India (EXIMINDIA). (2015a). 2014-2015 Annual Report. [On-line Document]. Available at: http://www.eximbankindia.in/sites/default/files/English%20Annual%20Report_0.pdf [Accessed in: 2015, August 23]

Financial Times View. (May 4, 2015). Brazil is suffering from recession and scandal. *The Financial Times* [On line Journal]. Available at <http://www.ft.com/intl/cms/s/0/bff9828e-ef28-11e4-87dc-00144feab7de.html#axzz3lFryP3Xj> [Accessed: 2015, September 2]

Fondo Latinoamericano de Reservas (FLAR). [Portal Web]. Available at: <https://www.flar.net/ingles/contenido/default.aspx> [Accessed in: 2015, July 28]

Fundação Dom Cabral (FDC). (2015). *Ranking FDC das Multinacionais Brasileiras 2014*. Available at: http://www.fdc.org.br/blogespacodialogo/Documents/ranking_fdc_multinacionais_brasileira_s2014.pdf. [Accessed in: 2015, August 5]

Gallas, D. (August 28, 2015). Brazil's economy enters recession. *BBC News* [On line Journal]. Available at <http://www.bbc.com/news/business-34088144> [Accessed: 2015, September 2]

Gillespie, P. (August 28, 2015). Brazil falls deep into recession. *CNN Money* [On line Journal]. Available at <http://money.cnn.com/2015/08/28/news/economy/brazil-recession/> [Accessed: 2015, September 2]

Guimarães, S.; Ramos, A.; Ribeiro, P.; Marques, P.; Sias, R.. (December, 2014). A Internacionalização do BNDES. *Revista do BNDES*. [On-line Journal] N. 42 Available at: https://web.bndes.gov.br/bib/jspui/bitstream/1408/3321/1/RB%2042%20A%20internacionaliza%C3%A7%C3%A3o%20do%20BNDES_P.pdf [Accessed in: 2015, July 22]

Hughes, J; McGee, P; Anderlini, J. (August 11, 2015). China steps up currency war with dramatic renminbi devaluation. *The Financial Times* [On Line Journal]. Available at: <http://www.ft.com/intl/cms/s/0/444c5bc8-3fca-11e5-9abe-5b335da3a90e.html#axzz3lFryP3Xj> [Accessed: 2015, August 30]

INFRAERO Aeroportos. (2015). [Website] Available at: <http://www.infraero.gov.br/index.php/transparencia/concessao.html>. [Accessed in: 2015, August 5].

Inman, P. (August 14, 2015). China ends three days of yuan devaluation. *The Guardian* [On Line Journal]. Available at: <http://www.theguardian.com/business/2015/aug/14/china-halts-yuan-devaluation-with-slight-official-rise-against-us-dollar> [Accessed: 2015, August 30]

Inter-American Development Bank (IDB). (2012). SMES in Latin America and the Caribbean: a Strategic Business for the Regional Banks. 5th Regional Survey in Latin America and the Caribbean. [On-line Document]. Available at: <http://www10.iadb.org/intal/intalcdi/PE/2013/12977en.pdf> [Accessed in: 2015, July 20]

_____. (2014). 2014 Annual Report: the year in review. [On-line Document]. Available at: <http://publications.iadb.org/bitstream/handle/11319/6855/2014%20Annual%20Report.%20%20The%20Year%20in%20Review.pdf?sequence=13> [Accessed in: 2015, July 20]

_____. [Portal Web]. Available at: <http://www.iadb.org/en/about-us/about-the-inter-american-development-bank,5995.html> [Accessed in: 2015, July 20]

- Inter-American Dialog. (2015). [Portal Web]. Available at: http://www.thedialogue.org/map_list/ [Accessed in: 2015, July 20]
- International Monetary Fund (IMF). [Portal Web]. Available at: <http://www.imf.org/external/about.htm> [Accessed in: 2015, July 20]
- Lang, J.; Gilfillan, B. (2013). *Bilateral investment treaties – a shield or a sword?* Bowman Gilfillan Corporate Newflash. Available at: <http://www.bowman.co.za/FileBrowser/ArticleDocuments/South-African-Government-Canceling-Bilateral-Investment-Treaties.pdf> [Accessed in: 2015, August 13]
- Lowenfeld, A. (2008). *International Economic Law*. 2. Ed. New York: Oxford University Press.
- Magalhães, J. (1997) Acordos Bilaterais de Promoção e Proteção de investimentos. *Revista de Informação Legislativa*, n° 134, ano 34, Brasília, abr/jun. Available at: <http://www2.senado.leg.br/bdsf/bitstream/handle/id/248/r135-02.pdf?sequence=4> [Accessed in: 2015, July 27].
- Magro, J. (2015). *Asociación público-privada en América Latina: Aprendiendo de la experiencia*. Bogotá: CAF – Banco de Desarrollo de América Latina.
- Martello, A. (September 8, 2015). Mercado prevê mais inflação e queda maior do PIB em 2015 e 2016. *Portal de Notícias da Globo – G1*. Available at: <http://g1.globo.com/economia/mercados/noticia/2015/09/mercado-preve-mais-inflacao-e-menos-crescimento-para-2015-e-2016.html> [Accessed: 2015, September 9]
- MERCOSUR. *Fondo para La convergência estrutural Del Mercosur*. [Portal Web]. Available at: <http://www.mercosur.int/focem/> [Accessed: 2015, July 28].
- Ministério das Relações Exteriores do Brasil (MRE). *Fundo para a Convergência Estrutural do MERCOSUL (FOCEM)*. [Portal Web]. Available at: <http://www.mercosul.gov.br/index.php/fundo-para-a-convergencia-estrutural-do-mercocul-focem> [Accessed: 2015, July 28].
- National Bank for Economic and Social Development (BNDES). (2015a). O BNDES. [On-line Document]. Available at: http://www.bndes.gov.br/SiteBNDES/bndes/bndes_pt/Institucional/O_BNDES/A_Empresa/ [Accessed in: 2015, July 20]
- _____. (2015b). Annual Report 2014. [On-line Document]. Available at: http://www.bndes.gov.br/SiteBNDES/export/sites/default/bndes_pt/Galerias/Arquivos/empresa/RelAnual/ra2014/RA_2014_ing.pdf [Accessed in: 2015, July 22]
- North Atlantic Treaty Organization (NATO). [Portal Web]. Sanctions after Crimea: Have they worked? Available at: http://www.nato.int/docu/review/2015/Also-in-2015/sanctions-after-crimea-have-they-worked/EN/index.htm?utm_source=gplus&utm_medium=smc&utm_campaign=150713+nr+sanctions [Accessed in: 2015, July 25].
- OECD. (2006). *Investment Policy Reviews – Russian Federation*. Paris: OECD Publishing.

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Organization of American States (OAS). [Portal Web]. Available at: http://www.oas.org/en/about/who_whee_are.asp [Accessed in: 2015, July 22]

O'Neill, Jim. (November 30, 2001). Building Better Global Economic BRICs. *Goldman Sachs Global Economics Website* [On line Journal], Global Economics Paper No: 66. Available at: <http://www.goldmansachs.com/our-thinking/archive/archive-pdfs/build-better-brics.pdf> [Accessed in: 2015, July 22]

Penrose, E. (2006). *A teoria do crescimento da firma*. Campinas: Editora Unicamp.

Perry, G. (Edt.). (2015) *Building a Latin American Reserve Fund: 35 years of FLAR*. Bogotá: Fondo Latinoamericano de Reservas.

Peterson, Luke Eric. (2006). *South Africa's Bilateral Investment Treaties: Implications for Development and Human Rights*. Dialogue in globalization, Occasional Papers Series. n. 26.

Pons, X. (2013). *La retirada de algunos países latinoamericanos del CIADI: ¿cuáles son sus consecuencias jurídicas?* Segunda Conferencia Bianual de la Red Latinoamericana de Derecho Económico Internacional.

Powell, A. (Coord.). (2015). The labyrinth: how can Latin America and the Caribbean navigate the global economy. [On-line Document]. Available at: http://www.iadb.org/en/research-and-data/publication-details,3169.html?pub_id=IDB-AR-111 [Accessed in: 2015, July 20]

Practical Law. *New to Practical Law?* We offer lawyers a better place to start. Umbrella Clause. A Thomsons Reuters Legal Solution. Available at: <http://us.practicallaw.com/8-519-0939?q=&qp=&qo=&qe=> [Accessed in: 2015, August 21]

Ranjan, Prabhash. (2014) India and Bilateral Investment Treaties – A changing landscape. *ICSID Review*. Vol. 29, n.2

Rapoza, K. (July 25, 2015). Two Years of Recession. *Forbes* [On line Journal]. Available at: <http://www.forbes.com/sites/kenrapoza/2015/07/25/two-years-of-recession-for-brazil-banks-say/> [Accessed: 2015, September 2]

Ribeiro, Marilda Rosado de Sá Ribeiro. (2008). As empresas transnacionais e os novos paradigmas do comércio internacional *In DIREITO*, Menezes, C.; Trindade, A.; Pereira, A. (orgs). *Novas perspectivas do direito internacional contemporâneo: estudos em homenagem ao professor celso d. de Albuquerque mello*. Rio de Janeiro: Renovar.

Rivera, G.; Reynoso, G.. (2012). Public-Private Partnership in Mexico. George Washington University. Institute of Brazilian Issues & Public Management Issues. Washington, DC. Available at: <http://www.gwu.edu/~ibi/minerva/Spring2012/Glenda-Grisel.pdf> [Accessed in: 2015, August 27]

Seatzu, Francesco. The Subregional Development Banks and The Expansion of Socio-Economic Growth in Latin America: current issues and future prospects. *IX Anuário de Direito Internacional*. Available at: <http://www.cedin.com.br/wp-content/uploads/2014/05/The-Subregional-Development-Banks-and-the-Expansion-of-Socio-Economic-Growth-in-Latin-America-Current-Issues-and-Future-Prospects.pdf> [Accessed in: 2015, July 20]

- Sistema Unitario de Compensación Regional de Pagos (SUCRE). [Portal Web]. Available at: <http://www.sucrealba.org/> [Accessed in: 2015, July 30]
- Sornarajah, M. (2004). *The international law of foreign investment*. 2 ed., Cambridge: Cambridge University Press.
- Souza, A. e; Oliveira, I.; Gonçalves, S. (March, 2010). Integrando Desiguais: Assimetrias Estruturais e Políticas de Integração no Mercosul. *Texto para Discussão n°1477, Instituto de Pesquisa Econômica Aplicada (IPEA)*. [Online Document]. Available at: http://www.ipea.gov.br/portal/index.php?option=com_content&view=article&id=5031 [Accessed in: 2015, august 04]
- S.R. (July 7, 2015). A red flag. *The Economist* [On line Journal]. Available at: <http://www.economist.com/blogs/freexchange/2015/07/chinas-stockmarket-crash> [Accessed in: 2015, July 25]
- Stuenkel, O. (2015). *The BRICS and the Future of Global Order*. New York: Lexington Books.
- The Development Bank of Southern Africa (DBSA). (2015a). About DBSA. [Portal Web]. Available at: <http://www.dbsa.org/EN/About-Us/Pages/About-Us.aspx> [Accessed in: 2015, August 23]
- The Development Bank of Southern Africa (DBSA). (2015b). 2014 Integrated Annual Report. [On-line Document]. Available at: <http://www.dbsa.org/EN/About-Us/Publications/eBooks/Pages/2014-Integrated-Annual-Report-.aspx> [Accessed in: 2015, August 23]
- United Nations Conference on Trade and Development (UNCTAD) (2015). WORLD INVESTMENT REPORT. *Reforming International Investment Governance*. Available at: http://unctad.org/en/PublicationsLibrary/wir2015_en.pdf [Accessed in: 2015, July 28]
- _____. (2015) *Investment Policy Hub*. [Web Portal]. Available at: <http://investmentpolicyhub.unctad.org/IIA> [Accessed in: 2015, July 28]
- Vincentelli, Ignacio A. (2010). *The uncertain future of ICSID in Latin America*. Law and Business Review of the Americas, v.16.
- Viñuales, Jorge E.; LANGER, Magnus Jesko. (2010). *Foreign Investment in Latin-America: Between Love and Hatred*. In AUROI, Claude (ed). Latin-America: Dreams and Legacy [Online Document]. Available at: <http://ssrn.com/abstract=1652736> [Accessed in: 2015, August 3]
- Wong, E; Gough, N; Stevenson, A. (September 9, 2015). In China, a Forceful Crackdown in Response to Stock Exchange Market. *New York Times* [On line Journal]. Available at: http://www.nytimes.com/2015/09/10/world/asia/in-china-a-forceful-crackdown-in-response-to-stock-market-crisis.html?_r=0 [Accessed in: 2015, September 9]
- World Bank - The International Bank for Reconstruction and Development. (2011). *Melhores práticas no financiamento de parcerias público-privadas na América Latina*. Relatório da Conferência. Washington: The World Bank.
- World Bank (2012a). *Best Practices in Public-Private Partnerships Financing in Latin America: the role of guarantees*. Washington: The World Bank.

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World Bank (2012b). *Best Practices in Public-Private Partnerships Financing in Latin America: the role of innovative approaches*. Washington: The World Bank.

World Bank. (2012c). *Financial Development in Latin America and the Caribbean: the road ahead*. [On-line Document]. Available at: <https://openknowledge.worldbank.org/handle/10986/2380> [Accessed in: 2015, July 22]

World Bank. (2015a). *Latin America and the Rising South: changing world, changing priorities*. [On-line Document]. Available at: <http://elibrary.worldbank.org/doi/abs/10.1596/978-1-4648-0355-0> [Accessed in: 2015, July 22]

World Bank. (2015b). *Annual Report 2014*. [On-line Document]. Available at: <http://www.worldbank.org/en/about/annual-report> [Accessed in: 2015, July 22]

World Bank. (2015c). *The World Bank: History*. Available at: <http://www.worldbank.org/en/about/history> [Accessed in: 2015, August 20]

World Bank Group Public-Private Partnerships. (2015). *2014 Global PPI Update*. Available at: http://ppi.worldbank.org/~/_media/GIAWB/PPI/Documents/Global-Notes/Global2014-PPI-Update.pdf [Accessed at: 2015, August 20]