

Subject Index

A

- Australia, tobacco products
 - China Bilateral Investment Treaty (BIT), 183
 - Doha Declaration, 191, 194
 - Framework Convention on Tobacco Control (FCTC), 181–182, 185–186
 - General Agreement on Tariffs and Trade 1994, 184, 192, 197
 - health warnings, 186–188
 - intellectual property rights (IPT), 191–193
 - National Preventative Health Taskforce (NPHT), 182
 - plain packaging, 182–186, 188–191, 196
 - Technical Barriers to Trade (TBT) Agreement, 184–187, 189, 191–196
 - Tobacco Plain Packaging Act (TPP), 182–198
 - trade restrictiveness, 188–191
 - TRIPS Agreement, 184, 191–196
 - Vienna Convention on the Law of Treaties (VCLT), 191

B

- Brexit
 - EU only agreements, 71–72
 - international law, 72
 - state succession, 72–74
 - free movement of capital, 7–13, 16–27
 - mixed agreements

- defining parties as ‘Member States,’ 62–64
- EU law approach, 65–67
- foreign investors, protection of, 66–70
- preamble/list approach, 64–65
- rights and obligations, 57–58
- scope limitations, 60–62
- termination clause, absence of, 58–60
- territorial scope, 70–71
- preferential trade agreements (PTA)
 - division of competences, 56–57
 - ECJ, 56, 61, 72, 74
 - EU-UK relationships, 53–55
 - EU/MS treaties, 57
 - Vienna Convention on the Law of Treaties (VCLT), 55, 57–61, 63–64, 66–68, 70, 72

C

- Canada
 - EU FTA, 110–111, 114
 - Israel FTA, 94
 - Comprehensive Economic and Trade Agreement (CETA), 197–200
 - EMA, cooperation with, 173–174
- China, Protocol on the Accession
 - calculation of ‘normal value,’ dumping margins, 31–34
- European Union Basic Regulation, 37–38

GATT rules, 31–36, 41, 43, 46, 50–51
 NMEs (non-market economies)
 approach, 29, 34–38, 40, 44–46, 50
 Section 15 and principle of effectiveness,
 44–51
 United States Anti-Dumping laws,
 29–51
 WTO DSB decision, trade measures,
 29–31
 WTO members, 39–44

D

digital economy, global legal framework,
 225–246
 artificial intelligence (AI), 226
 Asia-Pacific Economic Cooperation
 (APEC), 230, 235, 241
 binding and enforceable reforms, 235
 challenges, 231–233
 Comprehensive and Progressive
 Agreement for Trans- Pacific
 Partnership (CPTPP), 231, 245
 Cross- Border Privacy Rules (CBPRs),
 235, 241
 data localization, 238–239
 definition, 227
 enforcement, 236
 European Union (EU), 226
 expeditious dispute resolution, 237
 free trade agreements (FTAs), 231–232
 General Agreement on Trade in Services
 (GATS), 230–231, 231
 General Data Protection Regulation
 (GDPR), 232
 gross domestic product (GDP), 228, 238
 information and communications
 technology (ICT), 228, 230
 Information Technology Agreement
 (ITA), 230–231
 Information Technology Agreement,
 (ITA), 231
 Intellectual property (IP), 230,
 243–245

intellectual property rights (IPR), 227,
 238
 International Telecommunication
 Union (ITU), 230
 internet of things (IOT), 226
 key substantive issues, 238
 local jurisdiction, 242–243
 Ministerial Conference of 2017
 (MC11), 234
 need for regulation, 229–231
 Organization for Economic
 Cooperation and Development
 (OECD), 230, 241
 participating Member States, 236
 payment system, 245
 privacy, 241
 review and policing, 237
 role in global economic growth,
 228–229
 security, 241–242
 small- and medium-size enterprises
 (SMEs), 228
 structural or operational form, 235
 taxation, 239–241
 Trade Facilitation Agreement (TFA), 231
 Trade-Related Intellectual Property
 Rights Agreement (TRIPS),
 230–231, 243
 United Nations Commission on
 International Trade Law
 (UNCITRAL), 230
 United Nations Conference on Trade and
 Development (UNCTAD), 228, 230
 United States–Mexico–Canada
 Agreement (USMCA), 231
 use of data, 225–227
 voluntary self-regulation, 237
 World Customs Organization (WCO),
 230
 World Trade Organization (WTO)
 rules, 230–246
 Dutch Child Labour Due Diligence Law, 3
 Duty of Vigilance (France), 3

E

- EU Competition rules, 363–385
 - Competition and Markets Authority (CMA), 313, 370
 - enforcement inconsistencies
 - complex elements, 373–377
 - issue of variability, 378–382
 - legal regulations, 366–368
 - overview, 363–365
 - randomness issue, 382–384
 - uncertainty and variability issues, 368–373
- Imperial Chemical Industries (ICI), 378
- Member States, 335–337
 - 2019 framework, 342–343
 - administrative principles, 337–340
 - EU treaties, modifications and evolutions, 332–335
 - fundamental principles, 331–332
 - general prohibitions, 330–331
 - persistent rule of law challenges, 341–342
 - promotion initiatives, 340–341
 - rule of law concepts, 329–330
- Office of Fair Trading (OFT), 370
- Serious Fraud Office (SFO), 370
- EU pharmaceutical industry, BREXIT, influence on
 - Article 50 of the Treaty of Lisbon, 164–165
 - Canada, 173–174
 - EU Member States' levels of participation, compliance & partnership, 170–171
- European Free Trade Association (EFTA), 165, 171–172
- European Medicine Agency (EMA), 162–163, 166–176, 178
- European Union Customs Union (EUCU), 166
- market authorization, 168, 175–176
- Medicines and Healthcare product Regulatory Agency (MHRA), 163
- Norway model, 165, 171
- pharmacovigilance, 176
- regulatory problems, 174–176
- research & development process, 167–168, 175
- safety monitoring, 169
- Single Market, 165
- Switzerland model, 165, 171–173
- WTO rules, 166
- EU–Singapore Free Trade Agreement (EUSFTA), 200
- Eurasian Economic Union (EAEU)
 - CJEU, 137–138, 141–144, 146–147
 - Bosman's decision, 135, 141, 143
 - Court's opinion on professional athletes autonomy of notions, 144–145
 - Commission Decisions, 131, 133, 134, 136–137, 139–142, 145–147
 - direct effect and applicability, 139–141
 - horizontal effect, 141–143
 - Internal market law, 130–134
 - justifications for restrictions, 135–136
 - Member States' duty of loyalty, 145–146
 - notion of restriction, 134–135
 - primacy, 140–141
 - proportionality principle, 146–147
- Member State legislation, 130–132, 134–138
- Treaty norms, 129, 131–136, 138, 140–141, 144, 146
- Vienna Convention on the Law of Treaties (VCLT), 133
- Europe, economic constitutional law, 297–300
 - budgetary and monetary policy, 306–310
 - competition law, 301–302
 - court's role, 314–315
 - independent regulatory agencies, 310–314
- Magyar Tudományos Akadémia (MTA), 300

- models, 302–306
 - national competition authority (NCAs'), 299
 - principle of liberal constitutionalism, 301
 - European Energy Community (EnC)
 - 'Clean Energy for all Europeans' package, 156
 - Advisory Committee, 158
 - Agency for the Cooperation of Energy Regulators (ACER), 152
 - EnC Treaty, 150–151, 153, 155, 157
 - Energy Charter Treaty (ECT), 151
 - Energy Community Regulatory Board (ECRB), 151–152, 157–158
 - Energy Efficiency Directive for 2030, 156
 - EU Energy Efficiency Directive of 2012/27/, 155
 - European Network Codes, 154
 - GATT-like provisions, 158
 - institutional structure, 151–152
 - legal system, enforcement, 153–159
 - Mandatory Ownership Unbundling, 154
 - Ministerial Council (MC), 151–152, 154–160
 - non-EU Contracting Parties, 150
 - Permanent High-Level Group (PHLG), 151, 153, 155, 158
 - Recommendation 2016/02/MCEnC, 155
 - Rules of Procedure of Dispute Settlement under the Treaty (RP-DS), 157
 - Treaty on the European Union (TEU), 149, 153
 - Treaty on the Function of the European Union (TFEU), 153, 155
 - European Union's Foreign Direct Investment
 - bilateral negotiations, 115–120
 - Comprehensive Economic and Trade Agreement (CETA) with Canada, 111–112, 127
 - Council Directive, Annex I, 116–117
 - Court of Justice of the European Union (CJEU), 109–110, 116–119, 126–128
 - European Convention on Human Rights (ECHR), 126–127
 - Germany's Constitution, 120–125
 - international investment agreements (IIAs), 109–112, 115–117, 126–127
 - investor-state dispute settlement (ISDS), 109–110, 112, 127–28
 - liberalization rules, 109–115
 - Lisbon Treaty, 107, 109–110, 113–114, 124–126
 - Organisation for Economic Co-operation and Development (OECD), 109
 - Regulation (EU) 2019/452, 105–109, 124–125
 - TEU Article 21, 108–109, 113–115, 120, 124–12–126, 128
 - Transatlantic Trade and Investment Partnership (TTIP), 112
 - Treaty of Maastricht, 116
 - Treaty of Rome, 116
 - Treaty on the Functioning of the European Union – TFEU), 107, 109–110, 113, 115–118, 123–125
 - World Trade Organization (WTO), 109, 120
- G**
- global value chains regulation
 - 2017 Conflict Minerals Regulation, 5
 - challenges, 1
 - EU procurement rules, 2
 - high-risk sectors., 3
 - HRDD, 6
 - ISO standards, 5
 - OECD rules, 3–6

private standards, 2
 public standards, 3
 TBTCODE of Good Practice for
 standards, 6
 United Nations' Guiding Principles on
 Business and Human Rights
 (UNGPs), 3–4, 6
 WTO law, 1–2, 5–6

I

international peace relations
 Article XXI, 78–79, 83–95, 98–99
 free trade agreements, 77–80, 93–94
 GATT's role, 78–79, 81–89, 91–96, 98–
 99
 ITO's role, 81–84
 multilateral trade agreements, 92–93
 national security sanctions, 96–98
 need for reform, 98–100
 new interpretations, 94–95
 public law, 80
 security exceptions, 78–80, 83–99
 trade law, 81–83
 WTO's role, 77–100
 Investment Court System (ICS), 200
 Investor-State Dispute Settlement (ISDS),
 198–200
 investor-state dispute settlement with third
 states, 197–201

J

Japan-EU Free Trade Agreement (JEFTA),
 197

M

Modern Slavery Act (UK), 3
 Multilateral Investment Court (MIC),
 198–199

R

Rule of Law. *See also* EU competition
 rules; Europe, economic constitu-
 tional law

challenges, 358–360
 Court of Justice of the EU (the CJEU),
 349, 353, 358–361
 economic constitutions,
 301–316
 EU and national level,
 348–350
 European Competition Network
 (ECN), 346–347, 361
 Judiciary reforms
 in Poland and Hungary, 350–358
 national competition authorities
 (NCAs), 345–346, 385
 National Council of the Judiciary
 (NCJ), 352–353
 overview, 345–348

S

Swedish Match 2018, 285–286
 broad discretion of the European
 legislator, 290–291
 ECJ, 285–287, 290–293
 proportionality test, 288
 public health objective, 291–292
 scientific evidence, 292–295
 summary, 286–287

T

TFEU Article 63
 free movement of capital, 8, 10–13
 justifiable overriding general interest,
 19–20
 non-discrimination model,
 17–19
 non-restrictive model, 14–16
 TFEU Article 64, 66 and 75
 third countries, extension to, 23–26
 TFEU Article 65
 taxation grounds, 21–22
 Trade and Sustainable Development
 (TSD), 199–200
 Trans-Pacific Partnership (TPP),
 198

U

- unconventional monetary policy, 263–296
 - asset backed securities program (ABPP), 265
 - Asset Purchases Program (APP), 265, 266, 268
 - background, 264–267
 - Court of Justice of the European Union (CJEU), 263–296
 - Court's decision, 267–271
 - direct and indirect goals, 271–273
 - Economic and Monetary Union (EMU), 263, 277
 - European Central Bank (ECB), 263, 269, 276
 - European System of Central Banks (ESCB), 267–268, 277, 282
 - Federal Constitutional Court (FCC), 263–273, 276, 282, 284
 - Governing Council's statement of reasons, 275–276
 - holding bonds until maturity, 282–283
 - loss sharing, 276–279
 - Member States (MS), 265, 288, 290
 - Outright Monetary Transactions (OMT), 263–265, 273–278, 280, 282, 284
 - overview, 263–264
 - prohibition of monetary financing, 279–280
 - proportionality review, 273–275
 - Public Sector Purchases Program (PSPP), 263–296
 - purchase limits, 281–282
 - Securities Market Program (SMP), 265
- United Kingdom, free movement of capital. *See also specific* TFEU Articles
 - Brexit debate, 7–13, 16–27
 - EU/UK deal, 9–10
 - four freedoms of movement, 7
 - post-Brexit context, 26–27
- United States, antitrust and democracy, 317–328
- Central and Eastern European nations (CEECs), 325
- Temporary National Economic Committee (TNEC), 320
- US-Peru Trade Promotion Agreement (TPA), 247–262
 - Annex on forest sector governance, 250–253
 - Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 251–252, 259
 - Environmental Affairs Council (EAC), 248, 256, 260
 - environmental consultations, 253–257
 - Environmental Cooperation Agreement (ECA), 251
 - Environmental Cooperation Commission (ECC), 249, 256–257
 - European and International Law of Sustainable Development (EILS), 247
 - European Union (EU), 247–262
 - international environmental agreement, 257
 - Ministry of Environment (MINAM), 249, 258–259
 - Organismo de Supervisión de Recursos Forestales (OSINFOR), 249, 251, 258–260
 - overview, 247–250
 - Peru Trade Promotion Agreement (PTPA), 248, 256, 258, 260
 - Peruvian environmental laws/forest sector governance disputes, 257–262
 - Presidency of the Council of Ministers (PCM), 258–260
 - Secretariat for Submissions on Environmental Enforcement Matters (SSEEM), 248–249, 256
 - Trade Promotion Agreement (TPA), 247–248, 256, 258, 260

United States Trade Representative
(USTR), 249, 260

W

World Health Organization (WHO)

Framework Convention on Tobacco
Control (FCTC), 181–182, 185–186

World Trade Organization (WTO)

adjudication and the security exception,
203–206

Appellate Body, blocking new
appointments, 218–223

Article XXI, 213–218

Dispute Settlement Body (DSB),
203–207, 220

Dispute Settlement Understanding
(DSU), 206, 209

emergency in international relations,
212–214

General Agreement on Tariffs and
Trade (GATT), 203–220

International Court of Justice (ICJ),
208

objectively determinable concept,
209–211

Russia's argument, 203–207, 210–220