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FDI in Brazil: Some Considerations

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This paper discusses some key aspects of the recent flow of Foreign Direct Investments (FDI) in Brazil over the last three decades. It examines the relationship between Brazil and the rest of the world on FDI and critically examines the relationship between successive Brazilian governments' rhetoric on the new economic policies which include FDI and the actual practice of FDI in Brazil through concrete accounts of Brazilian law, economy and infrastructure. It finally offers an account of the future prospects of FDI in Brazil.

I. INTRODUCTION

The purpose of this paper is to discuss some key aspects of the recent flow of Foreign Direct Investments (FDIs) in Brazil during last thirty years. However, it is pertinent to note that FDIs have played an integral role in Brazil's development since the nascent stages of itsnational life. This is mainly evidenced through both the 'coffee complex development' in Brazil that was significantly dependent on British investments in the railways during the second half of the nineteenth century and the heavy reliance of the Brazilian industrialisation process on FDIs. However, I shall analyse the role of FDIs over the past thirty years for the purposes of this article.

The world economy is heavily influenced by emerging countries such as China, India and Brazil. We must begin by examining the importance of FDIs in creating this new global economic scenario in Part I. Part II shall focus on the macroeconomic and institutional reforms undertaken to encourage FDIs in Brazil during the last three decades as well asthe efforts undertaken by Brazilian companies to help them operate on a global basis.

Global competitiveness is supposed to be one of the key elements for national development. For this reason, as a final consideration,this article examines Brazil's competitiveness by taking a closer look at both infrastructure issues and FDI prospects in the near future.

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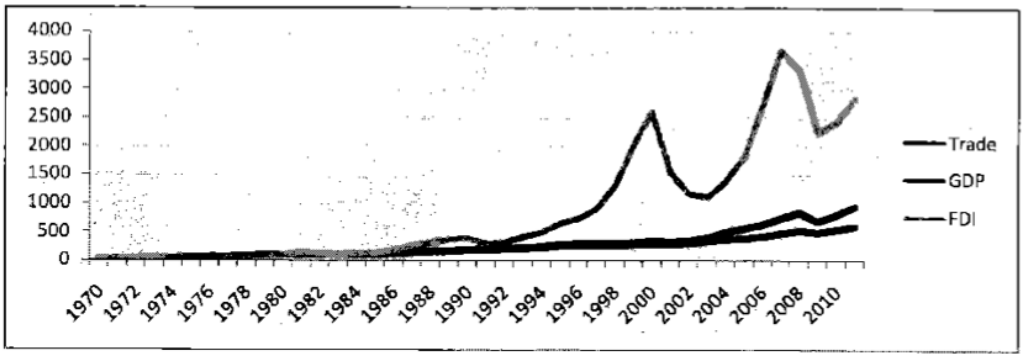
1. The Large Emerging Countries: Foreign Direct Investments

As it is widely known, FDI flows have played a major role in the globalisation process in the past thirty years. The increasing importance of FDI flow is evident through the evolution of the world Gross Domestic Product (GDP), trade and FDI. Not only does the FDI flow increase at a faster rate than the GDP and trade, it also changes its profile faster. Chart 1.1 shows the different paces among these three economic flows. To understand the changes in the FDI profile, it is essential to understand the changes occurred in the role and relevance of emerging countries in this period.

Chart 1.1 - Relevance of FDIs: GDP, Trade and world FDI



Source: Own Elaboration based on World Bank's Data-Bank[1]

The growing importance of the emerging countries in the global scenario became particularly clear after the 2008 global financial crisis. However, their rise to prominence as well as their greater economic weight and more active role in the international fora was noticeable by the end of the twentieth century itself. One must note the key roles that Brazil and India have been playing in the WTO litigation and negotiation.[2] In this sense, the Doha Round,[3] even if suspended in 2006, is a good example of the rising protagonism of large, emerging countries such as Brazil and India in the decision-making processes of multilateral agencies.

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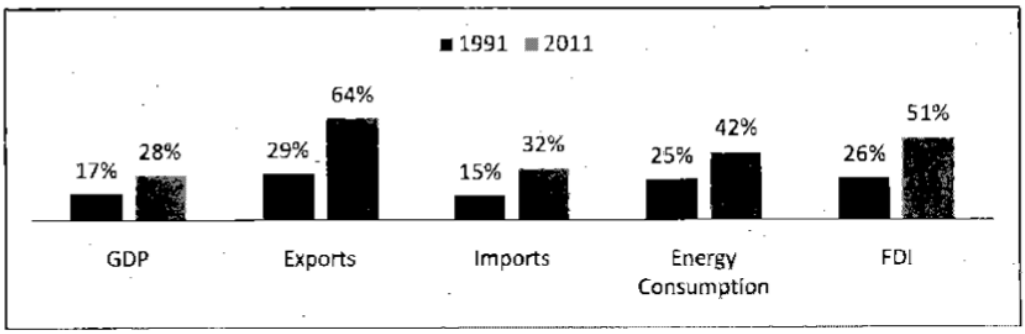
1 This chart is created using several numbers, information and indicators for the years 2011 and 2012 from the World Bank data-bank. *See* Data Bank, World Bank, *available at:* http://databank.worldbank.org/data/home.aspx.

2 *See* Celso Lafer, Reflexões Sobre A Inserção Do Brasil No Sistema De Solução De Controvérsia Da Omc (2012) (unpublished manuscript) (on file with author) and Maria Lucia Labate Mantovanini Padua Lima and Barbara Rosenberg, O Brasil E O Contencioso Na Omc (2008).

3 8th Round of Negotiations of the World Trade Organization (Doha Round) launched in November 2001 at Doha/Qatar.

As for their growing economic relevance, the very BRICS acronym[4], coined in 2001 is a testimony to the overall recognition accorded to the new economic importance of China and other large emerging countries since the last decade of the twentieth century. The slower pace of growth in the developed world in the aftermath of the 2008 crisis coupled with their slim, short-term chances of regaining momentum added to the appeal of the large, emerging countries. Chart 1.2 unmistakably shows the rising economic importance of these countries by highlighting their GDP growthrate, trade balance, energy consumption[5] and FDI.

Chart 1.2 - Growing Share of Emerging Economies in the Global Economy

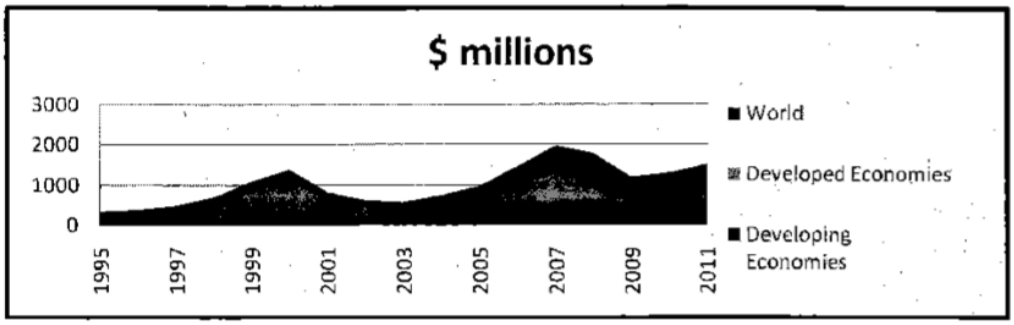


Source: Own Elaboration based on World Bank's Data[6]

Insofar as the FDI is concerned, such rise in its importance is equally noticeable as it rebounded after the global financial crisis. In 2011, emerging countries were the recipients of approximately 50% of the total FDIs, totalling to an amount of US$684 billion, of which 20% went to China alone. The worsening economic scenario of the Euro zone in 2011 has impacted international economic flows, including direct investments, but the profits made by transnational companies in the emerging markets has allowed for a steady flow of investments in these countries. Chart 1.3 shows the growing participation of emerging countries in FDIs.

4 The Acronym BRICs was created in 2001 by the economist Jim O'Neill from Goldman Sachs.
5 As we know, energy consumption is used as a proxy for economic growth.
6 *Supra* note 1.

Chart 1.3 – FDI flows



Source: FDI and Development (Series), UNCTAD[7]

As mentioned earlier, the turmoil generated by the European crisis can be seen in the numbers of the first semester of the current year, which point to a reduction by 8% of the FDI flow if compared to the same period of the last year.[8] The share of emerging countries (around 50% of total FDIs), nevertheless, will be maintained in 2012 although Brazil's share, unlike that of other Latin American countries, has diminished.

Another interesting aspect of FDIs in emerging countries is their targeting of new plants *(greenfield)* which entails the growth of production capability in these countries. Contrarily to what happens in emerging countries, in developed countries, the flow of FDI has primarily been to M&A transactions in the wake of the ongoing restructuring of production in these economies.

It must be noted that, apart from being at the receiving end of FDI, emerging countries have also acted as investors and their investment has accounted for 20% of the total FDIs in 2012. Although the United States, E.U. and Japan continue to be the major investors, the aggregate data showed in Table 1.1 shows this new trend. The largest rise in these FDIs is on account of investment in emerging countries, especially in China.

7 *FDI and Development (Series) - World Investment Report: Towards a New Generation of Investment Policies* , United Nations Conference on Trade and Development (UNCTAD), 169-172, *available at:* http://unctad.org/en/PublicationsLibrary/wir2012_embargoed_en.pdf (last visited June 10, 2013).

8 *Global Investment Trends (Monitor de Tendências do Investimento Global), 2012*, United Nations Conference on Trade and Development (UNCTAD), at 1-7 [hereinafter *UNCTAD Report*].

Table 1.1 FDI flow by Region

Table 1.1 - FDI flow by regions (Billions of dollars)						
Regions	**FDI inflows**			**FDI outflows**		
	2009	**2010**	**2011**	**2009**	**2010**	**2011**
World	**1197,8**	**130,9**	**1542,4**	**1175,1**	**1451,4**	**1694,4**
Developed Economies	**606,2**	**618,6**	**747,9**	**857,8**	**989,6**	**1237,5**
Developing Economies	**519,2**	**616,7**	**684,4**	**268,5**	**400,1**	**383,8**
Transition Economies	**72,4**	**73,8**	**92,2**	**48,8**	**61,6**	**73,1**

Source: FDI and Development (Series), UNCTAD[9]

UNCTAD forecasts for 2013-14 indicate that emerging countries will receive an increasing share of FDIs.[10] These forecasts have taken into account the opinion of executives (CEOs) from five thousand large, non-financial, transnational corporations on the changes in FDIs levels and the relative importance of regions and countries.

Table 2.2 FDIs flows: Forecasts 2013-14

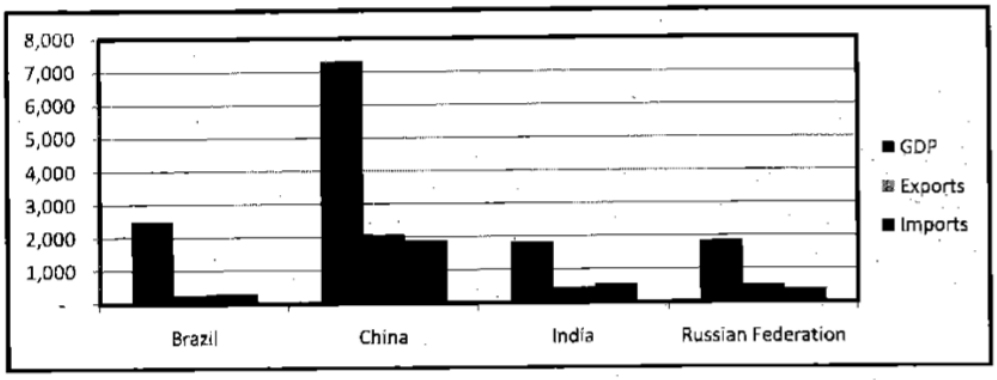
Table 1.2 - FDI Flow by regions (Billions of dollars)			
Regions	**Projection**		
	2012	**2013**	**2014**
World	**1495 - 1695**	**1630 - 1925**	**1700 - 2110**
Developed Economies	**735-825**	**810-940**	**840 – 1020**
Developing Economies	**670 - 760**	**720 - 855**	**755 – 930**
Transition Economies	**90 -110**	**100 - 130**	**110 – 150**

Source: FDI and Development (Series), UNCTAD[11]

Generally speaking, the growing share of developing countries in FDI flows and, especially that of the large, emerging countries is a strong evidence of their rising importance. China, the second largest economy in the world, is without a doubt the main force in this group, something which the Chinese government obviously does not overlook. If Brazil takes pride in being counted among the BRICS, Chinese authorities seem to see things differently. Chart 1.4 and 1.5 show the differences between Brazil, Russia, China and India.

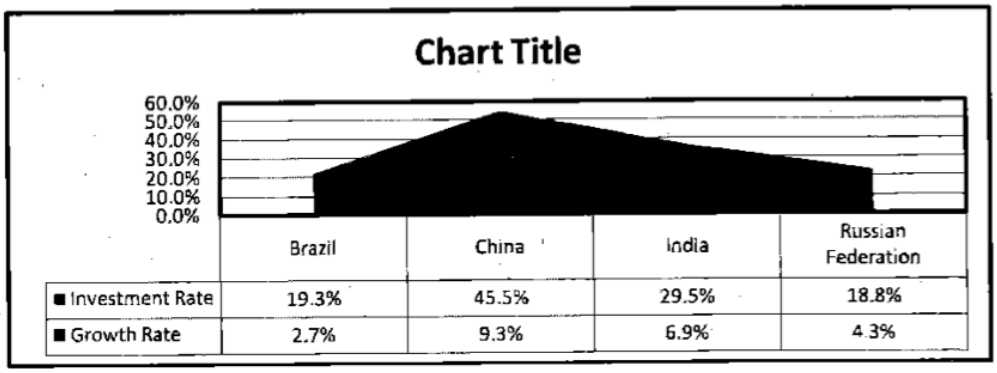
9 *Id.*
10 *Id.* at 36-236.
11 *Id.* note, at 44.

Chart 1.4 – BRICs GDP, Exports and Imports 2011



Source: Own Elaboration based on World Bank's data[12]

Chart.1.5- BRICs: Growth and Investment Rate – 2011



	Brazil	China	India	Russian Federation
Investment Rate	19.3%	45.5%	29.5%	18.8%
Growth Rate	2.7%	9.3%	6.9%	4.3%

Source: Own Elaboration based on World Bank's data[13]

The different investment levels may be a good index of the future prospects of these economies. In spite of their differences, it remains clear that they all have all the means to broaden their global influence.

2. Brazil: Foreign Direct Investments

FDIs have been linked to Brazil's development process from the early moments of the country's independence in the nineteenth century. It is impossible, thus, to understand the establishment and growth of the coffee complex without understanding the role of FDIs both in infrastructure, industry and urban services. Foreign direct investments during the second half of the nineteenth century and in the beginning of the twentieth century were directed to activities such as rail, port, construction, generation and distribution of electricity, improvement of

12 This chart is created using several numbers, information and indicators for the year 2011 from the World Bank data-bank. *See* Data Bank World Bank, http://databank.worldbank.org/data/home.aspx.

13 *Id.*

urban infrastructure and manufacturing. The expansion of the coffee market and growth of the industrial market at that period were directly associated with the foreign investments. Likewise, examining the prominent role of FDIs is a pre-requisite to understand the industrialisation of the country in the second half of the twentieth century. In the more recent reforms of the 1990s also, FDIs had a major impact.

The relevance of FDIs in developing Brazil has not abated even in the past ten years, notwithstanding the populist rhetoric of recent governments. Significantly, the Worker's Party(PT)[14] programme has not translated into a special aversion to FDIs in Brazil even though one of its economic touchs tones is opposition to privatisation of state companies.

2.1 Economic Context

Over the last eight decades of the twentieth century, Brazil has displayed one of the highest economic growth rates in the world. During this period, the country went from being an agrarian-export economy to being the only NIC[15] in Latin America by the end of the 1970s. The stern political determination to make Brazil an industrialized country and marked governments from 1930[16] to 1980 certainly played an important part in this process. Industrialisation, understood as economic development, can be said to have been a goal both for authoritarian and democratic governments.

The early 1980s mark the end of this almost continuous process of economic growth. A number of analysts[17] have attempted to explain

14 The Worker's Party (PT) was created in 1980 by the main Union Leadership, Left intellectuals and religious groups linked to Liberation Theology. Since its beginning, the major figure of the party was the leader of the Metalworkers Union of São. Bernardo do Campo: Lula (LuísInácio da Silva). The strikes made in the ABCD Paulista in the late 70s marked the resurgence of labour movements in the country after the 1964 coup and consolidated the leadership of Lula and other union leaders like Jair Meneguelli and Luiz Gushiken. Intellectuals such as Mario Pedrosa, Sérgio Buarque de Holanda and Antonio Cândido committed to socialist and communist positions, saw the possibility to approach the trade union movements as a base for the creation of a political party of the Left.

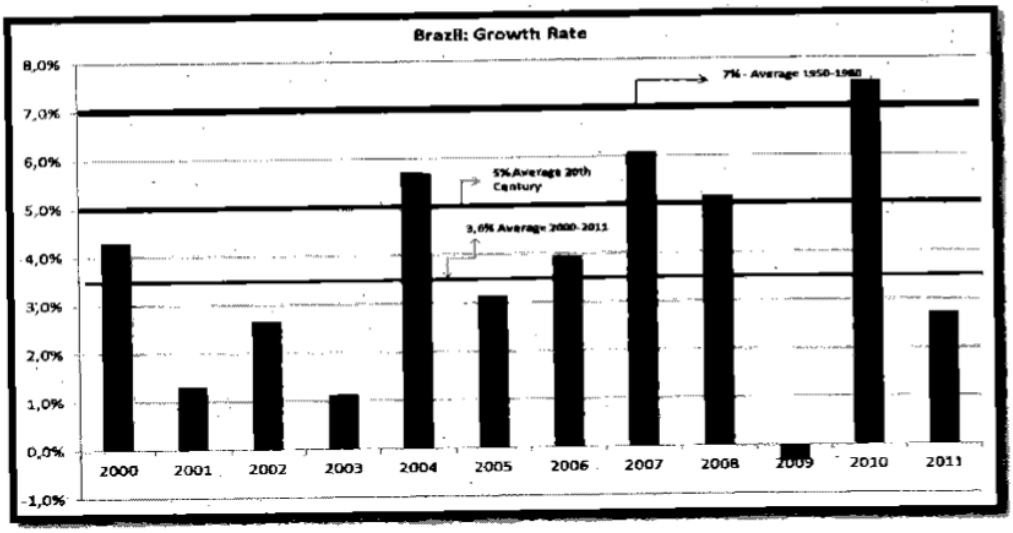
15 The initials NIC mean Newly Industrialised Country.

16 The 1930's Revolution was a Brazilian armed revolution undertaken by Liberal Alliance in opposition to Paulista´scoffe oligarchs. The 1930´s Revolution was led by the States of Minas Gerais and Rio Grande do Sulto that deposed the elected president Júlio Prestes (from State of São Paulo) who was then replaced by Getulio Vargas (from State of Rio Grande do Sul).

17 *See* Edmar Bacha & Regis Bonelli, *Accounting for the rise and fall of post-world war-II in Brazil's Growth*, Institute For Economic Policy Studies/Casa das Garças, 1-19 (2012), *available at:* http://iepecdg.com.br/uploads/texto/120630BachaBonelli.pdf (last visited June 10, 2013). Francisco Vidal Luna & Herbert Simon Klein, O Brasil Desde 1980, 57-105 & 230-257 (2nd ed., Girafa Publishing House, 2009). Fabio Giambiagi *et al.*, Economia Brasileira Contemporânea, 93-115 & 196-255 (1945-2004) (1st ed., Editora Campus, 2005). Maria Lucia Labate Mantovanini Padua Lima, Direito E Economia: Trinta Anos De Brasil, 538-636 (2012).

what caused the end of this long period of economic prosperity as well as the reasons why it was hard for the country to resume growth. Chart 2.1.1 shows that Brazil has never resumed the growth rates of its earlier periods. It is only in 2010 that one can see growth rates similar to the historical average for the industrialisation years (1950-1980).

Chart 2.1.1 – GDP growth rates (2000-2011)



Source: Own elaboration based on Ipeadata[18]

The debt crisis coupled with the vertiginous rise in inflation rates are often presented as the causes of the end of Brazil's economic growth at the beginning of the 1980s. In broader terms, it is possible to say that, in the early 1980s, the development model based on state-led industrialisation had run its course. This phenomenon is linked to the collapse of the Brazilian economy's financing pattern brought about by the PAEG reforms (1964-1967)[19] and by some important changes introduced in 1967. A significant part of the investments' financing was based on foreign loans from International Financial Markets (IFM). Authors[20] called this pattern a model of growth with debt.

This pattern was possible due to the extreme liquidity of the IMF

18 Follow the sequence *Macroeconomics→Subjects→National Accounts→Ipeadata→GDP Annual growth rate (Macroeconomia→Temas→Contas Nacionais→Ipeadata→PIB taxa de crescimento anual)*, http://www.ipeadata.gov.br/.

19 Program of Economic Action from the Government (PAEG) – Economic Stabilisation and Structural Reform Plan carried out by the first military government under the leadership of Marshall Castello Branco, created by the economists Roberto Campos and Octavio Gouvea de Bulhões.

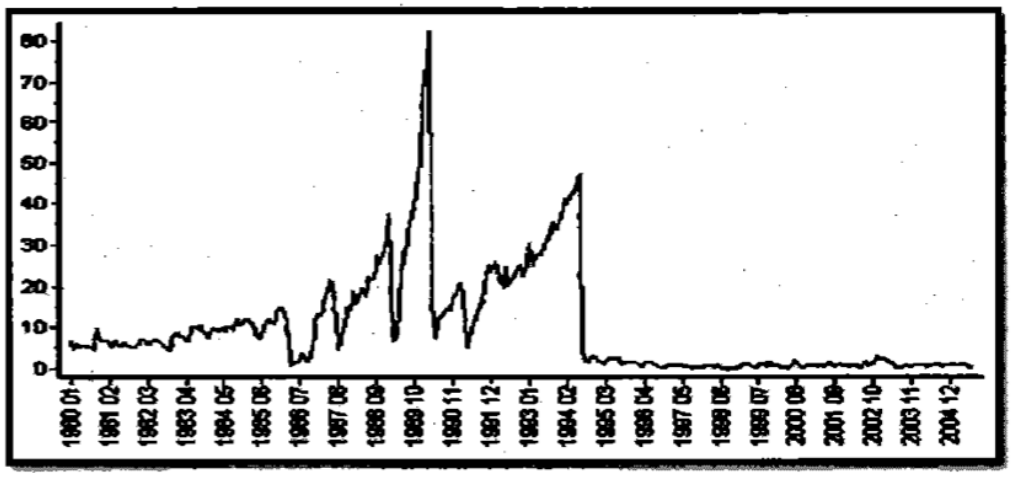
20 Francisco Vidal Luna & Herbert Simon Klein, O Brasil Desde 1980, 57-105 & 230-257 (2nd ed., Girafa Publishing House, 2009); *see also* Luiz Carlos Bresser-Pereira & Carmem Lucia Varela, *The Second Washington Consensus and Latin America's Quasi-Stagnation*, 27(2) J. Post Keynesian Econ., 231, 231-250 (Winter 2004-5).

from 1967 to 1979. It is interesting to mention that in the early 60s, few asserted that the import-substituting model adopted for the Brazilian industrialisation had already been exhausted. The fundamental question was whether it was possible to maintain the state-led economy financed by foreign loans, once the stumbling blocks to develop internal financing mechanisms for medium and long terms in the Brazilian economy were recognised.

In spite of this, in the second semester of 1979, unforeseen changes in the international scenario in the wake of the sharp rise of US interest rates and the consequent valorisation of U.S. dollar imposed an abrupt growth in Brazilian external debt. From this moment on, it was impossible for Brazil to pursue its developmental policies model of state-led financing based on foreign finance.

The effects of the exclusion of Brazil from the international credit markets in the early 1980s hit state and salaried-workers the hardest. It led to an acute fiscal crisis coupled with a severe internal imbalance. High inflation and the slowing down of economic activity were the clearest signs of this hit. Chart 2.1.2 shows the annualised inflation rates between 1980 and 2004.

Chart 2.1.2 – Inflation in Brazil: 1980-2004 (% per month)



Source: Own elaboration based on IpeaData[21]

With the return of the democratic rule in 1985, overcoming the economic crisis was now associated with the need of a socially inclusive package of structural reforms capable of guaranteeing sustainable development. The re-democratisation of the country was consolidated by the drafting of a constitution by the new Constituent Assembly elected in 1986. Thus, after two years, the 1988 Constitution established a series of economic principles to guarantee full and effective citizen

21 *Supra* note 18.

rights.

From 1985 to 1994, five stabilisation plans were implemented. The first one was Plano Cruzado developed at the first year of the new civil government. But, Brazil took ten years, from the end of the military rule in 1984, to come up with the highly successful plan of Plano Real in1994 plus five other stabilisation plans, to finally tame its inflation and start putting into practice the political agenda of the so-called New Republic. At that time, the New Republic symbolised the overcoming of the military regime with a re-democratisation of the country and pursuing the goals of fighting inflation, solving the external debt problem and redeeming social debt.

In fact, the constitutional requirements for the economic order could only be implemented after the effective implementation of Plano Real (1994) that aimed at ending inflation and also after a series of structural reforms took effect. Especially important amongst these reforms were the liberalisation of the key state monopolies[22] and the adoption of measures to provide a more level playing ground to national and foreign companies in Brazil[23] by allowing for privatisation and attracting substantial foreign investment to strategic sectors such as telecommunications.

It is interesting to point out that in the mid 1990's, Brazil had a huge investment shortage in the telecommunication sector. The situation was dramatic due to a lack of public investments since the end of the 70s. To understand the magnitude of this problem, it is pertinent to note that the waiting time to get a phone line was five years. For this reason, in the parallel (black) market, it was possible to buy a phone line around US$ 2.500 to US$5.000 (current value) depending on the location. At that time, the property of a phone line was listed as personal property on the annual income tax declaration. However, after privatisation, a conventional phone line became free and now, Brazil has more than 200 million mobile phone lines. Customers have to pay to use the phone line – conventional or mobile – but there is no cost or waiting period to obtain a phone line.

The price stability since the Plano Real (1994) coupled with the

22 *See, e.g.*, Law number 9.478 of 6th August 1997 (Lei Nº 9.478, De 6 De Agosto De 1997) which provides for the national energy policy, the activities related to the oil monopoly, establishing the National Council for Energy Policy and the National Petroleum Agency and other measures. The creation of such regulatory agencies, represented the realization of a new model of state involvement in the regulation of the economic activity, *available at:* http://www.planalto.gov.br/ccivil_03/leis/l9478.htm (last visited August 21, 2013).

23 The measures to reduce differences in treatment of domestic and foreign capital were agreed upon in the Uruguay Round (1986/1994) of the World Trade Organization (WTO). These measures include price stabilization with sound fiscal and monetary policies aimed at the improvement of the economic scenario.

orchestrated structural reforms which took place in the second half of the 1990s translated into a positive economic scenario. These positive effects were also passed onto the following decade that witnessed improved economic results.

The political turmoil caused by the election of the leader of the Leftist Worker's Party (PT) in 2002 eclipsed the sound economic situation that Brazil displayed at the beginning of the twenty-first century. It was only after the abatement of such turmoil, because of the new President's commitment to macroeconomic stability as built up by the previous administration, that the country could resume its growth. Such resuming of growth, much like what happened during the 'Brazilian miracle' (1967-1973), was a by-product of the price stability and structural reforms of the previous government. These two growth cycles also share the fact that they were both spurred by an increase in family consumption and by the very positive results in exports due to rise in commodity prices.

After the global financial crisis of 2008, the Brazlian government managed to avoid the more serious economic consequences for the country. In this sense, it was possible to maintain economic growth based on domestic consumption, and commodities exports. Regarding Brazilian domestic consumption, it is important to stress that until the end of the first semester of 2008, the Brazilian monetary policy was very restrictive which promoted the highest interest rates in the world. For this reason, when the government adopted some expansionary monetary measures such as a reduction in the compulsory deposit and an active policy of increasing credit in consumers for the public banks, the results were extremely positive. More so, consumption was also stimulated by the tax exemption on the purchase of many durable goods such as cars. Concerning the external demand, Brazilian exports of mineral and agricultural commodities benefited from the Chinese governmental stocking policy, started as a reaction of the 2008 financial crisis. In this way, the Brazilian economic growth strategy of the year 2000 based on domestic consumption and commodity export could be prolonged until 2010.

However, this growth strategy reached its limit due to the deficiency of infrastructure investment and an increase in the productivity of industrial sector, as well as a change in market conditions for Brazilian exported goods. In order to corroborate this it is sufficient to mention that the GDP growth rate in 2012 was 0.9%, the lowest rate in Latin America and among the large, emerging countries. The official propaganda, however, has been effective in disguising the real economic

scenario and in trumpeting fabulous development rates which are simply not true.[24]

2.2 Foreign Direct Investments: International Agreements and National Law

Contemporary capitalism is characterised by two seemingly conflicting economic movements: globalisation and regionalisation. On the one hand, the increasingly intense inter-dependence and inter-penetration of countries makes up the celebrated globalisation process. On the other, the spatial concentration of production that makes the most of possible competitive advantages between geographically close countries defines the regionalisation process. These two forces of globalisation and regionalisation have continuously shaped and changed the exchanges between nations within present-day capitalism.

This is also the reason for the multilateral system of commercial relations[25] changing so significantly over the past decades. This change was simultaneously complemented by a fast-growing number of regional agreements[26] between countries, more commonly known as the Regional Trade Agreements (RTA).[27] Most of these agreements have resulted from the action of developed countries[28] striving to benefit from competitive advantages brought about by the geographical dispersion of production. Apart from that, a number of developing countries have supplemented their more active stances in the multilateral system with the signing of their own regional agreements.

As movements to boost the free exchange of goods and to reduce or eliminate trade barriers advanced, other matters emerged in commercial negotiations. Noticeable among them were the opening of market for services and investments, the protection of intellectual property rights and social and environmental issues. All these matters are of particular importance for developing countries as they impact both their level of

24 The so-called Brazilian 'chicken flight' growth, while the growth of China's economy follows the pattern of a condor. This expression is used to describe the Brazilian economy's behavior which is characterised by rapid growth spurts followed by decelerations. The Brazilians always have a sense of humour.

25 The milestone of profound transformations of the Multilateral Trade System was the Uruguay Round (1986-1994) of GATT, which created the inclusive World Trade Organization (WTO).

26 WTO uses the term regional, including bilateral free trade agreements, for agreements between countries or groups of countries that are not in the same region.

27 In the General Council Decision of February 1996, the WTO defined the Regional Trade Agreement as "all bilateral, regional, plurilateral and preferential in nature". According to the WTO, as of May 2008, 394 Regional Trade Agreements had been reported, out of which 205 are in force.

28 According to the data collected by the World Bank, on an average, a developed country participates in 13 regional Agreements. Moreover, there are a high number of North-South agreements involving some 50 developing countries in several regional agreements.

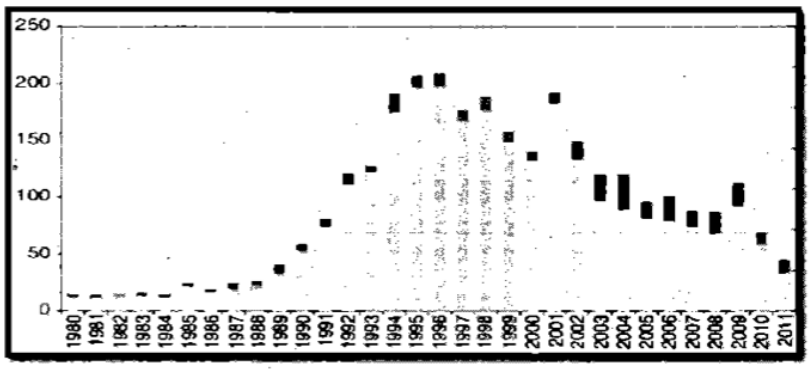
economic activity and their possible paths for development.

After the failure of the Cancun WTO Ministerial Conference in 2003, the United States Trade Representative(USTR) clarified the US government's willingness to negotiate free-trade agreements with only those developing countries that shared U.S. values and like-minded political views and thosewho would be willing to undergo internal reforms so as to allow access to U.S. goods and services.

As for Brazil, such preferred country negotiations did not go forward due to both the critical stance of its governmentsof U.S.-style free-trade agreements and Brazil's commitment to keep discussions of themes alive within the multilateral regime as they were deemed crucial to the country. The U.S. demand that its partners commit beyond what is established by multilateral agreements, as exemplified by the investment and intellectual property protection rules, the TRIMS-plus[29] and TRIPS-plus[30] respectively, led to stiff resistance from the Brazilian government to the creation of the Free Trade Area of the Americas (FTAA). On the other hand, the abandonment by the Brazilian government of the country's economic interests within the MERCOSUL[31] substantially weakened this important regional integration initiative.

Bilateral or regional agreements which could help bring negotiators to a common ground or compensate for the lack of dynamism in multilateral negotiations have been neglected for the past ten years. In other words, the Brazilian government has not come up with any alternative strategy after the frustrating suspension of the Doha Round.

Chart 2.2.1- Regional Trade Agreements 1980/2011



Source: FDI and Development (Series), UNCTAD[32]

29 Agreement on Trade-Related Investment Measures (TRIMS), 1868 U.N.T.S. 186.

30 Agreement on Trade-Related Aspects of Intellectual Propriety Rights (TRIPS), 1869 U.N.T.S. 299.

31 *Mercado Comum do Sul* (Mercosul) - Southern Common Market was created from the Assunción Treaty of 1991, which established free trade zones then converted into Custom Unions among Argentina, Uruguay, Paraguay and Brazil.

32 *UNCTAD Report, supra* note 9, at 84.

Since the 1960s, Brazilian Law on FDI has not undergone any substantial changes, regardless of the changes in governments and their political creeds. Law 4131/62 and other statutes regulating the matter aim not only at attracting foreign investment but also at fostering the re-investment of gains made in the country. Brazil's laws on this area are considered rather liberal and mirror the importance of FDIs for the development of the country.

2.3 Flow of FDIs

Throughout Brazil's speedy development process, foreign investments have played a major role and have been considered key to the industrialisation process, even by *national* developmentalists.[33] There was a consensus among the developmentalists[34] that the industrialisation of the country[35] was crucially dependent on foreign capital, State productive capital and national capital, the so-called tripod of Brazilian economy. The major disagreement among developmentalists centered on the form and extension to which both foreign investments and state productive capital should be present.

As a result, during the industrialisation period (1950-1980), the tripod of Brazilian economy survived government and authoritarian regimes that were more or less fervently nationalist. In the Import Substitution Industrialisation (ISI) development period, foreign investments spurred the durable, intermediate and capital goods sector. In the Plano de Metas[36] (1956-1960), for example, such function was explicitly stated as the government commitment to attract FDIs. Chart 2.3.1 shows the growing and steady presence of FDIs in Brazil in the model of Import Substitution Industrialization (ISI) from 1950 to 1967. After 1967, Brazil started to have access to private credits from IFM but there was no decrease in the importance of FDIs.

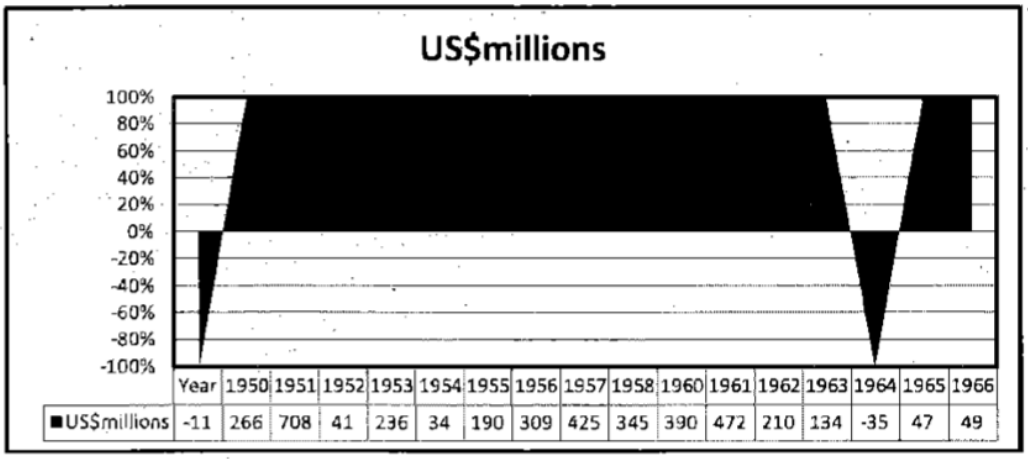
33 Celso Furtado, who believed that Brazilian industrialisation without the active participation of foreign direct investment was impractical, captained the group of developmentalist nationalists.

34 Apart from the nationalists was the group headed by Roberto Campos, which was most likely to enhance the participation of foreign capital and less enthusiastic about the promotion of the State as the entrepreneur. The aversion of state participation in the economy was limited to the finding that during absolute necessity, the state may act as a promoter of industrialisation in Brazil.

35 At that time, industrialisation was a synonym of devetlopment.

36 This strategic economic plan was designed and implemented during Juscelino Kubitschek's term (1956-1960) and was based on the ISI model. One of the most important economists of the *Plano de Metas* was Roberto Campos.

Chart 2.3.1 – FDI flows in Brazil from 1950 to 1967

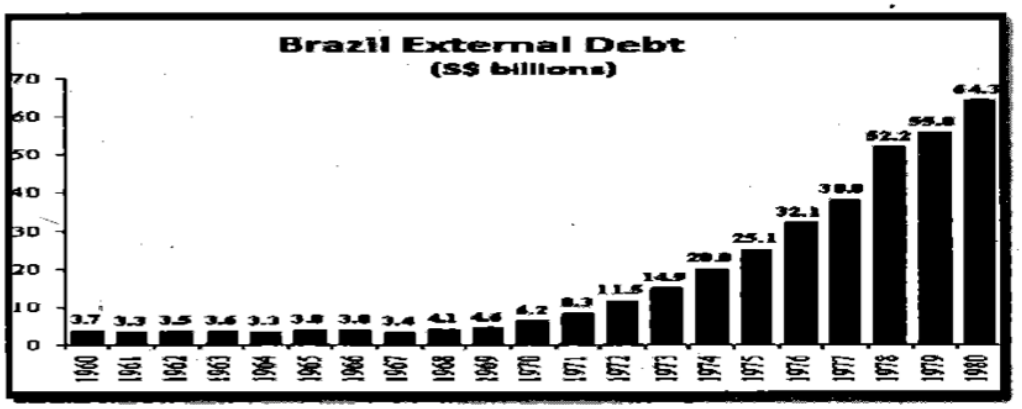


Year	1950	1951	1952	1953	1954	1955	1956	1957	1958	1960	1961	1962	1963	1964	1965	1966
US$millions	-11	266	708	41	236	34	190	309	425	345	390	472	210	134	-35	47	49

Source: Ipeadata[37]

However, the debt crisis of the 1980s terminated the volunteer access of private credits and caused a halt in FDIs in Brazil. It is interesting to observe that the beginning of the globalisation process was characterised by the 'exclusion from the globe' of countries like Brazil. Financial and FDI flows to the country collapsed for over ten years.[38] Chart 3.3.2 shows the fast-growing Brazilian External Debt.

Chart 2.3.2 –Brazil External Debt 1960 to 1980



Source: Ipeadata[39]

If the first voluntary financial operations resumed in the second half of 1991, then the FDI flows only came back regularly after the stability

37 *Supra* note 18.

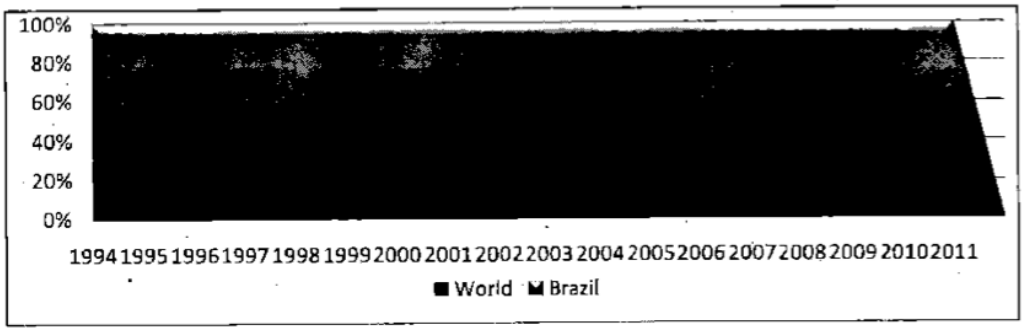
38 Financial flows and FDIs in Brazil retracted in the 80s; *see also* MARIA LUCIA LABATE MANTOVANINI PADUA LIMA, INSTABILIDADE E CRIATIVIDADE NOS MERCADOS FINANCEIROS INTERNACIONAIS: CONDIÇÕES DE INSERÇÃO DOS PAÍSES DO GRUPO DA AMÉRICA LATINA, 53-117 (1997).

39 *Id.* at 37.

brought about by the *Plano Real*[40] in 1994. It was only after the success of *Plano Real*, that the country was able to profit from the globalisation process and benefit from a domestic scenario of greater market and financial freedom in the beginning of the 1990s.

The FDI data for the 1990s is impressive, being enough to say that the total amount of FDI in 1991 was U.S.$1 billion jumping to U.S.$ 30 billion at the end of the decade. This strong income of foreign capital after the *Plano Real* is linked to the privatisation process and the boom in Mergers and Acquisitions (M&As) transactions following the economic stability. It is true that the international trend for FDI at the period was to acquire existing plants rather than investing in new ones *(greenfield)*. Thus, Brazil can be said to have followed a broader international pattern which lessens the relevance of the national strategy at that time.

Chart 2.3.3 FDI Brazil and World 1994-2011



Source: FDI and Development (Series), UNCTAD[41]

The control of inflation by *Plano Real* caused an immediate rise in the demand for consumer goods. This had an important redistributive effect as it substantially raised the purchasing power of the poorest social strata. The price stabilisation that followed brought the biggest gains in real wages in Brazil as compared to the last nineteen years.[42]

The real rise in purchasing power of low-income families led to a consumption surge, first and foremost of food, a movement which increased Brazil's attractiveness to transnational corporations. The opportunity of rapid growth within the Brazilian market boosted FDIs in processing industries. On the other hand, the need to immediately

40 The *Plano Real* was a stabilisation program started in 1993 (during the term of Itamar Franco government) and concluded in 1999 (during the term of Fernando Henrique Cardoso government).

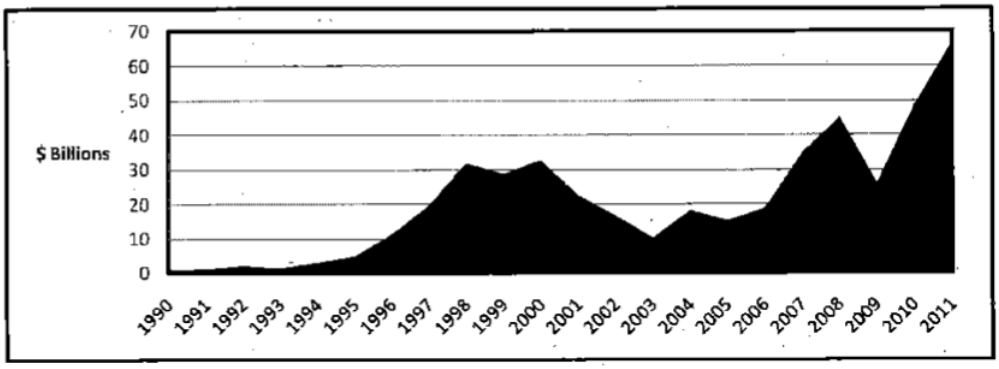
41 UNCTAD Report, *supra* note 9, at 169-172.

42 *See* Waldir Quadros, *A evolução recente da estrutura social brasileira*, Textos para Discussão, 148 : 1-31 (November 2008), *available at:* http://www.eco.unicamp.br/index.php/textos (last visited June 19, 2013).

become a player in this expanding market may help explain the M&A strategy to eliminate competition and reduce transaction costs by buying a Brazilian company knowledgeable of the country's internal market.[43]

As a result of the steep rise of FDI during the second half of the 1990s, joint-stock held by non-residents in Brazil grew five-fold,[44] going from R$40.5 billion in 1995 to R$201.4 billion in 2000.[45]

Chart 2.3.4 FDI in Brazil (1990/2011)



Source: Economic Indicators, Brazil Central Bank[46]

During the FDI boom of the 1990s, the U.S. remained the main country of origin of such investments. But the data below points to the growing importance of previously weaker players such as the Netherlands, Spain and Portugal. In the last two years, China too emerged as an important investor in Brazil.

Table 2.3.1 – FDI - Country of origin

	1995	2000	2005	2010
1°	United States	United States	United States	United States
2°	Germany	Spain	The Netherlands	Spain
3°	Switzerland	The Netherlands	Spain	China

43 Internal market knowledge refers to knowledge about national consumer habits, contracts with local suppliers, domestic legislations and other characteristics of the Brazilian internal market.

44 Social Capital paid by non-residents corresponds to the stock of foreign direct investment at the end of each period.

45 In this case, we must consider the effect of currency devaluation in January 1999, due to the change of regime of fixed exchange rates to floating rates. In current dollars, the growth of the stock social capital by non-residents increased by about 140% between 1995 and 2000 as stated in the Census for Foreign Capital in Brazil elaborated by Brazil's Central Bank.

46 Follow the sequence: *Central Bank of Brazil →Economic Indicators→ Chapter V-Balance of Payments→Foreign Direct Investment* (*Banco Central do Brasi→Indicadores Economicos→Balanço de Pagamentos→Investimentos Estrangeiros Diretos*), *available at:* http://www.bcb.gov.br/?indicators (last visited August 21, 2013).

	1995	2000	2005	2010
1°	United States	United States	United States	United States
2°	Germany	Spain	The Netherlands	Spain
4°	Japan	France	Mexico	United Kingdom
5°	France	Cayman Islands	France	Portugal
6°	United Kingdom	Germany	Germany	France
7°	Canada	Portugal	Portugal	Germany
8°	The Netherlands	Virgin Islands	Canada	Japan
9°	Italy	Italy	China	Italy
10°	Virgin Islands	Japan	Virgin Islands	Mexico

Source: Economic Indicators, Brazil Central Bank[47]

With regard to the flow of sector-wise FDIs, it is important to stress how much of it went to the services sector. The privatising process and, more specifically, the privatisation of telecommunication and financial services go a long way to explain the rise of the services sector as a major recipient of FDIs. Finally, the growth of MERCOSUL[48] has to be mentioned as another factor attracting FDI in the industrial sector. The changes in the auto industry production chain in the regional area are telling examples of the impact of this regional agreement.

The FDI of the second half of the 1990s was followed by a strong retraction of such investments in the early 2000s (see Chart 2.3.4). From an international viewpoint, the main reasons for it were the crisis of capital markets in developed countries,[49] the impact of the 9/11 terrorist attacks in the U.S. and the Argentine crisis of 2001. But domestic causes have also contributed to this sharp decline in FDIs.

First, the cycle of productive restructuring of the Brazilian economy ended after the stabilisation of the *Plano Real*. Such restructuring was characterised by a cycle of both M&As and privatisations. Secondly, the political turmoil after the election of the Worker's Party (PT) candidate in 2002 scared away national and international investors alike. PT's historical economic position, and mainly, the party's 20 years of systematic political opposition to governments and to the free market principles explain the concern with which investors saw a possible PT

47 *Id.*
48 *Supra* note 33.
49 Such crisis was also called the 'technological bubble' associated with the downfall of high tech companies from the U.S. market in 2000/2001.

administration.[50] This led PT to step back and abandon views fiercely defended by the party over 20 years.[51] After their election, PT leaders kept untouched the tripod of economic stability: floating exchange rate regime, primary fiscal surplus and a system of inflation targets. However, it is also true that in recent years, doubts have arisen regarding the possibility of maintaining the economic stability pillars that were so hard-won by Brazilian society.

Although PT's programme was not ostensibly against FDIs, the flow of FDIs was affected until 2005 and returned to its usual levels only much later. There is no doubt that the government action helped in clarifying certain fears regarding PT's administration resorting to the anti-market stances that were espoused by the party when in opposition. There has been a much greater participation of the primary sector and the mining industry in this post-2005 FDI boom. Although this is an international trend, it surely reinforces Brazil's prominent role as a major exporter of agricultural and mineral commodities. As for the origin of FDIs is concerned, it is important to highlight the growing importance of emerging countries, mainly of China (Table 2.3.1). China's greater participation in FDIs in Brazil buttresses Brazil's position as a key provider of primary and mineral supplies.

Finally, it is important to mention that in all political campaigns for legislative and executive levels of the government in the last twenty years, the PT has always used privatisation as a central economic argument against its principal opponent political party, namely PSDB.[52] For this reason, privatisation became a kind of curse in Brazil. The demonizing of privatisation which was widespread in the previous

50 In PT's manifesto it is explicit that, "PT was born from the decision of the explorited to fight against an economic and politic system that can't solve their problems, because it only existed to benefit a privileged minority". For this reason, the members of PT during the first 20 years of operation as opposed to the government voted in block against: i) the 1988 Constitution that guarantee progress toward the consolidation of democracy in Brazil; ii) the Real Plan which stabilised the Brazilian economy; iii) structural reforms that consolidated a greater economic stability. *See* Manifesto of Creation of the Worker's Party in 1980, *available at:* http://www.pt.org.br/portalpt/dados/bancoimg/c091003192752manifesto.pdf (last visited June 10, 2013).

51 *See* Luiz Inácio Lula da Silva, *Letter to the Brazilian People* (June 22, 2002), *available at:* http://www.iisg.nl/collections/carta_ao_povo_brasileiro.pdf (last visited June 10, 2013). This document explains, among other claims, a commitment to honor contracts and obligations, in addition to adopting economic policies consistent with maintaining the country's economic stability.

52 PSDB - Party of Brazilian Social Democracy (PSDB) was created in 1986 by the main leaders of the democratisation process in Brazil organised around the Brazilian Democratic Movement (MDB).These leaders formed a part of the expressive victory in the 1974 elections in National Congress and led the struggle for democracy in Brazil. To have an idea of the scale of opposition from PT to the privatisations, the word *privataria* came to be used since then. This neologism comes from the fusion of the words privatisation + piracy, something like *piracytization*.

period and the lack of clear rules for the participation of private capital (national and foreign) in infrastructure projects have kept FDIs away from such ventures and caused problems to the country's prospects in this area.

2.4 Brazilian Investments Abroad

The overcoming of external debt crisis in the early 1990s followed by the opening of Brazilian investments in international markets and the stabilisation of prices forced Brazilian companies to restructure enormously if they wanted to survive. They adopted multiple restructuring strategies.[53] Prominent among them was their strategy of looking for new markets so as to have a global operating basis. In earlier periods too, some Brazilian companies had attempted to establish such a global operating basis but it was only from the end of the twentieth century that these efforts became more intense and stable.[54]

The main factors facilitating the expansion of Brazilian companies are the wealth from natural resources and favourable climate conditions in the country. These competitive advantages coupled with the sheer vastness of the country contribute to the successful globalisation of Brazilian companies.

The appreciation of the local currency throughout the second half of the 1990s and, more recently, the internationalisation of Brazilian companies has helped increase the purchasing power of the local currency. Lastly, a set of stimulus measures[55] developed by the Brazilian government has, without doubt, enhanced the competitive position of the Brazilian companies.[56]

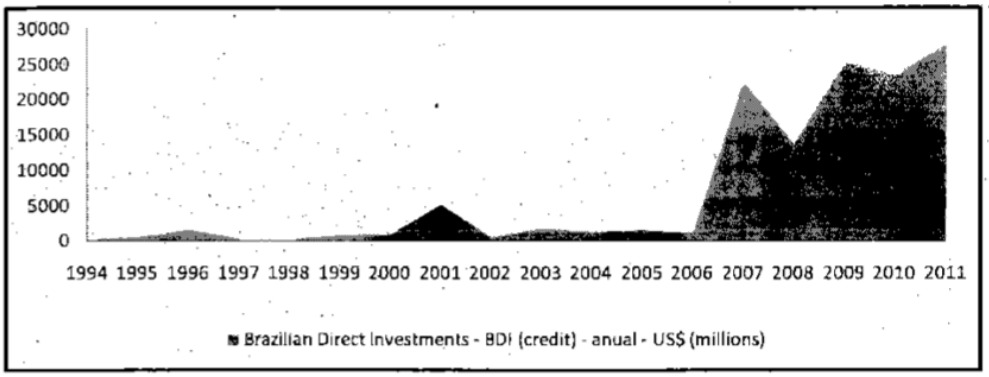
53 The Japanese productive system was the main model for restructuring of Brazilian Companies that aimed to achieve a higher level of productivity to remain competitive.

54 For the process of internationalisation of the Brazilian companies, see Afonso Fleury & Maria Tereza Leme Fleury, Multinacionais Brasileiras: Competências Para A Internacionalização, 175-228 (2012).

55 For example, initiatives by the Brazilian Exports and Investment Promotion Agency (APEX Brasil) for information and technical support.

56 Ministry of Development of Industry And Trade (MDIC), Internationalisation of Brazilian Companies: Term of Reference, Brasilia, 7-28 (December 2009) [Ministerio De Desenvolvimento Da Indústria E Comercio (MDIC), *Internacionalização Das Empresas Brasileiras: Termo De Referencia*, Brasília, 7-28 (Dezembro 2009)], *available at:* http://www.mdic.gov.br/arquivos/dwnl_1260377495.pdf.

Chart 2.4.1 – FDI: outflows - Brazilian Direct Investments



Source: Economic Indicators, Brazil Central Bank[57]

The preferred method to enter international markets has always been through exports to a target market, but carrying out joint ventures and forming alliances have also become relevant means for such companies to enter the global market. Until the beginning of this century, the main destination of investments from Brazilian enterprises abroad has been to MERCOSUR, especially Argentina. The ease brought about by joining the customs services along with the fiscal and cultural proximities are the reasons for Brazilian companies to invest there. Nevertheless, dismantling the MERCOSUR has warded off new investments in the region. Table 2.4.1 below shows the main Brazilian companies abroad.

Table 2.4.1. Ranking of Brazilian Transnational Corporations- 2012 in Fundação Dom Cabral Report

	COMPANY	FIELD
1	JBS - FRIBOI	ANIMAL PROTEIN FOOD PROCESSING
2	GERDAU	STEEL PRODUCER
3	STEFANINI IT SOLUTIONS	IT CONSULTING
4	METALFRIO	REFRIGERATION
5	MARFRIG	FOOD SERVICE
6	IBOPE	PUBLIC OPINION RESEARCH
7	ODEBRECHT	ENGINEERING AND CONSTRUCTION
8	SABÓ	AUTOPARTS MANUFACTURER
9	MAGNESITA	MINING
10	TIGRE	PIPES MANUFACTURING

57 *Supra* note 33.

Finally, it is worth considering that the specific difficulties faced by companies from emerging countries that are deemed as 'late movers' in the global market, represent an expressive onus for Brazilian enterprises, which will have to overcome substantial hurdles to avoid being restricted to commodity trading.

3. Final Considerations

In recent discussions on the challenges faced by the Brazilian economy, its lack of competitiveness has received significant attention. Brazil's low competitiveness is related to several causes, ranging from excessive appreciation of the local currency to a lack of skilled labour and appropriate infrastructure. Although Brazil is the fifth largest economy in the world in terms of GDP, it holds the forty-eight position on the Global Competitiveness Index[58] and the seventy-third position in the basic requirements, including development of institutions, infrastructure, macro-economic environment, health and education. The country has shown better performance with regard to efficiency enhancers,[59] innovation and sophistication.The above considerations make it clear that Brazil is a country stuck between progress and decadence or as some may call it, 'Brazil is the country of duality'.

Table 3.1 Global Competitiveness Index and Infrastructure

Country	General	Basic Requirements	Efficency	Innovation
	Rank	Rank	Rank	Rank
Switzerland	1	2	5	1
Cingapure	2	1	1	11
Sweden	4	6	8	5
The Netherlands	5	10	7	6
Germany	6	11	10	4
United States	7	33	2	7
United Kingdom	8	24	4	9
Hong Kong	9	3	3	22
Japan	10	29	11	2

58 *The Global Competitiveness Report 2012-2013*, World Economic Forum (WEF) 13, http://www3.weforumorg/docs/WEF_GlobalCompetitivenessReport_2012-13.pdf (last visited August 21, 2013).

59 The item includes higher education and training; goods market efficiency, labour market efficiency, financial market development, technological readiness and market size.

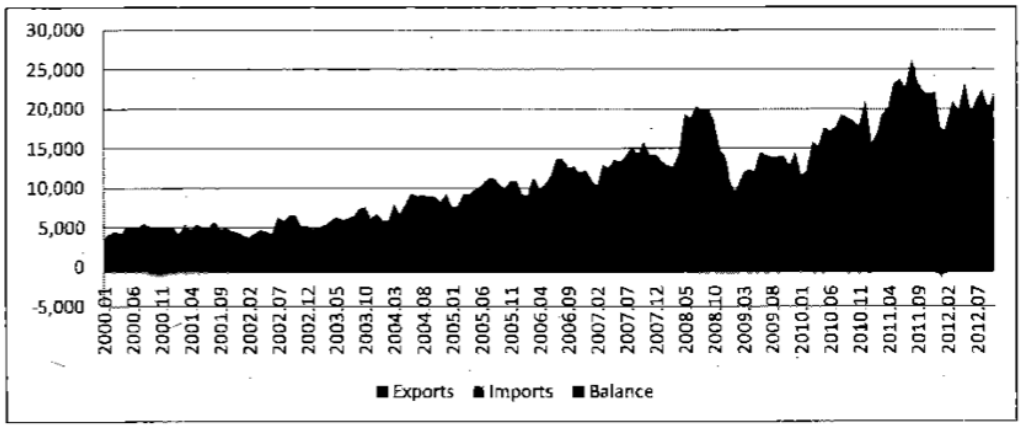
China	29	31	30	34
Brazil	48	73	38	39
India	59	85	39	43
RussianFederation	67	53	54	108

Source: The Global Competitiveness Report 2012-2013, World Economic Forum (WEF) 15.

With regards to excessive appreciation of the Brazilian currency,[60] the existing possibility of arbitration resulting from significant differences between domestic and foreign interest rates has brought about a growing supply of foreign currency and constant pressure on local currency to appreciate.

The continuous appreciation of the Brazilian Real (R$) has led to a loss of competitiveness in Brazilian exports and national products on the domestic market, lowering the trade surplus and giving way to rising deficit in current account transactions.

Chart 3.1 Brazilian Trade Balance

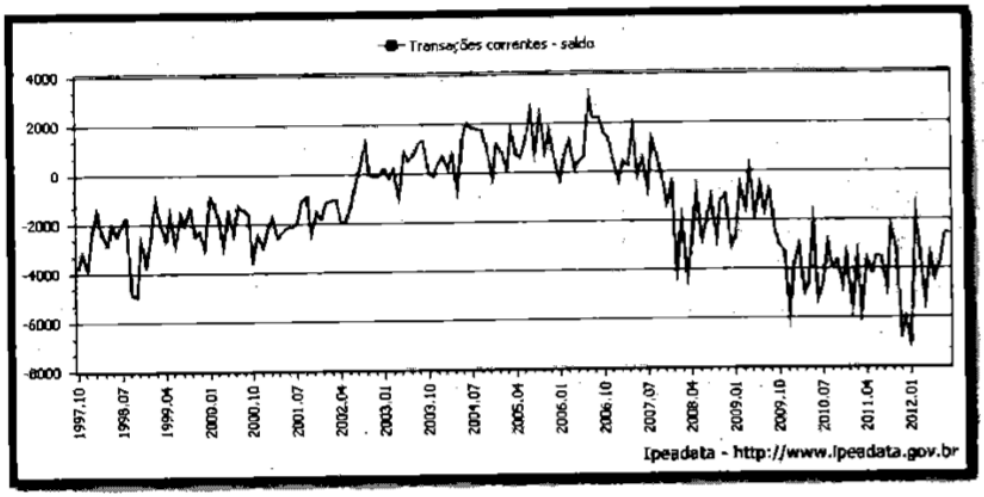


Source: Economic Indicators, Brazil Central Bank[61]

60 In 2012, the Brazilian currency depreciated against the US dollar (US$) and the Euro (€), but not enough to recover the damage from the previous period.

61 Follow the sequence: *Central Bank of Brazil →Economic Indicators→ Chapter V-Balance of Payments→Trade Balance (Banco Central do Brasil→Indicadores Economicos→Balanço de Pagamentos→Balança Comercial), available at:* http://www.bcb.gov.br/?indicators (last visited June 19, 2013).

Chart 3.2- Current Account Transactions (1994-2012)



Source: Economic Indicators, Brazil Central Bank[62]

If, on the one hand, the appreciation of the Brazilian Real vis-à-vis other currencies has collaborated in the short-term to increase the society's purchasing power, on the other, it has induced a substitution of national products for imported goods in several production sectors. Besides accelerating the de-industrialisation of the country, this has reduced the potential to create jobs, especially higher-skilled and higher-paying ones.

Also, since the end of the financial crises in 1990s,[63] other large emerging countries have adopted economic policies that guarantee their currencies will not appreciate, consequently, leading to a continuous positive result in their current account transactions. Of course, China is a special case starting by having a fixed exchange rate regime.

The lack of appropriate infrastructure is the most serious problem related to the so-called basic requirements for Brazil's competitiveness. During the efforts to foster industrialisation (1950-1980), much was invested in expanding highways, power generation and distribution, telecommunications and other urban improvements that comprise a country's infrastructure. Such investments were mostly made by the state, directly or via state-owned companies. The serious crisis at the beginning of the 1980s forced a drastic fall in public investments as the state was unable to increase its spending.[64]

The model adopted in the 1990s was based on privatising several segments of the country's infrastructure and altering the Constitution

62 *Id.*
63 Mainly the financial crises in Thailand, Indonesia and South Korea.
64 The Telecommunications sector example is mentioned before in this paper.

brought flexibility in several state monopolies, regulation in concession law[65] and other pertinent regulatory mechanisms. As mentioned above, the model gave rise to much controversy and was vilified by the party that took federal office in 2003. The fact that privatisation was discarded did not mean that another solution would be developed to maintain investments in infrastructure and the country remained stagnant over the last decade. The country's inappropriate infrastructure is considered the second most important obstacle to doing business in Brazil and has placed the country in 107th position amongst a total of 144 nations.[66]

Table 3.2 - Doing Business in Brazil, China and India

	Brazil	China	India
• Access toFunding	8	1	6
• Bureaucracy	4	4	3
• Corruption	7	5	2
• Crimes andRobberies	11	16	14
• UnethicalWorkforce	14	12	12
• Lack of Innovation	10	7	10
• UneducatedWorkforce	6	10	9
• Coup d'etat	15	14	11
• Taxes	3	6	13
• Taxes of regulation	1	9	7
• Inflation	16	2	5
• Infrastructure	2	8	1
• PoliticalInstability	12	3	4
• Restrictive Labor Laws	5	13	8
• Regulation of exchange rate	9	11	15
• Poor Quality of Public Health System	13	15	16

Source: The Global Competitiveness Report 2012-2013, World Economic Forum (WEF), 375-518.

The proximity of two large-scale international events, namely, the 2014 World Cup and the 2016 Olympic Games,has encouraged the

65 Law No. 8987 of 13 February 1995 (LEI Nº 8.987, DE 13 DE FEVEREIRO DE 1995) deals with the concession regime and permission to provide public services in Art. 175 of the Federal Constitution, and makes other provisions, *available at:* http://www.planalto.gov.br/ccivil_03/leis/l8987cons.htm (last visited August 21, 2013).

66 For the item airports, the country ranks 134th and for ports, 135th, within a total of 144 countries. As opposed to this, for telephony, a privatized sector during the 90s, the country ranks 41st. *See The Global Competitiveness Report 2012-2013,* World Economic Forum (WEF) 117, *available at:* http://www3.weforumorg/docs/WEF_GlobalCompetitivenessReport_2012-13.pdf

government to seek solutions[67] to counter the country's serious infrastructure problems. This may also help to overcome the ideological blindness that has held Brazil back from tackling these issues in a more pragmatic way for so long.[68] Still, it is not clear whether it will be possible to attract significant FDIs for infrastructure works due in Brazil in light of the government's deemed interventionist behaviour and the low growth rate of the Brazilian economy.

Over the last decade, Brazil has concentrated growth in consumer and commodities exports. In other words, Brazil's economic efforts are focused only in traditional sectors, such as pulp and paper, agricultural and cattle-raising products, mining, petrochemicals and oil. This explains the destination of FDIs in the country during the last years. Nevertheless, it also reinforces the idea that Brazil does not have a structured plan to overcome its economic and social shortcomings, which would truly make it a civilized and developed country.

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67 In December 2012, the first call-to-bid for the concession of federal highways with public participation will be launched. The announcement of the program for ports was postponed once again due to disagreements between the federal administration entities.

68 A strategy used to allow the unwavering opposition to accept privatisation was to name the process that the current government is running as a *concession*.