PREFACE

This publication presents a close consideration of the complex issues connected with international project finance. These issues range from project finance structures, privatizations, and the role of international finance institutions, private and public projects in specific regions of the world, and the environmental implications of projects, to dispute resolution and arbitration.

The "gap" is the essence of project finance. Put simply, international project finance is about bridging the gap between conception and realization; between the existing situation and the future; and between the funding requirement and the financing solution. It is essentially about bridging the gap between investors and the scope for investment around the globe; the gap between the developed and the developing countries of the world; the gap between public and private sectors; and the gap between different cultures, countries, and legal and political systems.

Within a country, project finance may bridge the gap between the public and private sectors. It may also lead to cooperation between the public and private sector institutions, to restructuring and privatization, and to a more comprehensive government regulation system. Project finance influences infrastructure sector reform movements in industries, e.g., electricity. International project finance can exert pressure to close the gap between the regulatory framework in place and the framework necessary for the evolution of sectors towards competitive commercial operations.

The World Bank and other international institutions like the International Finance Corporation (IFC) and the Inter-American Development Bank (IDB) have a special role as promoters of long-term sector reform of local legal and institutional systems. Governments, too, have a particular responsibility to provide protection for investors and consumers, often in the form of government guarantees. Experience has shown that partially privatized structures, e.g., Pakistan and Indonesia, cannot be sustained. More complete market models, e.g., in Latin America, enjoy a greater success because of their substantial consumer benefits; there are also benefits for the general economic development because a better quantity and quality of basic service is available. Direct foreign investment may lead to higher investment in sectors like utility infrastructure in developing countries as local capital markets are inadequate. There must be legal and fiscal incentives for attracting investment and once the investment is made, it must be sufficiently protected.
In this context, there is scope for project finance to play a fundamental role in closing other gaps and achieving further objectives, aside from financing the realization of a project. Project finance may improve social and economic situations of the country, e.g., favorably influencing social issues, human rights, and the protection of natural resources.

In many cases, international project finance is ultimately about spanning the considerable gap between the developed and the developing countries of the world. Financial crises in major emerging national economies have, for instance, paved the way for significant influence by project finance on infrastructure projects and reform policies.

Project finance is like a bridge—engineered by necessity, crossing cultural divides, forging links between differing legal, economic, and social systems in often vastly different countries. International pipeline projects involve not only the deregulation of oil and gas sectors, but they also present a challenge to government and project sponsors to overcome legal and political risks, e.g., the Western African gas pipeline project. Project finance is about resolving tensions, bridging what seems like an insurmountable gap between the parties’ complex and competing interests, e.g., inter-creditor disputes. Lastly, project finance involves finding ways to bridge the gap when the project’s objectives have broken down. Lawyers and project managers are forced to find ways across the divide of payment defaults, consider enforcement measures, reschedule construction work, and restructure the project.

*International Project Finance* is a valuable and informative publication, which will enable legal practitioners and academics to grasp a real understanding of the complex issues connected with international project finance.

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