argument that this defense mechanism is among the inherent powers of courts, he flags Article 35(3)(a) of the European Convention on Human Rights (ECHR), which allows the European Court of Human Rights (ECtHR) to reject applications as inadmissible if they constitute an abuse of the right of individual application and thereby avoid proceedings that may be unfair or lead to unjust results.

Chapter 11 also considers admissibility as an effectiveness tool, as a way for an international court to attain its broader goals. Shany flags how admissibility decisions may be triggered by policy considerations, for example, the court's substantive mandate, institutional welfare, or efficiency goals. As an example, he cites the ECtHR's practice of summarily dismissing manifestly ill-founded applications that do not raise significant ECHR issues, in order to prioritize cases in which decisions may improve protection of human rights.

Shany next assesses the use of admissibility as a jurisdiction-regulating measure, meaning "a specific case-selection method informed by the availability of other dispute-settlement or problem-solving forums" (pp. 158–59). He acknowledges that this practice appears to be limited and may conflict with an international court's mission to resolve disputes. He speculates that one reason the ICJ has only "timidly" applied its powers to decline jurisdiction may be "its institutional interest in retaining relevance in high-profile conflicts implicating international peace and security, and to strengthen the previously marginalized role of international law in such conflicts" (p. 163).

To conclude, the major contribution of Shany's new book is its integration of the array of issues that make up the challenging—indeed, puzzling—array of preliminary issues in international adjudication, and the innovative way in which he organizes and reorganizes them.

The most likely criticism is that Part III should have been expanded, because the concept of admissibility is less-explored and more elusive than jurisdiction. One part of Shany's admissibility thesis that particularly warrants further examination is, for lack of a better denominator, his "erosion" concept. In addition to opining that certain issues commonly categorized under admissibility—for example, exhaustion of local remedies—are inherently jurisdictional, he observes that the correct distinction can erode over time as specific case-based admissibility decisions multiply. This can result in category-based case selection (appropriate for jurisdiction) at the *admissibility* level.

Practitioners and advocates need not go far beyond Shany's functional definitions of jurisdiction and admissibility, aided by the illustrations he offers from international jurisprudence. Academics will benefit from his detailed policy discussions and analysis. All alike can hope for a further work focused primarily on admissibility.

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Building International Investment Law: The First 50 Years of ICSID. Edited by Meg Kinnear, Geraldine R. Fischer, Jara Mínguez Almeida, Luisa Fernanda Torres and Mairée Uran Bidegain. Alphan aan den Rijn: Wolters Kluwer, 2015. Pp. xlix, 776. Index. $263.
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The World Bank's Convention on the Settlement of Investment Disputes Between States and Nationals of Other States has been ratified by 153 states. "[The International Centre for Settlement of Investment Disputes (ICSID)] is the premier international investment arbitration facility in the world, having administered more than 545 cases with parties, counsel, arbitrators and conciliators from virtually every country in the world" (preface, p. li). This celebratory collection of essays by outstanding practitioners and scholars of ICSID is an invaluable analysis of the landmark cases of ICSID's first fifty years.

"Each chapter in this book looks at an international investment law topic through the lens of one or more leading cases. It considers what the case held, how it has been applied, and its overall

significance to the development of international investment law" (p. li.)

The book's fifty chapters address, in Part I, general principles; Part II, jurisdiction; Part III, standards of protection; Part IV, exceptions, defenses, and counterclaims; Part V, valuation and cost considerations; and Part VI, procedural and other matters.

If this review were to do no more than list the titles and authors of the fifty chapters that comprise it, it would be unduly lengthy. Suffice it to say that these pithy and penetrating essays by leading arbitrators of our time demonstrate that investor/state arbitration has developed in the last fifty years at a remarkable and beneficent pace; that it has successfully resolved hundreds of disputes between foreign investors and states and conduced to the flow of international investment; that the jurisprudence these hundreds of awards has generated is, in the large, progressive and sound; and that the displacement of diplomatic protection by investor/state arbitration is demonstrably desirable. There naturally is room to criticize the reasoning and result of this or that award (as there is in respect of this or that judicial decision). But a reading of the essays in this volume undermines the criticism that has been so excessively directed at investor/state arbitration.

The recent agreement between the European Union and Japan on terms of a major trade and investment treaty has been marked by continuing difference between them on whether or not investor/state arbitration shall be replaced by an international investment court. The EU has pronounced investor/state arbitration to be "dead," a questionable appraisal that Japan resists.

Major members of the EU were among the first and most prolific concluders and users of bilateral investment treaties providing for investor/state arbitration, predominantly administered by ICSID. In the wake of Japan's nuclear disaster, the Federal Republic of Germany decided to abandon nuclear power. A Swedish Government-owned company, Vattenfall, which was involved with the German nuclear industry, brought cases in German courts and also an investor/state arbitration against Germany seeking substantial damages. Its arbitral recourse triggered an extraordinary, uninformed, populist outcry in Germany against investor/state arbitration which in turn appears to be a prime cause of EU disaffection from investor/state arbitration. Apparently, it is the German perception that investor/state arbitration is fine when invoked offensively and repeatedly by its companies but unacceptable when invoked—just once—against Germany.

That perception is not wholly unrelated to that of the United States and Canada when they sought to constrain the application of the North American Free Trade Agreement's (NAFTA) arbitral provisions by a binding interpretation of NAFTA's provision for fair and equitable treatment. That interpretation reads NAFTA's reference to international law to mean customary international law, which they unconvincingly equate with the standard of egregious outrage set out in the *Neer*[1] arbitral award of 1926 in a denial of justice case that had no relation to foreign investment. (A differing perspective is ably argued in Chapter 19 of this volume by Jeremy K. Sharpe, "The Minimum Standard of Treatment, *Glamis Gold*, and *Neer*'s Enduring Influence.")

ICSID has a record of high accomplishment in its first fifty years. Despite the largely unfounded criticism of investor/state arbitration to which the EU has yielded; despite the measured retreat from protection of foreign investment embodied in successive model bilateral investment treaties (BITs) of the United States and some other states; despite the withdrawals from ICSID by a small number of parties and the lapse of some BITs, ICSID so far continues to administer large numbers of arbitrations. But whether its next fifty years will be as successful as its first fifty years remains to be seen.

STEPHEN M. SCHWEBEL
Of the Board of Editors

[1] L.H.F. Neer and Pauline Neer (U.S.A.) v. United Mexican States, IV R.I.A.A. 60 (General Claims Commission Oct. 15, 1926).

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