includes safeguards to assure an outcome that is positive or at least not negative in these respects.

The problem, it seems, lies in Professor Handl's insistence that MDBs should, as a legal obligation, take into account political considerations in their decisions, regardless of explicit provisions in their constituent agreements to the contrary. Fortunately, however, his definition of "political considerations" as meaning "institutional, social and environmental factors" (p. 648) seems to make the issue of no practical consequence. The three types of factors mentioned by Professor Handl (pp. 649–51) have now been incorporated within the MDBs mandates as relevant to the economic development of their member countries. They are, therefore, deemed by MDBs to be part of the "economic considerations" they are called upon by their charters to take into account. (My 1990 legal opinion on governance issues relevant to the World Bank led that direction.)

What is new then? What MDBs have done in terms of new policies responding to new world needs is now described in terms of "international legal obligations." The case for this contention is not clear-cut and cannot be based simply on unbinding declarations and alleged customary law. Since no MDB is questioning the mainstreaming in their operations of environmental, social and apolitical institutional issues, the academic question may be rephrased. What is the true meaning of political considerations in documents which distinguish them from economic considerations and aim to insulate the institutions from the vagaries and double standards of politics?

Professor Handl is entitled of course to his view that some legal obligations have already emerged and are binding on MDBs in spite of the absence of provisions covering them in their constituent instruments. What is objectionable in my view, however, is the call on MDBs to ignore the provisions of their charters prohibiting political activities in favor of other instruments to which the MDBs are not parties. MDBs have done remarkably well in addressing many governance issues without politicizing their work. They have also reconciled this practice with a broad but defensible interpretation of the "prohibition of political activities" provision in their charters. It may not be in anyone's interest to push this beyond credible limits and directly involve MDBs in the political choices of their borrowing members. Intervention in these choices is clearly prohibited by the primary source of the law applicable to MDBs—their respective Articles of Agreement.

The World Bank's broad support of economic liberalization, education for all, women in development, legal, judicial and civil service reform, to name a few fields, contributes indirectly to political reform that develops, as it should, from within the societies involved. This happens without entangling the Bank in a process where intervention by outsiders, even if allowed, is likely to be counterproductive.

Academic writers should realize that the credibility of the MDBs legal counsel is extremely important. Not only internal decisions are based on their advice but external auditors and bonds underwriters rely on their legal opinions. If "the prohibition of political activities" is defined by these counsels as permission of political activities, how much of this credibility would remain? Who would be the beneficiary?

IBRAHIM F. I. SHIHATA
Senior Vice President and former General Counsel of the World Bank

Professor Handl replies:

I would like to thank Dr. Shihata for his thoughtful observations but beg to differ with regard to his fundamental claim. Essentially he contends that my thesis that MDBs are

under an international legal obligation to heed the various normative strands of "sustainable development" is of no practical consequence as the banks already take into account non-economic, or institutional, social and environmental factors in their lending activities. At the same time, his insistence that the constituent treaties of MDBs bar them from engaging in "political activities" implies that the authoritative policies discussed are "political activities" and hence inadmissible. Bank decisions on lending activities are being *legally* circumscribed as a function of the emergence of relevant international public policy and law, the internationally mandated criteria for achieving sustainable development. This is appropriate and not "political," for MDBs, like other actors on the international legal plane, are subject to general international law. As such they cannot insulate themselves against the reach of evolving international law by invoking a traditional understanding of the principles enshrined in their constituent treaty, especially when the new international norms not only permit but mandate a different view of what nowadays constitute prohibited "political activities."

GUNTHER F. HANDL
Tulane University School of Law

TO THE CO-EDITORS IN CHIEF:

I have read with great interest the recent review (92 AJIL at 358) of the English edition of my book on the United Nations, *The Law and Practice of the United Nations* (1996). I am indeed grateful to the reviewer for having pointed out a certain number of linguistic mistakes in the translation. I wish to assure him that those who translated the book will be asked to take the necessary measures in order that the next edition will not contain such mistakes.

Once the next edition appears I hope that the American Journal, in accordance with its long-standing tradition and outstanding reputation, will proceed to a review of the substance of the book.

BENEDETTO CONFORTI
Judge of the European Court of Human Rights