BRICS investment agreements in Africa: more of the same?

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Abstract: BRICS was constituted as a group during the global financial crisis and was considered an alternative from the Global South to traditional Western powers. However, the role of the BRICS countries in Africa shows a significant presence of the extractive sector and large infrastructure projects, deepening a growth model with serious impacts on societies and the environment. Given the expansion of BRICS multinational corporations and financial institutions in the African continent, the question arises about how those countries behave under the international investment regime. This article critiques the negotiations and political economy of investment agreements, in support of the position of those negatively impacted and resisting the overall loosening of trade restrictions associated with the rise of the BRICS ('BRICS from below'). While not exhaustive, it presents an empirical overview and analysis of bilateral investments treaties (BITs), which demonstrates that, to a large extent, the BRICS BITs maintain the broader neoliberal economic order, although the locus of power may be partially shifting. It concludes that, in a broader context of capitalist accumulation, the BRICS are acting based on a logic of competition over natural resources and market access that is imperialist in nature and is taking colonialism back to Africa in modern times.

1. Introduction

Brazil, Russia, India, China and, later, South Africa constituted the BRICS as a group during the global financial crisis[2], giving rise to the idea that it might be a counter-hegemonic alternative for the Global South. While demanding reforms in multilateral financial institutions and creating new institutions, such as the New Development Bank, some have considered the BRICS as challengers of the status quo and U.S. economic supremacy[3], whereas others have been more skeptical about the ability and motivation of these countries to build a new global order from the South[4]. Acoording to Prashad (2013), "BRICS, as of now, is a *conservative* attempt by the Southern powerhouses to earn themselves what they see as their rightful place on the world stage". In some ocassions, there has been tensions between BRICS leaders and Western powers, such as in the negotiations over intellectual property rights for medicins at the World Trade Organization in the beginning of the 2000's, and more recently in the case of the conflict in Crimea, or even in the creation of the Chinese-led Asian Infrastructure Bank[5]. Yet, BRICS need to be reflected upon in the scope of capital accumulation and power relations. How to better understand (and theoretically conceptualize) South-South power relations?

We have pointed elsewhere that there are several ideological standpoints towards the BRICS that vary from “BRICS from above” (represented by multinational corporations, heads of governments and elite allies, that defend BRICS in either a pragmatic way of expanding business opportunities, or a rhetoric way of counter-positing Western powers in specific situations), “BRICS from the middle” (a position of those who normally seek for dialogue and representation within the BRICS, such established NGOs, academics and intellectuals, and trade unions) to “BRICS from below” (which is identified in concrete struggles conducted by communities, radical unions and grassroots organizations against extractive projects taken forwarded by BRICS’ governments, corporations and/or financial institutions)[6].

Given the expansion of multinational corporations and financial institutions of the BRICS in the African continent, we must question how those countries behave under the international investment regime. This article critiques the negotiations and political economy of investment agreements, in support of the position of those negatively impacted and resisting the overall loosening of trade restrictions associated with the rise of the BRICS (‘BRICS from below’). While not exhaustive, it presents an empirical overview and analysis of bilateral investments treaties (BITs), which demonstrates that, to a large extent, the BRICS BITs maintain the broader neoliberal economic order, although the locus of power may be partially shifting. Thus, as expressed in the actions of those affected and resisting the BRICS, the investments facilitated via these BITs entail ongoing socio-economic and political ecological contradictions and dislocations that do not alter the broader systemic crises emerging from the late global capitalism of the early 21st century.

BRICS’ activities in Africa are significantly present in the extractive sector and large infrastructure projects, opening new routes for looting and deepening a growth model with serious impacts on societies and the environment. Trade between the BRICS and Africa increased eightfold between 2000 and 2008 (from US$ 21.9 to US$ 164.6 million), two thirds of which is with China[7]. According to Amisi et. al., the “colonial scramble for Africa” is now renewed with the BRICS, given their interests in natural resources, mining, oil, gas, megaprojects related to water dams and electricity, building the rail and port infrastructure to transport this raw material to the international market[8]. Whereas the BRICS countries seek to assert themselves as a cohesive group in multilateral fora, in Africa, each one has its own competitive strategy and approach. Thus, in a broader context of capitalist accumulation, the BRICS are acting based on a logic of competition over natural resources and market access that is imperialist in nature and is taking colonialism back to Africa in modern times.

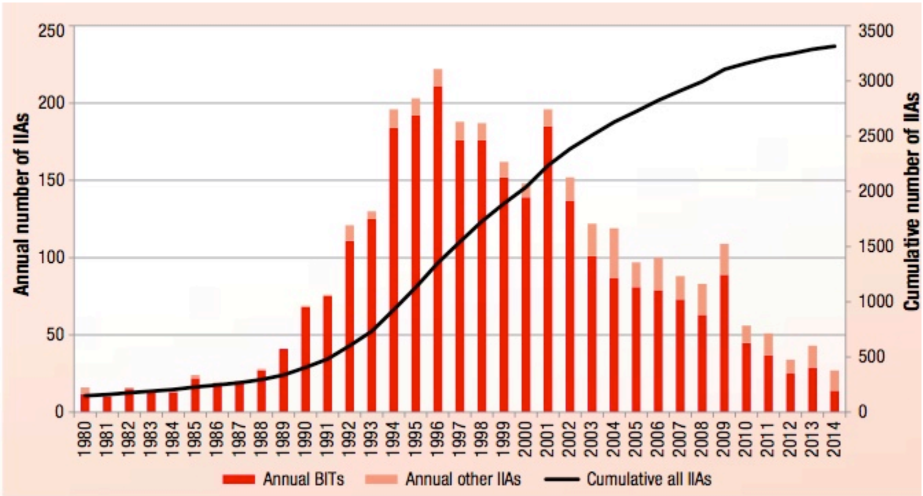
I start with a review of the critical literature on investment agreements. Then, I give an overview of each BRICS country's economic relations in Africa, starting with China, which has the largest number of treaties and volumes of investments in the continent, following in decreasing order by the other countries, ending with Brazil, which has fewer treaties and volumes of investment, yet has developed a new model of investment protection agreement. I bring in some of the main critiques and conflicts related to the operation of BRICS multinationals in the continent, and in conclusion, argue that social alliances in the sense of "BRICS from below" against projects conducted by governments, multinational corporations and financial institutions must be built upon concrete processes of struggles and on the basis of common experiences.

2. Investment agreements as new *Lex Mercatoria*

Although dating back to the post-war period, bilateral investment treaties (BITs) peaked in the 1990s with the explosion in the number of bilateral and regional free trade agreements (FTAs)[9], as shown in figure 1. During the same period, an international trade regime was established with the emergence of the World Trade Organization (WTO) in 1994. Since WTO rules must be negotiated and agreed upon multilaterally through processes that naturally slow down negotiations on agreements and make them more difficult, the trading powers United States and the European Union, but not only them, chose to go ahead and propose bilateral and regional free trade and/or investment treaties. There are currently 2,924 BITs signed in the world and 358 other international investment agreements (IIAs)[10].

Consistent with the new trade regime and neoliberal globalization, these treaties have created new *rules* to ensure international protection of multinational companies[11]. The heart of BITs is the dispute resolution clause (the so called the "investor-state clause"), which allows the private investor to submit an international arbitration claim against a nation-state, if they consider national legislation or public policies as "indirect expropriation" or "measures equivalent to expropriation" frustrating "legitimate profit expectations"[12]. As such, changes in the investment conditions in a country - even if for environmental reasons, public health needs or changes in the economic and political context - give multinational companies the right to demand compensation and payments for profits not obtained at the time of the changes and for future profits if the investment was thought of for 20 years, for example.

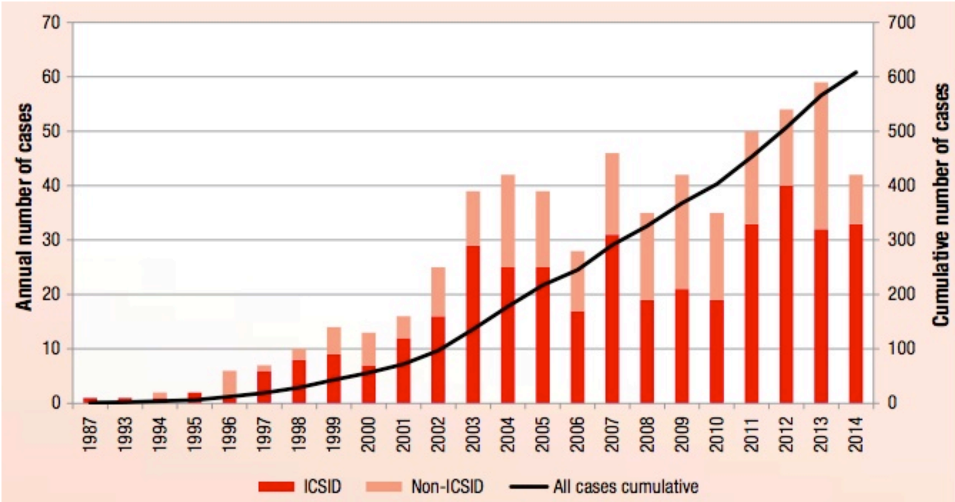
Figure 1. Evolution of International Investment Agreements, 1980-2014



Source: UNCTAD. “Recent trends in IIAS and ISDS”.

BITs and FTAs generally stipulate the World Bank´s International Centre for Settlement of Investment Disputes (ICSID) as an arbitration forum, as shown in figure 2[13]. By doing so, multinational corporations may avoid national arbitration forums[14]. As a result, sovereign nation states have lost power to multinational corporation, highlighting the huge international inequality between peripheral economies and corporations based in the traditional powers, USA and Europe. According to Hernandez, BITs can be considered part of a new *Lex Mercatoria*, which provides transnational companies with binding coercive and enforceable trade and investment rights against which International Human Rights Law becomes fragile[15]. There are no appropriate mechanisms and bodies to criminally hold corporate actors accountable for human, environmental and labor rights violations at the international level. On the contrary, the United Nations’ Global Compact has consolidated a set of rules and voluntary codes of conduct without legal effect. This normative asymmetry generates what Hernandez calls an “architecture of impunity”[16], as companies gain rights but not obligations in cases of human, environmental and labor rights violations[17].

Figure 2. Evolution of investor-state arbitrations processed by the ICSID and other forums, 1987-2014



Source: UNCTAD. "Recent trends in IIAS and ISDS".

According to Arroyo and Guiotto, there is a growing recognition that there is no causal relationship between maintaining BITs and increased flows of foreign investment. Additionally, countries such as Bolivia, Venezuela and Ecuador withdrew from the ICSID Convention and are revising their existing BIT models[18]. The criticism against BITs and their contradictions are leading the nation-states themselves to redefine and reform their parameters. It is precisely in this context of reform that Brazil proposed a new model in the Agreement on Cooperation and Facilitation of Investments (ACFI). This country, which never ratified a BIT with the traditional powers, drew up a new investment protection model to support and promote Brazilian multinationals abroad, starting it with African countries. With regard to the other BRICS, India and South Africa have also reviewed the framework of their investment treaties, particularly questioning the investor-state clause. South Africa ended its treaties with some European countries and reformed their national legislation regarding investors' rights. Along the same line, India tends to preserve its national interests in certain spheres of the economy, reevaluating their BITs in the face of international arbitration proceedings. China has gone through three different variations of BITs models and maintains a relatively reluctant policy regarding the inclusion of the most favored nation principle. Russia strongly opened its economy in the 1990s, adopting a pro-investment stance in order to attract foreign capital, with a flexible stance in trade negotiations[19]. The table below shows the BITs between the

BRICS countries (table 1).

Table 1. Bilateral Investment Treaties between the BRICS countries

Parties		Type	Year of signing	In force since
MERCOSUR	India	Preferential Trade Agreement	2003	2009
Russia	South Africa	BIT	1998	2000
Russia	India	BIT	1994	1996
Russia	China	BIT	1990	1991
Russia	China	BIT	2006	2009
India	China	BIT	2006	2007
China	South Africa	BIT	1997	1998

Source: Elaborated by the author based on data from UNCTAD

3. BRICS investment protection agreements in Africa

The maps below give an overview of the BRICS country's investment agreements in Africa, going in a decreasing order from China to Brazil.

Map 1. Bilateral Investment Treaties of the BRICS in Africa

Source: Prepared by the author based on data from UNCTAD.

China leads the presence of the BRICS in Africa, for it is the main trading partner and the biggest investor in the continent, suppressing the U.S. and overtaking the European Union as the second largest trading partner and largest source of African import[20]. It is a global economic power, the largest recipient of investment in the world and also one of the largest global investors. Chinese investment in Africa has been dominated by large state-owned enterprises with political and financial support. It has 129 Bilateral Investment Treaties (BITs) and 19 International Investment Agreements (IIA) around the world[21], only behind Germany, beating traditional powers such as the USA, France, United Kingdom and others. Regarding the African continent, China maintain BITs with 34 countries, which began in the early 1990s (table 2).

Table 2. Chinese Bilateral Investment Treaties in Africa

COUNTRY	SIGNED IN	IN FORCE SINCE
GHANA	1989	1991
EGYPT	1994	1996
MOROCCO	1995	1999
ALGERIA	1996	2003
MAURITIUS	1996	1997
ZAMBIA	1996	-
ZIMBABWE	1996	1998
CAMEROON	1997	2014
GABON	1997	2009
SUDAN	1997	1998
DEM. REP. CONGO (2 BITs)	1997 / 2011	-
NIGERIA (2 BITs)	1997 / 2011	-
ETHIOPIA	1998	2000
BOTSWANA	2000	-
CONGO	2000	-
KENYA	2001	-
MOZAMBIQUE	2001	2002
SIERRA LEONE	2001	-
IVORY COAST	2002	-
DJIBOUTI	2003	-
BENIN	2004	-
TUNISIA	2004	2006
UGANDA	2004	-
EQUATORIAL GUINEA	2005	-
GUINEA	2005	-
MADAGASCAR	2005	2007
NAMIBIA	2005	-
SEYCHELLES	2007	-
MALI	2009	2009
CHAD	2010	-
LIBYA	2010	-
TANZANIA	2013	2014

Source: Elaborated by the author based on data from UNCTAD.

China follows international standards set out in investment protection treaties and with a few exceptions, maintains similar formulations in all of them[22]. Expropriations, nationalizations or measures having equivalent effects are only provided for in the case of public purposes, under due process of domestic law, on a non-discriminatory basis and against compensation. The Chinese BITs refer to the transfer of resources and compensation for losses of investors, demanding effective and immediate payment, in accordance with market values. Regarding dispute settlement, China acts similar to Western powers: all Chinese treaties in Africa provide for investor-state arbitration. China is the only BRICS country that is a contracting member of ICSID (since 1993), which is included in all of its treaties with African countries since 1998. Chinese BITs do not include clauses on corporate social responsibility. In rare cases, China accepts certain exceptions to meet specific needs of a partner country in a BIT. This is the case of its treaty with South Africa, which provides for equal treatment for Chinese and South African investors while making an exception for public policies designed to mitigate the consequences of the apartheid by benefiting certain groups[23].

Backed by China´s BIT with Tanzania, the Chinese bank Standard Chartered Bank Hong Kong Limited brought an arbitration claim before the ICSID against the African government. The case boils down to a chain reaction of a dispute between two Tanzanian companies, IPTL and Tanesco, initially referred to the ICSID. IPTL is a large private electricity company hired by the Tanzanian government that is currently involved in a corruption case. Tanesco is the state-owned company in charge of electricity distribution throughout the country. The Chinese bank acted as an insurer of IPTL and as it was gradually harmed by court decisions in favor of Tanesco it decided to take the case to the ICSID. As the High Court of Tanzania ruled in favor of Tanesco, Standard Bank appealed to the ICSID against the Republic of Tanzania. This is a highly complex case that involves two arbitration claims against Tanzania currently, the first of which was filed in 2008 and the second one in September 2015[24].

China's official discourse establishes a relationship between investment and development aid. With its strategic “Going Out” program implemented in the early 2000s, investment and aid are placed in the same "package", particularly in case of infrastructure, which involves the construction of roads, railways, hospitals, educational centers etc. This “package” is linked to granting credit and finance to enterprises[25]. China’s Development Bank is the main source of funding for foreign investments, which also represents the state in other transactions. In the case of Africa, the bank created a specific subsidiary, the China-Africa Development Bank

(CAD Fund), with initial capital of US$ 1 billion, which could eventually reach $ 5 billion[26]. China provides low-interest rates loans and has now reached the status of lender and investor for infrastructural development on the continent[27]. In terms of the volume of investments, according to UNCTAD data, the stock of Chinese investment in Africa reached the amount of approximately US$ 21.7 billion in 2012[28]. The race for raw materials led to a boom of Chinese investment in mining, energy and oil sectors. At the same time, China also invested in other relevant sectors such as manufacturing, construction, technology, finance, textiles and retail. Amongst the main corporations are: Li Group, China Civil Engineering Co., China Non-ferrous Metal Mining Group, Sinopec, China National Offshore Oil Corporation (CNOOC), China National Petroleum Corporations (CNPC), PetroChina, Minmetals, Sinosteel, Hisense, Huawei Technologies, ZTE Corporation, Industrial and Commercial Bank of China[29]. Besides large and medium-sized state-owned companies, there are many Chinese small businesses spread through the African continent.

Amisi at. al. affirm that China has four main interests in Africa: access to raw materials, access to new markets, political influence and the isolation of Taiwan from African countries. In exchange for massive oil exports to China from countries such as Angola, Sudan and Nigeria, the country imposes the principle of an indivisible China to the poorest African countries: "Taiwan remains a thorn in the side of Chinese Government"[30]. Therefore, the Asian power uses its economic and geopolitical force to shape its relations with African countries. In Zimbabwe, where China is the main foreign investor, accounting for approximately 70% of all FDI in the mining sector (gold, diamonds and chromium), there have been reports of human rights abuses committed by Chinese employers against local employees. Chinese companies, such as Anjin Investments and the joint venture Sino-Zimbabwe Holding, have been accused of supporting the military sector in exchange for diamond mining concessions[31].

The environmental effects of the mining industry are disastrous. The Hong Kong-based timber company WEMPCO was denounced by NGOs of causing pollution due to the unrestrained extraction of timber along the Cross River in Nigeria, which provides drinking water and serves more than 300 communities, seriously affecting the health of this population[32]. Projects funded by large Chinese banks also raise concerns about their environmental impacts, such as the Gibe 3 Dam in Ethiopia, which was granted a financing of US$ 400 million from China's

Industrial and Commercial Bank[33]. In Zambia, Chinese coal mining operations are marked by violations and abuses of workers' rights[34]. Low wages, bad health and safety conditions and limited freedom of association are part of the working culture in the mines of Chinese companies both in Africa and in China itself [35].

According to Carmody, China's expansion and growth were supported by African elites, whose cooperation was sought around a non-interference policy [36]. Large Chinese corporations (and those from the other BRICS countries) have benefited greatly from the neoliberal regime and the economic opening of the African continent, carried out under the auspices of the Bretton Woods financial institutions and of the WTO. The African commodity market was opened up to imports from China and other countries, providing resources and investment opportunities for global Chinese corporations. On the other hand, Chinese and African workers have been suffering the worst consequences of this process. To the author, the most important "C" of the BRICS is not China, but *capitalism*[37].

South Africa joined the BRICS only in 2011 as a "gateway" and representative of the group on the African continent. It is the largest economy in Africa, the second BRICS country after China in terms of economic presence on the continent and the largest investor and recipient of FDI in the area, which increased significantly after the end of the apartheid regime in 1994. South African investments are concentrated in telecommunications, retail, manufacturing, mining and construction. Currently South Africa has 39 Bilateral Investment Treaties (BITs) and 10 International Investment Agreements (IIA) around the world, 18 of which are with African countries[38]. The first treaties were signed from 1998 but only two are currently still in force: the BITs with Mozambique and Mauritius (table 3).

Table 3. South Africa´s Bilateral Investment Treaties in Africa

COUNTRY	SIGNED IN	IN FORCE SINCE
MOZAMBIQUE	1997	1998
EGYPT	1998	-
GHANA	1998	-
MAURITIUS	1998	1998
SENEGAL	1998	-
ALGERIA	2000	-
RWANDA	2000	-
UGANDA	2000	-

LIBYA	2002	-
TUNISIA	2002	-
DEM. REP. CONGO	2004	-
EQUATORIAL GUINEA	2004	-
ANGOLA	2005	-
CONGO	2005	-
TANZANIA	2005	-
MADAGASCAR	2006	-
ETHIOPIA	2008	-
ZIMBABWE	2009	-

Source: Elaborated by the author based on data from UNCTAD.

South African treaties follow the traditional model of investment protection, granting national treatment to the foreign investor and the most favored nation principle[39]. At the same time, they safeguard the right of the country to foster equality and protect and promote people facing discrimination through domestic laws, in tune with South Africa´s post-apartheid constitutional framework. South African BITs provide for the investor-state arbitration in cases of expropriation, nationalization or measures having effects equivalent to expropriation and nationalization. With regard to dispute settlement, although South Africa is not a signatory state of the ICSID Convention, this body is provided for in its treaties through a complementary mechanism called additional facility, which allows countries to apply ICSID rules in international arbitration proceedings[40].

Backed by the BIT between South Africa and Mozambique, South African entrepreneur Oded Besserglik resorted to ICSID arbitration against Mozambique based on a claim of expropriation of fishing quotas. Together with other entrepreneurs, Besserglik had invested in shrimp fishing and trading operations in Mozambique. According to data provided by the ICSID, the arbitration suit was filed in July 2014 but is still pending, even though a tribunal has been already instituted to judge it[41].

South Africa is currently reviewing its BIT model. It canceled its treaties with some European countries after an international arbitration case initiated by a mining company from Italy and Luxembourg based on alleged expropriation under the Black Economic Empowerment program, designed to promote the participation of the black population in commercial enterprises. The South African government has been questioning the effectiveness of BITs in increasing investments flows to the country and the fact that it also limits public policies significantly. A new domestic law for promoting and protecting investments that was passed in 2003 gives the South African State more leeway to act. Investment disputes and controversies are now to be referred to domestic, rather than international arbitration and more restrictions will be applied to compensation payments, which don't have to be "prompt, adequate and effective" any longer, as determined under traditional BITs [42]. Nevertheless, South Africa still seeks to remain "attractive" to investors, maintaining its obligations and investment protection mechanisms. According to Bond, the South African government adopted a "talk left, walk right" posture[43], i.e. despite adopting a rhetoric of apparently defying the international status quo, it continues to ensure better conditions for multinational corporations, regardless of the existence of investment protection treaties or not, by improving laws that favor them.

South Africa is a member of continental and sub-regional organizations such as the New Economic Partnership for Africa's Development (NEPAD), South African Customs Union (SACU) and the Southern African Development Community (SADC). According to UNCTAD, South African FDI in the continent reached approximately US$ 23.5 billion in 2012[44]. Among the large companies, the MTN Group, Shoprite Holdings Ltd., Vodacom, Woolworths, Anglo American, De Beers, Naspers, Standard Bank, AngloGold and others stand out[45].

According to Amisi et. al., the country has been playing an intermediary role between Western powers and poor, yet resource-wealthy countries such as the Democratic Republic of Congo, Mozambique and Zambia in particular. In Mozambique, the Cahora Bassa power plant built by the Portuguese in the Zambezi river has been exporting large amounts of energy through electricity distributor Eskom to South Africa at very low prices. The aggressive actions of mining companies such as Anglo American, De Beers, BHP Billiton and African Rainbow Minerals, as well as the oil company Sasol, render South Africa a sub-imperialist role in the region[46].

According to Carmody, South African and Chinese capital act together to exploit natural resource and dominate markets in Africa. The largest FDI in Africa's history was made by the Industrial and Commercial Bank of China in South Africa's Standard Bank in 2007. In Zambia, the South African retailer Shoprite, which is also controlled by Chinese capital along with other South African companies, dominates the market to such an extent that local producers cannot participate in it. All profits are remitted back to South Africa[47].

At the same time, contradictions in the capitalist rise of South Africa lead to major examples of struggles and resistance, such as strikes and protests. New workers' organizations are being set up and local communities are being established to resist megaprojects and demand better management of the exploitation of natural resources and of the pollution caused by large companies. Some of these struggles have been brutally repressed by police and military forces, as in the case of a massacre of workers on strike at the Marikana mine in 2012[48].

India is an important player in the international investment market, especially in African countries. The country is party to 84 Bilateral Investment Treaties (BITs) and 13 International Investment Agreements (IIAs). Of this total, 12 BITs are with African countries. The first BIT was one signed with Zimbabwe in 1999, after which the process of entering into such treaties was intensified during the 2000s, and the most recent was one signed with the Democratic Republic of the Congo in 2010. Only three BITs with African countries are currently in force[49].

Table 4. India´s Bilateral Investment Treaties in Africa

COUNTRY	**SIGNED IN**	**IN FORCE SINCE**
EGYPT	1997	2000
MAURITIUS	1998	2000
MOROCCOS	1999	2001
ZIMBABWE	1999	-
GHANA	2002	-
DJIBOUTI	2003	-
SUDAN	2003	-
ETHIOPIA	2007	-
LIBYA	2007	-
SENEGAL	2008	-
MOZAMBIQUE	2009	-
CONGO	2010	-

Source: Elaborated by the author based on data from UNCTAD.

Similarly to China and South Africa, India´s treaties follow the rules of traditional BITs, such as national treatment for foreign investors and the most-favored-nation principle[50]. Indian BITs with African countries contemplate expropriation, nationalization and measures with equivalent effects, providing for arbitration between investor and the state. Most of the treaties signed provide for the disputes settlement through UNCITRAL rules[51] in *ad hoc* tribunals. They also provide for the possibility of using the ICSID as an arbitration forum through the additional facility complementary mechanism, since India is not a contracting member state.

They don’t provide for mechanisms to monitor them with the aim of preventing arbitration claims from being filed. In addition, they don’t include social responsibility clauses.

Backed by the BIT between India and Mauritius, India is a party in three arbitration cases being heard by international tribunals. The first one was brought by Bechtel Enterprises Holdings, Inc. and GE Structured Finance (FSGS) in 2003. These two U.S. companies used their African branches to file an international arbitration suit against the Indian government due to an alleged reversal in the local government´s energy policy between the launch of the Dabhol power plant project, which received investments from the claimants, and its planned completion, as a result of a political change in the government[52]. In the second case, initiated in 2012, the Indian company Devas Multimedia Private Limited used its subsidiaries in Mauritius to enter into a dispute with the Indian state in the Permanent Court of Arbitration. The case was based on a claim that the Indian government had called off an agreement to raise funds for the S-Band of the electromagnetic spectrum for the company´s subsidiary to launch two satellites to provide multimedia services to users in India[53]. Finally, the third case involves the Dubai company Khaitan Holdings Mauritius Limited, which filed an international arbitration suit against India based on a claim that the Indian Supreme Court had decided to cancel a telecommunications license held by a company that received investments from Khaitan and to hold a public auction for granting the license to a new bidder[54]. Only the first case was completed, the others are still pending.

India is currently reviewing its BITs with the aim of eliminating loopholes used by parties to file international arbitration claims against the country[55]. For this purpose, the Indian government uses the argument that a large number of disputes contribute to lending a negative image to the country and that, in practice, the treaties are not essential for ensuring capital flows to India.

India´s efforts to get closer to the African continent are not new and they have entailed cooperation and technical assistance, participation in peacekeeping missions and cultural relations[56]. Diplomatic, financial and legal incentives, linguistic and cultural similarities and the Indian diaspora in Africa (about 2 million people of Indian origin live on the continent) have been paying a major role in attracting Indian investments to the continent[57]. According to UNCTAD, in 2012, Indian investments in Africa totaled approximately US$ 13.2 billion[58]. Indian FDI is based on direct credit lines from Exim Bank, which have covered approximately 40 African countries and companies in various sectors[59]. The Indian government has also developed diplomatic initiatives such as the India-Africa Forum Summit, "Focus Africa", "Team 9"[60]. A six-year (2014-2020) initiative called Supporting India Trade and Investment for Africa (SITA) was also launched for the purpose of promoting exports to from five African countries (Ethiopia, Kenya, Rwanda, Tanzania and Uganda) to India through investments and the transfer of techniques from India to these countries[1]. Among the leading Indian companies in Africa are Essar Group, Tata Groups, Reliance Communications, Mahindra, Bharti Airtel, Sun Pharmaceutical Ltd, Oil and Natural Gas Corporation (ONGC), Jindal Steel and Power, Coal India and Ranbaxy Laboratories.

According to Anwar, economic relations between India and Africa today can be compared to colonial relations between the UK and India, as the trade between the two regions is dominated by exports of African commodities to India, while India supplies Africa with low- and medium-technology products [61]. India has heavily in Africa's agricultural sector, buying land through its public and private companies[62]. It is estimated that India is the fifth largest land investor in Africa. It is the largest land investor in Ethiopia already, accounting for over 70% of all land purchases in that country. These acquisitions have become the center of conflicts between local populations and private investors[63].

In the case of **Russia,** BITs implemented over the past three decades have further solidified their position in the extraction of oil and the sale of arms, industries that are clearly associated with significant socio-economic harms and ongoing social dislocation in the states receiving investment. The country signed its first investment protection treaties in 1987 during the end of the Soviet period. However, the opening of markets and a rapid liberalization and privatization process in the 1990s led Russia to enter the international investment market with the aim of attracting foreign companies to its market. It has 78 BITs and 5 IIAs with countries around the world, nine of which are BITs with African countries. Only four of its treaties with African countries are in force[64].

Table 5. Russia´s Bilateral Investment Treaties in Africa

COUNTRY	TYPE	SIGNED IN	IN FORCE SINCE
EGYPT	BIT	1997	2000
SOUTH AFRICA	BIT	1998	2000
ETHIOPIA	BIT	2000	-
ALGERIA	BIT	2006	-
LIBYA	BIT	2008	2010
ANGOLA	BIT	2009	2011
NAMIBIA	BIT	2009	-
NIGERIA	BIT	2009	-
EQUATORIAL GUINEA	BIT	2011	-

Source: Elaborated by the author with data from UNCTAD.

Russians treaties with African countries follow the traditional BITs model, providing for national treatment for foreign investors and the most favored nation principle[65], as in the other cases discussed above. The rules apply to investments made before and after the BIT and, as with traditional BITs, they protect investments made during the term of the treaty and for 15 years after its termination. It ensures the free transfer of investments related funds. Russian treaties do not include corporate social responsibility clauses. Russia has signed the ICSID Convention in 1992, but is not a member state. In the case of controversies, Russia's BITs provide for investor-state arbitration in ad hoc tribunals based on UNCTRAL rules[66]. It is a defendant in several international litigation cases before both the ICSID and in other international courts, such as the Stockholm Chamber of Commerce and the Permanent Court of Arbitration. Cases involving Russia and African countries were not found.

Although the volume of Russian investments in Africa is lower than that of China and other BRICS, Russia has been historically present on the continent since the days of the former Soviet Union (USSR). Between the 1960s and 1980s, the USSR strongly supported independence movements in Africa and contributed to its decolonization and, subsequently, toward the end of the apartheid regime in South Africa. After the end of the USSR in 1991, Russia began to turn toward Western countries. Nonetheless, it still has extensive diplomatic and diverse relations with Africa, which range from investments projects to peacekeeping missions[67]. According to UNCTAD, Russian investments recorded a volume of approximately US$ 2.1

billion in 2012[68]. The sectors in which it has been investing are oil, mining, natural resources, fuel, metallurgy, infrastructure, telecommunications, fishing, education, health, tourism and security. Some of the leading Russian multinationals in Africa are Lukoil, Alrosa diamonds, the Sintez conglomerate, state-owned Gazprom, and the nuclear power state company Rosatom[69].

Russia's share in the arms market in Africa is worrying, as it sold a total of US$ 66.8 billion in 2011[70]. According to Lechini[71], Russian participation in arms trade with Africa has roots in the Cold War, when many African armies became dependent on Russian supply and military technology. Today there is a trade-off between guns and oil: African countries transfer shares of its energy companies or authorize the management of mineral resources in exchange for Russian weapons. Russia sold arms to Libya when Gaddafi was in power and continues to do so today, besides investing in the construction of a railroad that cuts two Libyan cities through Russian Railways. From 2003 to 2012, Algeria, where Gazprom has a strong presence, spent nearly US$ 54 million in military equipment, 90.8% of which were imported from Russia. Ethiopia, which is a recipient of investments from more than 30 Russian companies, maintains military cooperation projects with Russia, as well as cooperation projects involving geological surveys to find uranium reserves[72].

Russian companies are involved in conflicts, such as in Zimbabwe, where there are various claims against DTZ-OZGEO (Private) Limited, a joint venture between DTZ-Development Trust of Zimbabwe (DRZ) and the Russian Econedra Limited, engaged in the extraction of gold and diamond. There, Alrosa, Ruschrome, Rostec and the Vneshekonombank bank control large diamond and platinum mining projects. The operations of DTZ OZGEO in the Penhalonga region have caused major environmental and social impacts [73].

Finally, **Brazil** is one of the main recipients of foreign investments and also a major investor in its own region, Latin America. Brazil has a total of 14 Bilateral Investment Treaties (BITs) and 22 Agreements International Investment (IIAs)[74]. The BITs signed by Brazil in the 1990s were not ratified by Congress because they were based on the traditional BIT model, which contains clauses that violate the Constitution and the sovereign right of the state to implement public policies in its own territory. Nevertheless, Brazil continued to pass national laws to guarantee foreign investments. With the increasing international expansion of Brazilian companies, the country changed its position in relation to the investments regime and is now making an effort to protect and promote its own multinationals abroad. This change came about after an extensive consultation with the private sector and led to the new Agreement on the Cooperation and Facilitation of Investments (ACFI)[75]. Therefore, the new Brazilian model is not designed to attract multinational corporations to invest in Brazil, but to promote and protect Brazilian investments in other developing economies. Recently, in 2015, the first three ACFI of were signed precisely with African countries: Angola, Mozambique and Malawi.

Table 6. Brazil´s Agreements on the Cooperation and Facilitation of Investments (ACFI) in Africa

COUNTRY	SIGNED IN	IN FORCE SINCE
ANGOLA	2015	-
MALAWI	2015	-
MOZAMBIQUE	2015	-

Source: Elaborated by the author based on data from UNCTAD

Some of the clauses in ACFIs are similar to those of traditional BITs and are in tune with the rules set by the WTO, such as those providing for national treatment for foreign investors and for the most-favored-nation principle[76]. Expropriations and nationalizations are permitted in the event of public utility and purposes, on a non-discriminatory basis and against compensation. However, unlike traditional BITs, the ACFIs don't provide for "indirect expropriations" (which may involve public policy in a given area) and the notion of "legitimate expectations" of a company for profits not yet realized[77].

There are other significant differences. The first concerns the institutional governance mechanism that was created to coordinate and implement the agreements. It is made up of a Joint Committee (which is formed by the governments of both countries in charge of discussing, monitoring and coordinating the expansion of investments) and of focal points, which are "executive bodies) in each country that will act as an ombudsman. The focal points will follow the Committee's guidelines and will actually implement the agreement by exchanging information, by working with the actors of the other party, and by preventing or facilitating the resolution of disputes. It is worth noting that the texts of the agreements claim that they promote the participation of the private sector and civil society in the process. Therefore, ACFIs provide for a procedure intended to prevent disputes and mediate conflicts. In case of a controversy, these focal points negotiate restitution and compensation in consultation with the private sector and other stakeholders, while final decisions will be made by the Joint Committee. If the dispute is not settled, the case is referred for international arbitration between the two states involved. A court is then defined for this purpose on an ad hoc basis, since Brazil is not a member of the ICSID.

As it follows, this new agreement model differs from traditional BITs in the most sensitive part, namely the investor-state clause. In dealing with conflicts involving Brazilian multinationals in African countries, it is up to the Brazilian state – and not to the company that caused the problem – to negotiate a solution with the host State. While on the one hand this can be seen as a positive step toward eliminating the possibility of a private investor gaining legal power against a state, on the other the risk of companies not being held accountable is worrying, since the Brazilian state is the one that will have to bear the political and economic burden of the dispute. The interests of Brazilian multinationals abroad end up being represented by the Brazilian government as "national interest" and the burden of disputes and conflicts between these multinationals and the host state also end up being placed on the shoulders of the Brazilian state.

Another important difference is that ACFIs include corporate social responsibility clauses in terms of the environment, human rights and labor[78]. These agreement stipulate that investors shall develop "best efforts" to bide by voluntary principles and standards of business conduct. However, they don't include binding clauses that hold companies accountable for human rights violations and for failure to comply with labor and environmental standards. In this regard, Brazil does not make real progress in relation to existing voluntary codes of conduct. Its intention seems to be to that "cleaning up its image" and distancing itself from the ongoing conflicts in Mozambique and Angola. This is without any doubt one of the reasons why the first agreements were signed precisely with African countries.

Brazilian trade relations on the continent grew significantly since the Lula administration came to office and decided to give priority to South-South relations. With India and South Africa, Brazil has established the IBSA Forum for cooperation on the continent. According to UNCTAD, Brazilian investments in Africa totaled approximately US$ 1.1 billion in 2012[79]. Between 2002 and 2012, trade between Brazil and Africa increased six-fold, from US $ 4.9 to US $ 26.5 billion. The Brazilian National Social-Economic Development Bank (BNDES) is the main source of funding, as the bank has made US$ 2.9 billion available for Brazilian multinationals to invest in Africa since 2007. The bank also opened an office in Johannesburg in 2014 to enhance this support[80]. The increased presence of Brazilian companies in Africa has been accompanied by "development cooperation" in agriculture, education and health. While Angola is the main recipient of investments, Mozambique is the main recipient of cooperation projects.

The global mining company Vale[81] began to operate in Mozambique in 2004 in the Tete province, where it exploits and exports coal. Today, the company is taking part in a project to expand the infrastructure of the Nacala Corridor, which includes building a railway and a port to transport coal through the north region of Mozambique. Companies such as Odebrecht, OAS and Andrade Gutierrez were involved in a project designed to expand the logistics infrastructure in the area. Conflicts brought about by the activities of Vale in Mozambique have been widely covered in articles, reports and documents produced by non-governmental organizations and the media in recent years[82]. These conflicts were caused by the removal and division of families of small farmers that occupied the area of the Moatize mine, which were resettled in areas not suitable for agriculture with little access to water and markets and unsafe housing conditions. These communities staged protests and blocked the railroad and entrance to the mine[83]. With regard to workers, the wages and treatment provided to Brazilians and nationals are different, security systems and equipment are lacking in the workplace, and various accidents have been reported that resulted in several strikes[84].

Investments in infrastructure, which cut Malawi, are also partially intended to support a soybean production project called ProSavana, which is a cooperation project between Brazil, Japan and Mozambique that has also given rise to heated discussions and criticism from local farmers against the taking of their land by foreign actors and multinational companies[85]. Recently, social movements in the three countries launched a campaign called "Say No to the ProSavana"[86]. These two large projects involving Brazilian investment and cooperation (both of which have been accused of violating human rights) were the initial drivers of the ACFIs between Brazil and Mozambique and between Brazil and Malawi.

In Angola, Petrobras and Odebrecht have been investing since the 1980s. More recently, other companies such as Vale, construction companies, banks, as well as smaller retail and service companies began to invest in the country. Brazil's influence in Angola is mainly led by Odebrecht. The company began to operate in the country in 1984 in a project to build the Capanda hydroelectric power plant in the Malanje province. The inputs for building the dam came almost exclusively from Brazil. Odebrecht has expanded its activities in Angola beyond the construction sector and it is now active in sectors such as sanitation, oil and gas extraction, agriculture (Capanda agroindustrial hub), diamond mining and even supermarket and garbage collection management. Many have reported lack of transparency in bids for public works and the low quality of services provided by the company, which was recently accused of adopting labor practices analogous to slavery and human trafficking at the Biocom plant in Malanje[87].

5. Conclusion

This article aimed to provide an overview of the investment agreements between the BRICS countries and Africa. Most BITs signed by BRICS countries are similar to those involving traditional powers. In particular, China, which is a contracting member state of the ICSID Convention, has been playing an active role in the current global investment regime. Therefore, more than an alternative to the existing world order, the BRICS reinforce the new *Lex Mercatoria*[88], guaranteeing the rights of large multinational conglomerates to the detriment of societies, workers and nation-states.

It should be noted that both the new Brazilian model and the reforms under way in India and South Africa have been either weakening investor-state arbitration or making it impossible. However, this change may paradoxically lead to additional protection for the companies themselves if they cannot be held accountable for problems and conflicts brought about by their operations. The political and economic burden of negotiations lies with states, which are also characterized by large asymmetries in power and this situation ends up reproducing the inequalities prevailing in the international system.

In recent decades, China's aid package and the presence of “new donors” on the continent have changed the overall framework of international development cooperation, providing African countries with a wider range of international aid providers and making it possible for them to reduce their dependence on the omnipresent Western powers and on the World Bank. In addition to their cooperation, the lending and financing policy of the BRICS have become known for not imposing political conditionalities (such as human-rights related conditionalities) and macroeconomic and fiscal conditionalities (such as privatizations) on African countries. This aspect distinguishes the BRICS from Western powers and multilateral financial institutions.

However, in competing for resources and markets, the BRICS countries act in ways that are similar to those of traditional powers and often align with them around cooperation policies and investments. The BRICS have been intervening in peripheral economies alongside Western countries in the “new scramble for Africa” for natural and energy-related resources, cheap labor and consumer markets for their products in a new arena of regional and global geopolitical competition. Thus, the BRICS have been playing an increasingly important role in the global value chain as they expand the operations of their multinational corporations. Africa has become once again a territory of disputes that have been renewed with the entry of new players from the Global South (and East).

In this context, the BRICS have recently agreed on another commitment to launch the New Development Bank. Given its main characteristics and interests, the establishment of the Bank is intended to consolidate the role of the BRICS in fostering large infrastructure projects, a fundamental pillar for sustaining the current development model of these countries, which is increasingly linked to international markets. These investments have, in many cases, become “new paths for the plundering of resources,” as they establish large logistics hubs to connect territories and natural resources to foreign markets. Thus, the development model based on the exploitation of natural resources and on building the required logistics infrastructure to market them is still based on corporate interests supported by governments without the actual participation and involvement of society. The environmental, social and economic consequences of this model have proved devastating for local populations, workers and small farmers. The Nacala Corridor in Mozambique provides a good example of this fact[89].

China´s current economic slowdown and the significant drop in international minerals, oil and agricultural commodities prices are major challenges for the BRICS and African economies. Based on our mapping and monitoring of BRICS investments on the continent, as described here, it’s possible to affirm that the provision of credit will often be conditioned on exports of mineral and energy resources, mainly oil and minerals. In this context, special mention should be made of the emergence of new forms of *South-South debt* as collateral for the financing of commodity exports. This form of debt can reinforce a productive matrix based on exports of primary goods and therefore annul or weaken opportunities for developing a more diversified production framework, with implications for future generations. Given the volatility of commodity prices, this means that African economies have become even more vulnerable.

One of the challenges faced by local communities, small farmers and social movements is that of coordinating struggles and resistance against the activities of BRICS multinationals in their territories. The International Alliance of Peoples Affected by Vale provides a very good example of this fact. However, developing alliances between social organizations from the BRICS is a challenge. Whereas the idea of a "BRICS from below" is still far from the reality of social movements in each country, entrepreneurs, by contrast, is associated in the BRICS Business Forum and other alliances with African governments. At the same time, similar experiences of confrontation and resistance have been recorded in each BRICS and African country, such as those related to mega-events (the World Cup and the Olympics held in Brazil, Africa, China and Russia) and to socio-environmental conflicts around oil, gas, mining and infrastructure megaprojects. In other words, international solidarity and closer relations between the societies of BRICS and African countries will only be ensured through confrontation as these countries continue to promote a predatory development model that destroys the environment and the ways of living and livelihood of their populations.

While on the one hand the number of bilateral investment treaties and free trade agreements increased exponentially during the 1990s, when a "new world order" was proposed based on trade and investment liberalization, the BRICS group was born in the XXI century with renewed expectations of changes in the world order through greater participation of the Global South. However, what we have witnessed so far is the consolidation of a new/old unequal world order. We must therefore ask what new world order we actually need. Are corporations actual subjects of development? The challenges of building a "BRICS from below" should not hide the need for building a actual new world order with peoples and communities, rather than and corporations, will be in the center.

Notes

[1] Ana Garcia teaches International Relations at the Federal Rural University of Rio de Janeiro. This article is based on the study *BRICS in Africa: more of the same? A comparative study of investment treaties between the BRICS and African countries*, conducted by the Rio-based Institute PACS. This research counted on the work of the student assistants Yasmin Bitencourt and Barbara Dias, and on comments and suggestions made by Miguel Borba de Sá, Karina Kato and Sandra Quintela. A full version of this study is available at http://www.pacs.org.br/files/2016/05/Publicao-Africa-BRICS-EN.pdf

[2] The first BRICS Summit took place in Russia in 2009 to discuss, among other issues, common policies to overcome the international crisis. Since then the group meet annually. According to Prashad (2013), the prehistory of BRICS is located in two related processes: the defeat of the Third World Project in the 1980s, and the rise of Northen-led neoliberalism. BRICS derives its agenda from the India-Brasil-South Africa (IBSA) Dialogue, and the group of 20 developing economies that resisted the World Trade Organization agenda at the Cancun meeting in 2003. Cf. Vijay Prashad, "Neoliberalism with Southern characteristics …".

[3] See, for example, Walden Bello, "The BRICS: Challengers to the global status-quo"; Rhadika Desai, "The BRICS are building a challenge to western economic supremacy".

[4] A collection of analysis about the BRICS from a left-critical perspective can be found at Patrick Bond and Ana Garcia, *BRICS, an anti-capitalist critique.*

[5] Other tension came about when Russia hosted former NSA agent Edward Snoden, and in different attempts to substitute the U.S. dollar for local currencies in trade and finance relations between them. Cf. Bond and Garcia, "Introduction".

[6] Bond and Garcia, "Introduction", 6-7.

[7] Gladys Lechini, "BRICS e África, uma grande incógnita".

[8] Amisi et. al., "BRICS corporate snapshots during African extractivism".

[9] The first BIT was signed between Germany and Pakistan in 1959. In the 1980s there were approximately 400 treaties in force, jumping to approximately 1.800 in the 1990s. Cf. Luciana Guiotto, "La protección a las inversiones como corazón del libre comercio: acerca de los Tratados Bilaterales de Inversión y el CIADI".

[10] According to UNCTAD, a Bilateral Investment Treaty (BIT) is an agreement between two countries regarding promotion and protection of investments made by investors from respective countries in each other´s territory. The great majority of International Investment Agreements (IIAs) are BITs. The IIA category includes the BITs, Free Trade Agreement (FTA) and other treaties containing structuring investment clauses. Cf. "Terminology" in http://investmentpolicyhub.unctad.org/IIA/

[11] The most common ones include: national treatment and fair and equitable treatment to foreign investors (which prevents domestic investors from receiving differential treatment), the most favored nation principle (which allows international investors to take advantage of more favorable conditions under other treaties), intellectual property rights, stability of contractual terms after ratification (terms cannot be modified by the parties), prohibition on investor performance requirements by host states and residual treaty validity, which extends the protection provided for in a BIT for years after it expires Cf. Guiotto, "La protección a las inversiones…".

[12] Daniel Godinho and Carlos Cozendei, "Novos acordos de investimento no menu".

[13] According to UNCTAD, the cumulative number of claims presented by investors against nation states (in ICSID and other forums) reached 608 between 1987 and 2014, 354 of which have been completed and where 101 countries are respondents of lawsuits filed by one or more investor. Cf. UNCTAD, "Recent trends in IIAS and ISDS".

[14] According to Godinho and Cozendei, the 1965 Washington Convention created the foundations for this foreign investor protection system in the context of decolonization and national liberation struggles in the so-called "Third World". During this period, the argument presented was that the newly created judicial systems would not be impartial and that international forums would be free from political interference.

[15] Juan Hernandez, *Las empresas transnacionales frente a los derechos humanos.*

[16] Juan Hernandez, "Arquitectura jurídica de la impunidad".

[17] Social movements in Latin America launched a "Say No to the ICSID" campaign, and together with other social organizations from other parts of the world are pushing the United Nations to create a binding treaty on transnational corporations and human rights. Cf. http://www.enlazandoalternativas.org/IMG/pdf/Campana_CIADI-TBIs.pdf , and https://www.tni.org/en/publication/8-proposals-for-the-binding-treaty-on-transnational-corporations-and-human-right.

[18] Alberto Arroyo and Luciana Guiotto, “Brasil y la nueva generación de Acuerdos de Cooperación y Facilitación de Inversiones”. According tho the authors, Ecuador requested a full audit of investment treaties and of the arbitration system, which was carried out between 2014 and 2015.
[19] Galina Kuzina, “BRICS international investment regime from the perspective of foreign investment protection”.
[20] Fatu Cheru and Cyril Obi, “Chinese and Indian engagement in Africa”, 93.
[21] Cf. http://investmentpolicyhub.unctad.org/IIA/CountryBits/42#iiaInnerMenu
[22] The Chinese treaties ensure companies equal treatment between international and domestic investors and the most-favored-nation principle. The definition of investment includes products and services, as well as intellectual property assets, including industrial property, as in the case of Benin, Madagascar, Algeria, Ethiopia and Ghana. We’ve examined the contents of agreements between China and Algeria, Benin, Botswana, Congo, Cote d’Ivoire, Djibouti, Egypt, Ethiopia, Ghana, Madagascar, Mauritius, Morocco, Nigeria, Tunisia, Uganda, Zimbabwe and South Africa.
[23] South African policy of protection and promotion of the black population has already led the country to ICSID by investors from Luxembourg and Italy based on the national treatment principle. Cf. Jackwell Feris, “Challenging the status quo – South Africa's termination of its bilateral trade agreements”.
[24] Cf. https://icsid.worldbank.org/apps/icsidweb/cases/Pages/casedetail.aspx?caseno=ARB/10/20&tab=PRD
[25] Lopes et. al., “FOCAC: estratégia econômica e política de cooperação sul-sul sino-africana”.
[26] Cf. CAD-Fund: The company overview, in http://www.cadfund.com/en/index.aspx
[27] Fantu Cheru and Cyril Obi, “Chinese and Indian engagement in Africa…”, 97.
[28] Statistical date drawn from UNCTAD´s data base (available in: http://unctad.org/Sections/dite_fdistat/docs/webdiaeia2014d3_CHN.xls), elaborated on the basis of China´s Ministry of Commerce (MOFCOM) between 2003 e 2012. The numbers may be underestimated and outdated.
[29] According to Cheru and Obi, Chinese investors enjoy state support through diplomatic initiatives (such as the FOCAC) and high-level visits by Chinese officials to Africa. Fantu Cheru and Cyril Obi, “Chinese and Indian engagement in Africa…”, 99.
[30] Amisi et. al., “BRICS corporate snapshots during African extractivism”, 421.
[31] Ibid., 427
[32] Odigha Odigha, “In defence of the property of the common”.
[33] The dam will affect a huge area of fragile ecosystems along the Omo River region and the Turkana valley, influencing their natural cycle of floods and reducing their flow into the Turkana River, which is now threatened by salinization. Approximately 300,000 people live off a lake in the area, where they carry out agricultural, fishing and grazing activities. Cf. Ke Zhang, “Ecological destruction? Chinese loan for Ethiopian dams draws controversy”.
[34] Marcelo Justo, “As conflituosas relações da China na África”; and Prádaig Carmody, “The new scramble for Africa”.
[35] Justo, “As conflituosas relações…”
[36] Carmody, “The new scramble for Africa”.
[37] Ibid.
[38] Cf. http://investmentpolicyhub.unctad.org/IIA/CountryBits/195#iiaInnerMenu
[39] An exception to this clause is made in cases of customs union, free trade areas, common market, etc.
[40] We’ve examined the contents of agreements between South Africa and China, Algeria, Madagascar, Mauritius and Zimbabwe.
[41]https://icsid.worldbank.org/apps/ICSIDWEB/cases/Pages/casedetail.aspx?CaseNo=ARB(AF)/14/2&tab=PRD
[42] Feris, “Challenging the status quo…”.
[43] Patrick Bond, “South Africa: talk left, walk right”.
[44] Taken from the UNCTAD database (http://unctad.org/Sections/dite_fdistat/docs/webdiaeia2014d3_ZAF.xls) based on numbers disclosed by the South Africa Reserve Bank between 2001 e 2012. Some of the data for important countries such as Madagascar, Angola and Nigeria is outdated. It is worth noting that, despite the lack of a BIT between Nigeria and South Africa, Nigeria is the main recipient of South African investments.
[45] Cris Alden and Max Schoeman, “South Africa’s symbolic hegemony in Africa”.
[46] Amisi et. al., 422
[47] Carmody, “New scramble for Africa”.
[48] Bond, “South Africa’s resource curse and growing social resistance”.

[49] Cf. http://investmentpolicyhub.unctad.org/IIA/CountryBits/96#iiaInnerMenu
[50] We've examined the contents of agreements between India and Egypt, Ghana, Libyan, Mauritius, Morocco, Mozambique, Sudan, Senegal and Russia.
[51] UNCTRAL is the United Nations Commission for International Trade Law established in 1966 with the aim of developing an international framework to assist in the harmonization of international business rules. It developed a model of rules aimed at preparing and promoting the use of legislative instruments in subject areas related to international trade law. Today, it counts with 60 member-states.
[52] Cf. http://investmentpolicyhub.unctad.org/ISDS/Details/104
[53] Cf. http://www.pcacases.com/web/view/46; and http://investmentpolicyhub.unctad.org/ISDS/Details/484
[54] Cf. http://investmentpolicyhub.unctad.org/ISDS/Details/553
[55] The case which triggered this process involved the Australian miner White Industries against the Indian state, which the company won, alleging that India had violated the most favored nation principle. Cf. https://www.iisd.org/itn/2012/04/13/the-white-industries-arbitration-implications-for-indias-investment-treaty-program/
[56] Rajiv Bhatia, "India's Africa policy: Can we do better?"; Lechini, "BRICS e África".
[57] Anusree Paul, "India foreign direct investment in Africa".
[58] Date extracted from the UNCTAD database (http://unctad.org/Sections/dite_fdistat/docs/webdiaeia2014d3_IND.xls, Table 4). The numbers disclosed are from between 2010 and 2012 and may be underestimated or outdated.
[59] Cf. http://www.eximbankindia.in/lines-of-credit
[60] Cheru and Obi, "Chinese and Indian engagement in Africa…", 99-100.
[61] Mohamed Amir Anwar, "Indian foreign direct investment in Africa: a geographical perspective".
[62] Cheru and Obi, "Chinese and Indian engagement in Africa…", 103.
[63] Ibid.
[64] Cf. http://investmentpolicyhub.unctad.org/IIA/CountryBits/175
[65]With the exception of free trade areas or economic unions, treaties signed by the Russian Federation with countries of the former USSR and in relation to treaties against double taxation or treaties involving tax issues.
[66] We've examined the contents of agreements between Russia and China, Ethiopia and Egypt. Agreements with other countries are available at the UNTAC webpage only in Russian.
[67] Alexandra Arkhangelskaya and Vladimir Shubin, "Is Russia back? Realities of Russian engagement in Africa".
[68]Data extracted from UNCTAD´s database. (http://unctad.org/Sections/dite_fdistat/docs/webdiaeia2014d3_RUS.xls, table 4). Elaborated with data between 2009 and 2012 from the Bank of Russia. The numbers may be underestimated or outdated.
[69] Habiba Barka and Kupukile Mlambo, "Russia's economic engagement with Africa". Others draw attention to the fact that some of the Russian investments are difficult to identify because they use subsidiaries in other countries to send their investments to African countries, as is the case of Renova Holding, registered in the Bahamas, Evraz plc in the UK and Gazprom International in the Netherlands. Cf. Arkhangelskaya and Shubin, "Is Russia back?...", 31.
[70] Amisi et. al., "BRICS corporate snapshots…".
[71] Lechini, "BRICS e Africa…", 143.
[72] Cf. http://mepc.org/journal/middle-east-policy-archives/russian-libyan-rapprochement-what-has-moscow-gained; http://www.usnews.com/news/articles/2014/04/25/with-world-watching-ukraine-russia-makes-energy-moves-in-africa; http://www.geeskaafrika.com/ethiopia-russian-energy-companies-delegation-led-by-foreign-minister/5575/.
[73] Amisi et. al., "BRICS corporate snapshots…".
[74] Cf. http://investmentpolicyhub.unctad.org/IIA/CountryOtherIias/27#iiaInnerMenu
[75] Fabio Morosini and Michele Ratton, "The Brazilian Agreement on Cooperation and Facilitation of Investments (ACFI): A New Formula for International Investment Agreements?".
[76] Similarly to traditional BITs, the Brazilian agreements ensure protection to all investments made before and after their ratification. With regard to the definition of investments and investors, the ACFI with Angola provides that such definitions must be in accordance with domestic laws, while the ACFI with Mozambique contemplates investments in production and services. Intellectual property is addressed within the framework of the WTO. The agreements ensure a free flow of capital, except when litigation is initiated or there is a crisis in the balance of payments, according to IMF rules. We've examined the contents of agreements with Mozambique, Angola and Malawi.

[77] Alberto Arroyo and Luciana Guiotto, “Brasil y la nueva generación de acuerdos…”.
[78]This is a recent trend in new BITs, such as the treaties elaborated by Canada. Cf. UNCTAD, “Recent trends in IIAs and ISDS”.
[79]Data extrada from UNCTAD´s database. (http://unctad.org/Sections/dite_fdistat/docs/webdiaeia2014d3_BRA.xls), elaborated with data between 2001 e 2012 from the Brazilian Central Bank. The data related to major countries such as Mozambique and South Africa is not disclosed, rendering the accumulated data underestimated and outdated.
[80] Cf. “BNDES inaugura escritório de representação na África”.
[81] Vale has faced conflicts of many kinds - social, environmental and labor - inside and outside Brazil. At home, its privatization, in 1997, is still the subject of protests and legal disputes inside Brazil. And abroad, its truculence provoked the longest strike in Vale's history in its dispute with the United Steel Workers (USW) in Canada. Notably shortly before the confrontation against Canadian workers, Vale had massive lay offs of workers in Brazil. In fact, contradicting the argument of those who assumes that the "national interest" is at play in the internationalization of Brazilian companies, the disruption of rights of Canadian workers did not benefit Brazilian workers. For Vale’s global acting in Canada, Brazil and Mozambique, cf. Judith Marshall, “The worst company in the world”. For the role of Brazilian multinationals and the state, cf. Virginia Fontes and Ana Garcia, “Brazil’s imperial capitalism”.
[82] See for example: João Mosca and Thomas Selemane, *Eldorado Tete: os megaprojetos de mineração*; International Movement of People Affected by Vale, *Vale unsustainability Report 2012*; Human Rights Watch. *What is a house without food? Mozambique’s coal mining boom and resettlements*. http://www.hrw.org/sites/default/files/reports/mozambique0513_Upload_0.pdf
[83]Cf. https://adecru.wordpress.com/2013/04/17/atingidos-pela-vale-bloqueiam-e-forcam-a-paralisacao-da-mina-em-mocambique/
[84] Ana Garcia, Karina Kato and Camila Fontes, *A história contada pela caça ou pelo caçador? Perspectivas do Brasil em Angola e Moçambique.*
[85] Cf. Sérgio Schlesinger, *Cooperação e Investimentos do Brasil na África: o caso do Prosavana em Moçambique*; Justiça Ambiental and UNAC, *Senhores da Terra: análise preliminar do fenômeno da usurpação da terra em Moçambique.*
[86]Cf. http://www.unac.org.mz/index.php/artigos/nacional/94-campanha-nao-ao-prosavana-mocambicanos-pedem-solidariedade-regional
[87] Cf. http://www.bbc.com/portuguese/noticias/2014/06/140616_mp_denuncia_odebrecht_jf
[88] Juan Hernandez, *Las empresas transnacionales frente a los derechos humanos...*
[89] Ana Garcia and Karina Kato, “Políticas públicas, interesses privados: uma análise a paritr do Corredor de Nacala”.

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