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April 1999

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Recommended Citation
Cynthia C. Lichtenstein. "Introduction to the Panel on "Preventing Asian Type Crises: Who, If Anyone, Should Have Jurisdiction over Capital Movements?"." *ILSA Journal of International and Comparative Law* 5, no.2 (1999): 395-396.

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INTRODUCTION TO THE PANEL ON "PREVENTING ASIAN TYPE CRISES: WHO, IF ANYONE, SHOULD HAVE JURISDICTION OVER CAPITAL MOVEMENTS?"

Cynthia Crawford Lichtenstein[*]

Now, to set the stage for the speakers, I want to remind you that when the International Monetary Fund was founded in 1944, "the Treaty establishing the Fund could be viewed as an adjunct to the attempt to restore the world's open international trading system which had completely foundered during the 1930's and the subsequent World War."[1] The idea that lay behind the International Monetary Fund Agreement, which is setting out the rules governing trading in currencies and sets up a fund to make short-term loans to countries that have currency crises, was that exchange controls on payments for goods and services were another barrier to free trade. Thus, the rules of the Fund Agreement forbidding, for countries accepting the obligations of convertibility, the imposition of exchange controls without the approval of the Fund, apply *only* to "restrictions on the making of payments and transfers for current international transactions" and do not have any application to exchange controls that countries maintain over the use of their currencies in the capital markets. The Fund was set up as the overseer of the removal of exchange controls that interfere with free movement of goods and services. It was not given any jurisdiction over the use by countries of exchange controls on capital movements.

The history of the British economist John Maynard Keynes' role in the drafting of these provisions and his views on why capital movements should not be liberalized are very well set out in an article by John Cassidy called *The New World Disorder*.[2] It was simply assumed by Keynes and by the founders of the Fund that countries would deal with balance of payment difficulties occasioned by capital outflows with capital controls. Indeed Article VI of the Fund Agreement provides, "[a] member may not use the Fund's resources to meet a large or sustained outflow of capital . . . and the Fund may request a member to exercise controls to prevent such use of the resources of the Fund."

In the early 1970's, however, the international community and the Fund began to change its collective view concerning the evils of capital

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1. Original Source on file with the author.

2. *The New World Disorder*, NEW YORKER MAGAZINE, Oct. 26/Nov. 2.

controls. One of Margaret Thatcher's first actions as a free marketeer Prime Minister of Britain was to remove the United Kingdom's exchange controls on capital flows. The OECD, the club of western industrial nations, produced its Code of Liberalization of Capital Movements, and the European Community included among its rules for achieving a single market the freedom of movement of capital. It appears to be accepted by most free market economists that if the removal of barriers to the free movement of goods and services demonstrably increases the general welfare, this should also prove true for freedom of capital movements. By the 1990's, the Fund's and the World Bank's Joint Development Committee was attempting to ensure that developing countries had maximum access to international capital markets and the Fund itself was including in its programs for borrowing countries the condition (among many others) that they liberalize their capital accounts. In July 1997, The Interim Committee, the Fund's top governing Committee, recommended amendment of the Fund Agreement to provide as one of the purposes of the Treaty the liberalization of capital accounts.

The speakers will now continue for you the story of the international community's interest in asserting some sort of international oversight over capital flows.