## Index

Abbott, K. 5, 32, 47, 64, 81, 120–21, 187, 228, 270, 345, 364  
Abdelgawad, E. 255, 256  
access speeds, Internet governance 420  
actor involvement  
compliance with international law 37, 38, 39–41  
international environmental governance 446–50, 454–5, 470–71, 480  
non-state actors and human rights see non-state actors and human rights  
ad bellum justification for cyber war 396–406  
contemporary 406–13  
see also cyber conflict, emerging international legal architecture  
Adler, M. 7  
avocacy coalitions, international environmental governance 449–50, 463  
Africa  
Bamako Convention 195, 200–201  
Kimberley Process 346, 349, 351, 356, 357, 358–9, 361, 362  
air and water quality 465–6, 468–9, 484  
Convention on Long-Range Transboundary Air Pollution (LRTAP) 459, 460  
see also international environmental governance  
al Qaeda, responses to use of terroristic power by 368–77  
see also terrorism  
Alschner, W. 301  
Alston, P. 336, 373–4  
Alter, K. 38–9, 47, 121, 186, 190, 200, 238, 268  
Alvarez-Jimenez, A. 282  
amicus curiae submissions, WTO dispute settlement 281, 297, 298  
Amnesty International and naming and shaming strategies 355–6  
Anderson, S. 449  
Antarctica and the Southern Ocean 445–6, 466–7, 484  
anti-bribery issues 73, 74, 75  
Anti-Counterfeiting Trade Agreement (ACTA) 127, 321–4, 325  
Antolin-Jenkins, V. 401  
Appel, B. 41  
armed conflict, cyber conflict  
see also cyber conflict, emerging international legal architecture; war  
Arnardóttir, A. 261  
Augusto, J. 285  
Auld, G. 358  
Aust, A. 85, 106, 461  
Australia  
cigarette packaging 295, 330–31  
treaty interpretation and application 161–2  
Axelrod, R. 191, 465  
Ayoob, E. 322  
Bailey, M. 120, 147  
Balshi, S. 132, 136  
Ban, C. 255  
Banks, W. 391–417  
Baram, M. 481  
Barkham, J. 400  
Bartley, T. 344, 347, 348, 351, 352, 359–60, 361  
Barton, J. 76  
Basel Convention 195, 199, 200–201, 221–2  
Bassiouni, M. 367  
Bassioni, M. 367  
Beck, N. 52  
Becker, E. 294  
Belgium, ratified treaties, status of 161
558  Research handbook on the politics of international law

Bell, S. 40
Benedick, R. 197
Bennett, B. 377
Bennie, L. 352
Bennoune, K. 379
Benvenisti, E. 36, 37, 82, 89, 146, 159–60, 164, 178, 180, 187, 190, 196, 200, 382
Berliner, D. 352, 357, 358
Berman, P. 179, 184, 185
Bernasconi-Osterwalder, N. 478
Bernauer, T. 51, 293, 303, 304
Bernhagen, P. 352, 357
Best, J. 364
Betlem, G. 161
Betsill, M. 450
Bhagwati, J. 313
Biermann, F. 181, 448–9, 485
Bilchitz, D. 348
Bin Laden, O. 366
Binder, C. 109
biosafety, Cartagena Protocol on Biosafety 192, 195, 300
Blakesley, C. 367
Blank, L. 382, 383
Blum, G. 75
Bob, C. 341
Bodansky, D. 60, 475
Bond, P. 318
Bonell, M. 102
Bookchin, M. 447
Borchard, E. 171
Bossuyt, M. 264
Botschera, L. 32
Botha, N. 109, 133
bound rationality 210, 215
Bourrier, T. 481
Bowcott, O. 264
Bown, C. 289, 302, 306
Boyle, A. 478
Brack, D. 199
Bradley, C. 66, 72
Bradshaw, S. 429, 432, 439
Bradsher, K. 303
Brady, H. 52
Brathwaite, J. 189
Brazil
Internet governance 430–31, 441

legislative approval of treaties 132
Brenner, J. 397, 414
Brewster, R. 55–78, 156
Bronckers, P. 67
Brown, D. 372
Brown, H. 346, 349, 350, 357
Brownsword, R. 483
Brysk, A. 5, 38
Buchan, R. 401–2
Bueno de Mesquita, B. 119
Buergenthal, T. 159, 172
Burgoon, B. 352–3
Burley, A. 64, 66
Burri, M. 430, 434
Burris, S. 313
Busch, M. 177, 180, 186, 189
businesses and human rights 337–8, 349–53
Büthe, T. 217
Cafaggi, F. 347
Çali, B. 254
Cameron, L. 126
Canada, Charter of Rights and Freedoms 104–5
Cardenas, S. 34, 38–9
Carnegie, P. 45
Carrubba, C. 36
Cartagena Protocol on Biosafety 192, 195, 300
Cartland, M. 275, 289
Cass, M. 450
Cassese, A. 82, 166
Cassin, R. 74
catalytic events, international environmental governance 483–4
censorship, Internet governance 419–20, 421–7
Cerf, V. 435
Chambers, R. 348
Chander, A. 418–42
Charnovitz, S. 302, 336, 478, 485
Chaouqui, S. 302
Chayes, A. 337, 84, 72, 208, 342
Checkel, J. 33
Cheng, T. 307, 311, 315, 319, 334
Chertow, M. 452
Chesney, R. 411, 412
children
child abduction cases 96, 97–8, 101
corporal punishment of an underage pupil 242
Chilton, A. 138
China
greenhouse gas emissions control 469
Internet monitoring 419, 421, 436
WTO entry, effects of 302–3
Chinkin, C. 463
Choi, S. 74
Christoffersen, J. 259, 260
Christy, F. 449
Cichowski, R. 254
Cities for Climate Protection campaign 469
civil society protests, WTO dispute settlement 296, 297
see also non-governmental organizations (NGOs)
Clapp, J. 195, 201, 451
Clark, B. 127
Clemens, W. 451
climate change 196–7, 468–9, 481
UN Framework Convention on Climate Change (UNFCCC) 60, 196, 459
see also international environmental governance
Clinton, W. 137–8, 318, 370–71, 427, 428
Coase, R. 454
Cohen, C. 343
Cohn, M. 367
Colares, J. 289
Cole, D. 388
Collier, S. 36, 45
collective action problems, WTO dispute settlement 294–5
Collier, D. 52
Collier, E. 128
Colson, D. 137
Common but Differentiated Responsibilities (CBDR),
international environmental governance 475
Commoner, B. 452
companies, human rights and participation factors 337–8, 349–53
comparative law perspectives, international law in domestic courts 85–7
competition
competitive regime creation 186–7, 190, 191–2, 194–5
and Internet governance 435
law enforcement 74
complementarity principle 45–6
compliance with international law 27–54
causal process observations 52
and civil society actors 37, 38
complementarity principle 45–6
day-to-day demands that support international courts’ routine work 48
definition 29–30
discrete obligations handed down by international courts 48, 52
domestic actors 34–9
and domestic politics 34–5, 37–8
effects of 35
endogeneity concerns 50
enforcement mechanisms 43–4, 46–51
erga omnes obligations handed down by international courts 48
evaluation 51–2
executives’ role 36–7
future research 50
and human rights 33, 34, 37–8, 39, 43–4, 45–6, 50
implementation stage 44–6
international actors 39–41
international courts 47–9
judicial institutions 36–7
and laws of war 39
managerialists 34, 45
monitoring 40–41
monitoring, European Court of Human Rights 263–4
neoliberal institutionalism 30–33, 34, 35
normative pressure effects 50
‘peer pressure’ through compliance committees, international environmental governance 479–80
promotion, international environmental governance 460 reasons for 30–35
reciprocity principle and institutional design 31–2
rulemaking stage 42–4
screening out of non-compliant states 43–4
social constructivism 33–4, 35
and social learning 41
soft law and soft enforcement 49–51
stages of governance 41–6
subsidiarity principle 45
and torture 39
see also non-compliance
Conant, L. 47
Connors, W. 441
Conrad, C. 39
constitution
constitutional courts and domestic incorporation of international law 157–8
constitutional provisions, treaty law and national legislative politics 123, 125–33
constitutional rules, domestic incorporation of international law 169–71
global constitutionalism and legal pluralism 182–5
human rights and constitutional interpretation 108–10, 111–12
Conti, J. 286
Convention Against Torture 354
see also torture
Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) 199
see also wildlife protection regulation

Convention on Long-Range Transboundary Air Pollution (LRTAP) 459, 460
see also air and water quality
Convention on the Protection of the Stratospheric Ozone layer 445–6, 459
Cooley, A. 190, 341
cooperation
collaborative implementation and power, global financial and environmental standards 208, 209–15
sovereignty and cooperation, international environmental governance 472–3, 483
Cooter, R. 75
Cope, K. 37, 116–48, 165
Copithorne, M. 123
copyright piracy 310, 322–3, 324–5
see also international intellectual property law, politics of
Corell, E. 450
Corn, G. and G. 384
Costa, F. 285
courts
constitutional 157–8
and decision-making 66–7, 88, 101
discrete obligations handed down by international courts 48, 52
international 47–9
see also individual courts; judiciary
Couts, A. 424
Crowley, M. 306
Crutzen, P. 444
Cumming-Bruce, N. 379
customary international law 11, 112–13, 157–8, 162, 163, 173
cyber conflict 398–9, 406
Cutler, A. 93
cyber conflict, emerging international legal architecture 391–417
active defense technique by victim State 398–9, 400
ad bellum justification for cyber war 396–406
ad bellum justification for cyber war, contemporary 406–13
Index

anticipatory self-defense 404
consequences of the attack, assessment issues 397–8
customary law and active defense technique by victim State 398–9, 406
cyber attacks delivering consequences resembling those of conventional armed attacks 401
cyber attacks to coerce a victim State into a change in policy 401–2
cyber intrusion as ‘armed attack’ 394–5, 396, 402–3, 404, 407, 408–10
future evolution 411–12, 416–17
incoming intrusions, identification concerns 394
intelligence collection and cyber-exploitation 411
just war theory 412
natural law reasoning 412
non-State terrorist groups, establishing State liability 402, 405, 411
non-State terrorist groups, regardless of role of a State 403–4, 409
non-State terrorist groups, relocation measures 399
‘pin-prick’ theory and timely attribution 405
September 11 effects 403–4
Stuxnet attack on Iran’s nuclear enrichment program 392–3, 415
Tallinn Manual 393–4, 395, 400
timely attribution, and regulation of cyber wars 397, 399–400, 405, 410–11
UN Charter and laws of armed conflict (LOAC), right of self-defense 402–6, 408–10, 413, 416–17
UN International Law Commission’s Draft Articles on State Responsibility for Internationally Wrongful Acts 398
US national security and international law bases 406–8, 410, 412–13
‘use of force’ as interpreted at international law 399, 400, 404, 407, 410
see also Internet governance; war

Dahl, R. 79
Dai, X. 38
Daley, S. 372
Daly, H. 450
Damrosch, L. 171
Danner, M. 367
Dauvergne, P. 451
Davey, W. 283
Davis, C. 190, 289, 296
Davis, D. 40, 261, 355
Davis, K. 74
De Preux, J. 378
De Sadeleer, N. 474
Deakin, S. 297
Dean, J. 367
Dearden, L. 480
decision-making 65–71
agencies 70
by subjects of legal rules (courts), international law in domestic courts 88, 101
courts 66–7, 88, 101
and geopolitical constraints 240–41
interaction between international law and politics 7–9
international environmental governance 476–7
international law in domestic courts 101
non-state actors and human rights 353–61
reverse consensus decisions, WTO dispute settlement 273, 282–3
Deeks, A. 373
Deitelhoff, N. 343
democracy
democratization of countries with ongoing internal conflicts 253–4
...in warlike conditions, problems with promotion of 262–3 'democratic peace hypothesis', international environmental governance 480–81 DeNardis, L. 421, 423, 438, 439, 440 DeSombre, E. 192, 471 detention, secret detention see under 'war' on terror and international law Deva, S. 348, 349 developing countries international environmental governance 447, 481–2 international intellectual property law 314–15 Internet governance 430–31, 433 and multinational corporations, state capacity issues 72 Diamond, J. 446 Diamond, R. 101 digital communication challenges, international intellectual property law 322–5 see also Internet headings Dingwerth, K. 347, 357 Dinstein, Y. 373, 374 Dinwoodie, G. 316, 320, 322 dispute resolution international political conflicts 97–8 Internet governance 441–2 mechanisms, and domestic incorporation of international law 164 system 64 WTO see WTO dispute settlement, law and politics of domestic actors, compliance with international law 34–9 domestic courts see international law in domestic courts domestic executive officials with reciprocity interests, WTO dispute settlement 303–4 domestic incorporation of international law 149–75 allocation of responsibilities within domestic legal system 157–8 alternative procedures to enter into binding international agreements 154–5 avoidance doctrines, use of 163 civil law legal tradition 168–9 common law legal tradition 167–9 consistent interpretation principle 161, 163 constitutional courts 157–8 constitutional rules 169–71 constitutional rules, and status of international agreements 170–71 customary international law, status of 157–8, 162, 163, 173 dispute resolution mechanisms 164 domestic legal systems 151–65 'dualist' systems and treaty interpretation 161–2 formal instrument of ratification and legislative vote 152–3 formal review to assess treaties' constitutionality prior to ratification 157 governance systems 163–5 hierarchical status of treaties in monist systems 172–3 identification of treaties requiring legislative action 153–4 judicial independence indicators 166 legal traditions 167–9 legalization and judicialization, relationship between 164 legislative role variations 155–6 monist and dualist systems, distinction between 171–4 political science research 165–74 public rulemaking and normative change 152–8 ratified treaties, status of 160–61, 172 referendum use 156–7 self-execution doctrine 159–60 sensitive treaties, special rules concerning the ratification 156–7 'simplified form' agreements 155 sovereignty protection in dualist systems 173–4
status of ratified treaties and constraints on treaty-making 164

treaty interpretation and application 158–61
treaty withdrawal ability 156
veto points and treaty ratification 153

see also state involvement; treaty law and national legislative politics

Dothan, S. 237–8, 263, 264
Downs, A. 145
Downs, G. 8, 36, 44, 55, 58, 77, 146, 178, 180, 187, 190, 196, 200, 208
Drahos, P. 189
Drake, A. 382, 383
Drape, J. 420
Dreyfuss, R. 316, 320, 322, 323, 329, 331
Drezner, D. 187, 196, 455–6
drone use, ‘war’ on terror 381–5
dualism
treaty interpretation 161–2
Dugard, J. 106
Dunoff, J. 1, 117, 120, 121, 182, 183, 296, 412
Dupont, C. 193
Dupuy, P. 470
Dutton, W. 433

Eckhardt, J. 273
Eckholm, E. 419
Eckstein, H. 10, 307

economic factors
distributional consequences, treaty law and national legislative politics 142
international environmental governance 454–5, 470–71, 480
Internet governance 423, 424
issue-linkage bargaining, WTO dispute settlement 270–71
Edwards, L. 471
Edwards, M. 449
Edwards, P. 448
Eeckhout, P. 67

effectiveness of international law 57–8, 64
effectiveness of international law and stages of governance 55–78
agencies and decision-making 70
anti-bribery issues 73, 74, 75
change effectiveness measurement 57–8, 64
competition law enforcement 74
courts and decision-making 66–7
decision-making stage 65–71
definitions 56–61
dispute resolution system 64
environmental treaties 68, 69, 70, 77
evaluation issues 74–5
flexibility concept 63–5
implementation process 71–5
institutional design features and games 62–3
intellectual property abuse 73–4
international trade law enforcement 67
legal regime changes 75–7
legislators and executives and decision-making 67–9, 71
membership limits 77
monopoly power abuse 73–4
multilateral trade negotiations and substantive incrementalism 76–7
multinational corporations and developing states, state capacity issues 72
optimal effectiveness measurement 58–9, 63–5
parliamentary systems and agenda setting powers 69
policy effectiveness 60–61, 65
policy effectiveness determination and decision-making powers 70–71
presidential systems and executive power 68–9, 71
private market actors, regulation of 72–4
regulatory capacity effects 72
rulemaking and negotiation stage 62–5
self-executing treaties 66–7
substantive incrementalism and legal change 76–7
trade negotiations 58–9
trade safeguards and political escape clause 63–4
 treaty role in changing state policy 56–8, 60–61, 66
Ehlermann, C. 290–91
Eko, L. 435
Elder, M. 425
Elkins, Z. 104
Elsig, M. 269–306
energy production and use regulation 467–8
 see also international environmental governance
enforcement mechanisms 15–16
compliance with international law 43–4, 46–51
international environmental governance 456
non-state actors and human rights 357–8
 see also monitoring
environmental issues
governance see international environmental governance
greenhouse gas emissions control, US 468–9
standards see global financial and environmental standards, and politics of implementation
and trade restrictions 198–9, 200–201
treaties, and effectiveness of international law 68, 69, 70, 77
treaty law and distributional consequences 142
 erga omnes obligations 48
Esty, D. 470
 EU
accounting regulation 217–18
Committee of European Securities Regulators (CESR) 209, 222–5
Digital Single Market aspirations 426
environmental regulation 218–20
Financial Services Action Plan (FSAP) 222
hazardous substances regulation 464–5
Lamfalussy process and Committee of European Securities Regulators (CESR) 222–5
and multistakeholder model of Internet governance 431, 432
parliamentary systems and role in treaty formation 124–7
Schengen regime 195
Uruguay Round trade negotiations and position shift 272–3
European Court of Human Rights 38, 227–68
Commission’s power to screen ECHR applications 236–7
 corporal punishment of an underage pupil 242
decision making and geopolitical constraints 240–41
emergence as powerful international court 239–49
European Convention on Human Rights as Cold War project 231–9
European Convention on Human Rights ratification 234
European Convention on Human Rights and rulemaking 232–3
European integration effects 241
jurisdiction of European Commission of Human Rights 233
law-politics interface changes 243–5
legal-diplomatic nature of Convention system 235, 236
making of European Court of Human Rights 231
and national emergencies 242
political and legal costs of committing to system 240
push-back effects 249–52, 259
sociological dimension of interface of law and politics 228–9, 241
structural changes in human rights discourse 240–41
UK’s compliance with European human rights norms 246–9

Wayne Sandholtz and Christopher A. Whytock - 9781783473984
Downloaded from Elgar Online at 05/05/2019 04:52:34AM
via free access
uneven distribution of cases across member states 245–6
European Court of Human Rights and politics of international law, embedded human rights system in Western Europe 252–8
democratization of countries with ongoing internal conflicts 253–4
domestication of Convention 256–7
limited authority with regard to state institutions 254–5
torture prohibition 253–4
European Court of Human Rights and politics of international law, new Europe and new member states (2000–2014) 258–65
Brighton Declaration and future role 259–60
compliance monitoring 263–4
democracy in warlike conditions, problems with promotion of 262–3
prisoners’ voting rights 261
push-back effects 1990–2014, integration of new member states 250–51
renegotiation and criticism effects 264–5
system fragility evidence 265
UK volte face on ECtHR 260–62
European Court of Human Rights, cases
Airey v United Kingdom 242–3
Brogan and Others v United Kingdom 247
Burdov v Russia (No 1) 27–8, 48, 52
Greece v United Kingdom (1959) 234–5
Hirst (No. II) v United Kingdom 260, 261
Ireland v the United Kingdom (1978) 241–2
Lawless v Ireland 236, 242
Soering v the United Kingdom 244
Tyrer v the United Kingdom 242
Vinters and Others v United Kingdom 260–61
European Court of Justice (ECJ)
preliminary reference procedure 66

WTO competence overlap 67
Ewing, K. 247, 248
executives
decision-making 67–9, 71
treaty law, gap between legislative and executive preferences 141–2
WTO dispute settlement, domestic executive officials with reciprocity interests 303–4
expert groups, involvement of 292, 448–9
export-oriented interests, WTO dispute settlement 295–6
externalities concept and environmental degradation 454–5
Fair Labor Association 357, 358, 359–61, 362
Falkner, R. 77
Farber, D. 170
Farkas, L. 314
Farley, B. 383
Farrell, H. 314
Fassbender, B. 183
Finger, M. 449
Finnemore, M. 10, 33, 41, 270, 341
Fioretos, O. 37, 197
Fischer-Lescano, A. 179, 180–81, 184
fisheries regulation 467
see also international environmental governance
flexibility concept, international law and stages of governance 63–5
Flogaitis, S. 264
Flohr, A. 351, 353
566 Research handbook on the politics of international law

forum-shopping, regime complexes 186
Foster, P. 388
fragmentation of international law, regime complexes 180–85
France
ECHHR judgments 255–6
Minitel computer network 435
and Rome Statute of the International Criminal Court (ICC) 135
‘simplified form’ treaty agreements 155
Franck, T. 6, 9, 18, 81
Francois, J. 292
Frankel, S. 323, 329, 331
Franklin, J. 355
Fransen, L. 337, 352–3
free expression-based approach, Internet governance 428, 436
free speech and privacy issue, international intellectual property law 324–5
Free Trade Agreements 322, 329
Frey, B. 190
Friedmann, W. 473
Friendly, A. 481
Frowein, J. 124
Fulghum, D. 415
Fuller, L. 9, 18
Fuller, T. 419
Fung, A. 422
future availability or non-availability of resources 456–7
see also international environmental governance
future evolution, cyber conflict 411–12, 416–17
future inter-state bargaining, WTO dispute settlement 299–300
future of international environmental governance 485
future research 50, 363–5
Fyfe, D. 233

Galbraith, J. 70
Galison, P. 424
Gallagher, K. 469
Ganin, D. 304
Gao, H. 281, 306
Garcia-Johnson, R. 479
Garlicki, L. 106, 109
Gaventa, J. 449
Gertey, C. 247, 248, 260
Gehring, T. 3, 176–203
generic drug industry, India 319, 323
see also international intellectual property law, politics of, as public health issue
genetically modified organisms (GMOs) 481, 484
see also international environmental governance
Germany, legislative approval of treaties 124–5, 135
Ghana, NML Capital v Republic of Argentina 91–2
Ghelicu, A. 364
Gilbert, D. 466
Gilbert, J. 73
Ginsburg, T. 2, 68, 120, 121, 166, 169, 170, 171
Gladstone, R. 379, 387
Glasius, M. 341, 343
Gleick, P. 453
Glenn, H. 94
global constitutionalism and legal pluralism 182–5
global financial and environmental standards, and politics of implementation 207–26
agenda setting 214–15
bounded rationality assumption 210, 215
collaborative implementation and power 208, 209–15
implementation as continuation of the rulemaking process 208–9
information and knowledge, lack of 211–12
network effects 212
political action capacity 212
resource constraints 207
rulemaking power sources 211–12
rulemaking versus rule-supporting functionality 211–13
single/focal versus multiple partner pools 213–14, 215
strategic relationship between originator and implementer 210

see also environmental issues
global financial and environmental standards, and politics of implementation, leadership implications of collaborative implementation 216–25
European accounting regulation 217–18
European environmental regulation 218–20
European securities market regime 222–5

forum shopping 218–19
NGO involvement 220
resource availability issues 219–20
standard setting bodies (SSBs) 221–2
global governance influence, regime complexes 188–90
Global Reporting Initiative (GRI) 345, 350, 360, 362
Goetz, K. 120, 126
Goldsmith, J. 8, 11, 31, 47, 55, 78, 81, 415, 421, 422
Goldsmith, Lord 381
Goldstein, J. 32, 47, 59, 65, 75, 81, 121, 269, 278, 296
Goldstein, L. 255
Golove, D. 144
Goodhart, C. 221
Goodliffe, J. 15
Goodman, R. 33–4, 41
Goodman, S. 397
Goodwin, B. 451
Goodwin, M. 483
Goodwin, T. 423
Gorlin, J. 313
governance stages
domestic incorporation of international law 163–5
and effectiveness of international law
see effectiveness of international law and stages of governance
interaction between international law and politics 2–3, 4–13
Goyal, Y. 319, 329
Grant, R. 269

Gray, D. 318
greenhouse gas emissions control, US 468–9

see also international environmental governance
Greenwald, J. 289, 291
Greenwood, J. 220
Gregoratti, C. 358, 360
Grenville, J. 127
Gruenwald, M. 327
Gugerty, M. 340, 341
Guiora, A. 36, 384
Guzman, A. 8, 31, 32, 292

Haas, P. 5, 448, 468, 485
Hafner, G. 179, 180, 181
Hafner-Burton, E. 8, 32, 34, 38, 202, 356, 363
Hahn, M. 124
Hale, T. 187, 188
Halliday, T. 3, 271
Hardin, G. 455
Hardin, R. 170
Harlow, C. 248
harmonization techniques, international law in domestic courts 82, 85

see also cooperation
Harmsen, R. 251, 259
Harrison, J. 478
Hart, H. 6, 18
Hathaway, O. 8, 15, 32, 34, 36, 43, 123, 127, 128, 155, 169–70, 401, 432
Haufler, V. 345, 349, 350, 351, 356, 357, 358, 359
Hawkins, D. 15, 32, 52, 263
Hayek, F. 168
hazardous waste
Basel Convention 195, 199, 200–201, 221–2
international environmental governance 464–5
health, and intellectual property see international intellectual property law, politics of, as public health issue
Heart, F. 429
Research handbook on the politics of international law

Helfer, L. 47, 59–60, 64, 177, 180, 186, 189, 194, 195, 197, 200, 257, 259, 260, 296
Helms, J. 128
Hempel, J. 441
Hennette-Vauchez, S. 238, 257
Herrmann, R. 50
Hersh, S. 367
hierarchical coordination mechanisms, lack of, regime complexes 180–81, 184
hierarchical status of treaties in monist systems 172–3
Hill, M. 146
Hillebrecht, C. 27–54
Hillman, J. 284
Hirschl, R. 81
HIV/AIDS crisis 318–19, 321
see also international intellectual property law, politics of, as public health issue
Ho, D. 49
Hodson, L. 254
Hoffman, P. 434
Hofmann, C. 41, 50
Hofmann, S. 190
Holland, J. 451
Hollis, D. 85, 118, 134
Holloway, K. 168
Holtermann, J. 228
Honigsberg, P. 367
Hooghe, L. 120
Hopkins, D. 43, 52
horizontal rules between sovereign states 83–4, 89–92
Htun, M. 165
Hudec, R. 271, 272
Hughes, V. 301
Hulsebosch, D. 144
human impact on environment 443–6, 448, 452, 453
see also international environmental governance
human rights and compliance with international law 33, 34, 37–8, 39, 43–4, 45–6, 50
and constitutional interpretation 108–10, 111–12
and non-state actors see non-state actors and human rights
specialized human rights lawyers, UK 247–8, 254
treaty committees 139
Huneeus, A. 34, 47–8, 257
Hutchison, C. 473
Huth, P. 40
ICANN (Internet Corporation for Assigned Numbers and Names) 428, 431, 432, 433
see also Internet governance
Iida, K. 58
Ikenberry, G. 274
implementation collaborative see global financial and environmental standards, and politics of implementation and compliance with international law 44–6
international environmental governance 477–82
process 71–5
regime complexes 198–9
treaty law and national legislative politics 133–6
see also interpretation
India generic drug industry 319, 323
Internet governance 431
legislative approval of treaties 132, 136
industrialization effects, international environmental governance 482
information see knowledge
institutions and institutionalism design features and games 62–3
institutionalization, and interaction between international law and politics 15–17, 18
judicial allocation of authority to different 297–8
judicial institutions 36–7
limited authority with regard to state institutions, European Court of Human Rights 254–5
neoliberal institutionalism 30–33, 34, 35
procedural institutions 460
reciprocity principle and institutional design 31–2
regime complexes see regime complexes (overlapping and non-hierarchical institutions) as governance systems
regulatory institutions 461
WTO dispute settlement and institutional choice 298–9
integration process, international environmental governance 470
intellectual property see international intellectual property law, politics of
intellectual property law, as investment issue 328–33
intelligence collection and cyber-exploitation 411
see also cyber conflict, emerging international legal architecture
interaction between international law and politics 2–20
comparative analysis benefits 2–4
contingent nature 17–19
customary international law (CIL) development 11
decision-making stage 7–9
enforcement stage 15–16
failed states 14, 18
Free Trade Agreements 322, 329
governance process stages 2
governance stages 4–13
governance systems 2–3
human rights treaty committees 139
implementation stage 10
institutionalization 15–17, 18
international governmental organizations (IGOs) 139
international judicial bodies 15
international law as an independent variable 8
interpretation stage 5–7, 15
language and interpretation 6–7
law and politics beyond domestic-international divide 14–17
legal change stage 10–13
legal obligation interpretation 5–6
legitimacy interpretation 6
mid-range theory and micro-foundations 19–20
power as central variable 9
powerful actor advantages 17–18
rulemaking stage 4–5, 6, 9, 18–19
UN Security Council and binding international rules 139
variation across governance systems 13–14
WTO Dispute Settlement Body 139
interest groups, lobbying of, WTO dispute settlement 303–4
see also non-governmental organizations
intergenerational equity, international environmental governance 475–6
internal political factors, WTO dispute settlement 303
International Accounting Standards Board (IASB) 217–18, 222
International Center for the Settlement of Investment Disputes (ICSID)
15, 331, 332
International Commission for the Conservation of Atlantic Tunas (ICCAT) 197, 199
International Court of Justice (ICJ) 47
Nicaragua 402, 404
Oil Platforms 402
International Covenant on Civil and Political Rights, and Internet governance 436
International Criminal Court (ICC) 134–6, 137–8, 342–3
international criminal tribunals 48
international environmental governance 443–8
actor involvement 446–50
air and water quality 465–6, 484
Antarctica and the Southern Ocean 445–6, 466–7, 484
570  Research handbook on the politics of international law

biosphere, effects on 443–4
catalytic events and normative change 483–4
Cities for Climate Protection campaign 469
climate change 196–7, 468–9, 481
Common but Differentiated Responsibilities (CBDR) 475
compliance-promotion 460
Convention on Long-Range Transboundary Air Pollution (LRTAP) 459, 460
Convention on the Protection of the Stratospheric Ozone Layer 445–6, 459
decision-making 476–7
‘democratic peace hypothesis’ 480–81
developing countries 447, 481–2
economic analysis, actor involvement 454–5, 470–71, 480
energy production and use regulation 467–8
expert groups, involvement of 448–9
exploitation and use of renewable and non-renewable resources, regulation of 466
externalities concept and environmental degradation 454–5
fisheries regulation 467
‘framework treaties’ 459
future availability or non-availability of resources, perceptions of 456–7
future of 485
genetically modified organisms (GMOs) 481, 484
good scientific evidence and ‘best available practices’ in technical fields 474
hazardous substances 464–5
human impact on environment 443–6, 448, 452, 453
illicit activity, actors engaged in 450
implementation 477–82
incomplete and contested information and knowledge 484
industrialization effects 482
institutional involvement 458–61
integration process 470
intergenerational equity 475–6
interpretation and legal language 471–6
Kyoto Protocol 77, 196–7, 468–9
lack of knowledge regarding environmental impacts, effects of 451–2
monitoring and enforcement 456
national regulations on uses of the environment 455–6
non-renewable resources 453
nuclear technology regulation 467–8
overusing renewable resources 455, 456–7
‘peer pressure’ through compliance committees or policy evaluation groups 479–80
political boundaries and ecosystem boundaries, mismatch between 445
politics and law implications 446–61
polluter pays principle 454, 474–5
powerful and powerless actors, differing effects 447
precautionary principle and environmental harm identification 452, 473–4
private organizations and advocacy coalitions 449–50, 463
private regulatory schemes 463–4
problem areas 450–57
procedural institutions 460
public ‘naming and shaming’ by non-governmental organizations 479–80, 481
and public opinion gaps 481
regulatory institutions 461
resource depletion and political contention 453–4
Rio Declaration 459–60, 472, 475, 476
rivers and other waterways management 466
rule changers 482–4
rulemaking 462–71
rules of law 457–8
rules for reasoning, and  
environmental management  
452–3
rules of recognition 457
sanctions 478
social beliefs, effects of changing 484
social inequality issues 447–8
sovereignty and cooperation, push  
and pull between 472–3, 483
Stockholm Conference on the Human  
Environment 459, 472
sustainable development 476
technical expertise 449
and technological change 483
UN Framework Convention on  
Climate Change (UNFCCC) 60,  
196, 459
UN Global Environment Facility 460
water pollution issues 458
‘wicked problems’ 451–2
wildlife protection regulation 468,  
470
World Environmental Organization  
suggestion 485
see also environmental issues
international governmental  
organizations (IGOs) 139
International Hague Network of Judges  
101
see also judiciary
international intellectual property law,  
politics of 307–35
contestation and change 307–8
copyright piracy 310, 322–3, 324–5
developing countries 314–15
digital and online communication  
challenges 322–5
as free speech and privacy issue  
324–5
historical social objectives 310–11
intellectual property abuse 73–4
as investment issue 328–33
as investment issue, investment  
arbitration award annulments  
331–2
legal and social benefits 310
patent protection for certain products  
or processes, effects of denying  
310
plurilateral negotiations and  
Anti-Counterfeiting Trade  
Agreement (ACTA) 127, 321–4,  
325
as public policy 309–11
secrecy in ACTA negotiations 323–4
temporary monopoly privileges 310
as trade issue 311–16, 320–21
as trade issue, diffusion process  
issues 316
Trans-Pacific Partnership (TPP)  
326–8
Trans-Pacific Partnership (TPP),  
Investor-State-Dispute-Settlement  
(ISDS) provisions 328–31,  
332–3
Uruguay Round of General  
Agreement of Trade and Tariff  
(GATT) and Intellectual Property  
Committee (IPC) 313–14, 315,  
319
WTO TRIPS Agreement see under  
WTO
international intellectual property law,  
politics of, as public health issue  
317–21, 323, 327, 328, 330
HIV/AIDS crisis 318–19, 321
United States Trade Representative  
(USTR) and intellectual  
property 312–13, 314, 317, 318,  
320–21, 322, 324, 326, 327
WIPO and Substantive Patent Law  
Harmonization negotiations 320
WTO Doha Round on TRIPS and  
Public Health, and developing  
countries 319–20
international law avoidance techniques,  
use of 82–3, 84, 85, 163
see also non-compliance
International Law of Cyberspace  
consideration 436–8
see also Internet governance
international law in domestic courts  
79–115
avoidance techniques 82–3, 84, 85

Wayne Sandholtz and Christopher A. Whytock - 9781783473984
Downloaded from Elgar Online at 05/05/2019 04:52:34AM
via free access
balance of power shift between law and politics 81
child abduction cases 96, 97–8, 101
comparative law perspectives 85–7
customary international law 112–13
decision-making by subjects of legal rules (courts) 88, 101
decision-making role 101
disputes and international political conflicts 97–8
‘dualist’ and ‘monist’ approaches to international law, comparison of 86–7, 93–4, 100–101, 106, 108–9, 110–11
globalization of judicial power 80
harmonization techniques 82, 85
horizontal rules between sovereign states 83–4, 89–92
human rights and constitutional interpretation 108–10, 111–12
International Hague Network of Judges 101
international immunity rule 92
judicial avoidance doctrines 98–9, 112
judicial independence 103–4
judicial review of administrative action 108
judicialization of international law 79–83, 88, 95–6, 100–101, 104 and legal change 88–9
mutilateral treaties 93–5
‘non-self-executing’ treaties as avoidance technique 83, 87
pre-eminence of law over politics 95–9
private treaty rights and forum non conveniens 99
rulemaking 88–9, 91–2
self-execution of transnational treaties 87, 94, 111–12
silent application of international law and Bill of Rights provisions 104–5
stages of governance and domestic court engagement 87–9, 100–102
subject matter significance 83–5
torture committed by government officials 88
transnational rules 84, 88–9, 92–102
treaties governing private relations 95
vertical rules 84–5, 102–14
vertical rules, direct application of international law 110–13
vertical rules, indirect application of international law 105–10
International Relations (IR) and International Law (IL) dialogues, benefits of 177–8
Internet, online communication challenges, international intellectual property law 322–5
Internet governance 418–42
access speeds 420
competition effects 435
developing countries 430–31, 433
digital colonialism concerns 425–6
disputes 441–2
economic factors 423, 424
EU Digital Single Market aspirations 426
free expression-based approach 428, 436
and International Covenant on Civil and Political Rights 436
International Law of Cyberspace consideration 436–8
Internet Corporation for Assigned Numbers and Names (ICANN) 428, 431, 432, 433
Internet definition problems 436–7
Internet Engineering Task Force (IETF) 423–4, 434–5
layers of Internet communication 434
mobile computing effects 438
multilateral versus multistakeholder governance 427–33, 439–40
national digital sovereignty versus global Internet 424–7
NetMundial (Global Multistakeholder Meeting on the Future of Internet Governance) 430–31, 432
non-government-based models and industry self-regulation 427–8
non-state governance 422
Open Systems Interconnection (OSI) standard 435
permissible speech conceptions 419–20
political censorship 419–20, 421–7
privacy and surveillance in design of IPv6 423
private sector leadership 427–8
regime complex 438–40
Snowden revelations 424, 425
surveillance concerns 424–5
UN World Summit on the Internet Society 429–30
US involvement 427–9, 432
World Conference on International Telecommunications (WCIT), Tunis Agenda 429
World Wide Web 429, 437–8
WTO governance 440

see also cyber conflict, emerging international legal architecture
interpretation 5–7, 15
international environmental governance 471–6
regime complexes 198–9
treaty law and national legislative politics 133–6
WTO dispute settlement 291–300

see also implementation; knowledge
Iran, legislative approval of treaties 133
Iraq, alleged weapons of mass destruction 380–81

see also ‘war’ on terror and international law
ISIS terroristic power see under ‘war’ on terror and international law

Italy
ECtHR judgments 252–3, 255
Presidency of the Council of Ministers v Markovic 89–91

Jackson, J. 168, 174, 286
Jacobson, D. 36
Jacobson, H. 32

Jacoby, W. 52, 263
Janeway, W. 479
Janish, M. 237
Jayawardakrama, N. 106, 109, 110
Jelmayer, R. 441
Jenkins, L. 478
Jenks, C. 382
Jensen, E. 398, 399, 402
Jepperson, R. 50
Jerbi, S. 356, 359
Jetschke, A. 364
Jiang, M. 436
Jinks, D. 33–4, 41, 403
Jo, H. 32
Joachim, J. 344
Joireman, S. 168
Jordan, A. 478
Jordan, P. 50, 258
Joyner, C. 49

judiciary
independence 103–4, 166
International Hague Network of Judges 101
international judicial bodies 15
judicial avoidance doctrines 98–9, 112
judicial institutions 36–7
judicial review of administrative action 108
judicialization of international law 79–83, 88, 95–6, 100–101, 104
legalization and judicialization, relationship between 164
WTO dispute settlement, judicial allocation of authority to different institutions 297–8

see also courts
Jupille, J. 177, 180, 186, 194, 201, 218
just war theory 412

see also cyber conflict, emerging international legal architecture

Kagan, R. 3, 4, 7, 10
Kahneman, D. 479
Kaminski, M. 320
Kanaiwa, M. 446
Kanter, A. 343
574  Research handbook on the politics of international law

Kantz, C. 346
Kapczynski, A. 327
Karaganis, J. 310
Kastner, S. 119
Katzenstein, S. 336–65
Kauffman, J. 192
Keck, M. 33, 38, 340, 342, 450
Kee, H. 306
Kell, G. 350
Keller, A. 448
Keller, H. 256
Kelley, J. 41
Kennedy, K. 123, 128
Kenney, M. 450
Kee, H. 306
Keck, M. 5, 33, 38, 340, 342, 450

knowledge

lack of, global financial and environmental standards 211–12
overseas education or professional experience effects, treaty law 145–6
technical expertise, international environmental governance 449

see also interpretation

Koenig-Archibugi, M. 72
Koh, H. 8, 118, 369, 412, 436
Kokkelenberg, E. 452
Kolben, K. 337
Komarov, B. 481
König, D. 461
Kono, D. 76
Koremenos, B. 5, 15, 47, 63
Koskelo, P. 264
Koskenniemi, M. 81, 227, 229, 308
Kostadinova, T. 53
Krain, M. 40, 355
Krasner, S. 181, 185
Kreeger, J. 101
Kretzmer, D. 106, 108, 113
Krisch, N. 179, 182, 184, 185, 200
Kruger, M. 346–7
Kucic, J. 301
Kumm, M. 179, 183
Kummer, K. 199
Kuyper, J. 179, 182, 185, 200, 203
Kwall, R. 137
Kyoto Protocol 77, 196–7, 468–9

La Porta, R. 167
Lamfalussy process and Committee of European Securities Regulators (CESR) 209, 222–5
Land, M. 436
Landman, T. 8
landmine use 342
see also non-state actors and human rights
Latour, B. 229
Law, D. 170
laws of armed conflict (LOAC) see UN Charter and laws of armed conflict (LOAC)

Wayne Sandholtz and Christopher A. Whytock - 9781783473984
Downloaded from Elgar Online at 05/05/2019 04:52:34AM
via free access
Index

Lazarus, R. 77
Le, U. 428
leadership implications, global financial and environmental standards see global financial and environmental standards, and politics of implementation, leadership implications of collaborative implementation
Leary, V. 168
Lebovic, J. 40
legal change stage, interaction between international law and politics 10–13
legal costs of committing to system, European Court of Human Rights 240
legal pluralism, and global constitutionalism, regime complexes 182–5
legal traditions, domestic incorporation of international law 167–9
legalization and judicialization, relationship between 164
legislation formal instrument of ratification and legislative vote 152–3
identification of treaties requiring legislative action 153–4
legislative role variations 155–6
legislators and decision-making 67–9, 71
national legislative politics and treaty law see treaty law and national legislative politics
Legro, J. 33
Lenschow, A. 220
Lester, A. 239, 240
Levin, D. 350
Levin, K. 468
Levine, D. 324
Levinson, D. 78
Levy, D. 346, 349, 350
Lewis, J. 469
Lewis, M. 327, 382, 383
liberalism approach, treaty law and national legislative politics 118–19
Libicki, M. 416
Liese, A. 364
Lin, H. 397
Lindblom, C. 76
Linthorst, J. 465
Lipman, M. 425
Lippman, M. 343
Lipson, C. 119, 165, 329
lobbying of interest groups 303–4 see also non-governmental organizations
Locher, B. 344
Locke, R. 360–61
Long, T. 219
Lörinczi, L. 219
Louw, L. 49–50
Lupu, Y. 120, 138, 149, 165, 166
Lutz, D. 170
Lutz, E. 389
McCabe, D. 468
McCalla, R. 75
McCarty, T. 387–8
McCormick, J. 449
McCrudden, C. 146, 260
McDonnell, T. 367
McDougall, M. 12
Mcentire, K. 344
Maciel, M. 431
Mackey, R. 387
Madison, J. 145
Madsen, M. 227–68
Maher, K. 415
Mahoney, P. 167
Malacrida, R. 285
Mällsoo, L. 259
managerialists, compliance with international law 34, 45
Mansfield, E. 37, 120
Mantilla, G. 347
Mantouvalou, V. 337
Marceau, G. 272
March, J. 7
Marchant, G. 384
Marguenaud, J. 255
576  Research handbook on the politics of international law

Margulies, J. 367
market incentives, non-state actors and human rights 359–60, 362–3
Markoff, J. 415
Marks, G. 120
Marks, S. 338
Markusen, J. 470
Martin, L. 8, 29–30, 32, 55, 59, 61, 75, 120, 121, 165, 300
Marx, A. 351–2
mass mobilization tactics, non-state actors and human rights 354
Mathews, J. 299
Matthews, D. 312, 314
Matthews, G. 448
Mattli, W. 64, 66, 207–26
Maughan, A. 426
Mavroidis, P. 284, 286, 297
Mayer, J. 367
Mearsheimer, J. 8, 55
media reporting, WTO dispute settlement 297
mediation role, WTO dispute settlement 281
Merchant, C. 447–8
Meunier, S. 186, 190, 200
Meyer-Sahling, J. 120
Michaels, R. 184
Miles, E. 461
Miller, A. 451
Miller, C. 448
Miller, R. 81
Milner, H. 32, 37, 63–4, 119, 120, 165, 295, 316
Mitchell, N. 352
Mitchell, R. 32, 444
Mitchell, S. 40, 167, 168
Mo, J. 58, 119, 120, 141
Moberg, K. 317, 321
mobile computing effects 438
see also Internet governance
Mooney, N. 224
monism
monitoring
compliance with international law 40–41
compliance monitoring, European Court of Human Rights 263–4
international environmental governance 456
see also enforcement mechanisms
monopoly power
abuse 73–4
temporary monopoly privileges, international intellectual property law 310
Montreal Protocol 192, 196, 197, 199
Moore, W. 39
Moravcsik, A. 118, 165, 232
Morrow, J. 39
Morse, J. 177, 186, 188, 194, 200
Movassagh, H. 133
Moyn, S. 338
Mullin, J. 420
multi-stakeholder initiatives, non-state actors and human rights 338–9, 346, 356–9, 362–3
multilateral trade negotiations and substantive incrementalism 76–7
see also trade
multilateral treaties 93–5
see also treaties
multilateral versus multistakeholder governance 427–33, 439–40
see also Internet governance
multilateralism, regime complexes 186–7
multinational corporations and developing states, state capacity issues 72
Murdie, A. 40, 355
Murphy, B. 377–8
Murphy, R. 384
Murphy, S. 171, 371, 372, 381
Muzaka, V. 308
Mwangi, W. 360
Naess, A. 450
Nafpliotis, A. 238
Naidoo, K. 460
Naim, M. 450

Wayne Sandholtz and Christopher A. Whytock - 9781783473984
Downloaded from Elgar Online at 05/05/2019 04:52:34AM
via free access
Najam, A. 485
Nakashima, E. 401, 407
naming and shaming strategies
international environmental
governance 479–80, 481
non-state actors and human rights
353, 354–6, 358
Nanda, V. 388
national digital sovereignty versus
global Internet 424–7
see also Internet governance
national emergencies, and European
Court of Human Rights 242
national legislative politics and treaty
law see treaty law and national
legislative politics
national regulations on uses of the
environment 455–6
see also international environmental
governance
Naylor, H. 377–8
negotiation stage 62–5, 119–20
neoliberal institutionalism 30–33, 34,
35
Netherlands, legislative approval of
treaties 125–6, 135
NetMundial (Global Multistakeholder
Meeting on the Future of Internet
Governance) 430–31, 432
Neumayer, E. 8, 44
Newman, A. 314
Newman, E. 50
Newport, F. 481
Newton, M. 382, 383
Nexon, D. 308
Nollkaemper, A. 80, 106, 161
non-compliance
avoidance techniques, use of 82–3,
84, 85, 163
risks, WTO dispute settlement 304
screening out of non-compliant states
43–4
‘uncompliance’ strategy, WTO
dispute settlement 302
see also compliance
non-government-based models and
industry self-regulation 427–8
see also Internet governance
non-governmental organizations
(NGOs)
civil society protests, WTO dispute
settlement 296, 297
lobbying of interest groups, WTO
dispute settlement 303–4
naming and shaming by, and
international environmental
governance 479–80, 481
‘non-self-executing’ treaties as
avoidance technique 83
non-state actors and human rights
336–65
Amnesty International and naming
and shaming strategies 355–6
business participation factors 349–53
Convention Against Torture 354
corporate violations of human rights,
targeting 337–8
decision-making 353–61
enforcement mechanisms, reforming
357–8
Extractive Industries Transparency
International (EITI) 345, 346,
348–9, 350–51, 356–7, 359, 361
Fair Labor Association 357, 358,
359–61, 362
future research 363–5
Global Reporting Initiative (GRI)
345, 350, 360, 362
International Criminal Court (ICC),
establishment of 342–3
Kimberley Process 346, 349, 351,
356, 357, 358–9, 361, 362
landmine use 342
legalization 340–44, 354–6, 361–5
market incentives 359–60, 362–3
mass mobilization tactics 354
multi-stakeholder initiatives 338–9,
346, 356–9, 362–3
naming and shaming strategies 353,
354–6, 358
NGO tactics and framing strategies
341–4, 349
political dynamics and structural
differences 337–9
Publish What You Pay (PWYP) coalition 346
rape as a war crime 341
as rulemaking catalysts 339–53
societal pressure on companies, effects of 352–3
state involvement 346–9, 358–9
state and NGO rulemaking, factors influencing efficacy 349–51
Transnational Advocacy Networks (TANs) 340, 342–3, 344, 353, 354–6
transnational regulation 344–53, 356–61
transnational regulation, NGOs as catalysts 345
transnational regulation, UN lead 346–7
transparency and accountability 345, 346, 348–9, 350–51
treaty-making participation 344, 354
UN Global Compact 347, 348, 350, 357–8, 360, 361, 362
UN Guiding Principles on Business and Human Rights 347, 348, 349, 350
women’s rights agenda 344
non-State terrorist groups 399, 402, 403–4, 405, 409, 411
see also terrorism
Nordhaus, W. 452
Nordström, H. 293, 294, 296
normative authority, WTO dispute settlement 280–81
normative change
catalytic events, international environmental governance 483–4
and public rulemaking 152–8
North, D. 170
Norway, whaling restrictions 480
Nouwen, S. 46
nuclear technology regulation 467–8
see also international environmental governance
Nye, J. 439–40
Obama, B. 130, 326, 327, 369, 388, 408
Oberthür, S. 180, 187, 195, 196, 198
O’Connell, M. 372, 375, 381, 383, 392, 416
OECD Anti-Bribery Convention 73, 75
Okediji, R. 323, 324, 325, 326–7
Olsen, J. 7
Open Systems Interconnection (OSI) standard 435
see also Internet governance
Orin, D. 372
Orsini, A. 186, 187
Ostrom, E. 455, 485
Owens, W. 397, 400, 401, 411, 412
Oye, K. 455
Paes, W. 357
Pahre, R. 144
Palmer, A. 197
Palmer, D. 284
parliamentary systems and agenda setting powers 69
and internationalist policies 144–7
treaty formation role, EU 124–7
Parson, E. 446
patent protection for certain products or processes, effects of denying 310
see also international intellectual property law, politics of
Patrick, H. 313
Pattberg, P. 347
Paulus, A. 106
Paust, J. 366–90
Pauw, P. 475
Pauwelyn, J. 279, 283, 284, 285, 289, 292, 298–9
Peel, J. 478
'peer pressure’ through compliance committees or policy evaluation groups 479–80
see also international environmental governance
Pegram, T. 34, 41
Pejic, J. 393
Pelc, K. 273, 294, 300, 301
Perlez, J. 333
permissible speech conceptions 419–20
see also Internet governance
Peskin, V. 48
Peterson, M. 443–88
Pictet, J. 378
‘pin-prick’ theory and timely attribution 405
  see also cyber conflict, emerging international legal architecture
Pinto, P. and S. 143
Pitt, D. 443
Poland, ratified treaties, status of 161
  policy effectiveness 60–61, 65, 70–71
  see also effectiveness of international law and stages of governance
  political boundaries and ecosystem boundaries, mismatch between 445
  see also international environmental governance
  political censorship, Internet governance 419–20, 421–7
  political costs of committing to system, European Court of Human Rights and politics of international law 240
  political dynamics and structural differences, non-state actors and human rights 337–9
  political escape clause 63–4
  political factors in legislative impact, treaty law and national legislative politics 140–47
  political implications, international environmental governance 446–61
  political science research 165–74
  politics of intellectual property see international intellectual property law, politics of
  politics of legal expertise, WTO dispute settlement 292
Pollack, M. 1, 117, 120, 121, 278, 300, 305, 334, 412, 463
Pollman, T. 471
pollution
  EU Integrated Pollution Prevention and Control Directive 465
  polluter pays principle 454, 474–5
  see also international environmental governance
Pope, S. 351, 352
Porges, A. 281
Posner, E. 8, 11, 31, 47, 55, 173
Posner, R. 138
Postel, S. 453
Poteete, A. 455
Potoski, M. 345
Powell, E. 40, 149, 166, 167
power
  balance of power shift between law and politics 81
  powerful actor advantages 17–18, 447
  structural power, WTO dispute settlement 292–3, 303
Prakash, A. 340, 341, 345, 352, 356, 357, 358
Prakash, P. 433
Prakash, S. 137
precautionary principle and environmental harm identification, international environmental governance 452, 473–4
preference distribution effects, treaty law and national legislative politics 140–43
presidential systems 68–9, 71
t  treaty law and national legislative politics 143–4
Price, R. 342
Princen, T. 449, 457
prisoners’ voting rights, European Court of Human Rights 261
privacy
  free speech and privacy issue, international intellectual property law 324–5
  Internet governance, design of IPv6 423
private sector
  leadership, and Internet governance 427–8
  private organizations and advocacy coalitions, international environmental governance 449–50, 463
public-private partnerships, WTO dispute settlement 292–6
regulation of 72–4
regulatory schemes, international environmental governance 463–4
private treaty rights and forum non conveniens 99
procedural institutions, international environmental governance 460
proportionality doctrine, WTO dispute settlement 299
Prorok, A. 40–41
Provost, R. 263
public health, and intellectual property see international intellectual property law, politics of, as public health issue
public ‘naming and shaming’ see naming and shaming strategies
public opinion gaps, international environmental governance 481
public rulemaking and normative change 152–8
public-private partnerships, WTO dispute settlement 292–6
Publish What You Pay (PWYP) coalition, non-state actors and human rights 346
Puig, S. 269–306
Purkayastha, P. 425
Putnam, R. 58, 119, 165, 462
Rabe, B. 469
Radsan, A. 384
Ramanujam, P. 319, 329
Ramos, H. 356
Randelzhofer, A. 374
rape as war crime 341
see also war
ratification of treaties, domestic incorporation of international law 152–3, 156–7, 160–61, 164, 172
see also treaties
Ratner, S. 403, 404
Raustiala, K. 29, 55, 56, 176, 178, 180, 185, 186, 188, 189, 191, 193, 194, 198, 208, 342, 344
Rawlings, R. 248
Raymond, M. 421, 438, 439
Raz, J. 9, 18
reciprocity interests, domestic executive officials with, and WTO dispute settlement 303–4
reciprocity principle and institutional design 31–2
Rector, C. 119
referendum use 156–7
regime complex, Internet governance 438–40
regime complexes as governance systems 176–203
ambiguities, contradictions and reinterpretation of rules 198–9
and climate change 196–7
competition for governance functions 190
competitive regime creation 186–7, 194–5
cross-institutional strategic action 185–8, 200–201
environmental issues and trade restrictions 198–9, 200–201
forum-shopping 186
fragmentation of international law 180–85
functional overlap effects 189–90
global constitutionalism and legal pluralism 182–5
global governance influence 188–90
hierarchical coordination mechanisms, lack of 180–81, 184
implementation and interpretation of international legal rules 198–9
institutional choice within regime complexes 186, 196–8
institutional density 179–88
inter-constitutional coordination 182–3
inter-institutional competition and division of labour 191–2
interdisciplinary research 188–93, 202–3
Index

International Relations (IR) and International Law (IL) dialogues, benefits of 177–8
multilateralism 186–7
overlapping jurisdictions as source of innovation 184
regime complex definition 186
rulemaking 186–7, 193–201
states benefiting from regime complexes 200–201
super-institutions and division of labour 192–3
systemic effect 191–3
regulatory institutions, international environmental governance 461
Reidenberg, J. 427
Reidy, A. 253, 254
Reiger, C. 389
Reisman, W. 371, 412
Relva, H. 135, 136
resources
exploitation and use of renewable and non-renewable environmental resources, regulation of 466
overusing renewable environmental resources 455, 456–7
political contention and environmental resource depletion 453–4
resource constraints, global financial and environmental standards 207
retaliation issues, WTO dispute settlement 304
Reus-Smit, C. 17, 118
reverse consensus decisions, WTO dispute settlement 273, 282–3
Reynolds, K. 301–2
Riesenberg, S. 124, 127
Ringquist, E. 53
Rio Declaration 459–60, 472, 475, 476
Risse, T. 5, 33, 340, 342, 355
Risse-Kappen, T. 5
Rittel, H. 451
rivers and other waterways management 466
see also international environmental governance
Roberts, A. 3, 118
Robertson, A. 234
Rodley, N. 45
Rodríguez, J. 368
Rodrik, D. 73
Roessler, F. 272
Rogers, M. 474
Rogowski, R. 143
Rolin, H. 237
Ron, J. 190, 341
Rose-Ackerman, S. 72
Rosen, J. 483
Rosenberg, T. 318
Rosendorff, P. 32, 59, 63–4, 119, 120
Roth, K. 355
Rothbarth, D. 426
Rothermund, D. 240
Rothwell, D. 106, 107, 108, 110
Ruda, J. 132
Ruffer, G. 36
Ruggie, S. 349, 350, 357
rule changers, international environmental governance 482–4
rule interpretation, WTO dispute settlement 291–300
rulemaking stage
compliance with international law 42–4
domestic incorporation of international law 152–8
effectiveness of international law and stages of governance 62–5
European Convention on Human Rights 232–3
global financial and environmental standards 208–9, 211–13
interaction between international law and politics 4–5, 6, 9, 18–19
international environmental governance 462–71
international law in domestic courts 88–9, 91–2
non-state actors and human rights 339–53
regime complexes 186–7, 193–201
rules of law, international environmental governance 457–8
rules for reasoning, international environmental governance 452–3
rules of recognition, international environmental governance 457
Russell, A. 434, 435
Russett, B. 119
Russia, ECtHR judgments 258, 259, 262–3
Ruys, T. 374–5
safeguards legislation, WTO dispute settlement 294
Samson, P. 443
sanctions international environmental governance 478
US unilateral trade sanctions 273–4
Sand, P. 199
Sands, P. 368, 478
Sanger, D. 393
Santos, C. 38
Sarfaty, G. 70
Sattler, T. 293, 303, 304
Savage, C. 369
Scharf, M. 12, 368, 372, 376, 377, 381
Scheinold, S. 241
Schelling, T. 119
Schengen regime, EU 195
Schepers, D. 350
Scheve, K. 143
Schiemer, Q. 469
Sbff, B. 343
Schimmelfennig, F. 355
Schle, N. 12
Schmitt, E. 415
Schmitt, M. 373, 382, 383, 400, 401, 402, 403, 404, 407
Schmidt, H. 426
Schneckener, U. 41, 50
Schneider, C. 180, 186, 189, 194
Schön-Quinlivan, E. 219
Schultz, K. 119
Schütze, R. 478
Schwartz, J. 480
Schwartz, O. 80
Schwartz, W. 59, 64
Scotchmer, S. 310
Scott, R. 411
Scott, A. 449
Sebenius, J. 194
secrecy in ACTA negotiations, international intellectual property law 323–4
secret detention see under ‘war’ on terror and international law
securities, EU Committee of European Securities Regulators (CESR) 209, 222–5
security issues and international political economy 142–3
Seddon, J. 207–26
Segerson, K. 456

Wayne Sandholtz and Christopher A. Whytock - 9781783473984
Downloaded from Elgar Online at 05/05/2019 04:52:34AM
via free access
Index  583

shared understanding role, WTO dispute settlement 271–2, 273
Sharma, K. 449
Sharman, J. 73
Shelton, D. 171
Shipway, M. 240
Shava, V. 447
Shoyer, A. 284, 286
Sikkink, K. 5, 10, 33, 34, 340, 341, 342, 355, 450
silent application of international law and Bill of Rights provisions 104–5
Silverstein, K. 481
Simmons, B. 8, 30, 32, 33, 34, 36, 38, 39, 43, 52, 118, 149, 165, 166, 167, 292, 328–9, 330–31, 332, 354, 363
’simplified form’ agreements, domestic incorporation of international law 155
Simpson, A. 234, 235
single state preference as theoretical tool 140
Skjærseth, J. 463
Sklarov, M. 399
Slaughter, A. 5, 29, 64, 80, 121, 145, 146, 212, 228
Sloss, D. 79–115, 163
Sluiter, G. 135
Smillie, I. 346, 358–9, 361
Smith, E. 126
Smith, J. 298
Snidal, D. 64, 345
Snowden, E. 424, 425
Soares, G. 132
social beliefs, effects of changing, international environmental governance 484
social benefits, international intellectual property law 310
social constructivism 33–4, 35
social inequality issues, international environmental governance 447–8
social learning, and compliance with international law 41
societal pressure on companies, and human rights 352–3
sociological dimension of interface of law and politics, European Court of Human Rights 228–9, 241
Sofaer, A. 401
soft law and soft enforcement, compliance with international law 49–51
Solé, R. 451
Sorel, J. 257
Soriano, M. 252, 253
South Africa legislative approval of treaties 132–3, 135
Medicines and Related Substances Control Amendment Act and HIV/AIDS crisis 318
treaty interpretation 161, 162
sovereign immunity rule 92
sovereignty and cooperation, push and pull between, international environmental governance 472–3, 483
horizontal rules between sovereign states 83–4, 89–92
national digital sovereignty versus global Internet 424–7
protection in dualist systems 173–4
Spahn, E 75
Spamann, H. 168
Spano, R. 261, 262
Spiro, P. 336
Stahn, C. 46
standard setting bodies (SSBs), global financial and environmental standards 221–2
Starke, G. 171
state involvement non-state actors and human rights 346–9, 358–9
state and NGO rulemaking, factors influencing efficacy 349–51
states benefiting from regime complexes 200–201
see also domestic incorporation of international law
Staton, J. 149, 166
Steger, D. 288
Stein, E. 17
Steinberg, R. 278, 296
Stephen, C. 45–6
Stephens, B. 113
Sterio, M. 382
Stiles, K. 12, 38, 483
Stockholm Conference on the Human Environment 459, 472
Stoermer, E. 444
Stohl, R. 131
Stokke, O. 187, 196
Stone Sweet, A. 1, 3, 13, 17, 19, 81–2, 88, 256, 299
Stroup, S. 341
structural changes in human rights discourse, European Court of Human Rights 240–41
structural differences and political dynamics, non-state actors and human rights 337–9
structural power, WTO dispute settlement 292–3, 303
Stucki, P. 293, 297
Stulz, R. 168
Stuxnet attack on Iran’s nuclear enrichment program 392–3, 415
subsidarity principle 45
Sugden, R. 191
surveillance, Internet governance 423, 424–5
Susskind, R. 483
sustainable development, international environmental governance 476
Swaine, E. 72
Sweden, legislative approval of treaties 126
Sweeney, J. 251, 263
Sykes, A. 59, 63, 64, 173, 294
systemic implications, WTO dispute settlement 304–5
’t Hoen, E. 60, 318
Tahzib, B. 125
Tallberg, J. 208
Tallinn Manual, cyber conflict 393–4, 395, 400
Tarrow, S. 450
Tarullo, D. 289
Tate, N. 80
technology, and international environmental governance 449, 474, 483
Templeman, S. 125
Terracino, J. 135, 136
terrorism non-State terrorist groups 399, 402, 403–4, 405, 409, 411
Prevention of Terrorism Act, UK 247
September 11 attacks 371–3, 376, 403–4
‘war’ on see ‘war’ on terror and international law
Teubner, G. 179, 180–81, 184
Thailand, HIV/AIDS crisis 318–19
Thakore, K. 132
Thomas, D. 50
Tingley, D. 120
Tolba, M. 446
Tolley, H. 239
Toope, S. 33, 270
torture committed by government officials 88
and compliance with international law 39
Convention Against Torture 354
prohibition, European Court of Human Rights 253–4
Townsend, D. 302
Trachtman, J. 182, 183, 299
trade export-oriented interests, WTO dispute settlement 295–6
Free Trade Agreements 322, 329
and international intellectual property law 311–16, 320–21
international trade law enforcement 67
multilateral trade negotiations and substantive incrementalism 76–7
negotiations 58–9
restrictions and environmental issues 198–9, 200–201
safeguards and political escape clause 63–4
Trans-Pacific Partnership (TPP) 326–31, 332–3
Transnational Advocacy Networks (TANs) 340, 342–3, 344, 353, 354–6
transnational regulation, non-state actors and human rights 344–53, 356–61
transparency and accountability, non-state actors and human rights 345, 346, 348–9, 350–51
Trapp, K. 371, 374
Traufetter, G. 426
Treaties
dualist systems and treaty interpretation 161–2
formal review to assess treaties’ constitutionality prior to ratification 157
‘framework treaties’, international environmental governance 459
governing private relations 95
hierarchical status of treaties in monist systems 172–3
identification of treaties requiring legislative action 153–4
interpretation and application, domestic incorporation of international law 158–61
multilateral 93–5
‘non-self-executing’ treaties as avoidance technique 83, 87
parliamentary systems and role in treaty formation, EU 124–7
private treaty rights and forum non conveniens 99
ratification, and domestic incorporation of international law 152–3, 156–7, 160–61, 164, 172
self-executing 66–7, 87, 94, 111–12
treaty role in changing state policy 56–8, 60–61, 66
treaty withdrawal ability 156
treaty-making participation, non-state actors and human rights 344, 354
Treaty law and national legislative politics 116–48
application and conformance 136–8
application and conformance, domestic statutory decisions 136–7
constitutional provisions 123, 125–33
domestic courts, limited role treaty creation 139
environmental and economic issues, distributional consequences 142
formal powers and applications 122–33
gap between legislative and executive preferences, effects of 141–2
International Criminal Court (ICC), Rome Statute 134–6
international governmental organizations (IGOs), limited role in treaty creation 139
international law, influence on content 122–33
international law and international relations, convergence 120–21
international law and international relations, differences between 117–18
international relations literature overview 117–21
interpretation and implementation 133–6
legislatures’ international law-making role 124–5
legislatures as potential veto player over international behavior 120
legislatures versus other bodies 138–9
liberalism approach 118–19
negotiation and bargaining positions 119–20
networks, regional or global professional 146
overseas education or professional experience effects 145–6
parliamentary-style legislatures and internationalist policies 144–7
political factors in legislative impact 140–47
preference distribution effects 140–43
presidential system legislatures 143–4
prosecution powers 135
security issues and international political economy 142–3
single state preference as theoretical tool 140
treaty negotiation process 123–4
see also domestic incorporation of international law; state involvement
Trochev, A. 37
Tsutsui, K. 8, 32, 34, 38
Turkey
ECtHR judgments 253–5
Internet governance 441
Turner, B. 443
Tversky, A. 479
Tyler, T. 6
UK
Brexit 156–7
compliance with European human rights norms 246–9
Human Rights Act 260
legislative approval of treaties 125, 135
Prevention of Terrorism Act 247
specialized human rights lawyers 247–8, 254
treaty interpretation 158, 162
voirte face on ECtHR 260–62
UN Arms Trade Treaty 130–31
right of self-defense 402–6, 408–10, 413, 416–17
UN Convention on the Rights of Persons with Disabilities 130
UN Framework Convention on Climate Change (UNFCCC) 60, 196, 459
UN Global Compact 347, 348, 350, 357–8, 360, 361, 362
UN Global Environment Facility 460
UN Security Council and binding international rules 139
UN World Summit on the Internet Society 429–30
‘uncompliance’ strategy, WTO dispute settlement 302
see also non-compliance
Urpelainen, J. 177, 180, 186, 189, 194, 478
Uruguay Round of General Agreement on Trade and Tariff (GATT) and Intellectual Property Committee (IPC) 313–14, 315, 319
US
Charming Betsy canon of construction 67
Cities for Climate Protection campaign 469
Constitution and executive’s power to enter into treaties 152–3, 154–5
cyber conflict and national security 406–8, 410, 412–13
Dodd-Frank Act 70
Foreign Corrupt Practices Act (FCPA) 74
greenhouse gas emissions control 468–9
intellectual property rights and trade legislation 311–13
inter-agency policy process 70
and International Criminal Court (ICC), Rome Statute 137–8
Internet governance involvement 427–9, 432
legislative approval of treaties 127–31, 136–8, 155–6, 157–9, 160, 162
Omnibus Trade and Competitiveness Act 273, 312, 314
pharmaceutical firms and HIV/AIDS crisis 318–19
Refugee Act 105
self-execution and treaty enforcement 66–7
Index  587

Stop Online Piracy Act (SOPA) 324–5
Stuxnet attack on Iran’s nuclear enrichment program 392–3, 415
Trans-Pacific Partnership (TPP) 326–31, 332–3
unilateral trade sanctions, WTO dispute settlement 273–4
United States Trade Representative (USTR) and intellectual property 312–13, 314, 317, 318, 320–21, 322, 324, 326, 327
unlawful secret detention and interrogation tactics 388–9
‘use of force’ as interpreted at international law, and cyber conflict 399, 400, 404, 407, 410
Utting, P. 358

Valentino, B. 40
Vallinder, T. 80
Van Alstine, M. 79–115, 163
Van Asselt, H. 181
Van de Graaf, T. 177, 180, 186, 189, 194
Van den Bossche, P. 275
Van Duk, P. 125
Van Ert, G. 104, 106, 108
Van Harten, G. 331
Venezuela, and Rome Statute of the International Criminal Court (ICC) 135–6
Verdier, P. 86, 123, 139, 149–75
Versteeg, M. 86, 123, 139, 149–75
vertical rules, international law in domestic courts 84–5, 102–14
veto points and treaty ratification, domestic incorporation of international law 153
Victor, D. 29, 176, 178, 180, 181, 186, 188, 189, 191, 193, 194, 198, 208, 460
Vienna Convention on the Law of Treaties 62, 137
Viljoen, F. 46, 49–50
Víñuales, J. 470

violence management concerns, ‘war’ on terror and international law 369–70
Voeten, E. 40
Vogel, D. 466, 471
Vogel, J. 32–3
Von Stein, J. 52, 300
Vranes, E. 470
Vreeeland, J. 15, 32, 34

Wagner, M. 382, 383
Walker, N. 179, 182, 183, 257
Wall, R. 415
Waller, S. 316

war

cyber conflict

see cyber conflict, emerging international legal architecture
democracy in warlike conditions, problems with promotion of, European Court of Human Rights 262–3
laws of war, and compliance with international law 39
rape as war crime 341

‘war’ on terror and international law 366–90
al Qaeda, responses to use of terroristic power by 368–77
drone use and self-defense 381–5
drone use and self-defense, control concerns 383–5
Iraq’s alleged weapons of mass destruction 380–81
ISIS terroristic power, responses to 377–81
ISIS terroristic power, responses to, collective self-defense under Article 51 of the United Nations Charter, Iraqi agreement to 378–9
ISIS terroristic power, responses to, serial war crimes genocide and other crimes against humanity, global outrage in response to 379–80
right of self-defense against non-state actor attacks under international law 370–79
September 11 attacks 371–3, 376
unlawful secret detention and interrogation tactics, claims to use 385–9
unlawful secret detention and interrogation tactics, claims to use, deflation of rule of law within US 388–9
unlawful secret detention and interrogation tactics, claims to use, and Geneva Conventions 385–6
violence management concerns 369–70
see also terrorism
Wasserstein, B. 127
water quality 458, 465–6, 484
see also international environmental governance
Watkin, K. 377
Watts, S. 403, 405, 406, 407, 409
Waxman, M. 400, 401, 410, 413, 416
Waz, J. 429, 433
Webber, M. 451
Weber, A. 255, 256
Webster, D. 404
Weil, G. 237
Weiler, J. 242, 271, 285, 287, 288
Weingast, B. 170
Weiser, P. 429, 433
Weiss, E. 476, 482
Weissbrodt, D. 346–7
Weissman, R. 314
Weldon, S. 165
Weller, M. 378
Werksman, J. 197
Whitehead, C. 50
‘wicked problems’, international environmental governance 451–2
Wiener, J. 61
wildlife protection regulation 468, 470

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) 199
see also international environmental governance
Williams, C. 350
Williams, P. 368
Williamson, R. 49, 168
Willis, A. 443
Wilson, B. 301
WIPO
and Substantive Patent Law Harmonization negotiations 320
WTO TRIPS Agreement relationship 60, 194–5, 197–8, 200
withdrawal, treaty withdrawal ability 156
Wittes, B. 483
women’s rights agenda, non-state actors and human rights 344
World Conference on International Telecommunications (WCIT), Tunis Agenda 429
World Environmental Organization suggestion 485
World Wide Web, Internet governance 429, 437–8
WTO
Cartagena Protocol on Biosafety 192, 195, 300
GATT law enforcement 67
Internet governance 440
TRIPS Agreement 315–16, 317, 318, 319
TRIPS Agreement and developing countries, public health issue 319–20
TRIPS Agreement and WIPO relationship 60, 194–5, 197–8, 200
WTO Dispute Settlement Body 139, 478
Australia-Automotive Leather 304–5
US-Cotton 294–5
US-EU Aircraft 295
US-Shrimp-Turtle 281, 294, 298, 299, 304
590  Research handbook on the politics of international law

Yackee, J. 57
Yoo, J. 127–8, 368, 385–6
Young, M. 179
Young, O. 186, 459
Yu, P. 327, 332

Zaring, D. 70
Zelli, F. 181
Zimmerman, M. 470
Zuckerberg, M. 442
Zürn, M. 203, 308