Index

access to remedies
  international law 15, 16, 17, 18, 28, 283
  see also cluster-litigation
administrative law 155
  international law and 29
Africa 20, 244
Amoco Cadiz case 117–18
Antarctic Treaty 233
arbitration
  Espoo Convention 235
  individuals/non-state entities 282
  International Centre for the Settlement of Investment Disputes (ICSID)
    Vivendi v Argentina 31–2
Irish sea, pollution of 21
Lac Lanoux 46–7, 277, 320
Trail Smelter 138, 175, 231, 320
  exhaustion of local remedies 25
  future cooperation 280, 285–6
  good neighbour principle 136, 237
  state liability 111, 159, 277
Argentina
  pulp mills see pulp mills dispute
    Vivendi case 31–2
Australia 228
  Nuclear Test (Australia v France) 277–8
Austria 210, 212
  CEZ case 145–6
banks
  Equator principles 12, 22–3
  ING 23
Belgium 26, 134, 210
  Meuse see Meuse river basin
  negotiating tactics 196
Bergkamp, L. 182
Bern Convention (1979) 29
  Bhopal case 118
Bier/Potassium Mines/MDPA case 197, 211, 320
ECJ
  forum for tort suit 15, 141, 186
  parallel disputes/litigation 24, 33–4
  tort suit
    applicable law 147
    applicable remedies 164–5
    duty of care 161–2
    forum 15, 141, 186
    individual victims as claimants 152
    international law and 31, 135–7
    regulatory compliance defence 27, 183
bilateral treaties
  Argentina/Uruguay see 1975 Statute of the River Uruguay under treaty interpretation
  bird clean-up costs 165, 166–9
  Birnie, P. 86
  Bodansky, D. 94, 102
  Borcea case 167–9
  branches in EU 142–3
  Bunker Convention 68, 77
  business contracts 235, 245–7
Canada 180–81, 228
  spaceship Cosmos 954 crash 111, 330
  Trail Smelter arbitration 138, 175, 231, 320
  exhaustion of local remedies 25
  future cooperation 280, 285–6
  good neighbour principle 136, 237
  state liability 111, 159, 277
  Trail Smelter II case 175–9, 187
  Center for Human Rights and the Environment 57
  CEZ case 145–6
  Chen, William P. 267
Index

Chernobyl nuclear accident 111, 134–5, 326
China 228, 335–6, 344–5, 346–7
criminal law 262, 269
atmospheric, water or radioactive pollution 263–6
solid waste import and export 266–7
trafficking in endangered species 267–8
domestic liability
international human rights law 29
economic rise 262
Songhua River see Songhua River, pollution of
vessel-source marine pollution 89–90, 96, 97, 104, 344
analysis of Chinese law 82–4
historical development 79–82
introduction 78–9
Tokyo MOU 100
CITES (Convention on International Trade in Endangered Species of Fauna and Flora) 266
citizen suits
European Union 179–81, 187
Trail Smelter II case 175–9, 187
civil law, national see contracts, business; tort law
Civil Liability Convention/Fund Convention 68, 75–6, 83, 89, 170, 296
cluster-litigation 346
access 14
domestic courts 14–18
human rights courts 18–20
interstate claims, fora for 21–2
non-judicial fora 22–3
conclusions 35
introduction 11–14
limited scope of
applicable law 27–30
applicable secondary rules of responsibility 30–32
options
complementary nature of 32–5
connections between 23–5
separate responsibility of parties 25–7
Coase, R. 130
coastal state jurisdiction 101, 102
EEZ 76, 80–81, 93–4, 95–6, 97, 98
evaluation 95–7
high seas 95
internal waters and ports 91–2
overview 90–91
territorial sea 92–3, 98
Cockerill case 162–3, 165, 183–4
COLREGS (Convention on the International Regulations for Preventing Collisions at Sea) 68, 86
Columbia 228
compensation 33, 138, 164, 327–8
bunkers 68, 77
detection costs 171–2
hazardous activities, ILC proposal on loss allocation and 17, 31, 107–10, 280–82, 287–8, 327, 328, 329
conclusion 125
home state of MNC, role of 120, 123–5
international law 110–12, 116–19, 121–3
MNCs, role of 116, 119–20
origin state, role of 113–16, 125
hazardous and noxious substances 68, 76–7, 327, 328
industrial accidents 328, 329
NGOs, claims by 18, 165–72
nuclear activity 133, 170, 327–8
oil pollution 328
China 89–90
Civil Liability Convention/Fund Convention 68, 75–6, 83, 89, 170
preventive measures, costs of 330
Art 6:184 Dutch Civil Code 165–7
general Dutch tort law 167–9
international conventions 169–71
pure economic loss 157–8, 166
scope of possible 328–30
detection costs 171–2
preventive measures, costs of 165–71, 330
pure economic loss 157–8, 166
space activities 328
contracts, business 235, 245–7
Convention on Biological Diversity 49, 230, 326
Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment 169
Convention on EIA in a Transboundary Context (Espoo Convention) 48, 232, 234, 235
Convention on the International Regulations for Preventing Collisions at Sea (COLREGs) 68, 86
Convention on Jurisdictional Immunities of States and their Property 16–17
China 80–81
environmental impact assessments 233
free navigation 103
historical development 68–71
jurisdiction 100–101
coastal state 90–97, 98, 101, 102
flag state 85–90, 100, 101, 102
port state 97–100, 101, 102, 103
maximum level of protection 52
notification of emergency 326
Convention on Long-Range Transboundary Air Pollution 110
Convention on Persistent Organic Pollutants 53
Convention on the Protection of the Marine Environment of the Baltic Sea Area 234–5
Convention on the Protection of the Marine Environment of the North-East Atlantic 216–17
Convention for the Protection of the Marine Environmental and the Coastal Region of the Mediterranean 234
Convention on the Protection and Use of Transboundary Watercourses and International Lakes 216, 233, 323–4
Convention on the Transboundary Effects of Industrial Accidents 234, 288, 319, 322–3, 329
2003 Protocol 319, 328, 329
cooperation, duty of 43
Corfu Channel case 237, 277, 320
Council of Europe 254–5
crimes, transboundary environmental
Chinese law 262, 269
atmospheric, water or radioactive pollution 263–6
solid waste import and export 266–7
trafficking in endangered species 267–8
European law 254, 257–8, 268–9
Council of Europe 254–5
European Union 255–8
Germany 258–62, 268
introduction 253–4
summary/conclusion 268–9
customary environmental law 320–21
EIAs as 225–6, 238–41
enforcement 242–7
implications 241–2
Cyprus 99
Czech Republic
CEZ case 145–6
damages see compensation
De la Fayette, L. 91
democratic control 209–10, 215, 221
Denmark 140
developing countries 232, 242, 244
loss allocation scheme proposed by ILC 109, 123–5
international law 121–3
scenario 116, 120
diplomatic protection 21–2, 34
exhaustion of local remedies 24–5
domestic courts 14–18, 23–4, 28, 30–32, 345
complementary nature of different options 32–5
contracts, business 235, 245–7
tort law see tort law
dualism vs monism 133–4
endangered species 267–8
environmental impact assessments (EIAs) 346
China 293, 303
Convention on Biological Diversity 49
Convention on EIA in a Transboundary Context 48, 232, 234, 235
customary environmental law 225–6, 238–40
conclusion 247
enforcement 242–7
implications of EIA as 241–2
proving EIA as 240–41
Draft Articles on the Prevention of Transboundary Harm from Hazardous Activities 49
obligation to conduct 229
customary environmental law 238–40
international environmental law principles 235–8
national legislation 229–30, 248
treaty 230–35, 249–50
overview and history of 226–8
pulp mills dispute 47–50, 56
UNEP Goals and Principles of Environmental Impact Assessment 48
World Bank 56
Equator principles 12, 22–3
Espoo Convention (EIA in a Transboundary Context) 48, 232, 234, 235
European Convention on Human Rights (ECHR)
Art 8: private life 19
Art 32: jurisdiction 29
individual victims, claims by 20
European Convention on State Immunity 157–8
European Court of Human Rights (ECtHR) 24
private life, right to 19
European Court of Justice (ECJ) criminal law 255
customary international law
Wood Pulp case 243
forum for civil claims

Bier 15, 141, 186
CEZ 145–6
Lloyd’s Register 143
Owusu 144, 145
Somafer 143
European Union 104, 130
actors in tort claims
public authorities: Environmental Liability Directive 154–6
applicable law for tort claims: Rome II update 149–51, 181, 182
arrest warrant, European 257–8
compensation fund 296
Council Regulation 44/2001 140–46, 180, 184–6
crimes, transboundary environmental 255–8
environmental impact assessments (EIAs) 228
Environmental Liability Directive (ELD) 154–6, 163, 179–80, 181, 182
forum for tort claims 15
Brussels Convention 139–40
Council Regulation 44/2001: Brussels I regime 140–46, 180
Meuse river basin 204, 206–7, 218, 219
Rhine river basin 212, 218–19
Integrated Pollution and Prevention Control Directive 194–5
oil tankers 91–2
overlapping legal regimes 220–21
recognition/enforcement of judgments 184–6
Rhine river 211, 213
Framework Water Directive 213, 218–19
Rome II update
applicable law for tort claims 149–51, 181, 182
standing 154
exclusive economic zone (EEZ) 76, 80–81, 93–4, 95–6, 97, 98
externalisation of harm 129–30
financial institutions 108–9
banks 23
Equator principles 12, 22–3
flag state jurisdiction 101, 102
enforcement 87–8, 100
evaluation 89–90
prescriptive 85–7
ship registration 88–9
forum non conveniens 23–4, 144–5, 245
Fradkov, Mikhail 274, 279
France 134, 228
Bier case see Bier/Potassium
Mines/MDPA case
Lac Lanoux arbitration 46–7, 277, 320
Meuse see Meuse river basin
Nuclear Test (Australia v France) 277–8
Rhine see Rhine river
Gabcikovo-Nagymaros case 55, 198, 343
Germany 134–5, 172, 228, 258–62
Meuse see Meuse river basin
Rhine see Rhine river
good neighbour principle 136, 236–7
Greenpeace 215
hazardous activities, ILC proposal on loss allocation and prevention of transboundary harm from 49, 54–5, 124, 278
hazardous substances/waste 327
Basel Convention 266–7, 328
Basel Liability Protocol 170, 328
China 266–7, 325
Hazardous and Noxious Substances Convention 68, 76–7, 170
United States 296
high seas 95
Hu Jintao 286
human rights 56
courts 18–20, 30, 32, 33
applicable law 28, 29–30
exhaustion of local remedies 24
life, right to 18–19
private life, right to 18–19
pulp mills dispute 12, 32
Hungary
Gabcikovo-Nagymaros case 55, 198, 343
Icelandic Fisheries case 55
indigenous peoples 20
Indonesia 228
industrial accidents
Convention 234, 288, 319, 322–3, 329
2003 Protocol 319, 328, 329
see also individual cases
industry funds 108–9
ING (Dutch bank) 23
injunctions 18, 153, 164–5, 169, 171, 346
cross-border 173–4
insurance 109
China 287–8, 294–5, 304–5
nuclear power plants 133
Inter-American Commission on Human Rights
Inuit Circumpolar Conference 20
pulp mills dispute 12, 32
Inter-American Convention on Human Rights 20, 56
Interlas case 161, 173–4
International Centre for the Settlement of Investment Disputes (ICSID)
Vivendi v Argentina 31–2
International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC) 68, 74–5
International Convention for the Prevention of Pollution from Ships (MARPOL) 67–8, 71–3, 86, 89, 91, 98, 103
International Convention for the Prevention of Pollution of the Sea by Oil (OILPOL) 71
International Convention for the Safety of Life at Sea (SOLAS) 68, 73, 86, 89, 91, 98
International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention) 68

International Court of Justice 21, 24, 33, 123–4, 199, 245, 319

Argentina v Uruguay see pulp mills dispute

Corfu Channel 237, 277, 320

Gabčíkovo-Nagymaros 55, 198, 343

Icelandic Fisheries 55

Nuclear Test (Australia v France) 277–8

nuclear weapons 278

Oil Platforms 53–4

International Justice, Permanent Court of 198, 206, 319

International Labour Organization (ILO) 117

International Law Association (ILA) 30, 195, 323

International Law Commission (ILC)

Draft Articles on Diplomatic Protection 24–5

Draft Articles on the Prevention of Transboundary Harm from Hazardous Activities 49, 54–5, 124, 278

Draft Articles on Responsibility of States for Internationally Wrongful Acts 321–3


conclusion 125

home state of MNC, role of 120, 123–5

international law 110–12, 116–19, 121–3

MNCs, role of 116, 119–20

origin state, role of 113–16, 125

International Maritime Organization (IMO) 71, 86, 92, 98, 101, 102

MARPOL 67–8, 71–3, 86, 89, 91, 98, 103

International Tribunal for the Law of the Sea 49–50

interstate claims 33–5, 138

applicable law 28, 30

exhaustion of local remedies 24–5

fora for 21–2

state responsibility see state responsibility

see also arbitration; International Court of Justice; International Justice, Permanent Court of Intervention Convention and Protocol 67, 69–70

Iran

Oil Platforms case 53–4

Ireland 21

Israel 225–6, 228

Italy 228

Seveso case 118, 329

Japan 79, 262, 263, 296

Jordan 330

judicial review 179–80

Kazakhstan 299

Kenya 244

Kiss, A. 286

Knox, J.H. 138

Koh, H.H. 13

Korea 262, 263

Kuwait 330

Lac Lanoux arbitration 46–7, 277, 320

liability law, national see tort law

Liberia 85–6, 99

Liechtenstein 210

Lloyd’s Register case 143

Load Lines Convention 86, 98

Lugano Convention 169, 329

Luxembourg 210, 211, 219

Meuse see Meuse river basin

marine pollution

Civil Liability Convention/Fund Convention 68, 75–6, 83, 89, 170, 296

shipping see vessel-source marine pollution

market-based regulatory tools 201
<table>
<thead>
<tr>
<th>Term</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>MARPOL 67–8, 71–3, 86, 89, 91, 98, 103</td>
<td>355</td>
</tr>
<tr>
<td>Marshall Islands</td>
<td>111</td>
</tr>
<tr>
<td><em>MDPA</em> case</td>
<td>see <em>Bier</em>/<em>Potassium Mines</em>/<em>MDPA</em> case</td>
</tr>
<tr>
<td>MERCOSUR</td>
<td>57, 59–60</td>
</tr>
<tr>
<td>Meuse river basin</td>
<td>196, 197–8, 200, 203, 346</td>
</tr>
<tr>
<td>bilateral treaty</td>
<td>205–6</td>
</tr>
<tr>
<td><em>Cockerill</em> case</td>
<td>162–3, 165, 183–4</td>
</tr>
<tr>
<td>Framework Water Directive</td>
<td>204, 206–7, 218, 219</td>
</tr>
<tr>
<td>International Meuse Commission</td>
<td>193, 203, 206–8</td>
</tr>
<tr>
<td>conclusion</td>
<td>208–10</td>
</tr>
<tr>
<td>dispute settlement</td>
<td>208</td>
</tr>
<tr>
<td>participation</td>
<td>208</td>
</tr>
<tr>
<td>Treaty</td>
<td>203–6</td>
</tr>
<tr>
<td><strong>monism v dualism</strong></td>
<td>133–4</td>
</tr>
<tr>
<td>Montenegro</td>
<td>254</td>
</tr>
<tr>
<td>multinational corporations</td>
<td></td>
</tr>
<tr>
<td>European Union</td>
<td>142–3</td>
</tr>
<tr>
<td>branches</td>
<td>142–3</td>
</tr>
<tr>
<td>hazardous activities</td>
<td>116–19, 329</td>
</tr>
<tr>
<td>home state liability</td>
<td>120–25</td>
</tr>
<tr>
<td>ILC draft Principles on loss allocation</td>
<td>119–20, 123–5</td>
</tr>
<tr>
<td>OECD</td>
<td>12, 22, 32–3, 57, 117, 121</td>
</tr>
<tr>
<td>specific instance reviews</td>
<td>35</td>
</tr>
<tr>
<td>multiple procedures</td>
<td>see cluster-litigation</td>
</tr>
<tr>
<td>national tort law</td>
<td>see tort law negligence 158–9, 160–63</td>
</tr>
<tr>
<td>Netherlands</td>
<td>29, 31, 203</td>
</tr>
<tr>
<td>Meuse see Meuse river basin</td>
<td>196, 203</td>
</tr>
<tr>
<td>negotiating tactics</td>
<td>196, 203</td>
</tr>
<tr>
<td>Rhine see Rhine river</td>
<td>196, 203</td>
</tr>
<tr>
<td>tort law</td>
<td>131–2, 140, 187</td>
</tr>
<tr>
<td>applicable law</td>
<td>146–9</td>
</tr>
<tr>
<td>applicable remedies</td>
<td>164–9, 170–74</td>
</tr>
<tr>
<td><em>Bier</em> see <em>Bier</em>/<em>Potassium Mines</em>/<em>MDPA</em> case</td>
<td></td>
</tr>
<tr>
<td>Borcea case</td>
<td>167–9</td>
</tr>
<tr>
<td><em>Cockerill</em> case</td>
<td>162–3, 165, 183–4</td>
</tr>
<tr>
<td>foreign law, breach of</td>
<td>161 forum 141–2, 144</td>
</tr>
<tr>
<td><strong>Interlas</strong> case</td>
<td>161, 173–4</td>
</tr>
<tr>
<td>international law and</td>
<td>134, 135–7</td>
</tr>
<tr>
<td>NGOs as claimants</td>
<td>152–4</td>
</tr>
<tr>
<td>public authorities as defendants</td>
<td>157</td>
</tr>
<tr>
<td>recognition and enforcement</td>
<td>184–6</td>
</tr>
<tr>
<td>regulatory compliance defence</td>
<td>27, 183–4</td>
</tr>
<tr>
<td><em>Sopar</em> see <em>Sopar</em> case</td>
<td></td>
</tr>
<tr>
<td>strict liability</td>
<td>159–60</td>
</tr>
<tr>
<td>wrongfulness</td>
<td>159–63</td>
</tr>
<tr>
<td>NGOs (non-governmental organizations)</td>
<td>215</td>
</tr>
<tr>
<td>arbitration</td>
<td>282</td>
</tr>
<tr>
<td>civil law claims by</td>
<td>17–18, 152–4, 181, 185, 197</td>
</tr>
<tr>
<td>damages</td>
<td>18, 165–72</td>
</tr>
<tr>
<td>injunctions</td>
<td>18, 153, 164–5, 169</td>
</tr>
<tr>
<td>Meuse river basin</td>
<td>208</td>
</tr>
<tr>
<td>pulp mills in Uruguay</td>
<td>12, 23</td>
</tr>
<tr>
<td>Nollkaemper, A.</td>
<td>100, 136, 200</td>
</tr>
<tr>
<td>non-judicial fora</td>
<td>22–3</td>
</tr>
<tr>
<td>Norway</td>
<td>255</td>
</tr>
<tr>
<td>nuclear energy</td>
<td>133, 170, 327–8</td>
</tr>
<tr>
<td>Chernobyl accident</td>
<td>111, 134–5, 326</td>
</tr>
<tr>
<td>jurisdiction</td>
<td>328</td>
</tr>
<tr>
<td>European Union</td>
<td>145–6</td>
</tr>
<tr>
<td>nuclear weapons</td>
<td>278, 327</td>
</tr>
<tr>
<td><em>Nuclear Test (Australia v France)</em> case</td>
<td>277–8</td>
</tr>
<tr>
<td>OECD Guidelines for Multinational Enterprises</td>
<td>12, 22, 32–3, 57, 117, 121</td>
</tr>
<tr>
<td>specific instance reviews</td>
<td>35</td>
</tr>
<tr>
<td>Office of Compliance Advisor/Ombudsman (CAO)</td>
<td>12, 22</td>
</tr>
<tr>
<td><em>Oil Platforms</em> case</td>
<td>53–4</td>
</tr>
<tr>
<td>oil pollution</td>
<td>328</td>
</tr>
<tr>
<td>Civil Liability Convention/Fund Convention</td>
<td>68, 75–6, 83, 89, 170, 296</td>
</tr>
<tr>
<td>MARPOL</td>
<td>67–8, 71–3, 86, 89, 91, 98, 103</td>
</tr>
<tr>
<td>OILPOL (International Convention for the Prevention of Pollution of the Sea by Oil)</td>
<td>71</td>
</tr>
</tbody>
</table>
OPRC (International Convention on Oil Pollution Preparedness, Response and Co-operation) 68, 74–5
see also vessel-source marine pollution
Owusu case 144, 145

Pakistan 228
Pakootas/Trail Smelter II case 175–9, 187
Panama 85–6, 99
Paris Convention on the Protection of Marine Environment of the North-East Atlantic 216–17
Philippines 228
Polak, M.V. 174
polluter pays principle 204, 216, 244, 324
port state jurisdiction 97–100, 101, 102, 103
Potassium Mines case see Bier/Potassium Mines/MDPA case
precautionary principle 204, 212, 216, 236, 244, 324
China 292, 293, 302–3
Protection and Indemnity (P&I) Clubs 104
public authorities and tort law
claimants 154–6
defendants 157–8
pulp mills dispute 11–12, 23, 32–3, 335
1975 Statute of the River Uruguay
21, 39–43
adequate information and EIA 47–50
cooperation and consultation 43–7
substantive pollution standards 50–54
utilisation, optimum and rational 54–5
background 39–41
conclusion 60–61
introduction 38–9
jurisdictional basis: ICJ 21, 40, 58–9
multi-faceted nature 56–60
Putin, Vladimir 286
regulatory compliance defence 26–7, 163, 180, 181–4
remedies 33
compensation see compensation
injunctions 18, 153, 164–5, 169, 171, 346
cross-border 173–4
specific performance 246
US citizen suits: Trail Smelter II 175–9, 187
availability in EU 179–81, 187
res judicata, principle of 59–60
Rhine river 200, 346
chloride pollution of see Bier/Potassium Mines/MDPA case
Framework Water Directive 213, 218–19
International Commission 193, 201–2
conclusion 214–15
introduction 210–11
tasks and procedures of 212–14
Treaty 211–12
Sandoz incident 326, 329
river basins, joint governance of
concept of water management
holistic approach 193–5
non-binding rules 201–3
regime/managerial approach 198–200
standard setting 200–201
victim state, approach of 195–8
conclusion 221–3
international level 215–16
Helsinki Convention 216
overlapping legal regimes 220–21
Paris Convention 216–17
introduction 192–3
Meuse Commission 203, 206–8
conclusion 208–10
dispute settlement 208
participation 208
Treaty 203–6
overlapping legal regimes 220–21
### Index

| Rhine Commission | 193, 201–2 |
| Conclusion | 214–15 |
| Introduction | 210–11 |
| Tasks and procedures of | 212–14 |
| Treaty | 211–12 |
| Romano, C.P.R. | 197–8 |
| Rotterdam Port | 196–7 |
| Russia | 262 |
| Amur River | see Songhua River, pollution of |
| See also | Soviet Union |

| Saudi Arabia | 330 |
| Seveso case | 118, 329 |
| Shipping | pollution see vessel-source marine pollution |
| Sic utere tuo ut alienum non laedas | 114, 237, 276 |
| Slovakia | |
| Gabčíkovo–Nagymaros case | 55, 198, 343 |
| SOLAS (International Convention for the Safety of Life at Sea) | 68, 73, 86, 89, 91, 98 |
| Somafer case | 143 |
| Songhua River, pollution of | 13, 17 |
| Actions taken by China | 289–90, 315–17 |
| Criminal law | 265–6 |
| Environmental legislation, problems with | 300–301 |
| Compensation fund | 294–6 |
| Counter-emergency system | 296–8 |
| Dispute settlement | 298–300 |
| Guiding ideology | 292–4 |
| Implementation | 293–4 |
| Insurance, liability | 294–5 |
| Polluters, protection of | 295 |
| Four kinds of potential disputes between governments | 276–81 |
| Russian Government v PetroChina | 281–2 |
| Russian victims v Chinese Government | 282–3 |
| Russian victims v PetroChina | 283–5 |
| International legal issues | 317, 345 |
| Applicable international principles and rules | 318–21 |
| Conclusion | 330–31 |
| Liability | 327–30 |
| Nature of incident | 317–18 |
| State responsibility | 321–7 |
| Introduction | 273–6, 291–2, 315 |
| Recommendations | |
| Compensation fund | 287–8, 305–6 |
| Counter-emergency system | 287, 306 |
| Dispute settlement | 307–8 |
| Equal treatment to non-citizens | 288 |
| Guiding ideology | 301–4 |
| Insurance, liability | 287–8, 304–5 |
| International cooperation with China | 285–7 |
| Revision of law | 308–13 |
| Sopar case | 174 |
| Applicable law | 147–8 |
| Enforcement | 185 |
| Foreign permit | 183 |
| Injunction | 165, 173 |
| Jurisdiction | 142 |
| Plaintiff | 152, 181 |
| Violation of regulatory norm | 160–61 |
| South-East Asian Nations, Association of (ASEAN) | 233 |
| Sovereignty, state | 46–7, 240 |
| Harmon Doctrine | 278, 320 |
| Immunity | 16–17, 134–5, 157–8 |
| See also | State responsibility |
| Soviet Union | |
| Chernobyl nuclear accident | 111, 134–5, 326 |
| Spaceship Cosmos 954 crash | 111, 330 |
| See also | Russia |
| Space activities | 110, 327, 328 |
| Cosmos 954 crash | 111, 330 |
| Spain | |
| Lac Lanoux arbitration | 46–7, 277 |
| Specific performance | 246 |
| Sri Lanka | 228 |
| Stabilisation clauses | 51 |
| Standard setting, difficulties of | 200–201 |
| Standing see | actors under tort law |
state responsibility
international law
home state of MNC 121–3
origin state 110–12
loss allocation scheme proposed by ILC
home state of MNC 123–5
origin state 109, 113–16
Songhua River incident 276–81, 321–7
see also sovereignty, state
STCW Convention (International Convention on Standards of Training, Certification and Watchkeeping for Seafarers) 68, 74, 86, 98
Stockholm Declaration (1972) 111–12, 231, 244, 277, 321
strict liability 112, 158–60, 328
loss allocation scheme proposed by ILC 108, 113
Netherlands: dangerous substances 159–60, 165–7
nuclear activity 327
space activities 110, 328
Switzerland
Rhine see Rhine river
Sandoz incident 326, 329
Seses case 118, 329
Taiwan 263
territorial sea 92–3, 98
Thailand 228
Tonnage Convention 86, 98
tort law
actors 16–17
individual victims as claimants 151–2
NGOs as claimants 17–18, 152–4, 181, 185, 197
public authorities as claimants and ELD 154–6
public authorities as defendants 157–8
applicable law 28
Dutch law 146–9
EU law: Rome II update 149–51, 181, 182
applicable remedies 164–5
citizen suits: Trail Smelter II case 175–9, 187
cross-border injunctions 173–4
detection costs 171–2
environmental liability directive 179–80, 181
EU: choice of law 180–81
preventive measures, costs of: Art 6:184 Dutch Civil Code 165–7
preventive measures, costs of: general Dutch tort law 167–9
preventive measures, costs of: international conventions 169–71
causation 131
conclusions 186–7
defences
regulatory compliance 26–7, 163, 180, 181–4
State of the Art 163, 180
forum 14–17, 23–4
Brussels Convention 139–40
Council Regulation 44/2001:
Brussels I regime 15, 140–46, 180
importance 138–9
land 145–6
international law and 26, 28–9, 30–32, 137–8
MDPA case 135–7
monism v dualism 133–4
The Chernobyl case: Bonn court 134–5
introduction 129–32
recognition and enforcement 184–6
Songhua River incident
Russian victims v PetroChina 283–5
wrongfulness
Bier case 161–2
Cockerill case 162–3
environmental liability directive 163
foreign law, breach of 161
regulatory norm or duty of care 160–61
strict liability or negligence 158–60
**Index**

*Trail Smelter* arbitration 138, 175, 231, 320
exhaustion of local remedies 25
future cooperation 280, 285–6
good neighbour principle 136, 237
state liability 111, 277
serious consequence 159
*Trail Smelter II* case 175–9, 187
transnational corporations see multinational corporations
treaty interpretation
1975 Statute of the River Uruguay 41–3
adequate information and EIA 47–50
conclusion 60–61
cooperation and consultation 43–7
substantive pollution standards 50–54
utilisation, optimum and rational 54–5
evolutionary approach 42–3
Vienna Convention 41–2, 49, 50, 53–4, 61
uncertainty and environmental policies 201
UNCLOS see Convention on the Law of the Sea
United Kingdom 21
forum non conveniens 144–5
United Nations 253
Compensation Commission for 1991 Gulf War 329–30
Draft Code of Conduct on Transnational Corporations 117
Environment Programme 325, 326
Goals and Principles of Environmental Impact Assessment 48
Stockholm Declaration (1972) 111–12, 231, 244, 277, 321
United States 130, 296
Alien Tort Statute 14
citizen suits
*Trail Smelter II* case 175–9, 187
Clean Water Act 202
customary international law 244
domestic liability
international human rights law 29
Great Lakes 202
NEPA 1969 227–8, 229–30
*Oil Platforms* case 53–4
oil tankers 91, 96
*Trail Smelter* arbitration 138, 175, 231, 320
exhaustion of local remedies 25
future cooperation 280, 285–6
good neighbour principle 136, 237
state liability 111, 159, 277
*Trail Smelter II* case 175–9, 187
Uruguay
pulp mills see pulp mills dispute
USSR
Chernobyl nuclear accident 111, 134–5, 326
spaceship Cosmos 954 crash 111, 330
see also Russia
vessel-source marine pollution 336
China 89–90, 96, 97, 100, 104
analysis of Chinese law 82–4
historical development 79–82
introduction 78–9
ship registration 88–9
competences to remedy
coastal state jurisdiction 90–97, 98, 101, 102
comparative summary 100–101
flag state jurisdiction 85–90, 100, 101, 102
overview 84–5
port state jurisdiction 97–100, 101, 103
conclusion 101–4
evaluation 77–8
historical development
Chinese law 79–82
liability 75–7
prevention 71–4
response: OPRC 74–5
UNCLOS 68–71
introduction 64–6
overview: current legal framework
66–8, 69
Wen Jiabao 274, 279
Wood Pulp case 243

World Bank 237
pulp mills dispute 56
World Charter for Nature 233
World Trade Organization (WTO) 58
World Wildlife Fund 194
Zou, K. 80