

FOREWORD

It is my distinct pleasure to open the first symposium issue of the new University of Pennsylvania *Journal of International Law*. Since 1996, the University of Pennsylvania has published the *Journal of International Economic Law*, one of the leading specialist journals in the field. In the volumes of the journal to date, we have published the writings of leading scholars and practitioners in international economic law. In the pages and volumes that follow, we continue that tradition of scholarly excellence begun 12 years ago, but under a new title, the *Journal of International Law*.

Over the past half century, international legal scholarship has become far more specialized with the emergence of numerous distinct subfields, ranging from international economic law to international criminal law, international environmental law to the use of force, international institutional law to the law of the sea. This specialization has, in part, reflected a growing density of international legal rules and norms in each subfield and the rise of new institutions of law creation and enforcement. The trend is evidenced by the growing number of societies in specialized fields, the expansion of particularized courses in law school curricula, and the emergence of new specialized journals.

International economic law, the focus of our journal to date, has seen perhaps the most significant growth and development: the emergence of the GATT system, the establishment of the WTO, the proliferation of international investment treaties, and the establishment of regional trade regimes, just to name a few. In this context, scholarship in the field of international economic law has grown in both quantity and quality, and the *University of Pennsylvania Journal of International Economic Law* has thrived. Academic and practical questions in international economic law abound, and our journal could have easily continued as a leading publication within this field. In some ways then, our move from a

specialist journal focused on international economic law to a general journal of international law may seem counter-intuitive.

Yet, while the diversification and specialization of international legal scholarship has offered the opportunity for deeper inquiry into pressing questions within a range of fields, it also presents significant dangers for the development of international law itself. First is the danger of fragmentation—the possibility that self-contained international legal regimes will develop in conflicting and contradictory directions. Second is the danger of isolation—the prospect that international legal scholars within subfields will forget the broader dialogue or ignore questions that cut across subfields. Third is the danger of stagnation—the loss of innovation and idea generation that may flow from intellectual exchanges across fields and the translocation of ideas, institutions, and norms across specialties. Taken collectively, the real danger is that in our quest as scholars to be international criminal lawyers or international economic lawyers, we may forget that first and foremost we are international lawyers.

The new title of our journal—the *University of Pennsylvania Journal of International Law*—is a response to these dangers that may flow from over-specialization. While we will remain committed to publishing the finest scholarship in international economic law, we seek to create a forum that welcomes and encourages scholarship that cuts across disciplines, that opens conversations among and between specialties, and that recognizes questions of both depth and breadth in the study and practice of international law. The next generation of our Journal intends to publish works from the broad range of specialties that exists within the fields of international and comparative law as well as those that seek to integrate these potentially divergent fields into a coherent whole. Through publishing works in the subparts of the international legal system not just in isolation, but in relation to one another, we hope to generate a lasting dialogue that pushes the field in new directions, perhaps even toward an elusive unity and coherence.

It is our hope that the dialogue that may arise from the broadened scope of our journal may remind the international legal community who publish in and read our pages that we are in fact part of a single “invisible college of international lawyers.”¹

The symposium edition in this volume represents the

¹ Oscar Schachter, *The Invisible College of International Lawyers*, 72 NW. U. L. REV. 217 (1977).

beginnings of this new dialogue we hope to foster, with a focus on the key cross-cutting issue of dispute settlement. In February 2007 we brought together leading scholars and practitioners to address *International Investment and Transnational Litigation: Challenges of Expanding Investor State Disputes*. Their papers, published here, provide an opportunity to examine how scholars in different specialties think about dispute settlement generally and the choices between litigation and arbitration. Gabriel Bottini from the Office of the Solicitor General of the Republic of Argentina writes on the International Center for the Settlement of Investment Disputes ("ICSID") and, particularly, the ramifications of indirect claims in ICSID arbitrations. Richard W. Hulbert, Senior Counsel at Clearly Gottlieb Steen & Hamilton LLP and former Vice Chairman of the International Court of Arbitration, reflects on the recent push to require reciprocity as a prerequisite to enforcement of foreign judgments in the United States. Christopher M. Ryan, an attorney in the International Arbitration and Litigation Groups at Shearman & Sterling LLP, questions the long-term legitimacy and stability of international investment law and dispute settlement in the investment field. William J. Woodward of Temple University Law School analyzes the Hague Choice of Court Convention and its implications for dispute settlement. Finally, a comment by Charles T. Collins-Chase, the Editor-in-Chief of our *Journal*, builds a case against so-called "TRIPS-plus" free trade agreements based on their ramifications for the AIDS epidemic in the developing world.

Each of these scholars offers a distinct picture of dispute settlement from within a particular field or specialty. Taken together, the papers offer far broader and perhaps more powerful insight into dispute settlement and the particular costs and benefits of litigation and arbitration in a number of fora. In the spirit of our *Journal's* broadened scope, the collective contribution of these articles has the potential to be far greater than the sum of its parts.

Welcome to the *University of Pennsylvania Journal of International Law*. I look forward to the dialogue we hope will follow.



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