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Emerging Economies After the Global Financial Crisis: The Case of Brazil

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EMERGING ECONOMIES AFTER THE GLOBAL FINANCIAL CRISIS: THE CASE OF BRAZIL

“The issues at the core of our concerns – the financial crisis, new global governance and climate change – have a strong common denominator. It is the need to build a new international order that is sustainable, multilateral and less asymmetric, free of hegemonies and ruled by democratic institutions. This new world is a political and moral imperative. We cannot just shovel away the rubble of failure; we must be midwives to the future! This is the only way to make repairs for so much injustice and to prevent new collective tragedies.”

President H. E. Luiz Inácio Lula da Silva

Enrique R. Carrasco* & Sean Williams†

Abstract

Emerging economies have rebounded relatively quickly from the 2008 global financial crisis and, despite various challenges they face resulting from the European sovereign debt crisis, they face bright economic futures. While many observers have focused on China and India, Brazil is an emerging economy that has enjoyed increasing visibility. This article examines Brazil’s evolution into an emerging economy, or, given the market-based nature of the term, an emerging market economy (EME). After outlining the broadly accepted definition of an EME, we examine Brazil’s path towards becoming an EME, from the “pre-emergent” Brazil to its current status as an EME. In doing so, we address a series of reforms after the 1980s, ranging from economic policy to the legal system, that contributed to Brazil’s dynamism, as well as Brazil’s remaining challenges. We conclude with commentary regarding Brazil’s role in articulating a post-crisis “New International Economic Order.”

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Emerging economies rock, so they say. While the United States struggles to recover from the 2008 global financial crisis and European countries have been mired in a sovereign debt crisis, emerging economies have rebounded relatively quickly from the 2008 global financial crisis and, despite various challenges they face resulting from the European crisis, they face bright economic futures.

While many observers have focused on China and India, Brazil is an emerging economy that has enjoyed increasing visibility. Since 2003, it has pursued a sound macroeconomic framework that brought inflation under control, produced primary budget surpluses, decreased foreign debt, and increased foreign reserves. The resultant economic growth reached a peak in 2010 when it registered a 7.5% annual growth rate in gross domestic product, which far exceeded the average annual global growth rate for that year. Despite the knock-on effects of the European sovereign debt crisis and the government’s concerted effort to slow economic

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growth to curb inflation, economists predict an annual growth rate for Brazil of 3.3% for 2012. In 2011, Brazil overtook the U.K. as the sixth-largest economy in the world.

This article examines Brazil’s evolution into an emerging economy, or, given the market-based nature of the term, an emerging market economy (EME)—we will use the terms interchangeably. We begin in Part II by outlining the broadly accepted definition of an EME. The term generally refers to dynamic economies that have attracted considerable investor interest and are gaining economic and political clout on the global stage. They are nevertheless “emerging” to the extent their economies continue to be impeded by a number of factors ranging from policy failures to inequality.

Part III examines Brazil’s path towards becoming an EME—the “pre-emergent” Brazil. We cover four periods. The first is the post-independence economic stagnation in the nineteenth century. The second is the period of high economic growth which commenced in the early twentieth century. This period, which came to an end with the debt crisis of the early 1980s, witnessed the adoption of import substitution policies and the onset of the “Brazilian Miracle” from 1968 to 1973. The third period addresses Brazil’s debt crisis of the 1980s and its experience during the “lost decade.” During this period, President Sarney introduced the ultimately unsuccessful “Cruzado Plan,” which introduced a new currency (the cruzado) and froze prices and exchange rates after de-indexing the economy. The fourth period witnessed significant economic reforms under Fernando Collor de Mello and the implementation of the “Real Plan” designed by Finance Minister and future President Fernando Henrique Cardoso, which, among

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other things, introduced a new currency (the real), tightened monetary policy, introduced a
managed-float exchange rate system, cut spending, and increased taxes.

Part IV explains why, thanks to Presidents Cardoso and Luiz Inácio “Lula” da Silva,
Brazil is now considered an EME. Lula followed Cardoso’s orthodox economic policy that
reduced interest rates and fostered greater ties with other developing countries to help decrease
Brazil’s dependence on the Global North for its exports. Policies favoring improved
infrastructure, international trade, increased foreign direct investment, and improved government
institutions have also served Brazil well. Importantly, Lula increased Brazil’s influence
internationally, as evidenced by reforms at the International Monetary Fund and the G-20.

Part V addresses Brazil’s remaining challenges, which include excessive spending, its
continued over-dependence on commodity exports, corruption, a problematic regulatory and
legal framework, an inefficient judiciary, and inequality.

Part VI concludes this article. The post-crisis global state of affairs has provided
emerging economies, especially the so-called “BRICS”—Brazil, Russia, India, China, and South
Africa—with a platform to articulate the framework for a New International Economic Order
(NIEO). The question is whether Brazil should help resurrect the NIEO of the 1970s. We

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6 See RUMU SARKAR, INTERNATIONAL DEVELOPMENT LAW: RULE OF LAW, HUMAN RIGHTS & GLOBAL FINANCE 9
(“[T]rade relations and capital investments are being ‘rationalized’ in a new international economic order that does
not conform to the outlines of the postcolonialist relations of the past.”) (2009); Ruth Gordon, The Dawn of a New,
New International Economic Order?, 72 LAW & CONTEMP. PROBS. 131 (2009); Tiffany Limsico, Global
Governance on the Making: Prospects for a New World Order in Tackling Economic Injustice, 16 TRANSITION
STUD. REV. 520 (2009); Beatriz Bissio, Emerging Powers Cooking up New International Order, GLOBAL
GEOPOLITICS & POL. ECON., Apr. 16, 2010, available at
http://globalgeopolitics.net/wordpress/2010/04/16/emerging-powers-cooking-up-new-international-order/; Carlos
Diversity in Global Economic Order, NEW YORK TIMES, June 19, 2009,
http://query.nytimes.com/gst/fullpage.html?res=9C00EED91131F934A25755C0A96F9C8B63; Kevin Muehring,
New World Order the Balance of Power at the IMF is Shifting to Developing Countries, 43 INSTITUTIONAL
INVESTOR 7 (2009); Phil Ruthven, A New World Order, 31 BUS. REV. W’LY. 19 (2009); Robert J. Samuelson, A
economic-order.html; Mansoor Dailami & Paul R. Masson, The New Multi-Polar International Monetary System
conclude that it should not. Instead, it should rely on its rich history to articulate an ethically-based NIEO.

II. WHAT IS AN “EMERGING MARKET ECONOMY”? 

The term “emerging market” was coined in 1981 by Antoine van Agtmael of the World Bank’s International Finance Corporation (IFC). At the time, he was attempting to start a “Third World Equity Fund,” but he had to come up with a more dynamic name to attract investors.

Emerging markets were characterized by growing economies and increased wealth with low-to-middle per capita income. The basic notion was that emerging economies, such as the East Asian Tigers of the 1980s (South Korea, Singapore, Hong Kong, and Taiwan), were “emerging” because they were becoming significant players in the modern global economy.

The IFC’s origination of the term indicates that it was investor driven. Thus, in 1992 the IFC’s Farida Khambata coined the term “frontier markets” for economies that had not reached the status of emerging markets (because of, say, small market capitalization) but nevertheless...
presented promising investment opportunities. Moreover, in 2001, Goldman Sachs singled out Brazil, Russia, India, and China—the “BRICs”—as countries that because of their increased global clout should be considered for inclusion in the G-7. Today, the keen interest in investing in emerging markets is embodied in Morgan Stanley Capital Market International’s emerging market indices, which are followed by nearly ninety percent of emerging market managers. Currently, the MSCI Emerging Market Index consists of twenty-one emerging country indices: Brazil, Chile, China, Colombia, Czech Republic, Egypt, Hungary, India, Indonesia, Korea, Malaysia, Mexico, Morocco, Peru, Philippines, Poland, Russia, South Africa, Taiwan, Thailand, and Turkey.

Although an emerging economy defies precise definition, common themes have emerged since the term’s inception. Emerging market economies, as illustrated by those listed above, are characterized by significant and rapid economic growth, as evidenced by rising gross domestic product (GDP) in an aggregate and per capita basis, increased trade volumes, as well as increased foreign reserves.

Emerging economies are also hosts to increased foreign investment. Foreign investment fuels rapid economic growth, as investors seek out higher profit margins. Countries can attract investors by pursuing market-based reforms ranging from sound macroeconomic policies to being open to international trade—hence one encounters the interchangeable term “emerging market economies.” Sound macroeconomic policies include, among other things, privatization of state-owned businesses, liberalization of domestic banking systems and stock markets for easier access by foreigners, and decreased debt. As for trade, emerging market economies are generally more open to international trade than other economies, including advanced economies. This openness is spurred initially by export-led growth models, but it functions to diversify the goods countries export.

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17 Id; Lincoln Gordon, Brazil’s Second Chance: En Route Toward the First World 15–16 (2001). See also, Orgaz, supra note 16, at 24–25.
20 Kose supra note 16, at 53. See also Mary M. Shirley, Privatization and Performance, 17 Hastings Int’l & Comp. L. Rev. 669, 670 (1993) (“Privatization is viewed as one way to break the direct link between the enterprise and the government and, in the process, to improve performance, raise capital, and reduce the government’s exposure to commercial risk.”).
23 Kose supra note 16, at 41. See also, Orgaz, supra note 16, at 22.
24 Kose supra note 16, at 41. See also, Rudiger Dornbusch, The Case for Trade Liberalization in Developing Countries, 6 J. Econ. Perspectives 69, 71–2 (1992)(explaining how the negative effects of protectionism on export industries often leads to liberalization); Allen Dennis & Ben Shepard, Trade Costs, Barriers to Entry, and Export Diversification in Developing Countries, 1 (World Bank Policy Research Working Paper No. 4368, 2007)(arguing that for every one percent reduction in trade costs, there is a subsequent 0.3-0.4 percent increase in export diversification).
international economy help reduce the effects of sudden changes in global prices or other internal or external economic shocks, making the country more stable for investors.\textsuperscript{25}

Economic factors are not the sole criteria used to designate emerging market economies. Significant economic growth can translate into increased political influence on a regional and international scale.\textsuperscript{26} The level of international political clout varies from country to country, but EMEs generally are gaining power and influence internationally, especially compared to other developing countries.\textsuperscript{27} They are leaders in their respective regions, and are frequently responsible for representing the interests of that entire region in global economic affairs.\textsuperscript{28}

The term EME suggests that a country so labeled has made significant strides towards joining the ranks of “developed countries.” However, “emerging” also suggests that EMEs’ development is somehow hindered. The typical factors relate to policy failures, weak institutional structures, underdeveloped and/or poorly-regulated financial sectors, and inequality. Policy failures, including ineffective monetary and exchange rate policies\textsuperscript{29} and public


\textsuperscript{26} Jim O’Neill et al., \textit{How Solid are the BRICs?}, GOLDMAN SACHS GLOBAL ECONOMIC PAPER NO: 134, 3 (2005). \textit{See also}, Orgaz, supra note 16, at 32.


\textsuperscript{28} Juan de Onis, \textit{Brazil’s New Capitalism}, 79 FOREIGN AFF. 107, 109 (2000).

investment regimes (e.g., poorly allocated investments in infrastructure,\textsuperscript{30} education,\textsuperscript{31} and health\textsuperscript{32}), and weak institutional structures (regulatory,\textsuperscript{33} judicial,\textsuperscript{34} and political\textsuperscript{35}) raise

\textsuperscript{30}Klaus E. Meyer, Perspectives on Multinational Enterprises in Emerging Economies, 35 J. INT’L BUS. STUDIES 259, 260 (2004)(“[EMEs] typically have less sophisticated market supporting institutions and fewer locational advantages based on created assets, such as infrastructure and human capital.”)(citations omitted). Infrastructure is especially important for countries seeking to attract FDI while improving the domestic standard of living by raising wages. Amaro, supra note 18, at 3 (“…better infrastructure can increase the productivity of labor. Thus, even if wages rise, higher productivity based on solid, dependable infrastructure can lead to lower unit labor costs, and allow for higher incomes without causing a loss of investment.”). Amaro cites Mexico as an example of an emerging market with rising wages that is held back by poor infrastructure. Id.


\textsuperscript{32}Cohen and Soto argue that the differences between the authors arise due to differences in the measurement and definition of “human capital”—a phrase which easily eludes precise definition. Cohen, supra note 31, at 52. Hanushek and Ludger argue that studies showing only a small connection between education and economic growth focus on years of education instead of cognitive abilities of the workforce. Hanushek supra note 31, at 1–4. They note that there is a very strong correlation between cognitive ability of the workforce and economic growth. Id.

\textsuperscript{33}Halima A. Qureshi & Hasina A. Mohyuddin, Health Status, Diseases, and Economic Development: A Cross-Country Analysis, 39 J. DEVELOPING AREAS 121, 122 (2006)(observing that developing countries account for ninety percent of the global disease burden). See also, WORLD BANK, WORLD DEVELOPMENT REPORT 1993: INVESTING IN HEALTH 17 (1993)(“Improved health contributes to economic growth in four ways: it reduces production losses caused by worker illness; it permits the use of natural resources that had been totally or nearly inaccessible because of disease; it increases the enrollment of children in school and makes them better able to learn; and it frees for alternative uses resources that would otherwise have to be spent on treating illness.”); David Wheeler, Basic Needs Fulfillment and Economic Growth: A Simultaneous Model, 7 J. DEVELOPMENT ECON. 435 (1980)(showing that improved health conditions increase labor productivity and GDP growth).

\textsuperscript{34}Eswar S. Prasad, Financial Sector Regulation and Reform in Emerging Markets: An Overview, in FINANCIAL MARKET REGULATION AND REFORMS IN EMERGING MARKETS 11 (Masahiro Kawai & Edward S. Prasad eds., 2011)(“A basic priority in emerging markets is to strengthen the institutional framework in order to promote financial stability.”). Regulations of intellectual property rights, taxation, capital markets, and competition are often cited as examples of potential growth inhibitors for developing countries. See e.g., David M. Gould & William C. Gruben, The Role of Intellectual Property Rights in Economic Growth, 48 J. DEVELOPMENT ECON. 323 (1996)(showing a correlation between strong intellectual property protection and economic growth, especially in open market economies); Alireza Naghavi, Strategic Intellectual Property Rights Policy and North-South Technology Transfer, 143 REV. WORLD ECON. 55 (2007)(arguing that strong intellectual property rights protection is in developing countries best interests because such protection encourages FDI and technology transfer); Joseph E. Stiglitz, Capital Market Liberalization, Economic Growth, and Instability, 28 WORLD DEVELOPMENT 1075 (2000)(arguing in the aftermath of the Asian Financial Crisis that total capital market liberalization has a destabilizing effect on countries, but that capital market liberalization, with proper controls on short-term capital flows, will spur economic growth without the destabilizing side effects of total liberalization); Jean-Jacques Laffont, Competition, Information, and Development, in ANNUAL WORLD BANK CONFERENCE ON DEVELOPMENT ECONOMICS 1998 237 (Boris Pleskovic & Joseph Stiglitz, eds., 1998); Vito Tanzi & Howell H. Zee, Tax Policy for
transaction costs for foreign and domestic investors, which makes doing business in that country more difficult and scares potential investors away.\textsuperscript{36} Having underdeveloped financial sectors and high inequality hinders the effective allocation of capital, which impedes overall economic efficiency.\textsuperscript{37}

\textit{Emerging Markets: Developing Countries} (International Monetary Fund Working Paper No. 00/35, 2000)(discussing the myriad flaws in the taxation systems of developing countries that affect economic growth); \textit{but see}, Ajit Singh, \textit{Competition and Competition Policy in Emerging Markets: International and Developmental Dimensions} 7 (G-24 Discussion Paper Series No. 18, 2002)(“...many developing countries have been able to maintain considerable competition in product markets despite the absence of a formal competition policy.”); Prasad \textit{supra} note 33, at 3 (noting that the global financial crisis has exposed both weaknesses in the regulatory structures of advanced economies and strengths of certain regulatory systems in emerging markets).


\textsuperscript{37} Edda Zoli, \textit{Financial Development in Emerging Europe: The Unfinished Agenda} 3 (International Monetary Fund Working Paper No. 07/245, 2007)(“Financial development is often associated with improved economic performance, as deep, liquid, diversified, and stable financial markets allow efficient intermediation of funds, facilitate risk diversification, and tend to favor growth in the long run. Moreover, strong local markets can offer a stable source of financing for private and public sectors, helping them cope with possibly volatile external capital flows”); Jin Zhang, et al., \textit{Financial Development and Economic Growth: Recent Evidence from China} 3–6 J. \textit{COMP. ECON.} (forthcoming), available at http://ssrn.com/abstract=1983654 (reviewing literature on the subject of financial development and growth tending to show a positive correlation between the two); José Luís Orehó, \textit{Capital Mobility, Real Exchange Rate Appreciation, and Asset Price Bubbles in Emerging Economies: A Post Keynesian Macroeconomic Model for a Small Open Economy}, 28 J. \textit{POST KEYNESIAN ECON.} 317, 319 (2005)(“financial markets in emerging countries...have a low degree of organization, which produces a great volatility in asset prices when compared to the fluctuations in asset prices observed in the financial markets of developed countries.”); Peter J. Morgan & Mario B. Lamberte, \textit{Strengthening Financial Infrastructure} (Asian Development Bank Institute Working Paper No. 345, 2012), available at http://ssrn.com/abstract=2006983. Emerging market financial systems have, however, been generally less affected by the global financial crisis than those in advanced economies.\textbf{Masahiro Kawai & Eswar S. Prasad, \textit{Financial Market Regulation and Reforms in Emerging Markets}}
III. THE PRE-EMERGENT BRAZIL

Four periods mark the “pre-emergent” Brazil. The first covers a period of post-independence economic stagnation in the nineteenth century. The second was a period of high economic growth which commenced in the early twentieth century and came to an end with the debt crisis of the early 1980s. The third was a period of economic struggle during Latin America’s “lost decade.” The fourth period witnessed significant economic reforms that set the stage for Brazil’s elevation to an EME.

A. Post-Independence Brazil

Unlike its Spanish-American peers, Brazil did not gain its independence from Portugal through an armed revolution, but rather by becoming a separate empire headed by a member of the Portuguese royal family. Though this process prevented Brazil from fracturing into smaller states as the former Spanish colonies did, it also prevented any real societal or economic change from occurring. The country and its economy continued to be dominated by the same land-owning class propelled by the free labor of African slaves that had dominated during the colonial period. In 1822, just prior to the establishment of the new empire, Brazil had the lowest GDP

(2011). Inequality among a country’s population hinders overall economic potential by encouraging inefficient allocation of credit. Lending institutions view the very poor as credit risks, and thus do not lend to them except by charging higher interest rates or requiring collateral as security for loans. These requirements work to prevent many of a nation’s poor from gaining access to credit or force them to use that credit more restrictively to ensure their ability to repay, both of which prevent the credit from being used as productively as it would be otherwise. If a whole segment of the population is not fully participating in the economy, the economy does not function at maximum capacity or efficiency. FRANCISCO H. FERREIRA ET AL., INEQUALITY AND ECONOMIC DEVELOPMENT IN BRAZIL xvii (2004).

38 RIORDAN ROETT, THE NEW BRAZIL 15 (2010). The Portuguese royal family fled to Brazil in 1807 after Napoleon invaded the Iberian Peninsula. Dom Pedro I decided to stay in Brazil and rule it as a separate empire after the rest of the family returned to Portugal. The arrival of the monarchy is when Brazil first opened to international trade with Portugal’s allies, especially Britain. Id. at 25.
39 Id. at 19.
40 Id.
per capita of any New World colony and depended largely on sugar and cotton exports. By the
time the empire ended at the end of the nineteenth century, coffee had supplanted sugar and
cotton as the country’s principal export, industrialization was still far off, and the new
government was responsible for a sizeable debt left to it by the empire.

The monarchy outlawed slavery in 1888 and the country transitioned peacefully to a republic the following year. The “First Republic” (1889-1930) was a decentralized state where the states had expansive powers. The central government did, however, play a key role in supporting the coffee boom in the state of São Paulo that drove the national economy. The First Republic also saw the rise of “Ordem e Progresso” (Order and Progress) as a national mantra that sought “modernization,” mostly through militarization. It was the newly strengthened military, not surprisingly, that brought about the end of the First Republic. When the political climate stagnated during the first quarter of the twentieth century, it was young military officers that first challenged the old politics of the ruling elite, both military and civilian. The movement those young officers started came to a head in 1930 when it forced a democratically-elected president

41 John H. Coatsworth, Why is Brazil “Underdeveloped” and What Can Be Done About It?, 6 HARV. REV. OF LATIN AM. 7, 7 (2007); ROETT, supra note 38, at 29.
42 ROETT, supra note 38, at 28, 32. Coffee’s ascension was largely aided by British capital and engineers who built the railroads to connect the coffee producing regions to the port at Santos. Id.
43 Id. at 15. The desire to be an influential nation drove much of the debate regarding slavery prior to its abolishment. Abolitionists feared that Brazil could not become a powerful, modern nation if it was the last country to abolish slavery, while the pro-slavery politicians argued that Brazil could not become a global power unless it was perceived as a white nation. The country eventually settled on a compromise: slavery was abolished and European immigrants were recruited to serve as cheap labor and reinforce the white population. Id. at 28–9.
44 Id. at 15. Decentralization came about due to the growing influence of the São Paulo state (the home of the coffee boom) that felt oppressed by the Rio de Janeiro based central government. Id. at 29. The states’ powers included taxation of exports and the creation of separate militaries. Id. at 32.
45 Id. at 15. Though coffee drove the economy, Roett argues that coffee’s success restricted growth in other sectors as it attracted such a large percentage of total investment. Id. at 35.
46 Id. at 30. “Ordem e Progresso” is still emblazoned on the Brazilian flag today.
47 ROETT, supra note 38, at 36.
48 Id. at 35–6.
out of office in favor of the man that had been runner up in the election—a former finance minister named Getúlio Vargas.⁴⁹

B. Early Twentieth Century to the Debt Crisis of the 1980s

Though the Brazilian economy experienced its first stretch of sustained growth in the last years of the First Republic, it was under Getúlio Vargas that the Brazilian economy began to modernize.⁵⁰ Under Vargas, the focus of Brazil’s economic policies was achieving self-sufficiency and economic independence through state-led development initiatives.⁵¹ To support his efforts and dilute the influence of the agricultural oligarchs, Vargas immediately sought the support of urban labor, the burgeoning middle class, and the Roman Catholic Church.⁵² Though in the broadest sense his outreach to these groups was political, his specific policies would help foster economic development in the future.⁵３ Indeed, Brazil averaged four percent growth annually throughout the 1930s while most of the developed world was mired in the Great Depression.⁵⁴ Vargas consolidated his reforms in 1937 after a self-coup of sorts that allowed him to retain executive power despite a constitutional limitation to one term as president.⁵⁵ Vargas branded the new political reality the “New State” (“Estado Novo”).⁵⁶

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⁴⁹ Id. Getúlio Vargas was the first Brazilian leader to come from other than the “agrarian aristocracy” that had ruled Brazil during the entire First Republic. He ruled Brazil for eighteen years in various capacities that Roett labels “provisional president” (1930-34), “indirectly elected chief executive” (1934-37), “soft dictator” (1937-45), and directly elected president (1951-54). Id. at 37.
⁵⁰ Coatsworth, supra note 41, at 7. From 1913 to 1980, Brazil grew faster than any other country in the Western Hemisphere. Id.
⁵¹ Leonardo Martinez-Diaz and Lael Brainard, Brazil: The “B” Belongs in the BRICs, in BRAZIL AS AN ECONOMIC SUPERPOWER? 5 (2009).
⁵² ROETT, supra note 38, at 38–9.
⁵³ Id. at 38. For example, education was a large focus of Vargas’ outreach to the middle class whose loyalty he hoped to win. He opened the first Brazilian university in São Paulo in 1934 mainly in the hopes of educating the next generation of public administrators, but also to ensure professional opportunities existed for the middle class to prevent members from falling to a lower class. Id. at 38–9.
⁵⁴ Gordon, supra note 17, at 14.
⁵⁵ ROETT, supra note 38, at 38. Vargas himself had approved the 1934 constitution that limited him to one term that would have ended in 1938. Id. at 39.
⁵⁶ Id. at 41.
After announcing the “New State,” Vargas strengthened his drive for industrialization by focusing state investment in the steel and oil sectors—the first vestiges of import substitution in heavy industry. Despite these efforts, Brazil’s economy was still largely dependent on coffee and industrialization was slow. Like with his predecessor, the military peacefully pushed Vargas out of power in 1945 due to his overzealous attempts to further consolidate power. Despite the political backlash, the new government did little to change Brazil’s economic course. Though Brazil’s GDP grew at an average of six percent per year between 1947 and 1962, the government’s economic policies were often unorthodox. The country struggled with balance-of-payment issues for several years leading the government to impose exchange rate controls from 1947 to 1953 to help depress an over-valued currency, and import licensing requirements to stem the flow of imports. Though it was Vargas that first pushed for import substitution, especially during his final term as president in the early 1950s, it was his successor, Juscelino Kubitschek (1956-1961), who made import substitution the cornerstone of the

57 Id.; GORDON, supra note 17, at 41. Policies that fit the import substitution mold date to the nineteenth century, but early import substitution was focused on simpler consumer goods. GORDON supra note 17, at 41. Brazil’s first forays into import substitution also had more to do with achieving balance-of-payments equilibrium than industrialization. Werner Baer & Issac Kerstenetzky, Import Substitution and Industrialization in Brazil, 54 AM. ECON. REV. 411, 413–4 (1964). Import substitution industrialization (ISI) was an immensely popular policy throughout Latin America from the 1950s to 1970s that Argentine economist Raul Prebisch developed during his time with the United Nations Economic Commission for Latin America (ECLA, now ECLAC). The literature on import substitution is vast. See generally, ANN KRUEGER, TRADE POLICIES AND DEVELOPING NATIONS (1995); Albert O. Hirschman, The Political Economy of Import-Substituting Industrialization in Latin America, 82 Q. J. ECONOMICS 1 (1968); Raul Prebisch, The Economic Development of Latin America and its Principal Problems, UNITED NATIONS DEPT. OF ECON. AFF. (1950); Werner Baer, Import Substitution and Industrialization in Latin America: Experiences and Interpretations, 7 LATIN AM. RESEARCH REV. 95 (1972); Henry J. Bruton, A Reconsideration of Import Substitution, 36 J. ECON. LIT. 903 (1998). Vargas’ decision to invest in steel was driven mostly by the high war-time demand and the financial assistance the United States provided in return for Brazil’s military assistance to the Allied Forces. In 1938, Vargas nationalized all oil production, sparking years of debate surrounding the government’s proper role in the sector. ROETT supra note 38, at 41–2.

58 ROETT, supra note 38, at 42. In 1940, Brazil’s infrastructure was still sub-par and two-thirds of adults were illiterate—both of which inhibited Brazil’s economic development. GORDON, supra note 17, at 14.

59 ROETT, supra note 38, at 43.

60 Id., at 44.

61 Martinez-Diaz, supra note 51, at 2; ROETT, supra note 38, at 45.

62 ROETT, supra note 38, at 45. The over-valued currency was of special concern to the export-driven economy. Id.
economic policy he claimed would produce fifty years of development during his five-year term.  

Despite credit often going to either Vargas or Kubitschek, the Banco do Brasil was actually the first source of import substitution policies that were specifically targeted at industrialization. It issued a decree in 1955 that allowed entrepreneurs easy access to foreign capital if the government deemed their proposed investments desirable for Brazil’s development. In addition, Brazil changed its “Law of Similars” to make it easier for domestic producers to successfully apply for tariff protection against foreign competition. The government also directly supported various industries. During Kubitschek’s term, the government invested heavily in the automotive, shipbuilding, and petrochemical industries as part of his “Goals Program” (“Programa de Metas”). The import-substitution policies helped Brazil develop rapidly. However, although the automotive industry grew to be very successful, the other government-targeted industries saw mixed results. Moreover, import substitution gave rise to two lingering problems: inflation and regional inequality.
The structuralist economic theorists that developed the idea of import substitution industrialization believed that inflation was a necessary component of rapid growth. This belief allowed policy makers to continuously maintain a loose monetary policy while building large deficits by spending on large projects and increasing the minimum wage faster than was necessary to keep up with the cost of living. Brazil’s excellent growth during the Kubitschek years served as proof of the wisdom of structuralist economics, if only temporarily.

Brazil’s short-lived democratic stability came to an end with the election of Jânio Quadros in 1960. Quadros resigned from office in August of 1961 after only eight months following several unsuccessful attempts to expand executive power. The military, however, refused to allow his vice president, João Goulart, to return from a diplomatic visit to China to assume the presidency due to fears over Goulart’s possibly socialist economic views. After several weeks of tension and political maneuvering, the military allowed Goulart to return to Brazil and assume the presidency with reduced executive powers. The conflict sapped the government’s legitimacy, weakened institutional stability, and halted the country’s economic growth—all of which opened the door for another military takeover in early 1964.

spawning an entire network of related economic activity as automobiles became a popular consumer item for middle-class Brazilians. Service stations, roadside motels, technical schools, and other business sprang up throughout the country supporting both new consumption and new jobs. GORDON, supra note 17, at 41–2.

GORDON, supra note 17, at 43; BAER, supra note 18, at 67–8. Though Brazil eventually conquered high inflation, see infra p.20, regional inequality is an issue to this day. See e.g., Carlos Alberto Manso et al., Retornos da Educação e o Desequilíbrio Regional no Brasil, 64 REVISTA BRASILEIRA DE ECONOMIA 115 (2010).

GORDON, supra note 17, at 44–50.

Id.

Id. Though the wisdom of structuralist economics was at least debatable for the next two decades, structuralism was nearly completely discredited as an economic theory following the debt crisis. See, Luiz Carlos Bresser Pereira, Development Economics and the World Bank’s Identity Crisis, 2 REV. INT’L POL. ECON. 211 (1995).

ROETT, supra note 38, at 50.

Id. See also, GORDON, supra note 17, at 53–4 (discussing the possible political reasons behind the abrupt resignation).

GORDON, supra note 17, at 51.

Id.

BAER, supra note 18, at 71–2. After peaking at 10.3% growth in 1961, economic growth fell to 5.3%, 1.5%, and 2.4% in 1962, ’63, and ’64, respectively. Meanwhile, inflation reached 100% in 1964. Id.

GORDON, supra note 17, at 52–3.
The military regime followed an economic policy that sought to control inflation (which had become an obvious problem during the first years of the 1960s) by increasing savings via reforming capital markets, attracting foreign capital to finance large-scale industrial production, and investing heavily in infrastructure and state-owned enterprises (parastatals). The military government’s first policy actions focused on reducing wasteful spending, increasing tax collection, and removing some price restrictions—all of which were generally successful. The budget deficit steadily fell from 4.3% of GDP in 1963 to 0.3% in 1971 and inflation fell to about twenty percent. These adjustments set the stage for the so-called “Brazilian Miracle” from 1968 to 1973 when the country’s economy grew more than ten percent each year. Changes to capital market regulations increased investment, which the government then directed towards specific industries through tax incentives. These policies helped diversify the country’s exports dramatically.

Some observers argue that state control of the economy through the tax code and parastatals contributed more to the Miracle than did market forces. However, the Miracle had a very troublesome side effect: income inequality skyrocketed to one of the highest levels in the world—a position it still holds today.

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81 BAER, supra note 18, at 73; Anthony Galano III, *International Monetary Fund Response to the Brazilian Debt Crisis: Whether the Effects of Conditionality Have Undermined Brazil’s National Sovereignty*, 6 PACE INT’L L. REV. 323, 325 (1994).
82 BAER, supra note 18, at 73.
83 *Id.* at 73–4.
84 Martinez-Diaz, *supra* note 51, at 2; BAER, *supra* note 18, at 74. Foreign direct investment also skyrocketed from $84 million per year from 1965-1969 to $1 billion per year from 1973-1976. BAER *supra* note 18, at 77. One should note, however, that this period was also the high point for human rights abuses during the military dictatorship. *Id.* at 88.
85 BAER, *supra* note 18, at 74.
86 BAER, *supra* note 18, at 77. Coffee—Brazil’s traditional staple export—saw its percentage of total export volume fall from 42% in the mid-1960’s to 12.6% in 1974, while manufactures rose from around 7% to 27%. *Id.* at 78.
87 *Id.* at 78.
88 GORDON, *supra* note 17, at 21. Brazil’s inequality grabbed global attention in the mid-1970’s when World Bank President Robert McNamara singled the country out as an example of an economical prosperous developing country that was doing little to help the majority of its populace. BAER, *supra* note 18, at 88.
C. Brazil’s Debt Crisis of the 1980s

The military government’s drive to industrialize Brazil led the country to spend vast amounts of borrowed money on the infrastructure necessary to support industrial production.89 This increased borrowing coincided with the return of import substitution policies in the second half of the 1970s aimed at increasing domestic production of steel, copper, aluminum, fertilizers, and capital goods while simultaneously continuing the drive to improve infrastructure.90 When the Organization of Petroleum Exporting Countries (OPEC) raised oil prices in 1973 and 1979, Brazil had to double the amount it spent on imported oil (80% of all oil it consumed)—money it borrowed at floating interest rates from foreign (mostly U.S.) commercial banks flush with petrodollar deposits from OPEC countries.91 The government justified relying on debt to finance its growth by claiming that the new export capacity would lead to a trade surplus that would increase the amount of foreign reserves available to a level easily sufficient to repay creditors in the long run.92

From 1978 to 1981, the United States compounded Brazil’s budget issues by raising interest rates, which increased Brazil’s debt service payments along with those of several other

89 Galano, supra note 81, at 325. Though this borrowing is unanimously accepted as the main cause of the 1982 Brazilian debt default, at least two authors argue that this spending created the current competitive advantage Brazil holds in agribusiness and biofuel production. Martinez-Diaz, supra note 51, at 6. The parastatals alone would come to account for 46% of Brazil’s total foreign debt in 1981. Galano argues that Brazil relied on foreign lending instead of opening its industries to foreign direct investment because the military was fearful of the potential of foreign economic influence that could come with FDI. Id.
90 BAER, supra note 18, at 88–90. These goals were part of the Second National Development Plan. Most of the plan involved expanded the activities of parastatals. Though the increased spending was a direct cause of the debt crisis, the policies were at least successful at keeping growth rates around seven percent per year for the rest of the 1970s. Id.
91 Galano supra note 81, at 328; BAER, supra note 18, at 87. Brazil’s import bill for petroleum rose from $6.2 billion in 1973 to $12.6 billion in 1974 and that the military government—which changed leaders in 1974—made a conscious decision to spend the additional money to ensure the rapid growth would continue. BAER, supra note 18, at 87. Baer also notes that the floating interest rates were initially very low, which made it easier to rationalize the borrowing. Id. Martinez-Diaz and Brainard note that this oil shock pushed Brazil to invest heavily in energy independence, the result of which being that Brazil now derives 46% of its energy from renewable sources as compared to an average of just 6% in OECD countries. Martinez-Diaz, supra note 51, at 8.
92 BAER, supra note 18, at 90.
Latin American countries. In 1982, Mexico defaulted on its foreign debts, instantly drying up foreign sources of capital for many Latin American countries, including Brazil. With no access to foreign capital, Brazil was unable to pay its debts and continue spending on its industrialization program. In 1983, it had no other choice but to undergo a substantial external debt restructuring and turn to the IMF—a lender it had long avoided because of the strict conditions put on loans—for the financing it needed.

The IMF held vast power over Brazil. It required Brazil to devalue its currency, cut public spending, freeze all wages, reduce the level of subsidized credit available, raise taxes, and cut the amount of foreign borrowing by state-owned enterprises as conditions to receiving IMF loans. After beginning to implement these reforms in 1983, Brazil’s GDP fell four percent, employment fell twelve percent, and inflation exceeded two hundred percent.

In 1985, the military regime handed power to a civilian government led by José Sarney, whose main economic task was to control inflation. Though the economic regime the IMF imposed on Brazil in 1982 had successfully lowered Brazil’s budget deficit and restored growth by 1984, it did nothing to control inflation—indeed, inflation quadrupled from 1982 to 1986. In the hope of curbing inflation as quickly as possible, Sarney introduced the “Cruzado

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93 Id. at 93; Galano, supra note 81, at 328. Brazil compounded its own problems by ending some export subsidies thereby exposing the overvaluation of the currency which the government subsequently devalued gradually. Baer at 93.
94 Galano, supra note 81, at 329; BAER, supra note 18, at 100.
95 Galano, supra note 81, at 329; BAER, supra note 18, at 100.
97 Galano, supra note 81, at 337.
98 Id. at 339-40; BAER, supra note 18, at 101.
99 Galano, supra note 81, at 340.
101 BAER, supra note 18, at 102. GDP growth reached 4.5% in 1984 and 8.3% in 1985. Id.
102 FISHLOW, supra note 100, at 34.
Plan” in early 1986.\textsuperscript{103} The plan introduced a new currency (the \textit{cruzoado}) and froze prices and exchange rates after de-indexing the economy (prices were no longer pegged to the rate of inflation).\textsuperscript{104} Though originally successful, the Cruzado Plan unraveled by February 1987 and inflation returned as strong as ever.\textsuperscript{105} By the time Sarney’s term ended in 1990 prices were increasing by eighty percent per month.\textsuperscript{106}

D. Brazil in the 1990s

In 1990, Fernando Collor de Mello became the first democratically-elected president of Brazil in nearly thirty years.\textsuperscript{107} His main economic policy goals were price stabilization, privatization, and increasing market competition.\textsuperscript{108} He quickly adopted a liberal international trade regime by lowering barriers to imports and privatized many state-owned businesses\textsuperscript{109}—the first of a decade of reform that set the stage for Brazil’s current growth.\textsuperscript{110} His policies were not effective at containing inflation, which continued to be a problem until 1994\textsuperscript{111} when Collor’s successor, Itamar Franco, announced the “Real Plan,” designed by Minister of Finance and future President Fernando Henrique Cardoso.\textsuperscript{112}

\textsuperscript{103} Id. at 36.
\textsuperscript{104} Id. Sarney looked to Argentina’s and Israel’s experiences to develop this heterodox shock plan. Id.
\textsuperscript{105} Id. at 38. The Cruzado Plan’s initial success was ultimately the cause of its failure. After the Plan was announced, real money held by businesses and individuals soared, which helped spur consumption and increase imports. Real wages increased along with government spending and overall demand. External factors also drove demand: lower international interest rates, falling oil prices, and a devalued dollar. This rapid increase in demand is what brought inflation back to life, though only after Sarney and his party won an enormous majority in the 1986 elections that took place after real wages had risen but while inflation was still low. Id. at 36–8.
\textsuperscript{106} Id. at 39.
\textsuperscript{107} GORDON, supra note 17, at 30.
\textsuperscript{108} Id.
\textsuperscript{109} See Jose Luis de Salles Freire & Jose Emilio Nunes Pinto, \textit{Privatization in Brazil}, 17 HASTINGS INT’L & COMP. L. REV. 689 (1993). Between 1991 and 2001, the Brazilian government sold $110 billion worth of assets to become “privitaziation’s poster child.” Nevertheless, thirteen of the largest one hundred firms in Brazil are still state-owned to this day, including the largest—Petrobras, the behemoth state-controlled oil company. Martinez-Diaz, supra note 51, at 6.
\textsuperscript{111} Collor tried to contain inflation with his own plan involving a new currency and price and wage freezes, but his plan failed just as its predecessors had. Fishlow, supra note 100, at 40–1.
\textsuperscript{112} Id. at 41–4. Collor was impeached in 1992 on charges of corruption, but resigned before the Brazilian Senate could hold a trial. GORDON, supra note 17, at 30.
The Real Plan was a much more comprehensive plan than any of its predecessors. The Plan introduced a new currency (the real), de-indexed the economy, tightened monetary policy, introduced a managed-float exchange rate system, cut spending, and increased taxes. There were also provisions to lower tariff barriers for foreign importers whose competition, in theory, would prevent Brazilian monopolies and oligopolies from raising prices unilaterally. Tariffs ultimately fell from an average of fifty-one percent in 1988 to fourteen percent in 1994.

The launch of the Real Plan was the first time Brazil showed the economic discipline necessary to attract the foreign capital investment that has propelled Brazil’s growth. Inflation fell from just over fifty percent in June of 1994 to less than one percent in September 1994. Lower inflation has the practical effect of raising real wages by reducing prices and, therefore, increases the buying power of wage earners and effectively reducing poverty. Not surprisingly, the plan pleased the vast majority of Brazilians and propelled then Minister of Finance Fernando Henrique Cardoso to victory in the 1994 presidential election.

In his first term in office, Cardoso continued the privatization process started by President Collor, stabilized a weak banking sector, and started a conditional income transfer program to

113 BAER, supra note 18, at 200. The biggest difference was that the Real Plan included a fiscal restraint component—the “immediate action plan.” Introduced in 1993, the immediate action plan included a $6 billion cut in spending (9% of federal spending), improved tax collection, and forced the state governments to repay loan arrears to get new loan guarantees. Id.


116 Id.; BAER, supra note 18, at 204 (noting that tariffs fell from 32.2% in 1990 to 14.2% in 1994).


118 BAER, supra note 18, at 201. Though inflation went up some throughout the next year, it never went above 5.15% in 1995. Id.

119 Id. at 203–04, 254. Not surprisingly, consumption rose 16.3% in the first year after the introduction of the Real Plan. Id.

120 De Onis, Big Moment, supra note 110, at 118.
help the poor. Though the 1994 Real Plan is widely considered a success and President Cardoso is credited with stabilizing the Brazilian economy, he failed to properly address the country’s ever-growing fiscal deficit. Concerns over the sustainability of its debt began to arise just as the developing world experienced a series of financial crises. Brazil was not immune from the contagion of the Asian financial crisis of the late 1990s, where speculators bet against the currencies of several countries, successfully forcing those countries to devalue. Brazil’s currency came under attack in 1997 due to fears over the country’s large debt. Capital inflows fell dramatically, followed by renewed capital flight after the 1998 Russian bond default. The Russian crisis pushed investors to become wary of emerging markets with high debt levels—including Brazil, where investors had likely overlooked consistently high fiscal deficits due to the allure high interest rates. To stave off speculation and prevent capital outflows, Brazil raised the already-high interest rates, making speculation less profitable and investing in the country more remunerative.

The hike in interest rates caused domestic industrial production to fall, which decreased Brazil’s exports. Therefore, to pay for necessary imports, Brazil had to borrow and increase its debt even further. The increased indebtedness, combined with President Cardoso’s inability to convince the Brazilian Congress to pass fiscal restraint legislation, attracted the attention of

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121 Id; BAER, supra note 18, at 211.
122 Gruben, supra note 115, at 14; BAER, supra note 18, at 205; FISHLow, supra note 110, at 45.
123 Gruben, supra note 115, at 14.
124 Id. at 13. Markets also exerted some pressure on the real during the 1994-95 Mexican crisis, but the pressure quickly faded after Brazil devalued the real slightly in the first half of 1995. BAER, supra note 18, at 204–05.
125 FISHLow, supra note 100, at 46.
126 Id.
127 BAER, supra note 18, at 210–11.
128 Gruben, supra note 115, at 13–14; FISHLow, supra note 100, at 46.
129 Gruben, supra note 115, at 15.
130 Id.
currency speculators once again. Brazil then received a $41.5 billion loan from the IMF, World Bank, and United States to help it defend against speculators. The loan, of course, came with conditionality. Within one month of receiving the loan, the Brazilian congress had approved about sixty percent of the required reform measures before being unable to agree on pension reform. Pressure on the real had been easing steadily as congress instituted the reforms, but capital outflows accelerated immediately following the pension reform failure. The fatal blow, however, did not come from foreign currency speculators, but rather from the governor of the state of Minas Gerais and former president, Itamar Franco, when he announced that the state would no longer repay its debts to the federal government. Capital outflows skyrocketed from already high levels, forcing Brazil to devalue the real by nine percent and eventually allow it to float freely on international markets.

The crisis, however, did not cause a long-lasting disruption of the flow of foreign capital into Brazil. Cardoso’s macroeconomic policies had proven successful—public sector revenues were rising, which gave Brazil more money with which to pay its debts, privatization reduced the losses borne by the state, and increased agricultural production kept food prices stable—all of which helped blunt the effect of the crisis. Banking reforms had forced banks to keep more cash on hand by lowering acceptable leverage rates, ensuring that banks had sufficient capital to

\begin{footnotesize}
\begin{enumerate}
\item Id. at 13–15.
\item Id.; BAER, supra note 18, at 216.
\item BAER, supra note 18, at 216.
\item Id.
\item Id.
\item Id.; Gruben, supra note 115, at 15.
\item Gruben, supra note 115, at 15. The IMF has since admitted that it should have encouraged Brazil to give up its crawling peg exchange rate system earlier—a move it did not take because of lack of internal agreement. FISHLOW, supra note 100, at 46–47.
\item De Onis, Brazil’s New Capitalism, supra note 28, at 111. Indeed, many observers predicted a near total collapse of the Brazilian economy with the return of double digit inflation and an income fall of up to six percent. FISHLOW, supra note 100, at 47.
\item Id. at 112
\end{enumerate}
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pay fleeing investors without causing banks to fail or creating risk to the entire banking system.\textsuperscript{140}

The crisis quickly subsided and the \textit{real} stabilized.\textsuperscript{141} Cardoso was able to finish his second term by capping discretionary spending and raising tax revenues—both of which helped address the long standing issue of ever-rising debt, but failed to bring the dramatic change necessary to put Brazil’s debt problems in the past.\textsuperscript{142} Cardoso was constitutionally barred from running for a third term, and was replaced in 2002 by Luiz Inácio “Lula” da Silva.\textsuperscript{143}

IV. BRAZIL EMERGES

A. Lula’s Presidency and the Global Financial Crisis

It was under Lula that Brazil joined the ranks of emerging economies. Though his politics were generally left-of-center, Lula sought to appease foreign investors while on the campaign trail by promising to honor contracts, protect private property, assert fiscal discipline, and pay off debts.\textsuperscript{144} Once in office, he eliminated nearly all concerns by following the orthodox economic path of his predecessor.\textsuperscript{145} He also gave the Central Bank greater operational autonomy, ensuring that it would make policy choices based on the best interest of the economy without political influence.\textsuperscript{146} Interest rates fell to six percent (Cardoso had lowered them from twenty percent to ten percent despite having to raise them during the \textit{Real Crisis}), which made it cheaper for

\textsuperscript{140}Gruben, \textit{supra} note 115, at 19–21.
\textsuperscript{141}Id.
\textsuperscript{142}De Onis, \textit{New Capitalism}, \textit{supra} note 28, at 114. The Law of Fiscal Responsibility was passed in May 2000 to comply with the IMF’s demands. The law eliminated public sector deficits and restricted the government’s ability to incur future debt. Fishlow, \textit{supra} note 100, at 47.
\textsuperscript{143}De Onis, \textit{Big Moment}, \textit{supra} note 110, at 118.
\textsuperscript{144}Id. Though his campaign was ultimately successful in getting him elected, the campaign itself did not convince international markets of his orthodoxy. In the months leading up to his election (which was widely anticipated), foreign inflows became shorter term and the country’s base interest rate rose 300 basis points after Lula won the first election round. Fishlow, \textit{supra} note 100, at 50.
\textsuperscript{145}Id. at 119. Indeed, Lula’s policies were so orthodox that some referred to his first term as “Cardoso’s third term.” Roett, \textit{supra} note 38, at 111.
Brazilians to borrow money to expand businesses inside and outside Brazil. He also fostered greater ties with other developing countries to help decrease Brazil’s dependence on the developed world as a source of consumers of Brazilian products.

Like his predecessors, Lula faced a financial crisis when the 2008 U.S. financial crisis spread globally. The crisis was short-lived, however. Brazil’s GDP shrank slightly in 2009 before returning to booming growth in 2010, while the U.S. economy was still barely growing in 2011. So why did Brazil handle the crisis so well?

Brazil’s strong performance through the global financial crisis is partially attributable to Brazilian banks’ low exposure to the U.S. mortgage-backed securities market. Thanks to President Cardoso’s reforms, Brazil’s banks were unable to expose themselves to as much risk as other banks around the globe. Brazil’s banking sector also benefits from having one central regulator—the Central Bank. Some observers argue that having one regulator supervise every aspect of banking activities is more efficient and effective than systems with multiple regulators responsible for supervising different aspects of the banking sector, as in the United States. Taken in combination, these policies ensured that Brazil’s banks would not need large bailouts to stay afloat, unlike their U.S. counterparts.

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147 Id.
148 Id.
149 Knowledge@Wharton, supra note 146, at 11.
150 Id.
151 The Central Bank played a pivotal role during the crisis, tightening monetary policy prior to the Lehman Brothers collapse to limit the inflationary effects of government stimulus spending, then took measures to increase liquidity following the Lehman induced credit crunch. Mário Mesquita & Mário Torós, Brazil and the 2008 Panic, in THE GLOBAL CRISIS AND FINANCIAL INTERMEDIATION IN EMERGING MARKET ECONOMIES 13-19 (Bank for International Settlements Working Paper No. 54, 2010).
152 H A L S. S C O T T, I N T E R N A T I O N A L F I N A N C E 253 (17th ed., 2010); but see, Prasad, supra note 33, at 5–6 (arguing that the global financial crisis exposed flaws in both the U.K.’s single regulator system and the U.S.’s multiple regulator system).
Brazil also benefited from low unemployment and less dependence on trade with the
developed world. Low unemployment and trade ties with the developing world meant that
Brazil had access to a large number of consumers to keep demand for Brazilian exports high. Those increased ties especially were a focal point of Lula’s foreign policy. It was, therefore, not surprising that China overtook the United States as Brazil largest trading partner in 2009. Having a diversified profile of consumers made Brazil less dependent on demand from the
developed world, meaning the demand for Brazilian exports stayed high even as developed world demand dropped precipitously.

None of this is to say that Brazil went through the crisis completely unscathed. The government did have to provide a stimulus package amounting to 1.5% of its GDP to spur the economy, but that paled in comparison to the stimulus packages in Japan (fifteen percent of a much larger GDP) and the U.S. (seven percent of an even larger GDP). Brazil’s unemployment rate also rose slightly during the crisis, but has since hit record lows while the developed world continues to struggle with high unemployment.

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154 Knowledge@Wharton, supra note 146, at 11.
155 Id. at 10–11.
156 Id. In the 1950s, the United States accounted for 41% of Brazil’s exports, but by 1997 that number had fallen to 17.7%. Meanwhile, other Latin American countries saw their share of Brazil’s exports rise from 9.7% in 1967 to 26% in 1997. BAER, supra note 18, at 229.
158 Knowledge@Wharton, supra note 146, at 10–11.
159 Id. at 11.
President Lula da Silva’s greatest success may have been his ability to increase Brazil’s influence internationally. He led calls for greater voice for the developing world in the IMF and to shift the main forum for global economic policy discussions from the G-7 to the G-20 (which includes emerging economies, including Brazil). Both of these calls were successful—the IMF recently shifted more voting power to EMEs (including Brazil), and the G-20 became the main global economic forum in 2009.

B. Specific Policies that Have Contributed to Brazil’s Emergence

Several policies have played, and continue to play, an important role in Brazil’s status as an emerging economy. One is its emphasis on building the infrastructure necessary to support a diverse and thriving economy. No economy will function at its highest capacity if poor infrastructure—bad roads, insufficient sea ports, lack of technology—creates inefficiencies at the various stages of production. Brazil has spent much of its new wealth improving infrastructure

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165 Press Release, IMF Board of Governors Approves Major Quota and Governance Reform, IMF PRESS RELEASE NO. 10/477, Dec. 16, 2010, available at http://www.imf.org/external/np/sec/pr/2010/pr10477.htm. With the shift, EMEs gained an additional six percent of voting power, while an additional six percent of voting power shifted from overrepresented countries—both developed and developing—to underdeveloped countries. The end result is that EMEs have five percent more real voting power than before and the BRIC countries are among the ten largest vote holders. Brazil’s voting share increased from 1.402% to 2.218%. Id.
167 For example, according to one recent study, Brazilian businesses alone spend R$17 billion each year on unnecessary expenses that arise due to the poor condition of roads, decay and bureaucracy at ports, a lack of railway capacity, and storage expenses caused by unnecessary delays. Renée Pereira, Infraestrutura precária eleva custo
with the aim of facilitating future economic growth. The most important of such projects is the “Growth Acceleration Plan” (known by its Portuguese acronym, PAC), authored by current President Dilma Rousseff while she was a member of Lula’s cabinet.168

The “Growth Acceleration Plan” is an umbrella term for thousands of economic development projects across the country that began in 2007.169 The program has several components, but the main goal is to improve the poor infrastructure that has created a pattern of social exclusion.170 The poor are more likely to live in areas with bad roads, poor public transportation, few available jobs, limited or no access to credit, and no mail or commercial delivery services.171 These and other issues prevent the poor from fully participating in Brazil’s economy. PAC seeks to remedy this problem by building or rebuilding homes and roads, and improving sanitation, sewage, water, and electrical services in the poorest areas of Brazil’s cities.172 To maximize the program’s impact, the government hires the people that live in those neighborhoods to perform the work.173 This feature simultaneously creates employment in the

170 Schaller, supra note 169; The plan originally called for a $235 billion investment in infrastructure improvement alone. There were also components meant to address Brazil’s high regulatory burden (see discussion infra pp.34-5).
171 FISHLOW, supra note 100, at 75.
172 Id. PAC’s focus is not only on social inclusion. The infrastructure investment is separated into three categories, of which addressing these social needs is one. The other two categories are meant to address general road reconstruction, port and airport building, and energy production respectively. The social infrastructure accounts for $170.8 billion ($34.8 billion from the federal government), general infrastructure $58.3 billion ($38 billion from the federal government), and energy $274.8 billion (none of which came from the federal government). FISHLOW, supra note 100, at 75–76.
173 Schaller, supra note 169.
short-term in areas where unemployment is disproportionately high, while making changes that should help spur long-term economic growth.\textsuperscript{174}

Regrettably, there are conflicting reports as to whether the projects are actually being completed.\textsuperscript{175} President Lula da Silva denied the negative reports, but admitted that progress had been slower than he hoped, blaming bureaucracy for the delays.\textsuperscript{176} The slow progress did not prevent him from announcing an $872 billion extension (“PAC II”) to the program in March 2010, when PAC I was only fifty percent completed.\textsuperscript{177} The goal of PAC II is to increase the country’s energy production capacity, build two million new homes (to cut the estimated housing deficit to three million homes), and make infrastructure improvements for the 2014 World Cup and 2016 Olympics to be held in Brazil, including building a high-speed rail to connect Rio de Janeiro and São Paulo—Brazil’s two largest cities.\textsuperscript{178} Once completed, these projects will greatly expand Brazil’s economic potential for years to come.

Brazil has further facilitated its economic ascension by opening itself to the world through new international trade and foreign investment policies. Since the mid-1990s, Brazil has consistently lowered its import tariffs while modernizing its overall import system (customs inspections, payments, etc), making it cheaper and easier for foreign countries and companies to

\begin{footnotesize}
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\item \textsuperscript{174} Id.
\item \textsuperscript{175} Id.
\item \textsuperscript{176} Ihssane Loudiyi, \textit{Brazil Announces Phase Two of Growth Acceleration Plan}, \textsc{World Bank}, Mar. 30, 2010, http://blogs.worldbank.org/growth/node/8715. As of the beginning of 2010, only three-fifths of total PAC resources had been spent, which says nothing about the actual completion of projects to which funds had been dispersed. \textsc{Fishlow}, \textit{supra} note 100, at 77.
\item \textsuperscript{177} Loudiyi, \textit{supra} note 176. Investment in the energy sector makes up about seventy percent of the plan. \textsc{Fishlow}, \textit{supra} note 100, at 77.
\item \textsuperscript{178} Loudiyi, \textit{supra} note 176. The extension includes $600 billion for energy investments ($255 from 2011-2014 alone) and $152 billion for housing construction alone. \textit{Id}.
\end{itemize}
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sell their products in Brazil.\textsuperscript{179} Due to these changes, Brazil’s imports have consistently increased, helping to balance Brazil’s current account surplus.\textsuperscript{180} 

The amount of foreign direct investment flowing into Brazil has steadily increased since President Cardoso introduced the Real Plan in 1994\textsuperscript{181} thanks, in part, to the high investment returns associated with fast growth and high interest rates.\textsuperscript{182} Brazil’s policies have played a role as well. To begin, a national treatment standard ensures that foreign and domestic investors are treated equally.\textsuperscript{183} Unlike many countries, Brazil sets no maximum or minimum level for foreign investments and allows foreign companies to fully remit profits abroad, nor does it evaluate the potential effects of investments on the national economy or ensure that the country will somehow benefit before approving investments.\textsuperscript{184} 

A large and sophisticated national exchange further facilitates foreign investment.\textsuperscript{185} In 2008, the São Paulo Stock Exchange merged with the mercantile and futures exchange to form BM&FBOVESPA, the largest exchange in Latin America,\textsuperscript{186} and the fourth-largest exchange in the world\textsuperscript{187} with market capital of $1.546 trillion.\textsuperscript{188} Disclosure requirements for listing on this exchange are on par with markets around the world, giving investors confidence that all relevant

\begin{footnotesize}
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\item[179] DEMAREST E ALMEIDA, BUSINESS LAWS OF BRAZIL 2009-2010 EDITION 112 (2009).
\item[180] Id.
\item[182] See BAER, supra note 18, at 255 (noting the general increase in the flow of foreign capital to emerging market economies). The stabilization of the real, which reduced the cost of doing business in Brazil, along with the large privatization program, and rapid decrease in tariffs have all also contributed to the growth in FDI. Id.
\item[183] DEMAREST, supra note 179, at 61.
\item[184] Id. at 63.
\item[185] See Edmund Amann, Technology, Public Policy, and the Emergence of Brazilian Multinationals, in BRAZIL AS AN ECONOMIC SUPERPOWER? 187, 197–98 (Lael Brainard and Leonardo Martinez-Diaz, eds., 2009).
\item[186] DEMAREST, supra note 179, at 35.
\end{enumerate}
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All of these and other efforts have made it easier, safer, and more profitable for foreigners to invest in Brazil.\textsuperscript{190}

Lastly, as Brazil has grown, it has made a concerted effort to improve government institutions to make them more efficient for both Brazilians and foreign investors. Most important among these reforms, at least as far as encouraging investment is concerned, has been reforming the judicial system.\textsuperscript{191} A 2006 constitutional amendment mandated judicial reform and made judicial expeditiousness a constitutional guarantee—an important step for a traditionally slow legal system.\textsuperscript{192} In 2007, the country passed a law that allows decisions of the Federal Supreme Court (the highest constitutional court in Brazil) to have precedential value if two-thirds of the justices concur.\textsuperscript{193} This change will prevent the courts from having to decide the same issue repeatedly, making the entire system faster. An efficient judiciary is cheaper and more reliably enforces rights—two factors that are of keen interest to foreign investors.\textsuperscript{194}

\textbf{V. CHALLENGES AHEAD}

When Lula handed power over to his successor, Dilma Rousseff (the first female president of Brazil), his own approval rating was over 80\% and the economy had just grown by an estimated 7.5\% in 2010.\textsuperscript{195} He had increased spending near the end of his term (ostensibly for public welfare purposes, \textsuperscript{189} Demarest, supra note 179, at 49.\textsuperscript{190} Amann, supra note 185, at 198 (highlights two new laws as also playing an important role in encouraging foreign investment. The “Lei das S.A. (Corporations’ Law) is meant “…to improve corporate governance practices in medium-size enterprises with the aim of…breathing new life into domestic private capital markets.” The law also improves the rights of minority shareholders, as does the “Novo Mercado” (New Market) policy issues by BOVESPA.).\textsuperscript{191} Juan Carlos Boter, et al., \textit{Judicial Reform}, 18 World Bank Research Observer 61, 61 (2003)(“Markets…depend on the establishment of an environment in which legal rights, especially property and contractual rights, are enforced and protected…”)(citations omitted).\textsuperscript{192} Sergio Sardenberg & Francisco A. Fabiano Mendes, \textit{Investing in Brazil – Latin America’s Powerhouse}, 17 Latin Am. Law & Bus. Report 13,16 (2009).\textsuperscript{193} Id; Fishlow, supra note 100, at 17. The law (súmula vinculante) is meant to encourage consistency as much as efficiency. Fishlow \textit{supra} note 100, at 187.\textsuperscript{194} Messick, supra note 34, at 121.\textsuperscript{195} Albert Fishlow, \textit{Brazil: What’s Next?}, AMERICAS SOCIETY (2011), available at http://as.americas-society.org/articles/2943/Brazil:_Whats_Next/.}
political reasons), which heightened fears of inflation, but President Rousseff promised fiscal restraint while continuing Lula’s policy of allowing the Central Bank to operate autonomously to control inflation. The promise to cut spending, along with a promise to cut the nation’s high interest rates, is what investors believe is necessary to ensure that inflation does not derail Brazil’s current growth. President Rousseff’s first major political victory—getting the congress to agree to a lower-than-desired raise in the minimum wage—surely pleased investors by showing a commitment to reducing spending. Nevertheless, Rousseff’s presidency has seen its share of turbulence thus far. Economic growth slowed to below three percent in 2011, inflation rose and remains above the Central Bank’s target, and a series of corruption scandals shifted the focus away from economic reforms.

President Rousseff and her successors face a number of challenges as Brazil seeks to propel itself forward as an emerging economy. First is the danger of excessive spending, which contributes to high interest rates that make borrowing more expensive, currency appreciation that hurts exporters by raising the cost of goods produced domestically, and a complex tax system whose compliance costs raise business costs—all of which are currently problems in Brazil.

196 Knowledge@Wharton, supra note 146, at 12.
201 Id. The decreased economic growth is more a result of the ongoing European sovereign debt crisis than any Brazilian policy and inflation has fallen in recent months. Though the corruption scandals have distracted political discussion, Rousseff’s willingness to fire high-level officials accused of corruption has made her extremely popular (her approval rating is currently above seventy percent), which may help her build support around her economic reform goals in the future. Id.
202 Small Earthquake in Brazil’s Planalto, FINANCIAL TIMES, Feb. 3, 2011, http://www.ft.com/cms/s/0/10dc0994-2fcd-11e0-91f8-00144feabdc0.html#axzz1DbqqHTV7. Spending is also troublesome in that it contributes substantially to indebtedness. Indebtedness is a problem because it forces countries to spend foreign reserves on debt servicing rather than to maintain balance-of-payment equilibrium, it increases the cost of borrowing over time, and
Secondly, Brazil continues to depend too heavily on commodity exports (mainly food and oil) to drive growth. Commodity exports, like high spending, put upward pressure on the domestic currency by attracting foreign currency through investment in commodity sectors and the hard currency needed to purchase the exports. The appreciated currency negatively affects other sectors of the economy—in Brazil’s case, the manufacturing sector whose products are now more expensive and therefore less competitive globally—making the country even more dependent on commodities over time. Brazil appears poised to expand its dependency on commodity exports as it recently discovered huge oil reserves and has made enormous investments in its ethanol and agricultural sectors. These commodities are currently as profitable as they have ever been for Brazil, but that may have more to do with a global food shortage and over-speculation in the oil markets driving prices up than with any economic wisdom of the Brazilian government. The government plans to put new oil profits in a sovereign wealth fund to prevent increased spending from further pushing up the value of the
real, but whether it will adhere to that policy long-term is yet to be determined.\textsuperscript{209} For the time being, an overvalued currency has already negatively affected Brazil’s manufacturing sector and forced the government to take strong action.\textsuperscript{210}

Corruption in Brazil is another major challenge.\textsuperscript{211} Transparency International, an NGO that measures corruption throughout the world, ranks Brazil the 69\textsuperscript{th} least corrupt country out of 178 total.\textsuperscript{212} The roots of corruption are far too complex to deal with fully here,\textsuperscript{213} but it is important to note the contribution Brazil’s political structure plays in producing corruption. Brazil’s political system is such that it allows more than twenty political parties to participate in elections.\textsuperscript{214} These parties are in a constant scramble for government money in the form of welfare benefits, government jobs, and contracts that would help influence voters—a scramble that leads to corruption and waste that inhibit efficiency and productivity.\textsuperscript{215}

Thirdly, continuing issues with Brazil’s regulatory and legal framework impede foreign investment by making it riskier and more expensive to do business in Brazil.\textsuperscript{216} The National Federation of Industries termed these extra costs of doing business in Brazil the “Brazil Cost.”

\begin{itemize}
\item \textsuperscript{209} Offshore Oil, supra note 206.
\item \textsuperscript{210} Joe Leahy, Brazil Vows to Protect Manufacturing Sector, FINANCIAL TIMES, Mar. 16, 2012, http://www.ft.com/intl/cms/s/0/b1d9f05a-6f8b-11e1-b368-00144feab49a.html. Automotive production alone declined thirty percent from December 2011 to January 2012. The government has offered manufacturers temporary tax breaks out of a fear that manufacturers will cut payrolls to try to maintain competitiveness. Large payroll cuts would have a negative effect on domestic consumption—an important aspect of economic growth. Id.
\item \textsuperscript{211} Corruption is problematic because of the distorting effect it has on investment allocation. See Nauro F. Campos et al., Corruption as a Barrier to Entry: Theory and Evidence (Center for Economic Policy Research Discussion Paper No. DP8061, 2010), available at http://ssrn.com/abstract=1711074 (arguing that corruption in the form of bribery by public officials limits the number of firms seeking to enter a given market).
\item \textsuperscript{212} Offshore Oil, supra note 206.
\item \textsuperscript{213} For an in-depth discussion of the roots of corruption globally see Vito Tanzi, Corruption Around the World: Causes, Consequences, Scope, and Cures, 45 STAFF PAPERS – INT’L. MONETARY FUND 559 (1998).
\item \textsuperscript{214} De Onis, Brazil’s Big Moment, supra note 110, at 120. The proliferation of political parties can be traced to the 1950’s when both global concerns about the capitalist model and national concerns regarding regional inequality began to appear and fracture long-standing political parties based on more specialized interests. ROETT, supra note 38, at 49.
\item \textsuperscript{215} De Onis, Brazil’s Big Moment, supra note 110, at 120.
\item \textsuperscript{216} See Alvaro Cuervo-Cazurra, Who Cares About Corruption?, 37 J. INT’L. BUS. STUDIES 807 (2006)(arguing that corruption results in a reduction in FDI, especially from countries that have signed the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions).
\end{itemize}
Principal among these costs is the high tax burden mentioned above. Taxes represent thirty-six percent of Brazil’s GDP compared to only eight percent in China. But besides the high tax burden, Brazil’s tax code is extremely complex, making compliance a lengthy and expensive process. Brazil ranked 152nd in the World Bank’s “Doing Business” ranking in terms of ease of paying taxes. It took the World Bank’s hypothetical company 2,600 hours to fully comply with the tax laws, which would obviously be a costly endeavor.

Cumbersome regulations also make starting a business an expensive ordeal. The same World Bank study ranked Brazil 128th in the world in terms of ease of starting a new business. It takes an average of one hundred fifty-two days to register a business in Brazil, compared to the world average of forty-eight days.

A slow and inefficient judiciary adds to the Custo Brasil. Brazil’s courts simply have too large of a case load to function quickly or efficiently. Though the courts have never been known as exemplars of efficiency, case loads have skyrocketed since the country approved the current constitution in 1988 that grants extensive personal rights. The increase in cases is also

217 Don Sull, Brazil: Why it was the Country of the Future that Always Would Be, FINANCIAL TIMES, July 27, 2010, http://blogs.ft.com/donsullblog/2010/07/27/brazil-why-it-was-the-country-of-the-future-that-always-would-be/. According to one estimate, the average net margin in Latin America is 10.5%, but it is only 5.4% in Brazil, which has led to the conclusion that “Brazil is a high-growth market in terms of opportunities for revenue expansion but it is on average a low-margin market in terms of profitability, particularly for companies in the start-up phase.” Joseph Leahy, The High Price of Booming Brazil, FINANCIAL TIMES, Feb. 20, 2012, http://www.ft.com/cms/s/0/89e9e40c-5991-11e1-abf1-00144feabdc0.html.
218 Sull, supra note 217.
219 Id.
220 DEMAREST, supra note 179, at 94.
222 Id.
223 Id.
224 Coatsworth, supra note 41, at 8. Brazilians have a sense of pride of sorts in finding ways around these regulatory costs, referring to the process of avoiding regulations as “jeitinho.” Brazilian Model, supra note 221. “Jeitinho” is a play on the word “jeito” meaning path or way.
226 Id. at 147 (“In the eight years following promulgation of the 1988 Constitution, the number of cases filed in Brazilian courts increased by more than a factor of ten, from about 350,000 cases in 1988 to more than 3.7 million in 1996.”).
attributable to the highest court’s broad original mandatory jurisdiction.\textsuperscript{227} Of special concern to foreign investors, the highest court must approve all requests for recognition of a foreign judgment.\textsuperscript{228} Despite having taken steps towards strengthening the concept of controlling precedent to lower the caseload, it is estimated that ninety percent of the highest court’s caseload consists of questions that it has already decided.\textsuperscript{229} A former president of the Supreme Tribunal attributes the high judicial caseloads to the government’s refusals in bad faith to pay judgments, instead choosing to appeal cases indefinitely to delay payment.\textsuperscript{230}

Lastly, inequality is possibly the most commonly known threat to Brazil’s progress. In spite of Brazil’s phenomenal growth, inequality is still an impediment—it is estimated that for every ten percent increase in poverty there is a corresponding one percent reduction in economic growth.\textsuperscript{231} For Brazil this means that economic growth could increase by two or three percentage points each year by eliminating poverty.\textsuperscript{232} Currently, the top ten percent of the population accounts for forty-three percent of total consumption, while the bottom ten percent makes up just over one percent.\textsuperscript{233} While CEOs in São Paulo make more money than CEOs in New York City,\textsuperscript{234} over ten million Brazilians live on less than $1.25 per day.\textsuperscript{235}

Brazil’s inequality is not a new phenomenon. It is generally blamed on unequal educational attainment and unequal land distribution, both of which have their roots in the

\textsuperscript{227} Id. at 147–48. In 2000, the highest court received 105,307 cases and decided 86,138 compared to deciding only 17,432 in 1989. The U.S. Supreme Court decided just 115 cases during the 1999-2000 term. Id.
\textsuperscript{228} Id. at 148. This requirement even includes approval for uncontested divorces. Id.
\textsuperscript{229} Id. at 148–49. As Rosenn highlights, the repetitive and conflicting nature of decisions is not a necessary result of having a civil as opposed to common law tradition. There are many examples of civil law systems that work more efficiently than the Brazilian system. Id.
\textsuperscript{230} Id. at 148. Despite all of these problems, it is worth noting that at least one observer has credited the strength of Brazil’s democracy since 1985, in part, to the quality of the judiciary. Fishlow, supra note 100, at 187.
\textsuperscript{231} Coatsworth, supra note 41, at 8.
\textsuperscript{232} Id.
During the colonial era, there was little need for education in areas that were heavily populated with slaves, therefore, there was no educational infrastructure in those areas when slavery finally ended in 1888. The educational attainment gap has done nothing but grow since that time. Wealthier, whiter Brazilians have continuously dominated politics and have chosen to invest Brazil’s money in the whiter southern part of the country, while generally ignoring the more heavily black and indigenous populations of the north, with the same process happening within cities throughout the country.

President Cardoso entered the country into the Program for International Student Assessment run by the Organization for Economic Cooperation and Development (OECD, an international organization comprised almost exclusively of developed countries), to compare Brazilian student achievement to student achievement in the developed world. Brazil now ranks fifty-third out of sixty-five (initially it came in last place when fewer countries participated), which is mediocre even by Latin America’s lower education standards. What marginal improvements there have been are attributed to President Cardoso’s decision to mandate minimum per-pupil spending and teacher salaries along with the “Bolsa Família” program. President Rouseff has already targeted improving the educational attainment of Brazilian workers by introducing the new “Science Without Borders” scholarship program that will send 100,000 Brazilians to top universities abroad by 2015 to study subjects the government

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236 Clements, supra note 114, at 46.
237 Coatsworth, supra note 41, at 7.
238 Id.
239 Id.
241 Id.
242 Id. Brazil still spends only a small amount per-pupil, especially in poorer areas that receive less funding than other areas. FISHLOW, supra note 100, at 190. Besides funding, poor quality teachers are an issue in Brazil as well. To become a teacher in Brazil, a university student is not required to take courses on teaching skills or the subject matter he or she is going to teach, but rather he or she will study the philosophy of education. Few people consider this the best way to train effective teachers. Nearly half of all teachers in São Paulo fail to meet the minimum standards required to receive a permanent contract. Id.
believes are important for economic growth, mainly hard sciences and engineering.\textsuperscript{243} Whether the program will be enough to overcome the country’s poor primary and secondary education is unclear.

A poor education system is related to Brazil’s land distribution problem. The issue is most evident in Brazil’s largest cities where squatters have taken up residence illegally on any open space they can find.\textsuperscript{244} These illegal settlements have grown into entire neighborhoods called “favelas” where hundreds of thousands of people live with almost no government services, including schools.\textsuperscript{245} The residents of these neighborhoods (usually minorities) lack title to their land, and therefore lack what for many people is their most valuable asset.\textsuperscript{246} The residents also face gross discrimination from employers, banks, and oftentimes the police just based on their address.\textsuperscript{247} The favelas are often overrun by drug gangs and usually lack basic services like running water and electricity.\textsuperscript{248} Though the government has made progress in recent years against the gangs,\textsuperscript{249} the problems facing the favelas will not be solved any time soon, which will continue to effectively exclude favela residents from participating in the formal economy.

One of Brazil’s most important policy goals has been to reduce poverty to increase participation in economic activities. It has done so through its well known “Bolsa Família”

\textsuperscript{243} \textit{Studying the World}, THE ECONOMIST, Mar. 17, 2012, http://www.economist.com/node/21550306. A similar program in the 1960s and 70s paid for Brazilians to get Ph.D.s in oil exploration, agricultural research, and aircraft design—three areas in which Brazil is now a world leader. The country hopes the new program will have similar results. \textit{Id.}
\textsuperscript{245} Schaller, \textit{supra} note 169.
\textsuperscript{246} UNITED NATIONS HUMAN SETTLEMENTS PROGRAMME, ENHANCING URBAN SAFETY AND SECURITY: GLOBAL REPORT ON HUMAN SETTLEMENTS 2007 187 (2007).
\textsuperscript{247} Schaller, \textit{supra} note 169; Rosenn, \textit{supra} note 225, at 151.
\textsuperscript{249} \textit{Id.}
("Family Scholarship") program. President Cardoso designed the program (with technical and financial support from the World Bank) as a way to reduce current poverty and break the cycle of poverty. Through the program, poor families receive money each month (about $35) on the condition that they keep their children in school and take them for regular health checkups, with the hope being that those children will grow up to be healthy, educated workers capable of supporting themselves and their families without government assistance. Eleven million families (approximately forty-six million people) benefit from the program.

The program has generated wealth at a grass roots level, with ninety-four of the funds going to the poorest forty-percent of Brazilian society—most of whom had never benefited from social programs before. It allows recipient families to consume more (studies show that most of the money is spent on food, school supplies, and clothes for children), which has created a “trickle up” effect, where Brazilians sellers benefit from having more customers, and producers benefit from selling larger quantities of their products. It has given a large boost to rural economies and has increased the federal and state tax bases. From 2001 to 2008, the inequality gap shrank by six percent—the largest improvement in Latin America—and millions of people have been lifted out of poverty, proving that the program is working.

250 World Bank, *Bolsa Família: Changing the Lives of Millions in Brazil*, http://go.worldbank.org/M4EQDZNQX0. “Bolsa Família” is actually the umbrella term Lula created in 2003 when he expanded and combined the Bolsa Escola, Bolsa Alimentação, and other social programs that Cardoso created in 1999 following the Real Crisis. After combining the programs, he also increased their reach, nearly doubling the reach of the program from 6.5 million families to 11 million in less than two years. Marcelo Neri, *Income Policies, Income Distribution, and Distribution of Opportunities, in Brazil as an Economic Superpower?* 221, 242 (Lael Brainard & Leonardo Martinez-Diaz, eds., 2009).
251 Id. supra note 250.
252 Id.
253 Id.
254 Id.
255 Id.
256 Sardenberg, supra note 192, at 15.
VI. CONCLUSION

Brazil’s economic evolution has brought it to a point where observers regard it as an important emerging economy that is gaining voice in global political and economic affairs. As illustrated by the Lula quotation at the outset of this article, calls arose for a New International Economic Order (NIEO) in the aftermath of the 2008 global financial crisis. The key question is, what will be the substantive content of the new order?

Of course, the idea of an NIEO is not new. It first arose in the 1970s. It was rooted in decolonization after World War II, which raised expectations among developing countries that industrialized countries would recognize the importance of, and financially support, development in the Global South. Such support did not materialize, however. Increasingly frustrated, developing countries claimed that the prevailing global order perpetuated economic inequality among nations. They therefore called for an NIEO, a highly controversial effort to effectuate the principle of sovereign equality of States by reforming international economic law and policy. The NIEO was an agenda that, based on the concepts of sovereignty and sovereign

258 See Ervin Laszlo et al., The Objectives of the New International Economic Order xv, xviii (1978) (“Desires for rapid social and economic growth were soon translated by the governments into ambitious plans and programmes of national development. Most of the plans envisaged a quick repetition of the industrial growth processes of the developed world. . . . [S]ome of the original strategies underwent modification, but hardly ever surrendered the goal of rapid economic growth.”).
equality, called for negotiations with industrialized countries to modify the philosophical, juridical, and institutional structures of the prevailing international economic order.261

There is no doubt that developing countries acquired a loud, even strident, voice through the NIEO agenda of the 1970s. However, the rich countries would not listen. Among other things, the Global North claimed that the NIEO ideology was hypocritical considering the domestic politics of many of developing countries. The NIEO saw its mission as just, imperative, and humane, while at the same time many NIEO countries were violating human rights and economically oppressing their citizens.262 Many of these countries were not democracies, yet they insisted intergovernmental institutions become more democratic, specifically the IMF and World Bank whose voting systems the NIEO thought purposely biased against it.263 Ultimately, there was considerable dispute over the legal significance of the NIEO. In response to the Global South’s claims that the NIEO reflected customary international law,264 critics argued the nonbinding resolutions were merely moral or political statements, at best constituting “soft law.”265 Ultimately, the deep divisions between the North and South left much of the NIEO’s business unfinished. It met a quiet death (or lapsed into a coma) after the late 1970s.266

Should Brazil lead the way in resurrecting the NIEO of the 1970s? Given its flaws in substance and approach, absolutely not. As to substantive equity, the old NIEO asked in essence, “Is it fair that there is such great inequality among developed and developing nations?” We must not dismiss this inquiry. It is widely acknowledged that globalization has been accompanied by

264 See Amr A. Shalakany, Arbitration and the Third World: A Plea for Reassessing Bias Under the Specter of Neoliberalism, 41 HARV. INT’L L.J. 419, 460–61 (2000) (stating that “the NIEO documents, were denied the status of customary law . . . . and thus the Charter was declared to be a ‘political rather than a legal declaration . . . .’”) (citations omitted).
265 See id.
266 See Michael P. Ryan et al., International Governmental Organization Knowledge Management For Multilateral Trade Lawmaking, 15 AM. U. INT’L L. REV. 1347, 1372 (2000) (“The GATT’s attempts to solve the economic problems of developing countries in the 1960s and 1970s [through the NIEO] were largely feeble.”).
increased income and wealth inequality on an inter-state basis. As Pogge has noted, in terms of the GNI per capita, “the less developed countries, and the poorest of them especially, have not participated proportionately in global economic growth during the globalization period [1980 to 2007]. In fact, the distance between the richest and the poorest countries has increased to a staggering 116:1 ratio.” Thus, as Pogge has argued, today’s global institutional structure is still marked by morally problematic injustice and exploitation.

Still, today’s global economy differs radically from that of the 1970s. In December 2009, the UN passed a resolution entitled, “Towards a New International Economic Order.” The essence of the resolution was to reaffirm the principles set forth in the NIEO resolutions of the 1970s. The vote was one hundred-eight in favor to none against with fifty-two abstentions. Those countries voting in favor were developing countries throughout the world, including emerging market economies such as Brazil, Russia, India, and China. The developed countries abstained, including the United States. In its explanation of its vote, the U.S. stated that while it supported “the goal of moving toward a world in which all nations enjoy the benefits of broad, inclusive, and sustainable economic growth,” the resolution failed to offer “fresh thoughts” and “innovative thinking.” The US and the countries that abstained for the same reasons are right. Trying to resurrect the NIEO of the 1970s is based on a failed paradigm.

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268 See POGGE, supra note 267; see also GLOBAL RESPONSIBILITIES: WHO MUST DELIVER ON HUMAN RIGHTS? (Andrew Kuper, ed. 2005).


270 Id.

271 Id.
President Lula may well be right that a moral imperative calls for a new order. Given Brazil’s economic, social, and political evolution and its trajectory, it is in a good position to articulate an ethically-based NIEO.