

# THE NEW DEVELOPMENT BANK: AN EVALUATION OF THE FIRST FIVE YEARS OF BRICS' FINANCIAL INSTITUTION

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The constitution of BRICS (acronym for Brazil, Russia, India, China and South Africa) is one of the main features of globalization in the 21<sup>st</sup> century. This group of countries from the 'Global South and East' gathered collaborative momentum throughout this millennium's first decade, after Goldman Sachs initially conceived the acronym BRIC (South Africa wasn't included then) in their identification of promising markets for economic and financial agents. As Altvater (2015, p. 239) has once stated: "It is one of the rare cases in history in which an historical event had a name before it really happened."

However, the cooperation among these countries would only soar to a new level after the economic and geopolitical breakdown led by 'subprime crisis', which began in the U.S. stock market in 2008. That crisis gave rise to the idea that 'core' countries were losing power in the world order, while China, along with other countries so-called 'emerging economies', would challenge the dominant positions of the U.S., Europe and Japan. Parallel to that turbulent context, the first BRIC's summit took place in Russia in 2009, and triggered a succession of annual summits<sup>3</sup> that gave body and content to the grouping, in addition to identifying markets. In 2011, 'BRIC' became 'BRICS' as South Africa was incorporated as a permanent member of the group.

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<sup>3</sup> Since 2011, side meetings among BRICS' leaders have been held during G20 Summit activities as well.

After more than one decade of activities, BRICS has undergone a process of institutional densification (Ramos et. al., 2018)<sup>4</sup>. And, it's in the financial arena that the group has stood out. Since its first official meeting, BRICS has demanded reforms in the institutional financial architecture derived from Bretton Woods' agreement (such as in the World Bank, in the International Monetary Fund and in the dominant role of US' currency in international monetary relations). As a part of its 'regulatory agenda towards the international monetary and financial system' (Vasconcelos, 2020), the group has also created its own multilateral institution: the New Development Bank (NDB), which became fully operational in 2016.

This paper discusses the role of BRICS' financial institution, questioning the capacity of the New Development Bank in providing a new model of development finance. Considering NDB's first five years (its funding policies, operational principles, official goals, performance, and comparing them to the Asian Infrastructure Investment Bank's model of operation - a similar and contemporary bank), we argue that BRICS' capacity of providing an alternative to the existing Bretton Woods institutions has been limited in a double sense. In the geopolitical level, the limitation is due to the ties of complementarity that the NDB has established with Bretton Woods' institutions. Furthermore, in an operational dimension, NDB has showed little impact in BRICS' economies, diminishing its capacity to attend its own financial goals.

## **1. Expectations and innovations towards NDB**

While demanding reforms in Bretton Woods institutions, BRICS have created the New Development Bank, that would finance infrastructure and sustainable energy projects in emerging economies and in developing countries. One of the official reasons for BRICS to establish its own bank was their disappointment at the lack of progress in reforming Bretton Woods institutions. From the standpoint of the group, its own institution-building

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<sup>4</sup>Besides cooperation between government agencies in several sectors, BRICS must be seen as more than a group of States, as they have created civil society and business entities as well, namely the BRICS Business Council (which organizes the annual BRICS Business Forum), the Think Tanks Council and Academic Forum and the 'Civil BRICS'. Social movements, NGOs and grassroots organizations that are more critical towards BRICS have been organizing parallel 'People's BRICS' summits since 2013.

initiatives supposed to be crucial to share BRICS' vision on transforming the global financial architecture, allegedly "based on the principles of fairness and equity"<sup>5</sup>.

After the idea of the BRICS bank was first made public in the third summit in Delhi in 2012, the agreement to establish it was signed two years later, in 2014, the same year that the Asian Infrastructure Investment Bank (AIIB) was also announced. Both banks began their operations in 2016.

With initial authorized capital of US\$ 100 billion and initial US\$ 50 billion subscribed to the bank, US\$10 billion per country, one innovative aspect of the NDB is that the internal governance statute has started with equal voting power for the bank's founding members<sup>6</sup>. In the bank's narrative, it is precisely 'new' because it is a 21<sup>st</sup> century multilateral development bank that builds on the experiences of existing institutions and reflects the growing role of BRICS in world economy (NDB, 2017a, p. 7-8).

This BRICS initiative was a highpoint to those who have considered the group as challengers of U.S. economic supremacy<sup>7</sup>. The creation of new multilateral financial institution composed primarily by 'developing' economies, without the leadership of the U.S. or other Western powers, was considered to reflect the need for a new equilibrium in the world order. They could eventually substitute IMF and/or WB by financing development in poor countries<sup>8</sup>. As Elmar Altvater wrote in a piece to the 70<sup>th</sup> anniversary of the Bretton Woods institutions (in 2014) the need for reform was on the top of the agenda, but decision-makers were still reluctant to lose power.

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<sup>5</sup> "45. (...) We believe that BRICS institution-building is critical to our shared vision of transforming the global financial architecture to one based on the principles of fairness and equity." BRICS. VIII Summit, Goa, India, Oct. 16th, 2016. Available on: <https://www.mea.gov.in/bilateral-documents.htm?dtl/27491/Goa+Declaration+at+8th+BRICS+Summit>

<sup>6</sup> The founding members are the five BRICS countries, but the NDB is open to other UN members. With headquarters in Shanghai, the bank opened its Africa Regional Centre in Johannesburg in 2017, its Eurasian Regional Centre in Moscow and its Americas Regional Office in São Paulo, both in 2020. In 2022, NDB's announced the launch of its Indian Regional Office in Gujarat International Finance Tec-City.

<sup>7</sup> For example: Rhadika Desai, 'The BRICS are building a challenge to western economic supremacy'. *The Guardian*, 2 April, 2013, Available on: <https://www.theguardian.com/commentisfree/2013/apr/02/brics-challenge-western-supremacy>; or Walden Bello, 'The BRICS: Challengers to the global status-quo'. *Foreign Policy in Focus*, 29 August, 2014. Available on: <https://fpif.org/brics-challengers-global-status-quo/>

<sup>8</sup> 'Banco dos BRICS muda equilíbrio mundial, diz economista'. Interview with Deepak Nayyar in *Folha de Sao Paulo*, 16 August, 2014. Available on: <https://m.folha.uol.com.br/mercado/2014/08/1501027-banco-dos-brics-muda-equilibrio-mundial-diz-economista-leia-integra.shtml?cmpid=menupe>

To lessen dependency on the IMF, the World Bank and Wall Street, and to increase their developmental leeway, similarly structured organizations of the Global South are being formed against the Monetary Fund and the Development Banks of the Global North. The 70th anniversary of the Bretton Woods System may be the date later historians will write that it is the birth of an autonomous political formation of the global South against the global North (Altvater, 2014, our translation)

The banks' narrative points to two important issues that differentiate it from the Bretton Woods institutions. The first is the emphasis on national sovereignty. According to the NDB's General Strategy 2017-2021, "the NDB's mandate does not include prescribing policy, regulatory and institutional reforms to borrowing countries" (NDB, 2017a, p. 11), which would mean to follow nationally-defined laws and procedures on project implementation without compromising project quality. This reflects on the bank's approach to national country's system of environmental protection. The second is the intention to use local currencies for its transactions<sup>9</sup>. The bank has issued so far regular bonds in member countries and international capital markets and intends to tap the growing market for green bonds for its operation (NDB, 2017a, p. 4).

In sum, NDB was supposed to be an example of a new generation of multilateral development banks because it would be: (i) a bank *from the South and for the South* (i.e., it would only address the needs of developing and emerging countries), (ii) a *green* bank (i.e., its major funding would be directed towards infrastructure and sustainable projects), and (iii) a *non-interventionist* bank (i.e., its operational decisions would be allegedly based on merit, and not on a hidden political agenda)<sup>10</sup>.

## 2. NDB's limitations

Given these previous assumptions, the high expectations over NDB as a possible alternative to the existing Bretton Woods institution is understandable. However, considering its first five years of activities we can draw a different forecast. There are two

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<sup>9</sup> At the same time that this strategy tries to reduce financial transaction costs by addressing the risk of devaluation, it also meets the Chinese aim to further internationalize Renminbi, and eventually weaken Dollar's hegemony.

<sup>10</sup> As the Brazilian former NDB Vice-President Paulo Nogueira Batista Jr. (2016, p. 179, our translation) clearly stated: "NBD is not a political bank. The bank will be guided by technical criteria to approve projects. Our constitutional agreement makes this point clear. We want to avoid over-politicizing the decisions that are taking place in existing multilateral institutions."

levels of limitations that have shifted NDB away from those expectations. One is related to the bank's geopolitical attachments and the other is due to its operational problems.

## 2.1. Geopolitical attachments

As one can draw from its official documents, NDB has cast itself as a complementary organization to existing multilateral institutions, and not as an opposition to them. According to NDB's articles of agreement, its mandate is:

(...) to mobilize resources for infrastructure and sustainable development projects in BRICS and other emerging economies and developing countries, complementing the existing efforts of multilateral and regional financial institutions for global growth and development (NDB, 2015).

Soon after, the New Development Bank established a partnership with the World Bank for infrastructure investment, thus countering those who had been expecting a different conduct<sup>11</sup>. NDB's ties to the *status quo* are also perceived in the bank's financial strategy. NDB's focus on infrastructure and energy projects follows the same policy of several multilateral financial institutions, such as the World Bank's Global Infrastructure Facility<sup>12</sup>, the G20's Global Infrastructure Hub<sup>13</sup>, as well as regional and national banks (such as the Inter-American Development Bank, the Brazilian Development Bank or the Caribbean Development Bank). It can be affirmed that there is a *global consensus* around the 'need' for infrastructure to leverage economic growth through public-private partnerships.

In the 8<sup>th</sup> summit in Goa, in 2016, BRICS announced the possibility of creating its own credit rating agency. This idea could challenge the prominence of Western agencies in the financial market (such as *S&P Global Ratings* and *Fitch Ratings*), especially after the loss of legitimacy due to their roles in the 2008 financial crisis. However, this BRICS' initiative has not yet been developed. Albeit NDB's difficulties to obtain international credit rating during its first years, as we'll see in the next topic, one can notice that the

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<sup>11</sup> See: <http://www.worldbank.org/en/news/press-release/2016/09/09/world-bank-group-new-development-bank-lay-groundwork-for-cooperation>

<sup>12</sup> See: <http://www.worldbank.org/en/programs/global-Infrastructure-facility>

<sup>13</sup> See: <http://globalinfrastructurehub.org/>

BRICS' bank still relies on those Western rating agencies as major parameters for its financial activities and investments<sup>14</sup>.

Even though these geopolitical attachments are not easy to surpass – as they depend not only on intentions, but also on greater transformations to the overall international balance of power -, we can observe that NDB has not yet made a real case in changing this scenario.

## **2.1. Operational issues**

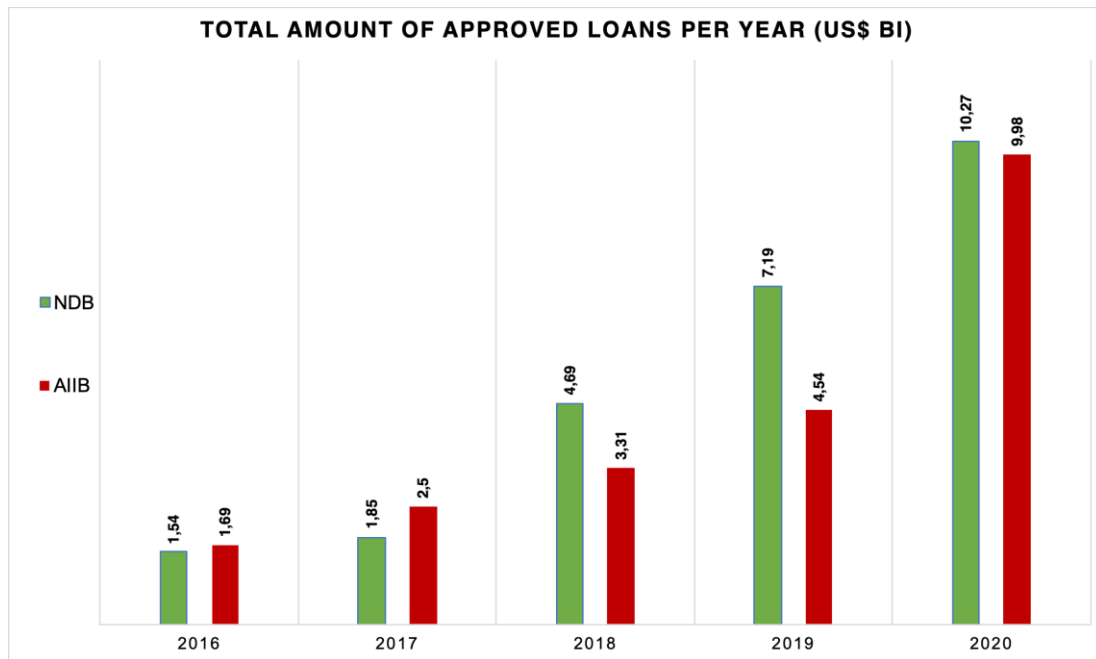
Additionally, NDB's weak performance has been a major limitation in making real changes in the global financial system during its first five years. Considering the operational principles established in NDB's articles of agreement, the goals inscribed in its own General Strategy (2017-2021), and AIIB's model of operation (a similar and contemporary bank), BRICS' institution has not presented good results.

According to NDB's General Strategy, the bank aimed to be fast and efficient, establishing as one of its goals to appraise, negotiate and approve loans in less than six months on average. This six-month target would give a competitive edge to NDB. For instance, the approval process in the World Bank usually takes 14 to 16 months to be completed (Humphrey, 2016).

In 2016, during its first operational year, NDB already approved projects within that timeline, making an investment of up to US\$ 1,5 bi. Regarding the amount of investments made per year for its approved projects, NDB is showcasing quite a similar pattern than that of AIIB (even higher until the outbreak of the pandemic crisis, whose specific effects on both banks' performance will be studied afterwards).

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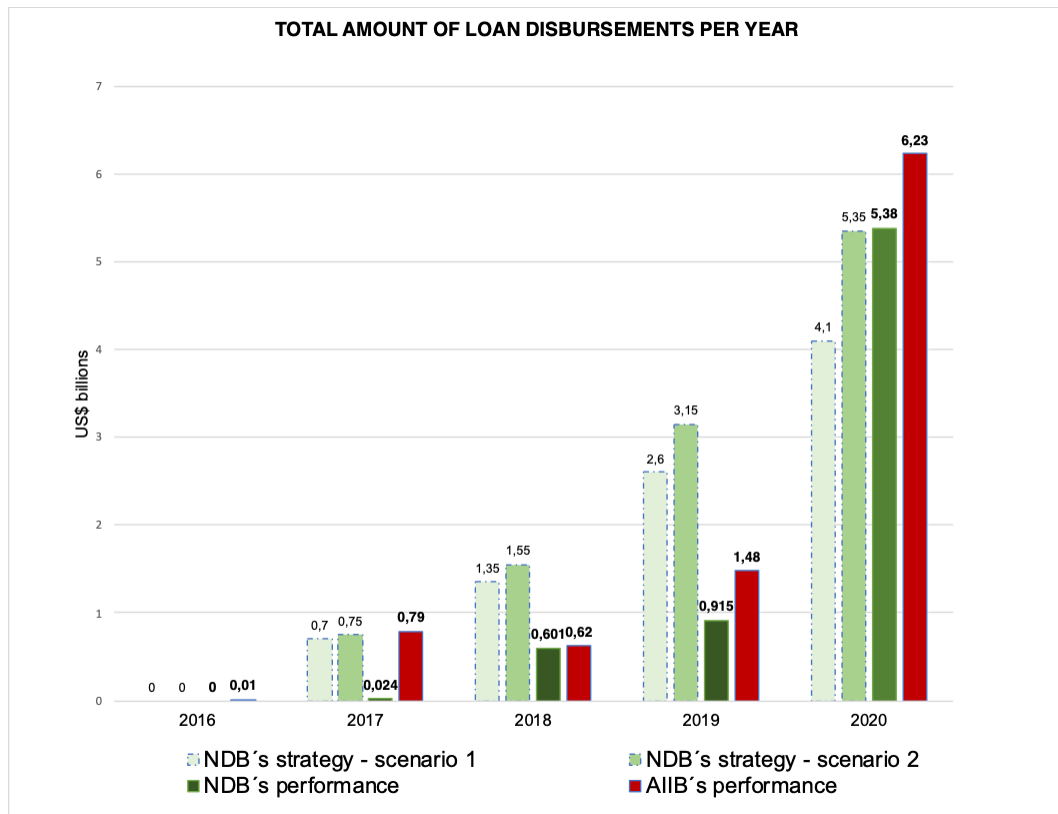
<sup>14</sup> Probably, one of the reasons of NDB's decision to put "transactions in Russia on hold", soon after the beginning of the conflicts in Ukraine, was to avoid credit rating downgrade from S&P and Fitch agencies. See: [https://www.ndb.int/press\\_release/a-statement-by-the-new-development-bank/](https://www.ndb.int/press_release/a-statement-by-the-new-development-bank/). Apparently, the effort didn't work as planned because *Fitch Agency* downgraded NDB's to 'AA' from 'AA+' in its last review of NDB's business model. See: <https://www.fitchratings.com/research/sovereigns/fitch-downgrades-new-development-bank-to-aa-outlook-negative-18-07-2022>.



Source: own elaboration based on data from NDB' and AIIB's Annual Reports.

Despite BRICS' bank being able to approve loans in a fast pace, it hasn't been able to make disbursements as planned in its General Strategy. By the end of 2018, NDB had a loan portfolio of up to US\$ 8 bi, but awkwardly it had only disbursed less than US\$ 650 mi. Before the beginning of Covid-19 pandemic, NDB had reached more than fifty approved projects, making an investment of up to US\$ 15 bi (by contrast, AIIB had invested up to US\$ 12 bi in sixty-three projects). However, at this same period, NDB's disbursements only reached approximately US\$ 1.5 bi (almost half of AIIB's disbursements).

As one can see on the chart below, these data didn't meet NDB's own strategic goals for the period, while also revealing NDB's poor performance *vis-à-vis* AIIB.



*Source: own elaboration based on data from NDB' General Strategy (2017-2021), and from NDB and AIIB's Annual Reports.*

Such pattern suggests that NDB has approved projects without the necessary maturity in regard to technical feasibility and financial viability analysis, thus strengthening the assumption that the bank's speedy actions are a fiction in fact. As for 2020, NDB's disbursement rates changed considerably, even surpassing the optimist amount forecasted in its General Strategy (*scenario 2*). Nevertheless, at least three of those five billions were fully disbursed to finance not infrastructure projects, but its member-States' special needs due to the pandemic crisis.

In effect, NDB has created a "Fast Track COVID-19 Emergency Assistance Response Facility" of up to US\$ 10 bi in order to support BRICS countries. With agility and flexibility as core principles, this Facility was designed to provide up to US\$ 5 billion for BRICS' most urgent needs (including health expenditures and social safety nets), and another equal amount for economic recovery<sup>15</sup>. It's worth noting that AIIB has announced

<sup>15</sup> See: <https://www.ndb.int/wp-content/uploads/2020/07/Policy-on-Fast-track-Emergency-Response-to-COVID-19.pdf>



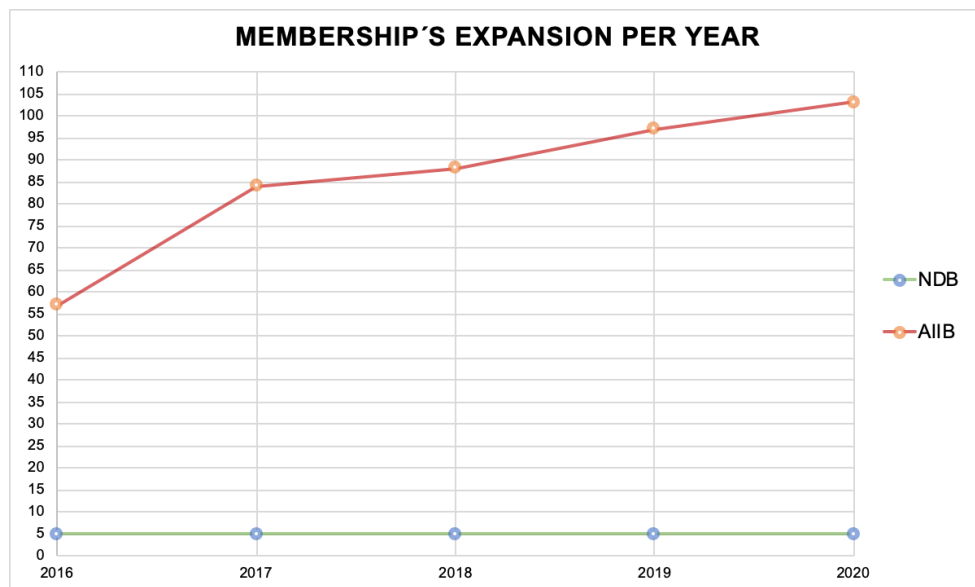
a quite similar program, called “COVID-19 Crisis Recovery Facility”<sup>16</sup>. Therefore, one can’t assume that these loans follow NDB’s or even AIIB’s previous strategic plan. Actually, the exceptionalities created by the Covid-19 pandemic were the true motives for both bank’s large and fast disbursements in 2020. If one takes Covid-19 emergency assistance out of the equation, NDB’s disbursements in 2020 were only US\$ 2,3bi (almost half of the conservative amount forecasted in its own General Strategy - *scenario 1*).

Moreover, *vis-à-vis* AIIB, NDB faced serious difficulties to obtain international credit rating. In its first two years, BRICS’ bank only had ratings from Chinese domestic credit agencies: triple A from *China Chengxin International Credit Rating* and from *China Lianhe Credit Rating*. During the same period, by contrast, AIIB had already achieved the highest rates from major international credit rating agencies: a triple A from *Standard and Poor’s* and another one from *Fitch Ratings*, as well as a “Aaa” score from *Moody’s*. Only in 2018, NDB obtained ratings from those well-known agencies: a “AA+” from *Standard and Poor’s* and from *Fitch Ratings*<sup>17</sup>. One of the reasons for this discrepancy between NDB and AIIB’s ratings lies in the number and variety of its members.

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<sup>16</sup> AIIB’s Covid-19 Crisis Recovery Facility has offered up to US\$ 13 billion to support the bank’s members and clients in alleviating and mitigating economic, financial and public health pressures arising from COVID-19. See: <https://www.aiib.org/en/policies-strategies/COVID-19-Crisis-Recovery-Facility/index.html>

<sup>17</sup> In 2019, a “triple A” international rating was granted by *Japan Credit Rating Agency*. In the following year, NDB also received a triple A from a Russian institution called *Analytic Credit Rating Agency*. Cf: <https://www.ndb.int/investor-relations/credit-ratings/>. As we noted before, due to Ukraine crisis, Fitch decided to downgrade NDB’s to ‘AA’ in July 2022. See: <https://www.fitchratings.com/research/sovereigns/fitch-downgrades-new-development-bank-to-aa-outlook-negative-18-07-2022>



*Source: own elaboration based on data from NDB and AIIB's Annual Reports*

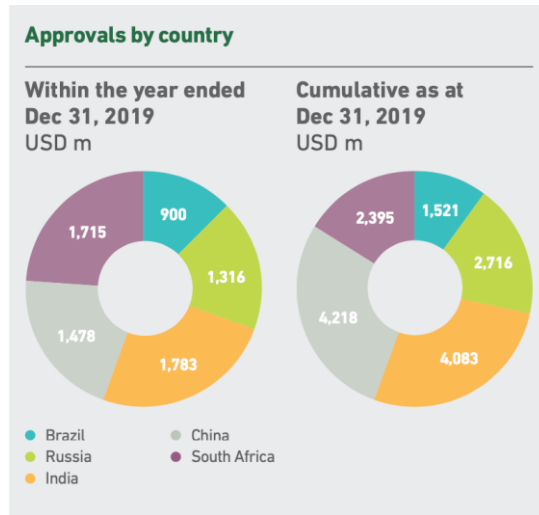
While AIIB had achieved 103 members, including several advanced countries as shareholders, NDB had not expanded its membership at all during its first five years, although expansion membership is seen as crucial for achieving BRICS' bank strategic goals<sup>18</sup>. As one can assume, the concentration of portfolio and risks are higher in a bank with only five members as shareholders, and the absence of developed countries among its members doesn't help NDB's international credit rating<sup>19</sup>. Additionally, Brazil defaulted its penultimate capital installment to NDB in 2020. This lack of commitment from Brazil tends to affect negatively NDB's rating in the near future. It's worth noting that only in late 2021, NDB finally has started expanding its membership with the admission of Bangladesh, United Arab Emirates, Uruguay and Egypt as shareholders of the Bank<sup>20</sup>.

<sup>18</sup> According to NDB's General Strategy: "The Bank also expects to influence the international financial architecture and global practices by being a fundamentally new kind of development institution based on mutual respect and reflecting the evolution of the world economy in recent decades. To achieve these goals, NDB must operate at scale, and that means bringing in new members beyond the founding five shareholder countries (...). Expansion of membership will help raise the Bank's profile and international standing, diversify NDB's sphere of operations to more countries and reduce portfolio concentration, increase paid-in capital, and leverage the experience of other countries in project design and implementation" (NDB, 2017a, p. 26)

<sup>19</sup> At the time he worked in the institution, Paulo Nogueira Batista Jr. noted that the main force against NDB's expansion of memberships were the Russians. According to Batista Jr. (2021), the international embargos (its support by major advanced countries and consequently the difficulties to access international credit) explain the Russian reluctance to incorporate new members in BRICS' bank.

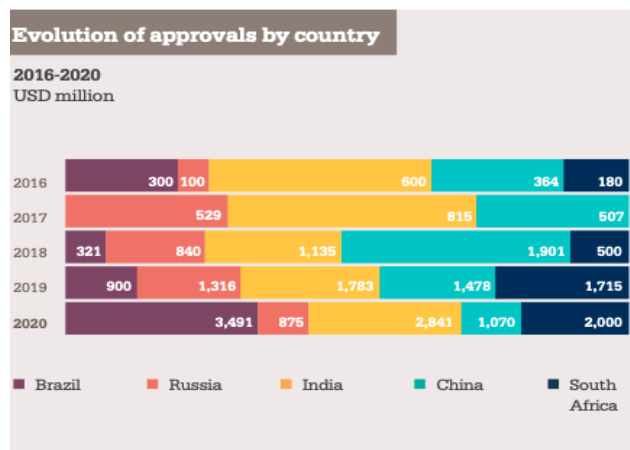
<sup>20</sup> At least until the end of June of 2022, Uruguay and Egypt still have not paid their subscribed capital to NDB.

According to NDB’s articles of agreement, “the Bank shall not allow a disproportionate amount of its resources to be used for the benefit of any member. The Bank shall seek to maintain reasonable diversification in all of its investments”. Nonetheless, during the first four years, NDB’s portfolio was severely concentrated in the Asian region. For instance, until the end of 2019, NDB had only approved six projects from Brazil, representing more or less 10% of its portfolio.



Source: NDB’s Annual Report 2019, p.6

Taking the amount of funding approved by the NDB, it is possible to identify that India and China concentrate almost half of NDB’s portfolio. South Africa was the country that received the least resources from the BRICS’ institution, with only ten projects approved since 2016. Below, the image is indicating the evolution of approvals by country during the first five years of the bank's operation.



Source: 2020 Annual Report, p.53

This data indicates NDB's difficulties in becoming an economic presence in Brazil and in South Africa. Both countries also suffered several delays in establishing their NDB's regional headquarters (one in Johannesburg and the other in São Paulo)<sup>21</sup>.

Only in mid-2020, in the beginning of the Brazilian presidency mandate within the bank, did the institution achieve a more balanced portfolio (at least for this particular country). By the end of 2020, NDB approved six more projects from Brazil, an investment superior to US\$ 3,4 bi. With those approvals, Brazil was then represented with around 20% of NDB's portfolio. However, considering that the majority of these investments (at least US\$ 2bi) came from Covid-19 Facility, NDB still needs to make bigger efforts to build a real diverse and non-concentrated portfolio.

### **2.1.1 NDB's investments**

Another important dimension to evaluate NDB's performance is the quality of its investments. In other words, we also need to examine the bank's operations within BRICS countries and have an overview of the economic sectors and types of projects sponsored by the bank.

The bank's first operation in Brazil was executed together with the Brazilian Development Bank (BNDES) in 2016 for the amount of US\$ 300 million (NDB 2017b, p. 34). The 2019 annual report highlights the US\$ 300 million corporate loan to Vale S.A., the largest mining company and a major logistics operator in the country, to improve transportation system, mainly in railway and port infrastructure, enhancing company's cargo capacity and strengthen its operational efficiency (NDB 2019, p. 40). This company is also well-known for its long history of human rights violations and environment crimes in the country<sup>22</sup>. In the same year of this loan (2019), Vale S.A was

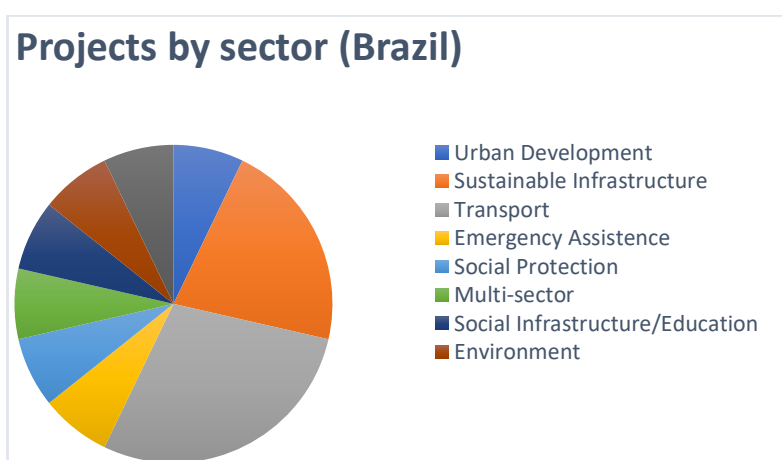
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<sup>21</sup> Regarding Brazil, it's worth noting that, at least since 2015, the country has faced a severe political and economic crisis, which was aggravated after the *coup-d'état* suffered by Dilma's presidency. The following right-wing governments (both Temer and the current Bolsonaro's administrations) have changed the previous foreign policies, looking for strong alignments with the traditional countries from the "North" (especially, with the United States of America), and therefore weakening its participation within BRICS' structures.

<sup>22</sup> These violations have been documented by the international alliance of People Affected by Vale, for instance, in its "Vale Unsustainability Reports". Cf. <https://atingidosvale.com/relatorio/> (accessed in July 2022).

one of the major responsible for the collapse of “Brumadinho’s dam” (only three years after the collapse of “Mariana’s dam”, both in Minas Gerais state), which resulted in the death of 270 people<sup>23</sup>.

In 2020, NDB approved its biggest loan so far: a sovereign guaranteed loan of up to US\$ 1,2 bi for BNDES to on-lend to the public and private sectors for sustainable infrastructure sub-projects in the country. Besides this, it has financed twelve other projects in Brazil, four loans to local governments, one non-sovereign to oil company Petrobras. Figure below shows the main sectors of NDB’s projects financed in Brazil between 2016 and 2021.



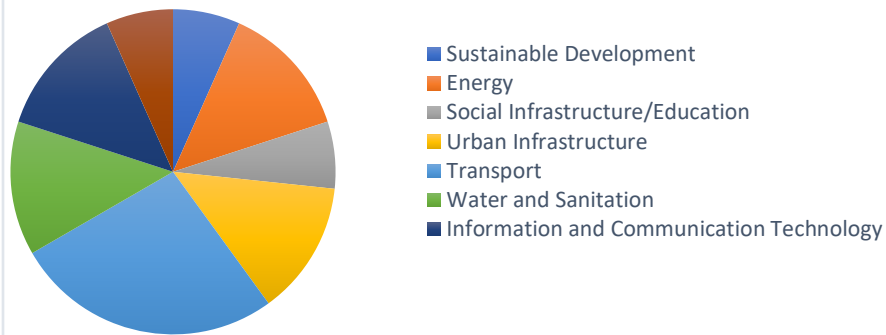
Source: Elaborated by the authors based on data available at NDB’s website

In the case of Russia, the report presents the CHF 500 million loan to the Joint Stock Company Russian Railways for its locomotive fleet renewal program, allowing the purchase of 3,576 new locomotives equipped with the latest technologies and contributing to the modernization of Russia’s railway system (NDB, 2019, p. 40). Yet, a \$300 million loan to the Russian petrochemical SIBUR was denounced for benefiting oligarchs of Vladimir Putin’s inner circle, one of them his former son-in-law<sup>24</sup>. Next figure shows the main sectors of NDB’s projects financed in Russia between 2016 and 2021.

<sup>23</sup> See: <https://www.bbc.com/news/world-latin-america-51220373>

<sup>24</sup> <https://www.valor.com.br/international/news/5975457/ndb-approved-loan-sibur-despite-controversy-about-sanctions>

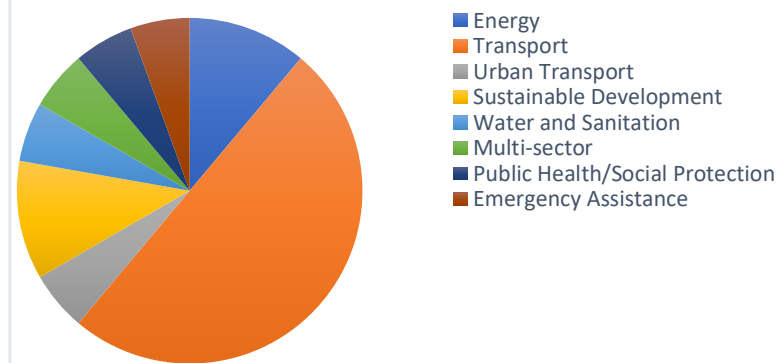
### Projects by sector (Russia)



Source: Elaborated by the authors based on data available at NDB's website

India's projects highlighted in the 2019 annual report are related to the state of Madhya Pradesh, receiving loans both in the area of transportation infrastructure - with two loans of US\$323 million each to renovate roads and bridges - and in the urban development sector - with a US\$225 million loan to build a new metro line (NDB 2019, p.44). The NDB has approved US\$ 9.4 billion for projects in transportation, urban infrastructure, water and sanitation, besides other related sectors, in the country. Twelve out of eight projects financed in India are for local and provincial governments. The following figure shows the main sectors of NBD's projects financed in India between 2016 and 2021.

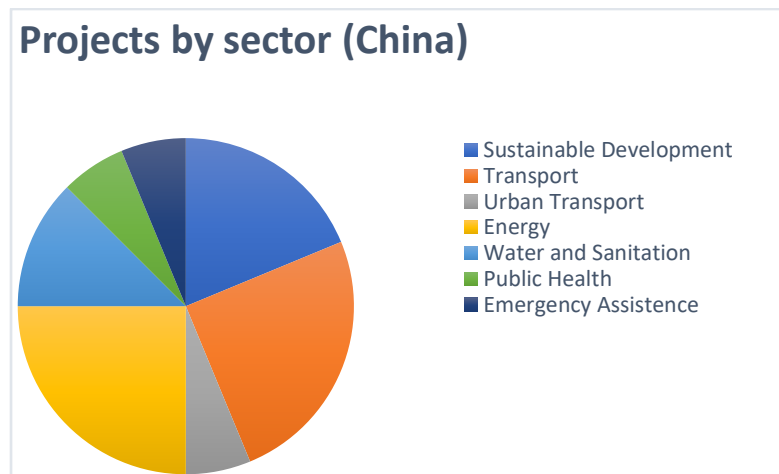
### Projects by Sector (India)



Source: Elaborated by the authors based on data available at NDB's website

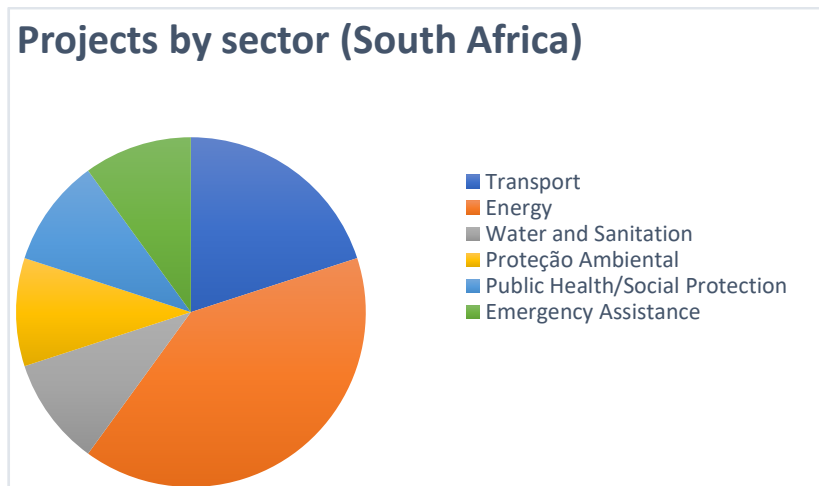
In the case of China, in 2016, the NDB issued 'green' bonds for the first time, for a total of 3 billion yuan (US\$ 449 million). As of late 2017, the bank had approved four projects in renewable energy and water and sanitation in the country for a total of US\$ 895 million; three of the projects were financed directly with the Chinese currency (NDB, 2017b, p. 37), which supports China's strategy to internationalise the Renminbi. In 2019 report, the

Lanzhou New Area Regional Hub Multimodal Logistics and Transport Infrastructure Demonstration Project is highlighted, providing RMB 2.5 billion to finance multimodal logistics options, including rails, roads and air freight (NDB 2019, p. 41). The next chart shows the main sectors of NDB’s projects financed in China between 2016 and 2021.



Source: Elaborated by the authors based on data available at NDB's website

Finally, in South Africa, the bank has approved two additional loans to Eskom Holdings SOC Ltd (Eskom), a state-owned electricity utility that generates approximately 95% of the electricity used in the country (NDB 2019, p. 38). For the case of Transnet, a US\$200 million loan was given to the expansion of a container terminal at the Durban Port, an operation that, according to D’sa and Bond (2018), was done without adequate consultation and analysis. For decades, “the South Durban Community Environmental Alliance (SDCEA), with members from all races and classes, has opposed the ultra-polluting port- petrochemical complex” (D’sa and Bond, 2018, p. 180). Transnet and other corporations operating in refineries in the port area are accused of environmental racism, for health problems and ecological degradation in a mainly black poor area. The company had already received a loan from the China Development Bank in 2013 during the Durban BRICS summit, with which it, then, sub-contracted a Chinese firm in over-priced deals (D’sa and Bond 2018, p. 181-182). The figure bellow shows the main sectors of NDB’s projects financed in South Africa between 2016 and 2021.



*Source: Elaborated by the authors based on data available at NDB's website*

Following these data, one may question the NDB's capacity to finance infrastructure projects and, simultaneously, guarantee sustainability, the environment and the rights of the populations in the territories where the projects will be executed. Indeed, Altwater (2015, p. 242) has so precisely pointed to the 'limits of growth', and how "Capitalist dynamics are overshooting the limits of the living and the natural resources of Planet Earth". Major constructions, roads, railways and ports – as well as energy infrastructure, especially hydroelectric plants – within the BRICS territories and in their hinterlands, aim at serving extractive industries and agribusiness to export their production to international market. These infrastructural networks become, in some cases, 'new plunder routes' by establishing large logistical axes that connect territories and natural resources with external markets. The Nacala Development Corridor in Mozambique is illustrative of this process (Garcia and Kato, 2020)<sup>25</sup>.

### **2.1.2 Human rights standards and practices within NDB**

The NDB elaborated a socio and environmental framework in 2016, only after releasing its first approvals. This framework is composed of two parts: the first being a series of overarching policies on the social and environmental management of the bank's operations, and the second, on the socio-environmental standards related to the

<sup>25</sup> It reveals, on the concrete grounds of African territories, the leading role of multinational corporations (such as Brazilian Vale and the Japanese Mitsui), funding agencies from the North (such as JICA) and multilateral financial institutions, such as the World Bank and the African Development Bank, confirming the convergence of actors and initiatives in the mineral and agricultural commodities production chain, which are an essential element of global capitalist accumulation. Thus, the Nacala Corridor suggests that aid and investments efforts of emerging economies of the BRICS, such as Brazil, participate in the same expropriation and pillaging of territories with major global players, and not opposed to them.



environment protection, involuntary resettlement and indigenous peoples (NDB 2016, p. 3). Among its objectives, there is the strengthen national environmental and social systems, which would mean that, ‘Through its operations, NDB seeks to balance economic, social, and environmental interests while fostering ownership and accountability of member countries’ (NDB 2016, p. 4).

According to the NDB, there were problems of the 1980s World Bank’s environmental and social safeguards, concerning their restrict applicability (it would be applied exclusively to projects funded by the World Bank), imposition over national laws (raising questions of sovereignty) and the unrecognition of the variety of legal frameworks and enforcement capacities across developing countries (NDB 2017a, p. 16). As stated by the BRICS’ bank, the best way of managing social, environmental and procurement risks would be to use and strengthen existing country systems, and not bypass them with external standards. According to its narrative, “instead of starting from externally-designed set of standards, the NDB will take a country’s system as a starting point”, and follow mandated local procedures with rigor and transparency. This would lead to the achievement of protection against misuse of project resources and strengthening of local frameworks and implementation capacities (NDB 2017a, p.16)

To the sure, the policy of strengthening national systems meets the principles of non-interference in internal affairs and preserves the scope of action of national states. However, there is a risk that these new multilateral banks could precipitate a widespread downgrading of standards, given the lack of environmental and social safeguards, which are a result of struggles already won at the level of the World Bank. This has been a topic of major discussion among civil society organizations<sup>26</sup>.

Notably, the NDB, the AIIB and the World Bank launched their socio-environmental standards almost simultaneously in the same year, 2016 (Esteves; Zoccal; Torres, 2016). NDB and AIIB placed the greater weight on the national socio-environmental protection and risk management systems, whereas the World Bank made an inflection of its socio-

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<sup>26</sup> For example: Center for Financial Accountability. ‘The new development banks: why AIIB and NDB should be monitored?’. Briefing Paper, October 2016, in <https://peoplesbrics.org/2016/10/07/the-new-development-banks-why-aiib-and-ndb-should-be-monitored/>; Caio Borges and Julia Cortez. ‘Country Systems and Environmental and Social Safeguards in Development Finance Institutions: Assessment of the Brazilian System and Ways Forward for the New Development Bank’. *Conectas Human Rights*, May 2018.

environmental safeguards policy to follow the same approach<sup>27</sup>. According to Esteves (2018), the use of ‘country systems’ brought together the World Bank, the AIIB and the NDB, making them compete at the same level for infrastructure projects in peripheral areas. In order to meet ‘global development’ goals and minimize risks for the private sector, regulation must be made more flexible, not only in terms of environment, but also financial management procedures, procurement, taxation and profit remittance (Esteves 2018, p. 14).

It’s worth noting that, whereas capital pushes for global investment and trade regulation regimes (which favors capital movements worldwide), regulations over labor, wages and work safety conditions are set at the national level, forcing workers to compete for jobs in least favorable conditions. Here too, social and environmental standards are left for national institutions to decide, implement and monitor, without multilateral financial institutions taking responsibility on questions of lack of transparency, public consultation, human rights violations and environmental disasters. Consequently, national social-environmental standards may be put to global competition to attract investors. As Borges and Cortez (2018) have pointed out, although the Brazilian national environmental regulations and institutions are relatively strong, there are many vulnerabilities concerning indigenous and traditional communities in processes of decision making and implementation of mega-projects such as hydroelectric plants, ports, railways, wind farms, that received huge amounts of credit from the BNDES, or from the World Bank through BNDES (Borges; Cortez 2018, p. 18).

The New Development Bank has opened channels for participation of business entities, as well as NGOs, in its annual meetings. Some organizations have presented suggestions and demands for the bank in terms of human rights and environmental issues. Yet, the re-orientation of BRICS institutions will depend upon the political and economic orientation of governments that compose BRICS. India’s liberal move in 2014 and Brazil’s far-right move in 2018 make it more difficult.

Regarding other human rights aspects, NDB has also failed to set a high standard. For instance, the bank’s lack of gender diversity is critical, especially at its highest

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<sup>27</sup> According to Esteves, Zoccal and Torres (2016), there is no clarity on the mechanisms for strengthening national systems and on how the NDB and AIIB intend to align them with their own parameters (Ibid.).

administration levels, which are only led by men<sup>28</sup>. Even though gender diversity is a real issue for the majority of international banks, NDB isn't making a case for changing its current situation<sup>29</sup>.

Furthermore, NDB still needs to advance in terms of transparency. Comparing to the services and the information that one can easily access in AIIB's website, NDB's seems almost like a black-box. For instance, while NDB's website only displays very generic data about its approved projects, AIIB's shows specific details and documents about theirs, such as *Environmental and Social Due Diligence Reports*, *Project Implementation Monitoring Reports*, *Land Acquisition and Resettlement Plans*, *Stakeholder Engagement Plans* etc.

As for labor rights, it's embarrassing that NDB has yet to establish an impartial mechanism to settle disputes between the bank and its employees<sup>30</sup>. With the jurisdictional immunity adopted by NDB's articles of agreement, if a labor dispute arises, the staff member is not able to appeal to a national court<sup>31</sup>. One should note that it is very common to concede jurisdiction immunities (labor-related, tax-related etc.) to international organizations, and as summarized by Berenson (2011), there are two basic reasons to justify this practice:

(i) Preventing any one state from gaining an unfair advantage in or crippling an international organization by way of its courts and/or administrative agencies with adjudicative authority; and (ii) Providing a guarantee that a member State, in disputes with those organizations, is not likely to become both judge and party thereby denying the organization a mechanism for the fair and independent adjudication of the dispute in accordance with due process.

Nevertheless, immunity isn't the same as impunity. When State-members agree on not extending their national jurisdictions to an international organization, this means that they are to choose a different structure to perform the role of competent jurisdiction, in which

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<sup>28</sup> See: <http://www.bricsfeministwatch.org/>

<sup>29</sup> According to NDB's 2020 Annual Report, women accounted for 38% of the Bank's headcount. However, as for the qualitative aspect, positions of power within the bank have been occupied by men.

<sup>30</sup> By the end of 2020, NDB had 185 employees (1 President, 4 Vice-Presidents, 172 full-time staff and 8 short-term consultants and outsourced staff) (NDB 2020, p.38).

<sup>31</sup> As pointed out by Thévenot-Werner (2015): "in the absence of an institution vested by the employing organisation with the power to settle such disputes, and recognised as an independent and impartial tribunal by the applicant, the staff member turns to the national judges. In this case, the organisation in question usually raises its immunity from jurisdiction as a total or partial protection from the action of national tribunals."

the resolution of the international organization's disputes will occur. Therefore, in order to allow staff members to exercise their fundamental right<sup>32</sup> to a fair trial, international organizations should have a dispute settlement mechanism. Usually, there are two ways to do so: one is by creating its own tribunal, and the other is by adhering to the jurisdiction of an existing international court. To take a few examples, the World Bank has its own administrative tribunal, as well as the IMF. Others, such as the World Trade Organization and the ASEAN+3 Macroeconomic Research Office, have recognized the jurisdiction of the International Labour Organization Administrative Tribunal.

Considering that AIIB has already established its own procedures and rules to allow its employees to exercise their right to appeal to an independent mechanism<sup>33</sup> against a bank's decision, one can't justify NDB's negligence based on its short period of operation. In fact, the absence of such mechanism is one of the reasons why several human rights violations were perpetrated against former NDB's Brazilian Vice-President, Paulo Nogueira Batista Jr. The latter was illegally dismissed from his post by an internal procedure that violated not only NDB's articles of agreement and its Code of Business Conduct and Ethics, but his own contract and the international law. It was a clear case of *lawfare*, in which the inherently political nature of his dismissal procedure was poorly disguised as a disrespect to the bank's code of ethics (Vasconcelos, 2021).

### **3. NDBs' future?**

Bearing in mind all previous aspects and data, it would be difficult not to conclude that, although BRICS have intended to set NDB as an example for a "global financial architecture based on the principles of fairness and equity", they have failed to do so in its first five years. As one may also conclude, a lot must be done by NDB to achieve BRICS' self-declared expectation. As our evaluation demonstrates, there are several and critical issues weakening BRICS' bank capacity of providing an efficient and a robust alternative to the current international financial order.

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<sup>32</sup> According to Article 10 of the Universal Declaration of Human Rights adopted by the United Nations: "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of its rights and obligations and of any criminal charge against him."

<sup>33</sup> See Staff Regulation and Staff Rules documents: <https://www.aiib.org/en/about-aiib/basic-documents/staff-regulations/index.html> and <https://www.aiib.org/en/about-aiib/basic-documents/staff-rules/index.html>

Nevertheless, our evaluation doesn't argue that NDB has not been an important initiative. For instance, even though it's not the major player in the international financial market, NDB's existence diversifies options for funding infrastructures in developing countries. In a different dimension, NDB also helps strengthening BRICS' cohesion and agenda. That particular role can be observed not only with the rise of BRICS' internal frictions in the past few years (such as the geopolitical tensions between India and China towards Pakistan's role in Chinese "silk route" program or the tensions between Bolsonaro's administration and the Chinese government etc.) but also during the pandemic context (Garcia et al., 2020).

It's worth noting that NDB's new administration has been responsible for improvements in the last two years. Headed by Marcos Troyjo, the President of the institution since mid-2020, who replaced Kundapur V. Kamath (2016-2020), NDB has finally started expanding its membership and has also increased and diversified its portfolio of investments. Even so, only time will tell us if this new administration will be able to solve NDB's limitations.

Although NDB's first five years have been below (official) expectations, we shouldn't forget that it is still quite a new organization, which also lacks a strong and consolidated bureaucracy. This feature gives the bank a certain advantage in changing routes without having too much political and administrative costs or conflicts – comparing to the enormous difficulties to transform rules and practices (even the smaller ones) in old structures, such as the World Bank. In mid-2022, NDB released its new General Strategy for the next five years to come (2022-2026). This document, alongside NDB's performance, will help us to better understand where the bank is heading and if it's in fact achieving BRICS expectations.

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