

Will the BRICS Bank and Fund boost Global South?

SAMAN KELEGAMA

THE 6th Summit of the BRICS took place last week in Fortaleza, Brazil with two landmark decisions, viz., to form a BRICS Bank and a Contingency Reserve Arrangement (CRA or the BRICS Fund) and bring them into operation by 2016. Initiated in mid-2009, BRIC became BRICS in 2010 when South Africa joined Brazil, Russia, India and China to form a grouping of 5 large emerging economies. The key objective of the grouping was to have a bigger say in the global financial order which is currently dominated by Western countries. BRICS represent 40% of the global population, 18% of global trade, and possess US\$ 4 trillion in combined foreign reserves.

The large foreign reserves of BRICS and many developing economies in Asia have been mostly invested in the US Gilt-edged Securities and Sovereign Wealth Funds over the years. Despite the low yield in such securities and funds, the bulk of the reserve surpluses of emerging and developing economies have been invested in them mainly due to the strength and international standing of the US dollar. Had these reserves been invested in emerging and developing economies, they would have not only bridged the massive infrastructure deficit of those countries but also uplifted millions of people out of poverty.

For instance, the Economics and Social Survey for Asia and the Pacific Report 2010 produced by the ESCAP has estimated that if US\$800 billion per annum was allocated to the Asia-Pacific region, the infrastructure deficit could have been covered in the region in a couple of years. ESCAP in fact, argues that the rate of return on investing part of the reserves in the region would have been higher than the returns from the US market, and for this purpose only 5% of the US\$ 5 trillion reserves in the region could have been used to create an Infrastructure Fund. Such thinking influenced the Chinese and it led to China proposing to set up an Asian Infrastructure Investment Bank on similar lines to Japan taking the initiative to form the Asian Development Bank in 1966.

Such thinking also influenced the BRICS leaders and they were convinced that the emerging and developing economies had enough savings and foreign reserves to establish a development bank that could provide funds for infrastructure projects in these countries and in 2011 the need for a BRICS Bank was mooted. The decision at the 6th BRICS Summit was to aim at US\$ 100 billion total capital for the bank with US\$ 50 billion made available as start-up capital by the 5 countries at the beginning. The bank will be located in Shanghai with an Indian as the Chairman.

It has been estimated that close to US\$ 1 trillion is required per annum to meet the infrastructure deficit in emerging and developing countries. The existing local, regional, and multilateral banks cannot meet this requirement and the new BRICS Bank will be able to supplement the existing banks. The BRICS Bank will

benefit from the experience of the currently functioning development banks like the Chinese Development Bank, Brazilian BDNES, South African Industrial Development Corporation, etc. It will not only complement the existing network of banks but also have the late-comer advantage.

The CRA was very much prompted following the outflow of capital from emerging and developing country markets (after mid-2013) which was triggered by US scaling back on monetary stimulus known in US jargon as "tapering Quantitative Easing". The CRA will be a currency swap arrangement allowing for emergency support to BRICS countries experiencing a balance of payment crisis. The CRA will be established with US\$ 100 billion with China contributing US\$ 41 billion, South Africa - US\$ 5 billion, and others filling in the rest with US\$ 18 billion each. CRA will have no involvement with the IMF unlike the Chang Mai Initiative Multi-lateralization where 30% of member's quota is accessible (when having an IMF programme) with IMF concurrence. The CRA will complement the IMF.

The launch of the BRICS Bank and CRA will be concerted steps for reshaping the Western dominated international financial system. It will be the first step to challenge the domination of the US influenced World Bank and the IMF and the US dollar. It may be worth recalling that the attempt made by Japan soon after the East Asian Financial crisis to form an Asian Monetary Fund was shot down by the IMF and the US Treasury. Such tactics will become increasingly difficult with the BRICS.

The establishment of two large BRICS financial institutions will also pave the way for BRICS advancing reforms in international financial architecture and tilting it in favour of emerging and developing countries as their voice is still weak in the G-20 dialogue. This weakness is amply demonstrated on the lack of progress in IMF quota and governance reforms which have been in the global debate for some years now.

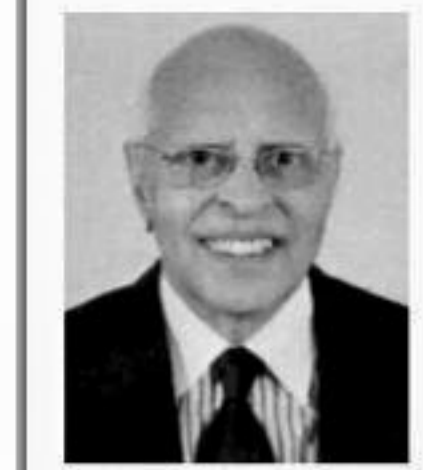
Needless to say, many questions still remain unanswered. Now that the BRICS Bank is on the pipeline, will China give up its idea of establishing the Asia Infrastructure Investment Bank? Will the BRICS Bank give large loans at a more concessional rate than the World Bank? How much more 'policy space' will the CRA provide compared to the IMF's more liberal conditionalities since of late after the global economic crisis? To what extent will BRICS represent the interest of all developing countries? Already, Indonesia, Turkey, Argentina, Egypt, Iran, Nigeria and Syria have expressed an interest in joining BRICS. Will they be taken in?

We may find answers to these questions once the two BRICS initiatives start gathering momentum. At least for now, all developing countries will feel that their interests will be represented more effectively by the BRICS in the global financial dialogues. Only time will tell whether this will be the case.

The writer is Executive Director, Institute of Policy Studies of Sri Lanka.

Development of maritime law & UNCLOS

BOTTOM LINE



BARRISTER HARUN UR RASHID

Articles 15 (territorial sea) 74, (delimitation of EEZ) and 83 (delimitation of continental shelf).

The judgment of ITLOS (International Tribunal for the Law of the Sea) on the dispute between Bangladesh and Myanmar in March 2012 and the judgment of the Permanent Court of Arbitration on the dispute between Bangladesh and India on 7th July 2014 substantially contribute to development of maritime international law. It may be recalled that the 1951 Anglo-Norwegian Fisheries case and the 1969 North Sea Continental shelf case by the International Court of Justice have set

precedents which are often cited in maritime disputes under international law. Bangladesh government can be credited that in October 2009, it took the maritime dispute with Myanmar to ITLOS and with India to the Permanent Court of Arbitration under the dispute provision clause of the UN Convention on the Law of the Sea (UNCLOS) because all the three countries involved ratified the UNCLOS and are bound by its provisions. Both the judgments dealt with new fields of maritime law and became healthy precedents in future for maritime disputes for other nations.

Let us examine briefly in what way ITLOS and the Court of Arbitration have developed maritime international law in the case of Bangladesh/ Myanmar/India. In the Bangladesh/Myanmar case, ITLOS delimited the territorial sea boundary on the basis of equidistance principle but on the exclusive economic zone and continental shelf beyond 200 miles, it applied "equidistance/relevant circumstances" principle because of the concavity of the Bay of Bengal.

The Tribunal decided that the equidistance line should be adjusted so that due to the concavity of the coast, the delimitation line should not cut off the seaward projection of Bangladesh's exclusive economic zone and outer continental shelf. At the same time, the Tribunal also emphasized that the adjusted line should not have a converse distorting effect on Myanmar's maritime zones.

Having established the maritime boundary line, the Tribunal saw whether the line had caused any significant disproportion by reference to the ratio of the length of coastline of Bangladesh/Myanmar. It held that the ratio of

awarded maritime areas was approximately 1:1.54 in favour of Myanmar which did not lead to significant disproportion of the maritime areas of Bangladesh/Myanmar. This may be described as the "disproportionality test" by the Tribunal.

After the 1969 North Sea Continental Shelf Case, never in the history of the law of the sea, concavity was considered to be a "relevant circumstance". This will have far reaching impact on delimitation of maritime boundary for countries having coastal geography which are concave.

Another new field the Tribunal has covered is that it had the jurisdiction to delimit the lateral boundary limits of the continental shelf beyond 200 miles while the UN Committee on the Limits of Continental Shelf (CLCS) has to define the outer limit of the continental shelf under the relevant provision of UNCLOS. The significance of the decision is huge for delimitation of continental shelf between the states.

On the issue of the connecting link between continental shelf and natural prolongation of a territory of a state, the Tribunal found it difficult to accept the natural prolongation constituted a "separate and independent" criterion and held that entitlement to a continental shelf beyond 200 miles should be determined by reference to the "outer edge of the continental margin, to be ascertained in accordance with Article 76 (4) of UNCLOS.

It is noted that the judgment of ITLOS of 2012 was a relevant precedent to the Permanent Court of Arbitration in the case of Bangladesh/India.

The Court determined the mid-point of land boundary from which the equidistance line for Bangladesh/India for maritime boundary delimitation would be drawn taking cognizance of the map of Radcliffe dividing India and Pakistan in 1947.

Bangladesh argued that the maritime boundary should be drawn on the basis of 180 degree from the mid-point of the Hariabhanga river flowing to the sea, while India claimed the maritime boundary on the basis of 162 degree. The Court of Arbitration decided the sea boundary should be drawn at 177.5 degree and thus the equidistance line was adjusted because of the concavity of the coast, thus awarding Bangladesh full exclusive economic zone and continental shelf beyond 200 miles.

There was an apprehension among some jurists that seeking judgments from the ITLOS and the Court of Arbitration under UNCLOS would lead to fragmentation of maritime law which has been found to be baseless. Rather the judgments have reflected well-argued reasons of judicial consistency and transparency supported by judicial precedents.

The judgments substantially contribute to the progressive development of maritime international law and it will be cited as precedents for states who are in disputes with their claim in the maritime areas with other states. In that sense Bangladesh's reference to the third party settlement through the UNCLOS dispute mechanism has been a pioneering initiative in development of maritime law.

The writer is Former Bangladesh Ambassador to the UN, Geneva

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QUOTABLE Quote

You cannot escape the responsibility of tomorrow by evading it today.

Abraham Lincoln

BEETLE BAILEY by Mort Walker

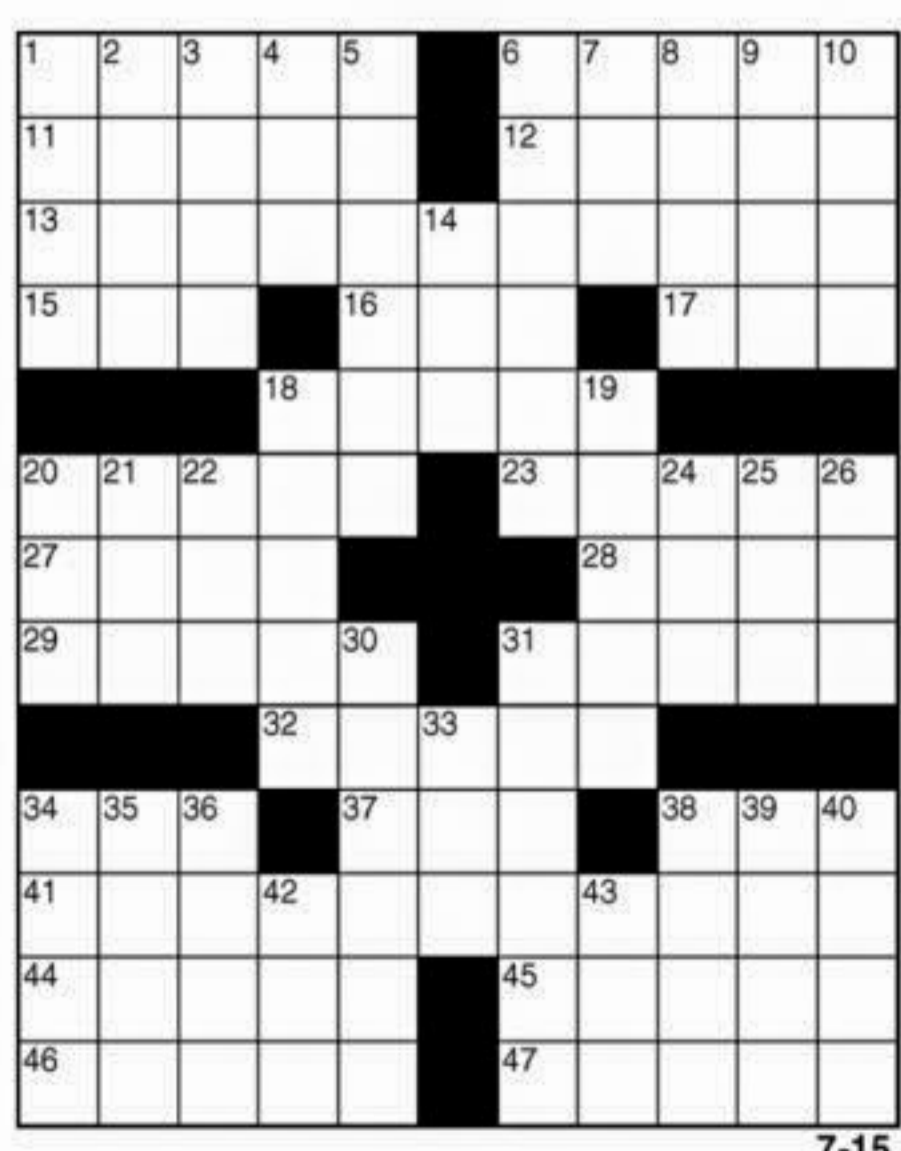


HENRY by Don Trachte



CROSSWORD by Thomas Joseph

- ACROSS**
- Site of a biblical tower
 - Like some athletes' ankles
 - Mindful
 - Usher's spot
 - Informal eatery
 - Retina setting
 - Old horse
 - Plopped down
 - Astronomer's find
 - Kyoto setting
 - Hip-hop headgear
 - First person
 - Car with a meter
 - Did a yard job
 - Heredity units
 - Water lily
 - Have lunch
 - Fish eggs
 - Lyrical Gershwin
 - Informal eatery
 - "I want that"
 - Namely
 - Overly sentimental
 - Elite Navy group
- DOWN**
- Paul Bunyan's blue ox
 - Not at home
 - Naked
 - Memorable period
 - "Imagine" singer
 - Put a price on
 - Ventilate
 - Greek letters
 - Singer Fitzgerald
 - Shoulder muscle, for short
 - River stopper
 - Caravan animal
 - Lugs
 - Toast spread
 - Fuss
 - Fido's foot
 - Galloped
 - Chopping tool
 - USO audience
 - Bandleader Tommy
 - Party group
 - Gift from Santa
 - Ova
 - Opera solo
 - Office helper
 - Corn Belt state
 - Muddy up
 - Tiny workers
 - Guitar blaster
 - "Lenore" writer



Yesterday's answer

FARM CRAW
LIVIA AILED
AGENT ROMEO
SUNSET ONO
TRUE YESSIR
SEE SPRITE
ALERT
SCHUSS REF
MIRAGE VERA
ONE TEASET
ABODE ALICE
TALON RUSTS
DEED LETS

CRYPTOQUOTE

WL WT BPRBET RWTJ LI PIIN BGJBO, SYL QWMMWKYPL LI PIIN MYCLGJCLGBD EIY KBD TJJ.

- RWDTLID KGYCKGWPP

Saturday's Cryptoquote: I SUPPOSE LEADERSHIP AT ONE TIME MEANT MUSCLES; BUT TODAY IT MEANS GETTING ALONG WITH PEOPLE.

- MAHATMA GANDHI

A XYDLBAAXR is LONGFELLOW

One letter stands for another. In this sample, A is used for the three L's, X for the two O's, etc. Single letters, apostrophes, the length and formation of the words are all hints. Each day the code letters are different.

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