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Special Feature—The International Financial Crisis

Unprecedented lending by commercial banks to less developed countries (LDCs) over the past decade has intertwined inextricably the fortunes of lenders and borrowers. The banks' solvency depends on the continued capacity of the LDCs to service their debt, while the LDCs' continued economic development, without which ultimate repayment of the debt may be impossible, is dependent on the extension of further credit. The vitality of the global financial system and economy in turn may depend on the stability of the relationship between banks and LDCs; even putting aside the apocalyptic danger of systemic collapse, it seems likely that global economic growth will be impossible to sustain unless the flow of private capital is maintained.

While economic and historical analysis helps explain how the present situation developed, policy analysis of the kind lawyers provide can be important in the development of a relationship between the banks and the LDCs that will survive the present crisis and likely future strains. *The Yale Journal of World Public Order* offers in this Special Feature two Articles that bring such analysis to bear on different aspects of the international financial crisis.

In the first of these Articles, *Recent Trends in Commercial Bank Lending to LDCs: Part of the Problem or Part of the Solution?*, John E. Mendez analyzes how the process of bank lending has been influenced by the payment difficulties that LDCs have experienced. He demonstrates how in response to these difficulties the banks have changed their lending techniques to LDCs. As will come as no surprise to lawyers accustomed to process analysis, the banks' procedural responses to the debt servicing problem are now beginning to influence the shape of the problem itself. Mendez argues that some of the new lending techniques actually may be undermining systemic stability, for they are tending to reduce the supply of funds necessary for the LDCs' economic growth. Others, by contrast, may be enhancing stability by facil-

itating the maintenance of necessary capital flows. Mendez concludes that banks' ultimate self-interest demands that the new techniques be appraised not on the basis of their short-term results, but rather on the extent to which they promote a long-term mutual relationship of the kind necessary to foster economic growth.

Marc Cohen's Article, *U.S. Regulation of Bank Lending to LDCs: Balancing Bank Overexposure and Capital Undersupply*, moves beyond the international financial setting to inquire how the U.S. bank regulatory system failed so completely to avert the present situation. He demonstrates how the system remains inadequate to manage the crisis, much less assure long-term stability, and argues that it has failed because it has allowed the risk of foreign lending to become concentrated in a small number of large financial institutions. He identifies diversification both of the loan portfolios of individual banks and of the pool of lenders to LDCs as the key to resolving the situation. Cohen proposes dramatic reforms in the federal regulatory apparatus, including the establishment of country exposure limits combined with federal insurance for country risk exposure, that would foster the diversification that the present regulatory system seeks but has failed to achieve.

The Yale Journal of World Public Order seeks to offer Articles and Comments that shed light on difficult international issues from a legal perspective. We are uninterested in promoting an artificial distinction between matters public and private. Rather, it is our hope to encourage the discussion of diverse global issues in the expectation that better policy will result from legal analysis. We believe that the publication of this Special Feature on the international financial crisis is in keeping with our editorial goal.

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