

2025 BRICS LEX MODEL

SELECTION TASK

In your capacity as the Government's legal adviser, you have been asked to draft a memorandum on the forthcoming negotiations with several other like-minded states for a multilateral agreement on the promotion and protection of investment. The purpose of this agreement is to consolidate the economic interests of the participating countries and to promote the welfare of their populations. The negotiating countries are predominantly developing countries that are rapidly expanding their share of the global economy. There are high expectations that the new investment agreement will foster this development by integrating best practices, while older generation agreements may not necessarily be adequate for this purpose.

Your State has attracted considerable interest from foreign investors in recent decades. However, it has experienced unsatisfactory results under bilateral investment treaties. Your State has been the subject of numerous regulatory disputes that have resulted in substantial awards, some in the billions of dollars. It is widely believed that the investment tribunals in these cases have seriously misinterpreted the relevant international investment agreements. There has also been public debate about whether the relatively lax requirements in domestic law for allowing foreign investment should be revised.

Your State is also a major exporter of natural resources and a leader in key industrial sectors. However, it is currently facing transitional challenges - such as the need to modernise its regulatory framework to bring it into line with international standards in the context of rapid economic growth and a growing commitment to sustainable development - and is therefore seeking to retain regulatory discretion in areas deemed strategically important. For example, the country is grappling with the integration of digital technologies into its legislation.

In view of the recent upsurge in trade and other restrictions that various States have arbitrarily imposed on one another, your Government has expressed its intention to prepare for a possible deterioration in international relations with non-participating States. It is keenly interested in whether investment agreements can be used as a tool for this purpose.

In particular, you will be asked **to identify and explain current approaches to the drafting of international investment agreements.**

You will be expected to make reasoned proposals on the specific types and content of provisions that should either be included in the new agreement or avoided when considering it. Make at least one proposal for each of the following topics of interest:

- preamble
- definitions of key terms
- substantive standards of protection
- investors' obligations
- expropriation
- exceptions and exemptions

- state-state dispute settlement
- investor-state dispute settlement, and
- final provisions of the agreement.

You may include additional suggestions and explanations, such as an analysis of whether the identified issues should be weighted equally or prioritised in light of the State's particular circumstances. Based on international law and policy considerations, these recommendations should also articulate potential points of contention with other States and the associated risks.

The memorandum is intended to be a consultative document that, through sound legal analysis, will help to better focus your country's future negotiating team.

Requirements for submissions:

A memorandum submitted by a team must be written in English, formatted for A4 paper, prepared in Microsoft Word (.doc or .docx format), and must not exceed [6000] words, including footnotes. The document should be formatted in Times New Roman, 12-point font, with 1.5 line spacing.

The document must contain the following elements:

- an executive summary,
- a background analysis,
- detailed proposals with legal justification, and
- a concluding section.

Teams are encouraged to use footnotes to identify the sources of statements or propositions made in their submission, including treaties, case law, customary law and doctrine. The memorandum and the registration form (see: Annex) must be written in English and submitted to the BRICS Lex Model Coordinator Ms Ekaterina Svetlichnaya (evsvetlichnaya@edu.hse.ru) by 23:59 Moscow Standard Time (UTC+3) on **5 September** at the latest. The memorandum file must be named ["BRICS LEX MODEL_MEMO"] and must meet anonymity standards (e.g. no references to the university or the identity of the team).

A team can consist of 2-4 students from Bachelor and Master programmes on Law from BRICS+ universities and be supported by a coach.

The results will be announced by the Organising Committee by 15 September 2025.

Assessment criteria:

Reasoning:

- proper and articulate legal analysis
- critical thinking
- extent and use of research
- integration of policy considerations and negotiation strategies
- overall practical feasibility, but also creativity of proposals

Argumentation and written style:

- structure, organization, and overall coherence of the document
- clarity and tone of written expression
- correct use of legal terminology, grammar, spelling, and citation

Teams are reminded that their memoranda must be original and that issues of plagiarism or academic dishonesty will lead to disqualification.