
The International and Legal Framework for Transregionalization of Trade and Economic Cooperation of the BRICS Countries

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Abstract:

The emergence of a multipolar world is an integral part of the globalization processes. Strategic partnership at the regional, interregional and transregional levels is becoming a new institution and at the same time an instrument of modern international relations.

The international and legal framework for the cooperation of BRICS as a transregional association is considered herein. The importance of converging the positions of the BRICS countries in the global political and economic system is emphasized.

The research is aimed at the analysis of the international legal foundations of trade and economic cooperation of the BRICS countries within the system of transregional relations, factors, conditions and prospects for development.

The measures to enhance and expand mutually beneficial trade and economic partnerships within the framework of BRICS will most effectively utilize their resource, technological, and trade and economic potential, creating the basis for the sustainable growth of the national economy and competitiveness in global development. The practical significance of the study lies in the analysis of the mechanisms of integration of BRICS.

The results obtained may be useful in shaping the strategy of trade and economic cooperation within the framework of BRICS.

Keywords: *International integration, transregional relations, BRICS countries, international legal foundations for economic partnership, foreign trade policy; customs tariff regulation, trade and economic cooperation.*

JEL Classification: F02, F10, F15, F42.

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1. Introduction

The current stage of world development is characterized by high dynamics and a change in the balance of power on the international political scene. This occurs in the context of the increasing complexity of the system of international relations, the intensification of crisis manifestations in the activities of traditional international institutions and other intergovernmental associations, which require the creation of new centers of influence in world politics that determine the content and prospects of international cooperation (Naryshkin, 2015). The deepening of the integration is an important component of the global economy. BRICS is one of the manifestations of transregional international integration as part of the global political and economic space (Voskresenskij, 2000).

A fundamentally new mechanism has been created to protect and promote political, economic and legal interests of its member states, based on the principles of not only formal but also de facto equality of the parties, respect for their spiritual and cultural traditions, striving for a fairer world law and order (Naryshkin, 2015). Thus, BRICS as a progressive form of international cooperation in the system of trans-regional relations is an important component of the global political and economic space (Zavyalova and Akhmetshin, 2018). The active participation of BRICS in the discussion of the most important issues of integration development contributes to the progress, creates a more reliable legal basis for existing risks prevention, and is a key to successful trade, economic, financial, and other forms of interaction (Fedorenko *et al.*, 2017; Kamolov, 2017; Ajakaiye *et al.*, 2018).

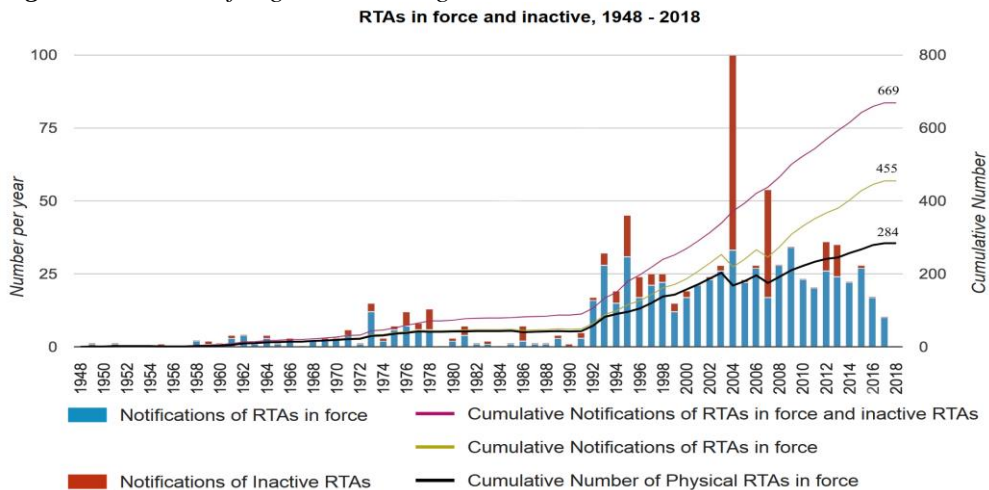
In this regard, there is a growing theoretical and practical interest in the problem of the international and legal foundations of the integration interaction within the framework of BRICS. Despite many publications, many aspects have not received adequate coverage. Bilateral economic cooperation within the framework of BRICS is studied mainly. At the same time, it is important that the study of the international and legal foundations for the external economic cooperation of the BRICS countries in many respects determines the priorities, opportunities, and prospects for the development of partnership in the system of transregionalization; this determines the relevance of the study.

2. Literature review

Currently, regional integration is viewed as a key indicator of international change, as an active and dynamically developing system. The increase in the number of regional integration associations is one of the leading trends in the development of the modern world economy. According to the WTO, as of the beginning of 2018, the number of regional trade agreements (RTAs) was 669 and 455 were effective (of which 251 refer to free trade agreements, 151 – to economic integration agreements, 30 – to the agreements on Customs Unions, 23 – to other agreements (Some Figures on Regional Trade Agreements notified to the GATT/WTO and in force) (Figure 1).

According to other sources (World Trade Statistical Review, 2017), 58% of the world trade is accounted for only by NAFTA, EU, ASEAN.

Figure 1. Growth of regional trade agreements in the world, 1948-2018



Source: Regional trade agreements (<http://rtais.wto.org/UI/charts.aspx>.)

According to Heifetz, the development of transregional interaction leads to the emergence of a new phenomenon in the global economy – transregionalism, the priority of which is the commonality of economic interests, rather than territorial proximity and common borders (Heifetz, 2016). It is the agreed economic interests and interstate agreements that determine the effectiveness of such interaction.

Heifetz considers transregional relations through economic partnerships – a new form of economic alliances, different from the classical integration model implemented in the EU and the EAEU. They are aimed at the elimination of protectionist barriers in foreign economic relations under the “WTO plus” model, providing more favorable conditions on a multilateral basis than the WTO agreements or bilateral agreements. New economic partnerships do not involve the creation of customs and currency unions, a cumbersome bureaucratic apparatus that does not allow for a quick response to the constantly emerging challenges of world development (Heifetz, 2016). The largest of these are the Trans-Pacific Partnership (TTP), the Transatlantic Trade and Investment Partnership (TATIP), the Comprehensive Economic and Trade Agreement, the Regional Comprehensive Economic Partnership (RCEP), BRICS.

In the works by Rulland (2002), trans-regionalism is considered as a process of cooperation between the representatives of different regions, where the parties can be represented both by a regional integration association and by an individual state. At the same time, they form a common identity based on common ideological, pragmatic preferences and principles.

Other scholars believe that trans-regionalism does not imply strictly institutionalized relations. The unification of states, in such a framework, has an informal character, is not accompanied by the conclusion of binding contracts and agreements (Efremova, 2017). The trans-regional format rather suggests the organization of regular meetings to discuss pressing political, economic and security-related issues (Chernova *et al.*, 2018). Joint statements and declarations, reflecting the common position of the heads of state and the government of the transnational association on key issues, are adopted following the results of multilateral consultations. According to this principle, G7, G20, BRICS and other similar structures operate, claiming to participate in global governance.

Transregionalism contributes to the formation of sustainable functional regions and includes the interaction of both regional associations and individual states belonging to different geographic regions, and can take various forms: the relations between two or more regional associations (EU – MERCOSUR, EU – ASEAN) – the interregional relations; the relations between regional associations and individual states (Transatlantic Trade and Investment Partnership, ASEM, ASEAN Regional Forum); the institutionalized relations between the states of different regions (BRICS, EAEU, Trans-Pacific Partnership).

According to the above analysis, transregionalism is a process of cooperation between the representatives of different regions, where the parties can be represented both by a regional integration association and by a separate state. At the same time, trans-regional associations form a common identity based on one or another common ideological, pragmatic preferences and principles, excluding strictly institutionalized relations.

3. BRICS as a transregional association, prospects for development

Today, BRICS can be viewed as a progressive form of institutional international cooperation – an intensively strengthening global forum of partnership dialogue and interaction of the states with powerful developing economies. The influence of BRICS in the international arena is based on equal cooperation policy, respect to international law and traditions of other states, high creative potential, huge demographic and material resources. The growing dynamics of world development is forcing BRICS to look for its own development model. The instrument of consolidation is international law, international cooperation between the BRICS countries, which has taken on new, non-stereotypical forms (Naryshkin, 2015). The attractiveness of BRICS as a new participant in the global governance system lies in its power, its interest in new mechanisms and instruments of international cooperation on an equal basis.

One of the initiatives in the framework of the creation and development of joint institutions of the BRICS countries is the creation of a stabilization fund (a pool of conditional foreign exchange reserves) to support five economic powers in the event

of a global crisis. China will invest 41 billion USD in it; Russia, Brazil, and India will invest 18 billion USD each, South Africa – 5 billion USD. The agreement provides for the provision of mutual financial support among the BRICS participants, including through the prompt provision of liquidity to the needy country by other members of the pool. In the future, the expansion of the BRICS group at the expense of new members is possible. So the developing economies like Mexico, Indonesia, Argentina can take part in the creation of a bank and reserve fund.

In the future, a gradual transition to settlements in national currencies for trading and non-trading operations is possible. It will be necessary in stages, considering the real needs of servicing foreign trade transactions, to introduce the currencies of each country into the number of currencies traded on the currency exchanges of the partner countries, as has already been done by China and Russia (Kirillova *et al.*, 2018). Both traditional areas and new industries that contribute to the modernization of the economies of the BRICS countries and meet the new challenges of technological development should be the priority areas for investment cooperation.

Thus, the considered initiatives will allow the BRICS countries to coordinate their macroeconomic policies, to form the basis for the effective protection of national economic systems from global financial crises. The initiatives within the BRICS are also considered as a real force to counter the economic expansion of the developed countries. It is supposed to rely on networking and cooperation with emerging market economies and emerging markets.

4. The international and legal framework and mechanisms of trade and economic partnership of the BRICS countries

In political science and journalistic literature, international associations are often referred to as “unions”, “clubs”, thus emphasizing their less formal nature as compared with well-known and active international organizations of universal (the UN, its specialized agencies, the WTO, etc.) or regional (EU, the Council of Europe, LAS, OAS, the African Union, etc.) nature. At the same time, it is considered that the international legal basis of their activities is of no importance. This point of view is hard to agree, since the application for independent participation in international relations is always accompanied by a definition of international and legal consequences for all participants of interacting associations of the interstate system. BRICS, the association named after its member states, may also be referred to the category of informal interstate associations.

The establishment of the first political and legal contacts in order to find mutual interests dates to September 2006, when, during the 61st session of the UN General Assembly, a meeting of the foreign ministers of four states – Brazil, Russia, India, and China – was held in New York. Later, three more ministerial meetings were held, which laid the foundations for full-fledged political interaction. The first

summit took place in the framework of another forum in Japan after the end of the G8 meeting in 2008. In 2009, a full-scale meeting of the heads of state was held in Russia (Yekaterinburg). In February 2011, the entry of the Republic of South Africa into BRICS was announced. In April 2011, the ordinary meeting at the level of BRICS was held in China (Sanya, Hainan Island). BRICS is a relatively new international association, which determines the relevance of definition of its international and legal nature and the development of relevant theoretical concepts and the models that will allow predicting its development in the near future.

According to the specifics of the interstate system, the main regulator of the relations developing within BRICS is mainly the international law. The BRICS countries as the subjects of international law often seek to diversify the forms of their relationship, without resorting to established international and legal institutions, but using more “delicate” tools and diplomatic means, since they allow achieving the goals with less financial and other costs. At the same time, the strengthening of the institutional basis of this interstate association, the creation of a more defined and independent organizational structure can serve as the organizational and legal basis of the future international organization.

The mechanisms of trade and economic cooperation are defined in the Delhi Declaration (New Delhi, India, March 29, 2012). At the fifth BRICS summit (Durban, South Africa, March 27, 2013), a decision was made to establish the BRICS Business Council.

Russia is the most active member of the group across the spectrum of relations. The Concept of Russia's participation in the BRICS association (2013) defines the approaches to cooperation in the following areas: international, political, trade and economic, industrial, monetary and financial, energy cooperation, science, technology, innovation, health care, agriculture, culture, sports, tourism, education, exchange of students (Khairutdinov *et al.*, 2018; Tarasova *et al.*, 2018; Bazikyan *et al.*, 2018; Shkarednaya *et al.*, 2017). In 2014, a Memorandum of Understanding was signed on cooperation between export credit agencies and export credit insurance of the BRICS countries. According to the document, the parties also intend to develop cooperation in the framework of joint projects in third countries, the implementation of which will increase the existing potential of trade and production relations between the BRICS countries (Iroham *et al.*, 2017).

The BRICS Economic Partnership is based on the Economic Partnership Strategy (Ufa, Russia, 2015), which has become the institutional basis for cooperation. The document defines the long-term benchmarks of the sectoral and general conceptual nature, in order to strengthen economic growth and increase the level of competitiveness of the BRICS economies in the international arena. Also, in 2015, the BRICS Trade, Economic and Investment Cooperation Road Map for the period up to 2020 was signed with a list of joint major projects in the field of infrastructure, industry, and agriculture.

The Xiamen Declaration (China, April 9, 2017) noted the need to intensify the cooperation on trade and investment to unleash the potential of the economies of the BRICS countries, to improve the mechanism of trade and investment cooperation, to expand the scale of interaction in order to increase the complementarity and diversification of the economies of the BRICS countries. In Shanghai (September 2017), a plan for trade and economic cooperation in the areas of trade facilitation, investment promotion, technical and economic cooperation, trade in services, electronic commerce, intellectual property was signed. On September 4, 2017, the BRICS Strategic Customs Cooperation Program was signed. The guiding principle of cooperation is the mutual exchange of information, the mutual recognition of the results of customs control and mutual assistance in law enforcement.

The BRICS strategic customs cooperation program is aimed at simplification of the customs procedures in mutual trade, bringing together the customs administration rules and procedures, using common approaches in information exchange and the use of advanced information technologies (Swaramarinda, 2018).

5. The role of the BRICS countries development in the global economy

In recent years, a growing influence of the BRICS countries on the global economy has been observed. BRICS takes part in the solution of global problems, defending the ideas of increasing the economic and political influence of developing countries. The BRICS countries occupy about a quarter of the world's land, 42% of the world's population. The GDP of the BRICS countries is about 30% of the world GDP. The BRICS countries account for 11% of the cumulative investment, 20% of the world trade (BRICS Joint Statistical Publication 2017, p. 272). The favorable position provides these countries with a powerful and developing economy, and many important resources for the global economy.

According to the analysis of the actual world GDP from 2004 to 2017, prior to the global financial crisis, all the BRICS countries showed higher economic growth rates compared to developed countries, although they had passed the peak of the crisis differently. Russia, whose GDP in 2009 fell by 7.8%, was affected most of all. China and India maintained growth. In 2017, all the BRICS countries had positive dynamics. At the same time, in terms of economic growth, absolute leadership is occupied by China (64.5% of the total GDP of the BRICS countries), India (14.07%), Brazil (11.06%), the Russian Federation (8.22%) and South Africa (1.88%) (World Economic and Financial Surveys, January 2018).

Among the conditions and factors that determine the attractiveness of the BRICS countries and reflected on their macroeconomic characteristics, international investors consider the dynamic economic development and the level of competitiveness, which directly affects the development of business, including manufacturing. This is confirmed by the steady correlation between the positions occupied by the countries in the World Economic Forum (WEF), the

competitiveness ranking, and the volume of foreign investment attracted by them (The Global Competitiveness Report 2017-2018).

In the ranking of the WEF 2017-2018 (Global Competitiveness Index 2017-2018), China (28th) ranks first among the BRICS countries; it is also the world leader in investment attractiveness. China received the highest score for the indicators in terms of market size, macroeconomic conditions, and innovation activity. Great progress has been made in terms of technology readiness, market efficiency, as well as higher education and training of qualified personnel (Al Idrus *et al.*, 2018; Anikin *et al.*, 2017; Audet *et al.*, 2018). Russia occupied the 38th place. Among the strengths of Russia, the experts point out the size of the market, the level of education, and the developed infrastructure (Chernopyatov *et al.*, 2018; Prygunova, and Nikiforova, 2018). The improved position in the ranking contributed to the growth of macroeconomic indicators; however, the country's economy remains dependent on commodity exports.

India (40th place) is attractive for investors due to the large domestic market and the availability of skilled labor. The evaluation has been improved in most indicators: infrastructure, higher education, and training, level of technology development (Bangari and Chaubey, 2017). South Africa (61st place) remains one of the most competitive countries in Africa, as well as among the innovative countries (Garcia-Rodriguez *et al.*, 2017; Garcia-Rodriguez *et al.*, 2017). The country is rich in natural resources, has a skilled workforce and is one of Africa's largest domestic markets.

The last (80th place) was occupied by Brazil. Despite the fall in GDP growth and the deterioration of macroeconomic conditions, in 2017 Brazil slightly improved its performance, reducing the inflation and government deficits. Political instability and a high level of corruption are the negative factors that lower the country's rating. The positive factors are the possession of advanced agricultural technologies, the availability of developed transport infrastructure and real estate market, as well as cheap labor and the absence of serious restrictions on the activities of foreign investors. An analysis of the attractiveness of foreign capital for investment conducted by the Global Intelligence Alliance (BRICS. The BRICS countries) shows that the BRICS countries are the most preferred for investment. India – 66.4%, Brazil – 65.7%, China – 65.4%, Russia – 39.7%, South Africa – 22.2% are included in the top 10 emerging markets for 2012-2017.

The main factors that make foreign capital attractive for investment in the BRICS countries are: gaining of a share in new markets, creation of a basis for long-term success in these markets and, to a much lesser extent, searching for lower production costs. The greatest interest is caused by India, China and Brazil, which are considered the most important markets for the next five years. Among Russia's competitive advantages are: a huge capacity of the domestic market, a high level of education of the population, favorable macroeconomic background (low public debt), and a good state of infrastructure.

Thus, good resource and technological prerequisites, as well as trade and economic potential, can become the basis for ensuring financial and economic stability and enhancing the economic growth of BRICS in the context of transregional interaction.

6. Conclusion

The definition of the international and legal nature of BRICS as a new integration association makes it possible in many respects to predict its future development. The participation of BRICS in the discussion of the most important issues of integrative development creates a more reliable legal basis for existing risks prevention and makes it possible to implement more effectively the national interests of the countries with developing economies.

Economic cooperation in the framework of trans-regional association is one of the priorities of national policies of the BRICS countries, associated with overcoming the effects of the global financial and economic crisis, achievement of sustainable and balanced economic growth and competitiveness in global development.

Despite the actualization of the economic partnership, the objective constraining factors are, first, the differences in the socio-economic, political and legal systems of the BRICS countries. The heterogeneity of the strategic priorities of the economic policies of the countries may hinder the formation of a transregional integration association. Thus, the tendencies and prospects of development determined by the institutional and legal basis of interaction largely depend on how strong and diversified the economic partnership within BRICS is. Common interests in the field of trade, the complementarity of several industries, the lack of direct competition is noted as the positive factors contributing to the strengthening and expansion of trade and economic cooperation.

Thus, within the framework of the integration policy and economic partnership strategy, the international and legal foundations and mechanisms have been created to strengthen and enhance trade and economic interaction, which is strategically important for the national economies of the BRICS countries. Mutually beneficial trade and economic cooperation will allow the BRICS countries to use their resource, technological, and trade and economic potential most effectively, creating the basis for sustainable economic growth and competitiveness in world development.

Acknowledgements:

The article was written on the materials of GRANT KIAS RFBR №18-07-00275 "Designing a convergent technology of intellectual support for management decisions on an interdisciplinary basis".

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