

MOSCOW DECLARATION

(Moscow, 1 December 2017)

WE, representatives of the legal communities of the BRICS member states, having gathered here in Moscow, Russian Federation, on 30 November – 1 December 2017 at the IV BRICS Legal Forum entitled “Interaction between the legal systems of the BRICS member states: towards an equitable global order”;

CONSIDERING the provisions of the final documents of the leaders summits of the BRICS member states, including the BRICS Leaders Xiamen Declaration (Xiamen, China, 4 September 2017);

SUPPORTING the objectives to create a more just, equitable, stable, democratic, representative international political and economic order rooted in the core values of social and human rights and the rule of law;

RECOGNISING the need to enhance cooperation within BRICS, based on the principles of equality, respect for sovereignty and mutual benefit;

ATTACHING great importance to the development of mutual understanding and dialogue amongst the legal community of BRICS for the promotion of the rule of law to preserve and promote human dignity and freedom through equitable and inclusive social, economic, political and cultural development;

STRIVING to accomplish the spirit of the 2014 Brasilia Declaration, 2015 Shanghai Declaration and 2016 New Delhi Declaration of BRICS Legal Forum by forming practical structures for implementation and monitoring;

AFFIRMING the importance of strengthening the fruitful cooperation between the BRICS member states in the sphere of law and jurisprudence, as well as the need to establish more effective conditions for exchange at the professional and academic level;

DECLARE hereby as follows:

1. Cooperation in the sphere of law, which encompasses economic, social and other spheres of human enterprise, is integral to the development of BRICS and needs to be acknowledged as an important part of the BRICS initiative;

2. The main objectives of legal cooperation within BRICS are:

- Exchanging experience between legal communities at the institutional level amongst the judges, lawyers and legal academics in different spheres, in particular regarding to national doctrines and practices for business and international trade;
- Organisation of an effective communication and exchange of knowledge, students and faculty between law schools of the BRICS member states;
- Development of professional relationships and business contacts between legal practitioners of the BRICS member states, by providing platforms for collaboration, networking and exchange of knowledge and practices and publishing the outcomes thereof;
- Establishment of a BRICS Legal Forum “think tank” as a Centre for Legal Policy for BRICS to conduct research and carry out monitoring of legal aspects of BRICS functioning, including those which contribute to the promotion of the rule of law as constitutionally entrenched in each jurisdiction to achieve inclusive human development;
- Establishment of a Board of Governors for policy direction and a Panel of Arbitrators and common institutional rules to coordinate and fuse the functioning of the BRICS Dispute Resolution Centers already established at Shanghai and New Delhi and the proposed Centers in Brazil, Russia and South Africa, to create a wider and broader framework of neutrality under the BRICS framework, for disputes arising within and outside of BRICS, and to set in motion a time bound plan of action for implementation. The day-to-day administration and conduct of affairs of these centers will continue to vest in the respective jurisdictions. The concept paper proposed by the Bar Association of India will be fine tuned by January 31, 2018 and adopted as a Road Map by email circulation by the steering committee of the Forum, which is mandated to take further steps in this direction.

3. We propose the following as further areas of legal cooperation within BRICS:

- Organisation of networking structures aimed at exchanging knowledge, information and best practices between judges, advocates, prosecutors and other representatives of legal professions of the BRICS member states;
- Preparation of analytic reviews of legislation of the BRICS member states within the framework of cooperation in comparative law research (general

and/or thematic reviews, such as “Business Law of the BRICS member states”);

- Holding international conferences for exchanging experiences and for deepening cooperation in the areas of business laws, dispute resolution, anti-corruption, money laundering, terrorism and to develop common approach and strategy to contribute to the development of international law and conventions and model laws and frameworks at various international fora, including related to the UN and other international bodies active in this area;
- Publication of a research journal on the development of the BRICS legislation (for example, “BRICS Law Review”);
- Formation of a working group on development and harmonisation of tax laws in BRICS;
- Formation of a working group on Development of Legal Framework for Digital Economy and Governance and Regulation of Innovations in Artificial Intelligence and Internet of Things;
- Formation of a rules drafting committee for harmonisation and development of common institutional rules of arbitration centers;
- Formation of the Working Group on Study and Harmonisation of Business and Contract Laws.

Member Organisations shall make serious endeavor to nominate at the earliest 3 representatives each to form each working group, composed of established domain experts and practitioners, who will elect the chair and co-chair and will hold constructive meetings before the next Forum in South Africa and circulate draft rules 4 weeks prior to the V Legal Forum. The Working Groups will be empowered to co-opt experts to assist in their functioning.

Assessing the outcomes of the IV (Moscow) BRICS Forum, we, on behalf of its participants – legal communities of the BRICS member states, state the following:

1. We are conscious that the development of legislation of the BRICS member states on the principles of protecting national sovereignty, democracy, rule of law, human rights and affording political and social guarantees by all the people, living in the BRICS member states, shall lead to sustainable political, social and

economic development of these countries and their mutually beneficial cooperation.

Unification of legal regulations and their harmonisation, balanced reception and incorporation shall serve as the basis for interaction of legal systems of the BRICS member states subject to the principles of independence, respect for state sovereignty and national law.

International treaties, model “soft” rule-making, use of progressive global practice are the instruments of modern legal order, in the development of which the BRICS member states should contribute in a collective and collaborative manner and be guided by these instruments in fostering legal cooperation.

2. We envisage that the legal communities of BRICS shall act in a coherent, balanced and collaborative manner, with commonality of purpose, by forming positions respectful of legal identity and sovereignty of each member state, to develop and adopt uniform legal approaches and standards beneficial not only for BRICS, but to serve as benchmarks for international cooperation per se to achieve the objective of general welfare through sustainable economic growth.

We underline the need of continuing our efforts in the sphere of tax and customs policy, establishment of information transparency and accessibility, countering corruption, money laundering and fair and transparent disclosure of beneficial ownership of business structures.

We believe that approving the multilateral model convention on cross-border tax dispute resolution is an important step towards improving tax relations between the BRICS member states.

3. We acknowledge the need to continue our efforts to prevent conflicts of national jurisdictions, improve jurisdictional attractiveness of each BRICS member state, which leads to an increase of international attractiveness of BRICS as a whole.

Unification of national substantive and conflict-of-law rules is the most effective way to improve the jurisdictional attractiveness. State security of foreign investment is the key to form sustainable and favorable investment climate. Mutual recognition and enforcement of foreign judgments and arbitral awards determine the enhancement of credibility of the foreign jurisdiction. The BRICS legal communities intend to continue the cooperation on improving arbitral and other forms of cross-border dispute resolution, on lines of the initiative that forms part of the core objective of this declaration above and to further innovate and expand the same.

4. We emphasise that coordinated efforts to ensure the stability of constitutional order of the BRICS member states, counter global terrorism, corruption, protect the sovereignty, security and territorial integrity of our states shall become one of the most important areas of cooperation between the BRICS legal communities.

Fight against arms, drug trafficking and transnational terrorism are essential elements of joint efforts in the sphere of international security. The BRICS legal communities call to intensify the cooperation in this sphere to increase the joint contribution to face the major global threats.

5. We recognise the importance of environmental issues in all the BRICS member states and the need to enhance the international legal cooperation for ensuring environmental safety, creating legal mechanisms to prevent catastrophic climate change on our planet, legal basis of using the newest energy- and resource-saving technology, aimed at the protection of the environment.

We will continue our joint researches and exchanging experience of the legal regulation in the sphere of environmental safety and protection from pollution, as well as natural resources management of the BRICS member states, in accordance with national conditions and priorities.

We intend to continue an active exchange of experience relating to the elaboration of sports legislation and management of sports activities. Preventing and combatting doping and corruption in sports are an important area of legal cooperation of the BRICS member states. With particular interest, we explore the possibility of forming an international legal mechanism of realisation and protection of intellectual property (IP) rights of the sportspersons.

We unanimously accept and endorse the proposal of the Law Society of South Africa to host the V Legal Forum in South Africa in 2018 and thank them for this gesture.

Participants of the IV BRICS Legal Forum (Moscow, Russian Federation) express gratitude to the host party, Russian Federation, and highly appreciate its efforts in organising a very high quality Forum both in terms of content and hospitality.

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