

Index

- accountability *versus* efficiency dilemma
 see CCP decision-making,
 efficiency *versus* accountability
 dilemma
- agricultural trade agreements
 Bananas cases 232–3, 264, 265,
 267, 270–72, 273–4, 276
 see also direct effect of
 international agreements
 entered into by EU
- Blair House Agreement 172, 186,
195
- conflicts over negotiating tactics,
 example of 193–4
- Doha Development Round of WTO
 negotiations (2001–2008) 83,
 174, 186, 188–9, 191–3
- EU–France dispute over negotiating
 mandate 174, 186, 190–93
- unanimous Council voting on 77
 see also common commercial policy
 (CCP)
- air transport *see* transport services, air
 transport
- Allot, Philip 138–9, 140
- Amsterdam Treaty 1997 *see* Treaty of
 Amsterdam 1997
- anti-dumping measures 220–21
 Nakajima All Precision Co Ltd v
 Council (C-69/89) (ECJ) on
 WTO law compatibility of
 265, 266, 267, 270, 276
 see also direct effect of
 international agreements
 entered into by EU
- approval of trade agreements *see* trade
 agreements, conclusion and
 ratification of
- Article 133 Committee *see* Trade Policy
 Committee
- association agreements
 conclusion and ratification of 173,
 211, 219, 223, 225
 as integral part of EU law (*R. &*
 V. Haegeman v Belgium
 (181/73) (ECJ)) 243, 259
 Luns procedures for consulting
 European Parliament on 286
 as mixed agreements 115, 152, 212,
 244–5
- atomic energy *see* nuclear energy
- audiovisual services *see* cultural and
 audiovisual services
- aviation *see* transport services, air
 transport
- Bananas* cases 232–3, 264, 265, 267,
 270–72, 273–4, 276
 see also agricultural trade
 agreements; direct effect
 of international agreements
 entered into by EU
- Barfield, Claude E. 207
- Barnier, Michel 193
- Blair House Agreement 172, 186, 195

- see also* agricultural trade agreements
- Bleckmann, Albert 119, 243
- Brand, Ronald A. 272
- Breton, Thierry 191
- Brexit (UK's withdrawal from EU)
- EU research funding, impact on 106–7
 - free movement of persons principle, EU inflexibility on 107
 - referendum on UK remaining in EEC (1975) 105
 - referendum on UK remaining in EU (2016) 104
 - Scotland's secession from UK, increased likelihood after Brexit 106
 - UK's global influence, impact on 107, 177
 - UK's post-Brexit trade relations with EU, options for 105–6, 107
 - UK's TEU Article 50 notification 105
- see also* United Kingdom
- Brittan, Sir Leon 186, 286
- Brownlie, Ian 155
- Cameron, David 104
- Canada
- 'Canada model' of Brexit 106, 107
 - see also* Brexit (UK's withdrawal from EU)
- Comprehensive Economic and Trade Agreement between EU and Canada 2016 107
- CCP decision-making, efficiency *versus* accountability dilemma 277–81
- civil society dialogue *see* civil society dialogue on trade agreements
- European Commission's CCP powers
- democratic effect 285, 287, 293
 - more accountability to European Parliament, need for 296
- European Parliament's enhanced CCP powers, democratic effect 218–19, 220, 221, 223–4, 286, 290–91, 296
- see also* European Parliament, CCP competences (post-Lisbon)
- EU's perceived democratic deficit 75, 105, 283–5, 288, 296
- deliberative polling as proposed solution 288–9
 - popular voting on trade policy matters, need for 289–90
- four scenarios for balancing efficiency against accountability 281–3
- mixed agreements, recommendations for future use of 295–6
- national parliaments
- parliamentarians as civil society representatives 228, 285
 - trade agreement ratification role, need for 86, 221, 223–4, 227–9, 297–8
 - trade negotiations, need for increased role 285–7
- see also* Member States
- need for EU to speak with one voice 163–4, 167, 176–7, 277–8, 280, 294–5
- see also* duty of cooperation
- qualified majority voting *versus* unanimity in Council 77–8, 103, 293, 295

- transparency of decision-making
 - processes, need to improve 4, 206, 207, 209, 278, 292–3*see also* common commercial policy (CCP)
- Chirac, Jacques 191, 192
- civil society dialogue on trade
 - agreements 174–5, 199–200, 287, 290–91
- call for extension of 204–5
 - in Denmark 229
- EU Trade Dialogue with Civil Society 202–3
- European Economic and Social Committee 287
- lobbying, EU and US rules
 - compared 201–2
- national parliamentarians as civil society representatives 228, 285
- NGOs from Global North, concerns
 - about over-representation 202, 205
- Sustainable Impacts Assessment Program 203
- WTO arrangements for 200–202, 204, 206–8
 - see also* CCP decision-making, efficiency *versus* accountability dilemma; NGOs (non-governmental organizations); trade agreements, negotiation of
- Clegg, Nick 217
- close cooperation, duty of *see* duty of cooperation
- co-decision procedure *see* ordinary legislative procedure
- Coase theorem 195
- comitology 239–40
- commercial aspects of intellectual property *see* intellectual property trade agreements
- Commission of the European Communities *see* European Commission
- committee procedure 239–40
- common commercial policy (CCP) 9–10, 93
 - agreements
 - conclusion and ratification *see* trade agreements, conclusion and ratification of
 - implementation *see* trade agreements, implementation of
 - judicial enforcement *see* Court of Justice of the European Union
 - negotiation *see* trade agreements, negotiation of
 - agricultural trade agreements *see* agricultural trade agreements
 - Brexit, options for UK's future trade relations with EU 105–6 *see also* Brexit (UK's withdrawal from EU)
 - democratic legitimacy of *see* CCP decision-making, efficiency *versus* accountability dilemma
 - development of 17–18, 20
 - as EU exclusive competence 18, 91, 93–4, 98, 100, 136
 - ancillary or subsidiary competences of Member States 142–3 *see also* mixed agreements

- continuing conflicts with
 - Member States, reasons for 91–2, 97
- democratic legitimacy
 - implications *see* CCP
 - decision-making, efficiency *versus* accountability
- intellectual property trade
 - agreements *see*
 - intellectual property trade agreements, as EU exclusive competence
- limits of 96
- pure Union agreements 243, 296
 - see also* mixed agreements
- trade in services agreements
 - see* trade in services agreements, as EU exclusive competence
- horizontal agreements 65, 74
- institutional competences
 - Council *see* Council of the European Union, CCP competences
 - Court of Justice *see* Court of Justice of the European Union, CCP jurisdiction
 - European Commission *see* European Commission, CCP competences
 - European Parliament *see* European Parliament, CCP competences (post-Lisbon); European Parliament, CCP competences (pre-Lisbon)
- Member State competences *see* Member States, CCP competences
- principles
 - duty of cooperation *see* duty of cooperation
 - EU external action principles 94, 102
 - uniform principles 17, 74, 75
 - unity of representation *see* unity of representation principle
- scope 9, 19, 60–64, 93–4, 98, 100
 - foreign direct investment excluded from (pre-Lisbon) 66
 - foreign direct investment included within (post-Lisbon) 92–4
 - intra-EU bilateral investment treaties excluded 94
- shared competence (post-Lisbon)
 - see* mixed agreements
- shared competence (pre-Lisbon)
 - French Conseil Constitutionnel ruling 37-394 DC on transfer of competences to EC 47–9
 - intellectual property trade agreements *see* intellectual property trade agreements
- logic of parallelism 68–9
- mixed agreements *see* mixed agreements
- Nice Treaty reforms *see* Treaty of Nice 2001, CCP reforms
- restrictions on Member State autonomy 72
- ‘shared competence’ locution 62–3
- trade in services agreements
 - see* trade in services agreements

- in WTO framework *see*
 - WTO (World Trade Organization), EU and Member States, allocation of competences
- Trade Policy Committee *see* Trade Policy Committee
- United States, EU trade relationship
 - with *see* United States, EU trade relationship with
- WTO, EU's role in *see* WTO (World Trade Organization), EU's role in
 - see also* EU external action
- common foreign and security policy 5, 76, 86, 213, 214, 219, 221, 223
 - see also* EU external action
- competences of the EU *see* EU (European Union), competences
- conclusion of trade agreements *see* trade agreements, conclusion and ratification of
- Confederation of British Industry 204, 205
- consensus voting in Council *see* Council of the European Union, unanimous voting on CCP measures
- Constitutional Treaty 2004 *see* Treaty Establishing a Constitution for Europe 2004
- Convention on the Future of Europe (2001) *see* Treaty Establishing a Constitution for Europe 2004, Convention on the Future of Europe (2001)
- cooperation, duty of *see* duty of cooperation
- Correa, Carlos M. 248
- Council of the European Union
 - CCP competences 20–21
 - authorization of negotiations
 - see* trade agreements, negotiation of, Council authorization
 - conclusion of agreements
 - see* trade agreements, conclusion and ratification of
 - negotiation of agreements, proposed changes to role 76, 195–6
 - referral of agreements to Court of Justice 57, 59
 - shared with European Parliament under co-decision/ordinary legislative procedure (post-Lisbon) 94, 96, 211, 218–19, 220–21, 223, 225
 - see also* European Parliament, CCP competences (post-Lisbon)
- contribution to EU's perceived democratic deficit 284
- COREPER (Permanent Representatives Committee) 183, 185, 209–10
- Council confused with Member States, implications of 212–14
- EU coordination meetings at 165
 - see also* duty of cooperation
- Euratom agreements, competences 11–12
- General Affairs Council 185, 187, 281
- Presidency 85, 182, 214
- qualified majority voting on CCP measures 212

- Constitutional Treaty 2004
 - proposals to extend 82–3
- contested areas 67
- cultural and audiovisual
 - services agreements *see* cultural and audiovisual services, Council voting arrangements for
- educational, social and health services agreements 95–6, 101, 227
- efficiency *versus* accountability dilemma 77–8, 103, 293, 295
 - see also* CCP
 - decision-making, efficiency *versus* accountability dilemma
- excluded from Amsterdam Treaty 44–6, 48–9
- French attitude towards *see* France, qualified majority voting in Council, attitude towards
- Nice Treaty rules 56, 58–9, 77–8
- ‘pastis principle’ 99
- rationale for 55–6, 66
- rules proposed at Nice IGC 52–4
- TFEU Article 207(4) on 94–6, 99, 194
- types of 55
- structure 209–10
- Trade Policy Committee *see* Trade Policy Committee
- unanimous voting on CCP measures 212
- agricultural trade agreements 77, 195
 - effect on trade agreement negotiations 79, 194–5
 - efficiency *versus* accountability dilemma 77–8, 103, 293, 295
 - see also* CCP
 - decision-making, efficiency *versus* accountability dilemma
 - mixed agreements, unanimity as practical consequence of 151
 - when required 65–6, 73–4, 80–81, 94–5
- Uruguay Round Agreements, implementation of 231–2
- Court of Justice of the European Union 20
- CCP jurisdiction 237–8
 - Council Decisions to leave trade negotiations to Member States, review of 122–3, 240–41
 - implicit rather than explicit 238–40
 - international agreements, rulings on Treaty compliance 57, 59, 241–3, 252–3
 - mixed agreements, review of 114, 212, 243–5, 247–50, 275–6
 - WTO law interpretation 31–2, 245–53
 - see also* *Hermès International v FHT Marketing Choice BV (C-53/96)* (ECJ)
- direct effect

- of international agreements
 - entered into by EU 264–5
- invocability of WTO Dispute Settlement Body decisions (*Biret International v Council (C-93/02)*) 268–70
- of WTO Agreements 264, 267–70, 276
- referral of trade agreements to (pre-Lisbon powers of EU institutions) 57, 59, 76, 215
- rulings
 - on CCP as an EU exclusive competence 18
 - on correct legal basis of EC–US services trade agreement (*European Parliament v Council of the European Union (C-360/93)*) 39–41
 - on duty of cooperation *see* duty of cooperation, Court of Justice rulings on
 - on international law and EU law relationship 253–8, 259, 260–61, 266–7
 - on mixed agreements *see* mixed agreements, Court of Justice rulings on
 - Opinion 1/94 *see* Opinion 1/94 (*Competence of the Community to Conclude International Agreements Concerning Services and the Protection of Intellectual Property, Re*) (ECJ)
 - WTO dispute settlement, relationship with *see* WTO dispute settlement system, Court of Justice relationship with
 - Cremona, Marise 61, 69, 75
 - cultural and audiovisual services
 - Council voting arrangements for post-Lisbon 95–6, 99, 101, 227
 - pre-Lisbon 65, 67
 - cultural and linguistic diversity of Member States, identifying risks to 95–6, 101
 - EU exclusive competence over (post-Lisbon) 95, 100
 - scope for Member State protectionism 100–102
 - French call for special rules on 53–4, 67, 77, 102–3
 - mixed agreements required for (pre-Lisbon) 61–2, 72–3
 - Trade Policy Committee debates on 185–6
 - see also* trade in services agreements
 - customs union
 - EC as 13, 92
 - EU as 92–3
 - UK remaining member after Brexit, option for (‘Turkey model’) 106
 - see also* Brexit (UK’s withdrawal from EU)
- Dashwood, Alan 39, 248
- Delors, Jacques 186
- Demirel v Stadt Swäbisch Gmünd (12/86)* (ECJ) 115, 152, 212, 244–5, 263
 - see also* mixed agreements, Court of Justice rulings on

- democratic legitimacy of EU *see* EU (European Union), democratic legitimacy
- Denmark, trade policy consultation in 229
- Desmedt, G. Axel 250–51
- direct effect of international agreements entered into by EU
- Court of Justice rulings on
Bananas cases 232–3, 264, 265, 267, 270–72, 273–4, 276
Nakajima All Precision Co Ltd v Council (C-69/89) (ECJ) 265, 266, 267, 270, 276
- in EU courts 264–5
 WTO Agreements 264, 265, 267–70, 276
- in Member State courts 262–4
- WTO law not directly applicable in Member States 232–3, 270–72, 276
- see also* international agreements entered into by EU
- dispute settlement system, WTO *see* WTO dispute settlement system
- Doha Development Round of WTO negotiations (2001–2008) 83, 174, 186, 188–9, 191–3
- see also* WTO (World Trade Organization)
- Dolmans, Maurits 138
- Douste-Blazy, Philippe 186
- Draghi, Mario 107
- Dunn, Robert M. 166–7
- duty of cooperation 160–68
- Court of Justice rulings on
Hermès International v FHT Marketing Choice BV (C-53/96) 250
- see also* *Hermès International v FHT Marketing Choice BV* (C-53/96) (ECJ)
- MOX Plant case (*Commission of the European Communities v Ireland* (C-459/03)) 145–8
- Opinion 1/94 41–4, 72, 163, 250
- see also* Opinion 1/94 (*Competence of the Community to Conclude International Agreements Concerning Services and the Protection of Intellectual Property, Re*) (ECJ)
- Opinion 2/91 163, 166
- see also* Opinion 2/91 (ILO Convention 170 on Chemicals at Work, Re)
- Ruling 1/78 160, 161–2
- see also* Ruling 1/78 (*Draft Convention on the Physical Protection of Nuclear Materials, Facilities and Transport, Re*)
- EU coordination meetings at Council 165
- Member State duties in trade negotiations 175–6, 181
- minimum requirement of 166
- need for EU to promote 296

- unity of representation principle
 - see* unity of representation principle
- in WTO context 41–4, 72, 163–5, 167–8, 175–6, 250
- see also* CCP decision-making, efficiency *versus* accountability dilemma; mixed agreements
- EC (European Community/Communities)
 - as a customs union 13, 92
 - EU distinguished from 1, 85
 - external action 13–17, 19–20, 22–3
 - in GATT framework 16, 28–9, 30–31
 - see also* WTO (World Trade Organization), EU's role in
 - trade relations *see* common commercial policy (CCP)
 - founding treaties 2
 - see also* EC Treaty
 - merger with ECSC and Euratom 20
- EC Treaty 2
 - Article 133: CCP
 - 133(1): CCP based on uniform principles 17, 74, 75
 - 133(3): agreements to be compatible with internal Community policies and rules 69
 - 133(5): fast-track procedure for services and intellectual property trade agreements 44–7, 51–3, 68–71
 - 133(6): limits to Council's competence 61, 68, 69, 72, 76, 95, 96
 - see also* common commercial policy (CCP)
 - Article 135 (ex-Article 116):
 - common action of Member States 15–16
 - compared with TFEU 92–6, 102
 - replaced by TFEU 85
 - see also* TFEU (Treaty on the Functioning of the European Union)
 - ECSC (European Coal and Steel Community)
 - common market under 13
 - external action, High Authority's competence 10–11
 - merger with EEC and Euratom 20
 - Eddington, Rod 294
 - educational, social and health services
 - Council voting arrangements for (post-Lisbon) 95–6, 101, 227
 - EU exclusive competence over (post-Lisbon) 95, 100
 - scope for Member State protectionism 100–102
 - mixed agreements required for (pre-Lisbon) 61–2, 72–3
 - national organization of, identifying risks to 95–6, 101
 - Trade Policy Committee debates on 185–6
 - see also* trade in services agreements
- EEA (European Economic Area)
 - direct effect of EEA Agreement 1992 (*Opel Austria GmbH v Council (T-115/94)* (CFI)) 264
 - Opinion 1/91 (*Draft Treaty on a European Economic Area (No. 1), Re*) (ECJ) 253, 260–61, 262, 274
 - option for UK to join after Brexit ('Norway model') 105–6

- see also* Brexit (UK's withdrawal from EU)
- EEC *see* EC (European Community/Communities)
- Eeckhout, Piet 253
- efficiency *versus* accountability dilemma *see* CCP decision-making, efficiency *versus* accountability dilemma
- EFTA (European Free Trade Association) 14–15
 - option for UK to join after Brexit ('Swiss model') 106
 - see also* Brexit (UK's withdrawal from EU)
- enforcement of trade agreements *see* Court of Justice of the European Union
- environmental protection-trade policy nexus
 - environmental lobbyists *see* civil society dialogue on trade agreements
 - mixed agreements addressing environmental issues 120, 139, 143, 146–8, 149, 170, 189–90
- ERTA (European Road Transport Agreement) case (*Commission v Council (22/70)* (ECJ)) 122–3, 133, 240–41
 - see also* mixed agreements, Court of Justice rulings on
- EU (European Union)
 - competences
 - categories of 88, 168–9
 - under CCP (post-Lisbon) *see* common commercial policy (CCP), as EU exclusive competence
 - under CCP (pre-Lisbon) *see* common commercial policy (CCP), shared competence (pre-Lisbon) 'competence' distinguished from 'capacity' 1
 - STLSEU competences commonly confused with Commission competences 213
 - exclusive competence *see* exclusive competence
 - express and implied powers distinction 131–7
 - international agreements in breach of, enforceability 156–60
 - under mixed agreements *see* mixed agreements, competences
 - shared competence *see* shared competence
 - constitution
 - Treaty Establishing a Constitution for Europe 2004 82–4, 86
 - Treaty of Lisbon 2007 *see* Treaty of Lisbon 2007
 - as a customs union 92–3
 - definition 98
 - democratic legitimacy
 - deliberative polling as proposed solution 288–9
 - of EU generally 75, 105, 283–5, 288, 292
 - of EU trade policy *see* CCP decision-making, efficiency *versus* accountability dilemma
- EC distinguished from 1, 85
- external action *see* EU external action

- democratic legitimacy of CCP
 - decision-making, effect on 285, 287, 293
 - see also* CCP
 - decision-making, efficiency *versus* accountability dilemma
- Euratom agreements, negotiation and conclusion 11
- mixed agreements conclusion *see* mixed agreements, competences
- more accountability to
 - European Parliament, need for 296
- negotiation of trade agreements *see* trade agreements, negotiation of
- proposal of trade agreements 180, 189–90
- referral of trade agreements to Court of Justice 57, 59
- at the WTO 28, 38, 178
 - see also* unity of representation principle
- Commission confused with EU itself, implications of 213–14
- contribution to EU's perceived democratic deficit 285
- Trade Policy Committee, relations with 182, 184, 187–93
- Uruguay Round Agreements, implementation proposals 230–31
- views on need to reform EU's trade mechanisms 47
- European Economic Area *see* EEA (European Economic Area)
- European Economic Community *see* EC (European Community/Communities)
- European Free Trade Association *see* EFTA (European Free Trade Association)
- European Parliament
 - CCP competences (post-Lisbon) 86, 173, 214–15, 217–18, 224–5, 259
 - democratic legitimacy of CCP
 - decision-making, effect on 218–19, 220, 221, 223–4, 286, 290–91, 296
 - see also* CCP
 - decision-making, efficiency *versus* accountability dilemma
 - exercise of, recommendations 226
 - negotiations, European Commission duty to report on 94, 173, 222, 223
 - NGO views on 204, 205–6
 - shared with Council under co-decision/ordinary legislative procedure 94, 96, 211, 218–19, 220–21, 223, 225
 - see also* Council of the European Union
 - UK House of Lords view on 229, 287
 - veto power, scope for 225–6
- CCP competences (pre-Lisbon) 20
 - excluded from CCP
 - decision-making before Lisbon Treaty 2007 59, 75, 215–16, 221–2

- Luns-Westerterp consultation procedures 286
- referral of trade agreements to Court of Justice 57, 59, 76, 215
- right to be consulted on trade agreements 75–6, 216, 225–6, 286
- WTO agreements, ratification power 215, 217
- international agreements requiring parliamentary consent 218–19, 223
- International Trade Committee (INTA) 215, 222
- Parliamentary elections, low turnout problem 288, 296
- exclusive competence 167, 168–9
 - areas of 89–91, 136
 - under CCP *see* common commercial policy (CCP), as EU exclusive competence
 - co-existent with Member State competences 140–43, 163
 - see also* mixed agreements, competences
 - trade negotiations dealing with exclusive competence issues 180
 - see also* EU (European Union), competences
- external action *see* EU external action

- Falk, Richard 204–5
- Falkenberg, Karl 198
- fast-track procedures
 - for services and intellectual property trade agreements (EC Treaty Article 133(5)) 44–7, 51–3, 68–71
 - for US international trade agreements 70–71
- see also* trade agreements, negotiation of
- Fishkin, James 288–9
- Food and Agriculture Organization (UN) 43
 - Member States' voting rights in (*Commission of the European Communities v Council of the European Union (C-25/94) (ECJ)*) 43–4, 241
- foreign direct investment *see* investment, foreign direct investment
- France
 - Conseil Constitutionnel ruling 37-394 DC on transfer of competences to EC 47–9
 - disputes with EU over negotiating mandate 174, 186, 190–93
 - employment law reform proposals 290
 - France v Commission of the European Communities (C-327/91)* 157–8, 242
 - see also* mixed agreements, Court of Justice rulings on
 - Frexit (France's withdrawal from EU), risk of 107
 - see also* Brexit (UK's withdrawal from EU)
 - qualified majority voting in Council, attitude towards 48–9, 55–6, 64, 67
 - call for special rules on cultural and audiovisual services 53–4, 67, 77, 102–3
 - role in Nice IGC 53–4, 75
 - see also* Treaty of Nice 2001
- free trade agreements
 - Comprehensive Economic and Trade Agreement between EU and Canada 2016 107

- between UK and EU after Brexit, option for ('Canada model') 106, 107
 - see also* Brexit (UK's withdrawal from EU)
- free trade areas, concept 14
- GATS (General Agreement on Trade in Services 1994) (WTO) 32
 - Basic Telecommunications Services Agreement negotiations 197–9
 - built-in agenda 69–70
 - CCP agreements under *see* trade in services agreements
 - disputes under, EU and Member States as joint parties 234–5, 236
 - see also* WTO dispute settlement system
 - investment services under 59
 - Member State laws in breach of 91
 - as mixed agreement 34–5, 148, 153
 - see also* Opinion 1/94 (*Competence of the Community to Conclude International Agreements Concerning Services and the Protection of Intellectual Property, Re*) (ECJ)
 - see also* trade in services agreements; WTO (World Trade Organization)
- GATT (predecessor to WTO) *see* WTO (World Trade Organization)
- Germany, view on direct applicability of WTO law 232–3
- Grandville, Nicolas de la 191
- Granvik, Lena 112–13, 149
- Griller, Stefan 72
- Haas, Ernst B. 199
- Hartley, Trevor C. 243–4
- Haworth, Martin 205
- health services *see* educational, social and health services
- Heliskoski, Joni 62–3, 117, 249, 251
- Hermès International v FHT Marketing Choice BV (C-53/96)* (ECJ) 37, 235, 237, 246–7
 - Advocate General Tesaurò's opinion 109, 153, 245, 246–7, 249–50, 252
 - Court of Justice's jurisdiction to review mixed agreements, implications for 247–51
 - on duty of cooperation 250
 - see also* duty of cooperation, Court of Justice rulings on
 - interpreted by Advocate General Cosmas in *Parfums Christian Dior SA v Tuk Consultancy BV (C-300/98)* 250–51
 - see also* Court of Justice of the European Union, CCP jurisdiction; mixed agreements, Court of Justice rulings on; unity of representation principle
- Heseltine, Michael 186
- Hewitt, Patricia 177
- horizontal agreements 65, 74
- implementation of trade agreements *see* trade agreements, implementation of
- intellectual property trade agreements as EU exclusive competence
 - see also* common commercial policy (CCP), as EU exclusive competence

- continuing constitutional
 - conflicts with Member States, reasons for 91–2
 - post-Lisbon 93, 98
 - pre-Lisbon 62, 72
- European Parliament, right to be consulted on (pre-Lisbon) 75–6
- negotiation of 44–7, 51–3, 68–71, 175, 194
- proposals for 180
- Protocol relating to the Madrid Agreement Concerning the International Registration of Marks 1989, EU and Member State adherence to 138
- as shared competence (post-Lisbon) 109
- as shared competence (pre-Lisbon) 9, 34–5, 166–7, 170
 - see also* common commercial policy (CCP), shared competence (pre-Lisbon)
- fast-track procedure (EC Treaty Article 133(5)) 44–7, 51–3, 68–71
- logic of parallelism 68–9
- Nice Treaty reforms 62, 66, 69–71, 75–6, 79–80
- Opinion 1/94 (ECJ) *see* Opinion 1/94 (*Competence of the Community to Conclude International Agreements Concerning Services and the Protection of Intellectual Property, Re*) (ECJ)
- qualified majority voting in Council *see* Council of the European Union, qualified majority voting on CCP measures
 - unanimity in Council, when required 65–6, 73–4, 80–81, 94–5
- TRIPS *see* TRIPS (Agreement on Trade-Related Aspects of Intellectual Property 1994) (WTO)
- international agreements entered into by EU
 - bilateral agreements 170–71
 - deemed integral part of EU law 243, 259–60, 261–2
 - direct effect *see* direct effect of international agreements entered into by EU
 - WTO Agreements, whether excepted 266–7
- international law and EU law relationship
 - conflicts, which law takes precedence 260–61
 - Court of Justice rulings on 253–8, 259, 260–61, 266–7
 - supremacy principle 254–5
- mixed agreements *see* mixed agreements
- soft law instruments 169–70
- trade agreements
 - see also* common commercial policy (CCP)
 - conclusion and ratification *see* trade agreements, conclusion and ratification of
 - implementation *see* trade agreements, implementation of
 - judicial enforcement *see* Court of Justice of the European Union

- negotiation *see* trade agreements, negotiation of
- see also* EU external action
- International Atomic Energy Agency 12
- international law and EU law relationship
 - see* international agreements entered into by EU, international law and EU law relationship
- international trade relations of EU *see* common commercial policy (CCP)
- investment
 - European Bank for Reconstruction and Development 137–8
 - foreign direct investment
 - excluded from scope of CCP (pre-Lisbon) 66
 - included within scope of CCP (post-Lisbon) 92–4
 - investment services 59, 60
 - see also* trade in services agreements
- invocability of international agreements
 - entered into by EU *see* direct effect of international agreements entered into by EU
- judicial enforcement of trade agreements
 - see* Court of Justice of the European Union
- Juppé, Alain 186
- Kaddous, Christine 248
- Kent, Penelope 123
- Komesar, Neil 195, 196, 278, 280
- Krück, Hans 243
- Laeken Declaration on the Future of Europe 88, 91, 292
 - see also* Treaty Establishing a Constitution for Europe 2004
- Lagarde, Christine 191
- Lamy, Pascal 203, 227
- Lisbon Treaty 2007 *see* Treaty of Lisbon 2007
- lobbying, EU and US rules compared 201–2
 - see also* civil society dialogue on trade agreements
- logic of parallelism 68–9
 - see also* common commercial policy (CCP), shared competence (pre-Lisbon)
- Long, Oliver 274
- Louis, Jean-Victor 71
- Luns-Westerterp procedures for consulting European Parliament on association and trade agreements 286
 - see also* European Parliament, CCP competences (pre-Lisbon)
- Luskin, Robert 288
- McGoldrick, Dominic 109, 116, 122
- MacLeod, Iain 113, 140, 180
 - on mixed agreements 143, 154, 155–6, 158, 166, 169
 - on shared competence concept 143
- Mandelson, Peter 161, 186, 190–93
- Member States
 - bilateral agreements
 - intra-EU bilateral investment treaties excluded from CCP 94
 - Open Skies* cases 124–31
 - see also* mixed agreements, Court of Justice rulings on CCP competences 219, 224

- conflicts with EU over, reasons for 91–2, 97
- duty of cooperation *see* duty of cooperation
- national ratifications of trade agreements, need for 86, 221, 223–4, 227–9, 297–8
 - see also* CCP
 - decision-making, efficiency *versus* accountability dilemma
- post-Lisbon *see* common commercial policy (CCP), as EU exclusive competence
- pre-Lisbon *see* common commercial policy (CCP), shared competence (pre-Lisbon)
- role in negotiations *see* Trade Policy Committee
- in WTO framework *see*
 - WTO (World Trade Organization), EU and Member States, allocation of competences
- Council confused with Member States, implications of 212–14
 - see also* Council of the European Union
- Francovich* principle of state liability 127
- international agreements entered into by EU, direct effect 262–4
 - see also* international agreements entered into by EU
 - WTO law not directly applicable in Member States 232–3, 270–72
- mixed agreements *see* mixed agreements
- national parliaments
 - see also* CCP decision-making, efficiency *versus* accountability dilemma
 - parliamentarians as civil society representatives 228, 285
 - trade agreement ratification role, need for 86, 221, 223–4, 227–9, 297–8
 - trade negotiations, need for increased role 285–6
- Protocol on the Role of National Parliaments in the European Union 90, 228
- trade in services, scope for Member State protectionism 100–102
 - see also* trade in services agreements
- Uruguay Round Agreements, Member State views on implementation 231–3
- WTO dispute settlement
 - complaints against Member States 92, 234–5
 - EU as respondent or complainant 234–6
 - see also* WTO dispute settlement system
- Mercosur 294
- Mill, John Stuart 104–5
- mixed agreements 64, 109–11
 - association agreements as 115, 152, 212, 244–5
 - see also* association agreements competences
 - allocation of 116–17, 119–20

- coexistent competences
 - 140–43, 149, 163
- concurrent competences 138–9,
 - 144, 149, 170, 296
- EU competences, express
 - and implied powers
 - distinction 131–7
- EU competences, external
 - and internal distinction
 - 122–31
- parallel competences 137–8,
 - 149
- parallelism thesis 122–4
- terminology 121
- trade agreements, ancillary or
 - subsidiary competences
 - of Member States 142–3
 - see also* common
 - commercial
 - policy (CCP),
 - as EU exclusive
 - competence
- conclusion and ratification of 211
 - see also* trade agreements,
 - conclusion and
 - ratification of
 - association agreements 173,
 - 211, 219, 223, 225
- Court of Justice rulings on 115, 118,
 - 152
- court's jurisdiction to review
 - 114, 212, 243–5,
 - 247–51, 275–6
- Demirel v Stadt Swäbisch Gmünd (12/86)* 115,
 - 152, 212, 244–5, 263
- duty of cooperation *see* duty
 - of cooperation, Court of
 - Justice rulings on
- ERTA (European Road
 - Transport Agreement)
 - case (*Commission v*
 - Council (22/70)*) 122–3,
 - 133, 240–41
- France v Commission of the*
- European Communities*
- (C-327/91)* 157–8, 242
- Hermès International v FHT*
- Marketing Choice BV*
- (C-53/96)* *see Hermès*
- International v FHT*
- Marketing Choice BV*
- (C-53/96)* (ECJ)
- MOX Plant case (*Commission*
- of the European*
- Communities v Ireland*
- (C-459/03)*) 145–8
- Open Skies* cases 124–31
- Opinion 1/76 (*Draft Agreement*
- for a Laying-up Fund*
- for Inland Waterway*
- Vessels, Re*) (Rhine
- Navigation Case) 122,
- 133–4
- Opinion 1/78 (*Draft*
- International Agreement*
- on Natural Rubber, Re*)
- 115, 138, 140–41, 142,
- 152
- Opinion 1/94 115, 124, 134,
- 139, 142, 148–9, 249

- see also* Opinion 1/94
(Competence of the Community to Conclude International Agreements Concerning Services and the Protection of Intellectual Property, Re) (ECJ)
- Opinion 2/91 *see* Opinion 2/91
 (ILO Convention 170 on Chemicals at Work, Re)
- Opinion 2/92 *(Competence of the Community to Participate in the Third Revised Decision on National Treatment of the Council of the OECD, Re)* 36–7, 139
- Opinion 2/94 *(Accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms, Re)* 134–5
- Portugal v Council of the European Union (C-268/94)* 142
- Ruling 1/78 *see* Ruling 1/78
(Draft Convention on the Physical Protection of Nuclear Materials, Facilities and Transport, Re)
- for cultural, audiovisual,
 educational, social and health
 services (pre-Lisbon) 61–2,
 72–3
- definition 111
- duty of cooperation *see* duty of
 cooperation
- effectiveness of 115–16
- EU and Member State liabilities to
 third countries 114, 151–3
- agreements in breach of EU law
 154–6
- agreements in breach of EU's
 competence 156–60
- WTO law implementation,
 EU's liability 153, 252
- examples
- Agreement Establishing the
 European Bank for
 Reconstruction and
 Development 1990
 137–8
- Association Agreement with
 Turkey 1963 115, 212,
 244–5
- Cotonou Agreement 2000
 143–4
- GATS 34–5, 148, 153
see also GATS (General
 Agreement on
 Trade in Services
 1994) (WTO);
 Opinion 1/94
*(Competence of
 the Community
 to Conclude
 International
 Agreements
 Concerning
 Services and
 the Protection
 of Intellectual
 Property, Re)* (ECJ)

- Protocol relating to the Madrid Agreement Concerning the International Registration of Marks 1989 138
- TRIPS 34–5, 148–9, 153, 245
see also Opinion 1/94 (*Competence of the Community to Conclude International Agreements Concerning Services and the Protection of Intellectual Property, Re*) (ECJ); TRIPS (Agreement on Trade-Related Aspects of Intellectual Property 1994) (WTO)
- UN Agreement Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks 1995 141–2
- UN Convention on the Law of the Sea 1982 145–8
- Vienna Convention Against Illicit Trafficking in Drugs and Psychotropic Substances 1988 179
- WTO Agreement 1994 32, 41, 154, 164
see also WTO Agreement 1994 (establishing the WTO)
- first recognition in EC law 112–13, 115, 152
- first uses 114–15
- future use, recommendations for 295–6
- legal analyses of
- perspectives 113–14, 150–51
 - principles, adequacy of 117, 118–19
 - mixity, types of 143–51, 149
 - negotiation of 177–8, 179, 181
 - pure Union agreements
 - distinguished from 243, 296
 - rationale for 110, 117–18, 119, 144
 - treaties to which EU cannot adhere, mixity otherwise achieved 110–11, 166
 - unanimous voting in Council, practical consequence of mixed agreements 151
- see also* international agreements entered into by EU
- Monnet, Jean 10
- Montana i Mora, Miquel 274
- Moore, Mike 228
- MOX Plant case (*Commission of the European Communities v Ireland (C-459/03)*) 145–8
see also duty of cooperation, Court of Justice rulings on; mixed agreements, Court of Justice rulings on
- NAFTA (North American Free Trade Agreement) 14
- Nakajima All Precision Co Ltd v Council (C-69/89)* (ECJ) 265, 266, 267, 270, 276
see also anti-dumping measures; direct effect of international agreements entered into by EU

- national parliaments *see* Member States, national parliaments
- Neframi, Elefthéria 72
- negotiation of trade agreements *see* trade agreements, negotiation of
- NGOs (non-governmental organizations)
- anti-globalization stance, perceived 205, 228
 - calls for restricted EU trade powers 70–71, 77
 - dialogue on trade agreements *see* civil society dialogue on trade agreements
 - European Parliament's post-Lisbon CCP competences, NGO views on 204, 205–6
see also European Parliament, CCP competences (post-Lisbon)
- Nice Declaration on the future of the Union 75
see also Treaty of Nice 2001
- Nice Treaty 2001 *see* Treaty of Nice 2001
- non-governmental organizations *see* NGOs (non-governmental organizations)
- 'Norway model' of Brexit 105–6
see also Brexit (UK's withdrawal from EU)
- nuclear energy
- Euratom agreements 12
 - MOX Plant case (*Commission of the European Communities v Ireland (C-459/03)*) 145–8
see also duty of cooperation, Court of Justice rulings on; mixed agreements, Court of Justice rulings on
- Ruling 1/78 *see* Ruling 1/78 (*Draft Convention on the Physical Protection of Nuclear Materials, Facilities and Transport, Re*)
- OECD (Organization for Economic Co-operation and Development) 14–15
- Opinion 2/92 (*Competence of the Community to Participate in the Third Revised Decision on National Treatment of the Council of the OECD, Re*) (ECJ) 36–7, 139
- Open Skies* cases 124–31
see also mixed agreements, Court of Justice rulings on
- Opinion 1/94 (*Competence of the Community to Conclude International Agreements Concerning Services and the Protection of Intellectual Property, Re*) (ECJ) 18, 32–6
- on allocation of competences between EU and Member States in WTO framework 37–9, 46–7, 75
 - duty of cooperation 41–4, 72, 163, 250
 - on EU's CCP competences 34, 63, 73, 245, 293–4
 - on mixed agreements 115, 124, 134, 139, 142, 148–9, 249
 - trade in services negotiations, implications for 39–41
- Opinion 2/91 (ILO Convention 170 on Chemicals at Work, Re)
- on duty of cooperation 163, 166
 - on mixed agreements 43, 115, 134, 139, 143, 150
- ordinary legislative procedure

- CCP application 94, 96, 211, 218–19, 220–21, 223, 225
introduction of 56–7
see also Council of the European Union; European Parliament
- Oxfam 204
- parallelism, logic of 68–9
see also common commercial policy (CCP), shared competence (pre-Lisbon)
- Pescatore, Pierre 74, 261–2
- Petersmann, Ernst-Ulrich 272
- Piris, Jean-Claude 52, 53, 74
- Portugal v Council of the European Union (C-268/94)* 142
see also mixed agreements, Court of Justice rulings on
- pure Union agreements 243, 296
see also mixed agreements
- qualified majority voting in Council *see* Council of the European Union, qualified majority voting on CCP measures
- Richardson, Keith 294
- Riphagen, Willem 159–60
- Rodrik, Dani 208
- Rome Treaty 1957 *see* EC Treaty
- Rosas, Allan
on competences under mixed agreements 121, 139, 140, 141, 144, 169
on Court of Justice's jurisdiction to review mixed agreements 249
on EU as an international actor 116
on legal implications of mixed agreements 150, 153
on types of mixed agreement 5–6
see also mixed agreements
- Ruling 1/78 (*Draft Convention on the Physical Protection of Nuclear Materials, Facilities and Transport, Re*) 115, 120–21, 140, 141, 153
on duty of cooperation 160, 161–2
see also mixed agreements, Court of Justice rulings on
- Sarkozy, Nicolas 192
- Schermers, Henry G. 154, 157, 243–4, 263
- Schonberg, Soren 144
- Scotland's secession from UK, increased likelihood after Brexit 106
see also Brexit (UK's withdrawal from EU)
- services trade *see* trade in services agreements
- shared competence 143, 167, 169
under CCP (pre-Lisbon) *see* common commercial policy (CCP), shared competence (pre-Lisbon)
under mixed agreements 138, 149
see also mixed agreements, competences
coexistent competences 140–43
concurrent competences 138–9, 144, 149, 170, 296
trade negotiations dealing with shared competence issues 175–6, 178, 194
see also EU (European Union), competences
- social welfare services *see* educational, social and health services
- soft law instruments 169–70
- sovereignty concept 21
- Strauss, Andrew 204–5
- Sutherland, Peter 205
- 'Swiss model' of Brexit 106

- see also* Brexit (UK's withdrawal from EU)
- technocratic *versus* democratic
 decision-making *see* CCP
 decision-making, efficiency
versus accountability dilemma
- telecommunications services 197–9
see also trade in services agreements
- TEU (Treaty on European Union)
 Article 21: principles of external action 102
 Article 47: conferral of legal personality on EU 1
 Article 50: Member State withdrawal from EU 105
see also Treaty of Lisbon 2007
- TFEU (Treaty on the Functioning of the European Union)
 Article 3: areas of EU's exclusive competence 89–91, 100
 Article 206: customs union 92–3
 Article 207: CCP
see also common commercial policy (CCP)
 207(1): CCP's scope 93–4, 98, 100
 207(2): extension of co-decision/ordinary legislative procedure to CCP 94
 207(3): European Commission's negotiation role 94
 207(4): qualified majority voting in Council 94–6, 99, 194
 207(5): transport services 96
 207(6): limits to EU's exclusive competence 96
 Article 218: international agreements
 conclusion of 16, 96, 98, 113, 173, 189, 218–19, 223
 negotiation of 16, 96, 98, 113, 172, 189
 compared with EC Treaty 92–6, 102
 EC Treaty replaced by 85
see also EC Treaty; Treaty of Lisbon 2007
- Tocqueville, Alexis de 77, 104–5, 196
- Tokyo Round of WTO negotiations (1973–79) 22–3
see also WTO (World Trade Organization)
- Torrent, Ramon 48, 59
- trade agreements, conclusion and ratification of 9–10, 16, 25, 210, 258–9
 association agreements 173, 211, 219, 223, 225
 co-decision/ordinary legislative procedure 94, 96, 211, 218–19, 220–21
 'conclusion' definition, EU law 211
 European Parliament's role *see* European Parliament, CCP competences (post-Lisbon)
- intellectual property trade agreements *see* intellectual property trade agreements
- mixed agreements 211
- national ratifications of trade agreements, need for 86, 221, 223–4, 227–9, 297–8
see also CCP decision-making, efficiency *versus* accountability dilemma
- qualified majority voting *see* Council of the European Union, qualified majority voting on CCP measures
- simplified procedure 210–11
 solemn procedure 211–12

- TFEU Article 218 on 16, 96, 98, 113, 173, 189, 218–19, 223
- trade in services agreements *see* trade in services agreements
- unanimous voting *see* Council of the European Union, unanimous voting on CCP measures
- WTO Doha Development Round, Council approval of ‘pre-legal’ commitments 188–9
- see also* common commercial policy (CCP); Council of the European Union
- trade agreements, implementation of
- anti-dumping measures *see* anti-dumping measures
 - compatibility with EU law, Court of Justice’s jurisdiction to review 57, 59, 241–3
 - see also* Court of Justice of the European Union, CCP jurisdiction
 - dispute settlement *see* WTO dispute settlement system
 - Uruguay Round Agreements 230–33
- trade agreements, judicial enforcement of *see* Court of Justice of the European Union
- trade agreements, negotiation of 16, 25, 94, 172–3, 226
- bilateral agreements 179, 180
 - civil society dialogue on *see* civil society dialogue on trade agreements
 - Commission proposals for 180, 189–90
 - Commission’s duty to report on to European Parliament 94, 173, 222, 223
 - to Member States and Council *see* Trade Policy Committee
 - competence debates, postponement until after negotiations 180, 188
 - conflicts
 - over control of process 190–93, 195–6
 - over tactics 193–4
 - Council authorization 172, 178, 190, 222
 - see also* Council of the European Union, CCP competences
 - negotiating directives 179, 193
 - negotiating guidelines 174
 - proposed changes to Council’s negotiations role 76, 195–6
 - exclusive competence issues 180
 - intellectual property trade agreements 44–7, 51–3, 68–71, 175, 194
 - Member States’ role *see* Trade Policy Committee
 - mixed agreements 177–8, 179, 181
 - shared competence issues 175–6, 178, 194
 - TFEU Article 218 on 16, 96, 98, 113, 172, 189
 - three-level system of decision-making 174–8
 - trade in services agreements 44–7, 51–3, 68–71, 175, 176, 194
 - unanimous Council voting, effects on negotiations 79, 194–5
 - see also* Council of the European Union, unanimous voting on CCP measures
 - in United Nations fora 180

- WTO negotiations 175–8, 186–7, 188–9, 193–4
 - Basic Telecommunications Services Agreement, case study 197–9
 - see also* common commercial policy (CCP); European Commission
- trade disputes settlement *see* WTO dispute settlement system
- trade in services agreements
 - Council voting arrangements for cultural and audiovisual services *see* cultural and audiovisual services, Council voting arrangements for
 - educational, social and health services 95–6, 101, 227
 - qualified majority voting *see* Council of the European Union, qualified majority voting on CCP measures
 - unanimity in Council, when required 65–6, 73–4, 80–81, 94–6
 - cultural and audiovisual services *see* cultural and audiovisual services
 - educational, social and health services *see* educational, social and health services
 - as EU competence shared with Member States (pre-Lisbon) 9, 34–5, 39–41, 166–7, 170 *see also* common commercial policy (CCP), shared competence (pre-Lisbon)
 - fast-track procedure (EC Treaty Article 133(5)) 44–7, 51–3, 68–71
 - logic of parallelism 68–9
 - Nice Treaty reforms 60–62, 63, 66, 69–71, 75, 79–80
 - Opinion 1/94 (ECJ) *see* Opinion 1/94 (*Competence of the Community to Conclude International Agreements Concerning Services and the Protection of Intellectual Property, Re*) (ECJ)
 - Opinion 2/92 (*Competence of the Community to Participate in the Third Revised Decision on National Treatment of the Council of the OECD, Re*) (ECJ) 36–7, 139
 - unanimity in Council, when required 65–6, 73–4, 80–81
 - as EU exclusive competence (post-Lisbon) 93, 98 *see also* common commercial policy (CCP), as EU exclusive competence
 - continuing constitutional conflicts with Member States, reasons for 91–2, 97
 - cultural and audiovisual, educational, social and human health services 95–6, 100
 - scope for Member State protectionism 100–102
 - as EU exclusive competence (pre-Lisbon) 60–62, 63–4, 72
 - extent of EU services trade 29–30

- GATS *see* GATS (General Agreement on Trade in Services 1994) (WTO)
- investment services 59, 60
- negotiation of 44–7, 51–3, 68–71, 175, 176, 194
- proposals for 180
- telecommunications services 197–9
- Trade Policy Committee for Services 175, 184–5
see also Trade Policy Committee
- transport services *see* transport services
- Trade Policy Committee 94, 172, 174–5, 176–7
- conflicts over negotiating tactics 193–4
- European Commission relations with 182, 184, 187–93
- lack of consensus in 185–7
- role in trade policy 178, 181, 182–4
- structure and organization 184–7
- Trade Policy Committee for Services 175, 184–5
see also trade agreements, negotiation of
- transparency of CCP decision-making, need to improve 4, 206, 207, 209, 278, 292–3
see also CCP decision-making, efficiency *versus* accountability dilemma
- transport services
- air transport
- call for consolidated European industry 294
- Open Skies* cases 124–31
see also mixed agreements, Court of Justice rulings on
- state aid to air carriers 129
- ERTA (European Road Transport Agreement) case (*Commission v Council* (22/70) (ECJ)) 122–3, 133, 240–41
see also mixed agreements, Court of Justice rulings on
- Opinion 1/76 (*Draft Agreement for a Laying-up Fund for Inland Waterway Vessels, Re*) (Rhine Navigation Case) 122, 133–4
see also mixed agreements, Court of Justice rulings on
- special procedure for agreements 58–9, 60, 96, 102
see also trade in services agreements
- treaties *see* international agreements entered into by EU
- Treaty Establishing a Constitution for Europe 2004 82–4, 86, 91
- Convention on the Future of Europe (2001) 82–3, 86, 88–9, 219, 297–8
- Laeken Declaration on the Future of Europe 88, 91, 292
- Praesidium document on Treaty's aims 87
- on three categories of EU competence 88–9
- Treaty Establishing the European Economic Community 1957 *see* EC Treaty
- Treaty of Amsterdam 1997 9–10
- French Conseil Constitutionnel ruling 37-394 DC on ratification requirements 47–9
- IGC negotiations 51–2

- procedure extending EU's exclusive competence to services and intellectual property trade 44–7, 51–3, 70
- Treaty of Lisbon 2007 85
 - conferral of legal personality on EU 1
 - external action reforms 85–6
 - IGC negotiations 84–5
 - Protocol No.1 on the Role of National Parliaments in the European Union 90, 228
 - see also* TEU (Treaty on European Union); TFEU (Treaty on the Functioning of the European Union)
- Treaty of Nice 2001
 - CCP reforms 58–9
 - aspects unchanged 59–60, 75–6
 - CCP's scope, changes to 60–64
 - competences, nature and exercise of 72–4
 - critical appraisals of 74–6, 79–81
 - first use of 'shared competence' locution 62–3
 - intellectual property trade agreements 62, 66, 69–71, 75–6, 79–80
 - logic of parallelism 68–9
 - Protocol on allocation of EU and Member State competences in WTO, failure to conclude 52, 54, 60, 78–9
 - qualified majority voting on CCP measures, rules on 56, 58–9, 77–8
 - trade in services agreements 60–62, 63, 66, 69–71, 75, 79–80
 - IGC negotiations 50–54, 56–7, 74, 75, 76, 170
 - mixed agreements, recognized in 112
 - Nice Declaration on the future of the Union 75
- Treaty of Rome 1957 *see* EC Treaty
- Treaty on European Union *see* TEU (Treaty on European Union)
- Treaty on the Functioning of the European Union *see* TFEU (Treaty on the Functioning of the European Union)
- Treaty on the Non-Proliferation of Nuclear Weapons 1968 12
- TRIPS (Agreement on Trade-Related Aspects of Intellectual Property 1994) (WTO) 33
- Article 50: Court of Justice's jurisdiction to review *see Hermès International v FHT Marketing Choice BV (C-53/96)* (ECJ)
- built-in agenda 69–70
- CCP agreements under *see* intellectual property trade agreements
- disputes under, EU and Member States as joint parties 234–5, 236
 - see also* WTO dispute settlement system
- Member State laws in breach of 91 as mixed agreement 34–5, 148–9, 153, 245

- see also* Opinion 1/94
(Competence of the Community to Conclude International Agreements Concerning Services and the Protection of Intellectual Property, Re) (ECJ)
- see also* WTO (World Trade Organization)
- Turkey
 Association Agreement 1963 as a mixed agreement 115, 212, 244–5
 ‘Turkey model’ of Brexit 106
see also Brexit (UK’s withdrawal from EU)
- Uchitelle, Louis 294
- unanimous voting in Council *see* Council of the European Union, unanimous voting on CCP measures
- United Kingdom
 Brexit *see* Brexit (UK’s withdrawal from EU)
 capacity to aid EU trade negotiations 168, 176
 ECSC, relationship with 9–10
see also ECSC (European Coal and Steel Community)
 NGOs 204, 205–6
see also NGOs (non-governmental organizations)
- United Nations
 trade negotiations in UN fora 180
 UNCTAD (United Nations Conference on Trade and Development) 20
- United States
 EU trade relationship with 128
- Open Skies* cases 124–31
see also mixed agreements, Court of Justice rulings on Transatlantic Business Dialogue 205–6
 US criticisms of CCP 277
 in the WTO *see* WTO (World Trade Organization), EU–US relationship in fast-track procedure for concluding international trade agreements 70–71
 lobbying rules 201–2
see also civil society dialogue on trade agreements
 as unified trade actor, EU compared with 294–5
 unity of representation principle 78, 91, 153, 163–4, 165, 167, 178
Hermès International v FHT Marketing Choice BV (C-53/96) (ECJ) *see* *Hermès International v FHT Marketing Choice BV (C-53/96)* (ECJ)
 in WTO dispute settlement 234–6
see also WTO (World Trade Organization), EU and Member States, allocation of competences
 Uruguay Round of WTO negotiations (1986–93) 25, 26, 30–31, 186, 195, 217
 EU’s implementation of agreements 230–33
see also WTO (World Trade Organization)
- Vienna Convention on the Law of Treaties 1986

- Article 36 *bis* (proposed): treaties entered into by international organizations 159
- Article 46: treaties entered into in breach of competence 154–6
- direct effect, provisions lacking 160
- see also* mixed agreements, EU and Member State liabilities to third countries
- Villepin, Dominique de 192, 290
- Waelbroeck, Denis F. 243–4
- Weiler, Joseph H.H. 20, 113, 274–5, 292
- Witte, Bruno de 218
- WTO (World Trade Organization) 3
- Agreements
- GATS *see* GATS (General Agreement on Trade in Services 1994) (WTO)
- as mixed agreements 32, 34–5, 41, 148–9, 153, 154, 164
- see also* Opinion 1/94 (*Competence of the Community to Conclude International Agreements Concerning Services and the Protection of Intellectual Property, Re*) (ECJ)
- relationship with EU law 266–7
- TRIPS *see* TRIPS (Agreement on Trade-Related Aspects of Intellectual Property 1994) (WTO)
- WTO Agreement 1994 *see* WTO Agreement 1994 (establishing the WTO)
- civil society dialogue arrangements 200–202, 204, 206–8
- dispute settlement system *see* WTO dispute settlement system
- EU and Member States, allocation of competences 37–9, 46–7, 67
- Court of Justice's competence to interpret WTO law, implications for 31–2, 245–53
- see also* *Hermès International v FHT Marketing Choice BV (C-53/96)* (ECJ)
- draft Protocol on (proposed at Nice IGC) 52, 54, 60, 78–9
- duty of cooperation in WTO context 41–4, 72, 163–5, 167–8, 175–6, 250
- see also* duty of cooperation
- national ratifications of trade agreements, need for 86, 221, 223–4, 227–9, 297–8
- see also* CCP
- decision-making, efficiency *versus* accountability dilemma
- Opinion 1/94 *see* Opinion 1/94 (*Competence of the Community to Conclude International Agreements Concerning Services and the Protection of Intellectual Property, Re*) (ECJ)
- unity of representation
- principle *see* unity of representation principle

- WTO Agreements as mixed agreements 32, 34–5, 41, 148–9, 153, 154, 164
 - see also* Opinion 1/94 (*Competence of the Community to Conclude International Agreements Concerning Services and the Protection of Intellectual Property, Re*) (ECJ)
 - EU–US relationship in 22–3, 25, 39–41
 - Blair House Agreement 172, 186, 195
 - see also* agricultural trade agreements
 - EU's role in 24–5, 27–8, 109
 - European Commission's competences at WTO 28, 38, 178
 - see also* unity of representation principle
 - EU's significance as trading bloc 29–30, 177
 - history of 16, 28–9, 30–31
 - implementation of WTO law, EU's liability 153
 - negotiation of agreements
 - within WTO framework *see* trade agreements, negotiation of, WTO negotiations
 - relationship with US within WTO/GATT framework 22–3, 25, 39–41
 - voting rights 30, 177
- negotiations
- Doha Development Round (2001–2008) 83, 174, 186, 188–9, 191–3
 - Tokyo Round (1973–79) 22–3
 - Uruguay Round (1986–93) *see* Uruguay Round of WTO negotiations (1986–93)
 - purposes of 26–7
 - social safeguards regime proposal 208
 - UK's post-Brexit trade relations
 - with EU under WTO rules, option for 106
 - see also* Brexit (UK's withdrawal from EU)
 - WTO law not directly applicable in EU Member States 232–3, 270–72
 - see also* direct effect of international agreements entered into by EU
 - WTO Agreement 1994 (establishing the WTO) 29
 - allocation of EU and Member competences not specified 37, 235
 - civil society dialogue arrangements included 200
 - EU law relationship with 266–7 as a mixed agreement 32, 41, 154, 164
 - ratified by European Parliament 215–16
 - see also* WTO (World Trade Organization)
 - WTO dispute settlement system 27, 78, 233–4, 238, 272–3
 - complaints against Member States 92, 234–5
 - Court of Justice relationship with 274–5

- consistency of decision-making,
 - concerns about 274
- Court proceedings as alternative to dispute settlement 273–4
- dispute settlement as alternative to Court proceedings 251–2, 273
- invocability of Dispute Settlement Body decisions in Court (*Biret International v Council (C-93/02)*) 268–70
- EU as complainant 236
- EU as respondent 234–6
- unity of representation principle in 234–6
 - see also* unity of representation principle
 - see also* WTO (World Trade Organization)
- Yataganas, Xenophon A. 75
- Yusuf, Abdulqawi A. 248
- Zampini, Florence 114

