

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

INDEX

- Accountant (AEC), 19–21
- Adjudicative relational principles, 55–7, 225
- Advisory opinions, 50, 131–2, 138–9, 217
- African Charter for Human and People's Rights, 104
- African Commission on Human and People's Rights, 104, 126, 176
- African Common Market, 67
- African consciousness/African renaissance, renewal of, 1
- African Court of Justice and Human Rights (African Court of Justice), 4
- arbitral jurisdiction and, 232–3
- AU–AEC political integration and, 184
- automatic enforceability principle and, 199–200
- budget control and independence of, 173–4
- conflicting jurisdictions and, 256–7
- enforcement of law through, 171–83
- human rights claims and, 126
- jurisdictional conflict between AEC and RECs and, 77
- jurisprudential communication and, 142
- legal status of AEC and, 85–6, 90–1
- national court enforcement of community law and, 247
- political reaction to, 77
- supremacy principle and, 95, 97, 105
- African Economic Community (AEC). *See also* Treaty Establishing the African Economic Community (AEC Treaty)
- African Union and, 3, 11–12, 64–6, 69–72, 84, 183–5
- COMESA–EAC–SADC Tripartite Summit on, 67–8
- conflict of laws and jurisdictions with RECs and, 76–7
- current and future status of, 17n.34
- developmental inertia in, 167–9
- enforcement of law in, 166–83
- executive, legislative and judicial institutions of, 4
- formation of, 1
- founding treaties of RECs and, 68–9
- future merger of RECs and, 72–6
- harmonization of laws in, 112–14
- international law and, 317
- jurisprudential borrowing from courts of, 155
- legal framework for, 3, 66–9
- legal status of, 69–72, 84–92
- membership criteria for, 71–2
- member states' sovereignty and, 88–92
- multiple memberships in RECs and, 64, 77–81
- non-institutional relations with, 185–6
- principal institutions of, 19–21
- purpose and structure of, 17–22
- regional economic communities and, 3, 11–12, 64–6, 69–72
- relational issues and vision of, 310–18
- supremacy of law in, 92–106
- timelines for evolution of, 18n.37

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

INDEX

347

- African Union (AU). *See also*
 Constitutive Act of the African Union
 African Court of Justice and, 172
 African Economic Community and, 3, 11–12, 21–2, 64–6, 69–72, 84, 183–5
 Assembly of Heads of State and Government of, 166
 automatically enforceable community law principle and, 198–9
 establishment of, 17, 22n.58
 national constitutions' acknowledgment of, 204
 Organization of African Unity replaced with, 17n.28
 private international law regime and role of, 306–7
 Protocol on Relations and, 67
 regional economic communities and, 14–15, 15t, 64–6, 78–9
 African Union Commission on International Law, 113–14
 African Union Convention on Preventing and Combating Corruption, 220–1
 African unity concept, 211–13, 275–81
amicus curiae briefs, legal person and interest group litigation and use of, 147–8
 Andean Community Tribunal, 47n.52, 232n.13
 Angola, 295
 anti-suit injunction, 292–3
 Anton Piller order, 292–3
 apartheid regime (South Africa), formation of SADC and, 28
 appellate jurisdiction, harmonization of laws through, 114–15
 applicable law principle, arbitral jurisdiction and, 231–43.
See also direct applicability principle
 Arab Maghreb Union (AMU/UMA), 16
 arbitrage, regime complex theory and, 65
 arbitral jurisdiction in community courts, inter-institutional relations and, 125
 Arbitral Tribunal, 236–7
 arrest, jurisdiction based on, 289–91, 290n.74
 Assembly of Heads of State and Government (AEC), 19–21, 85–6, 112–14, 166–9, 306–7
 Assembly of Heads of State and Government (ECOWAS), 22–3
 attachment principle, in Roman–Dutch law, 106–7
 'automatically enforceable' community law, 196–200
 beneficiary designation, foreign judgment enforcement and need for, 278–9
 Benelux Treaty, 41n.30
 bias allegations, against community court judges, 122n.33
 bilateral trade agreements, direct applicability of community law and, 191
 Botswana
 Citizenship Act of, 216–17
 foreign judgment enforcement in, 277–8, 286–7
 national constitution of, 207n.75
 respect for international law in, 104
 Roman–Dutch law in, 282
 Burundi, 109, 279n.28
 Bustamante Code, 274–5
 Canada, 273n.9
 direct effect of community law in, 45–6
 international competence rulings in, 291
 sovereignty in, 89n.21,
 Caribbean Court of Justice, 52, 120n.15, 174–5, 175n.58, 232n.13, 252–3, 261n.116
 Central African Economic and Monetary Community (CEMAC), 14–15
 Charter of the Organization of African Unity, 211–12

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

348

INDEX

- China, cultural norms and WTO
 - compliance in, 62
 - choice of law principle, 55–7, 280, 283n.47, 299
 - civil law tradition, colonial legacy of, 26–7
 - civil procedure, private international law and, 301–2
 - colonial legacy
 - economic integration and legal infrastructure from, 26–7
 - foreign judgment enforcement and, 278–9
 - in national constitutions, 206–7
 - in private international law, 285–8
 - supremacy of AEC law and, 97–102
 - COMESA–EAC–SADC Tripartite Summit, 67–8
 - comity, common law doctrine of, 258, 279–81
 - commercial transactions
 - in community courts, 288
 - economic integration litigation and, 146–8
 - harmonization of, 110–11
 - private international law and, 283n.47, 285–7
 - Commission of Mediation, Conciliation and Arbitration, 232n.11, 236n.22
 - Committee of Secretariat Officials, Protocol on Relations and, 67
 - Committee on Coordination, 67, 112–14
 - Common Court of Justice and Arbitration, 91
 - common law states
 - enforcement of foreign arbitral awards under, 240
 - foreign judgment enforcement and, 277–81, 297–8
 - investor's assets jurisdiction in, 107–8
 - jurisprudential communication in, 283
 - service principle of jurisdiction in, 106–7
 - tort law in, 300
 - common market
 - AEC Treaty provisions concerning establishment of, 18
 - COMESA proposal for, 24
 - economic integration and creation of, 6
 - Common Market Council, 185
 - Common Market for Eastern and Southern Africa (COMESA). *See also* Treaty Establishing the Common Market for Eastern Southern Africa (COMESA Treaty)
 - as AEC entity, 73–4
 - community court structure in, 119–24, 128–33, 145–6, 231–43
 - Court Rules and community judgment enforcement, 249–55, 264n.123
 - economic integration and, 2, 311–12
 - exhaustion of local remedies rule and courts of, 161–2
 - goals of, 11–12
 - harmonization of laws in, 112–13
 - inter-institutional litigation and sovereignty issues in, 160
 - judicial cooperation in Court Rules of, 261–2, 263–4
 - jurisprudential borrowing by courts of, 133–42, 155
 - multiple state memberships in RECs as barrier to joining, 64
 - overview of, 14–15
 - relational issues facing, 4
 - structure and purposes of, 23–4
 - trade and economic development initiatives of, 27–8
- Common Market of the Southern Cone (MERCOSUR), 36, 73, 274–5, 306–7
 - Common Market Tribunal, 99, 185
 - community autonomy, relational issues and, 40–2
 - Community Court of Justice (ECOWAS), 22–3

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

INDEX

349

- community courts
 - arbitration in, 231–43
 - challenges to national court
 - enforcement of judgments by, 249–55
 - commercial transaction litigation in, 288
 - economic integration and, 117–18, 142–64
 - Enforcement of Community Judgments Act model, 264–7
 - exhaustion of local remedies rule and, 52–3
 - harmonization of laws through, 114–15
 - individuals' standing in, 52, 142–8
 - inter-institutional litigation and sovereignty issues for, 159–64
 - inter-system relations and, 54–5
 - judicial cooperation with national courts, 259–64
 - jurisdictional issues for, 118–33, 255–9
 - jurisprudential borrowing and rulings of, 54–5, 133–42, 154–6
 - legal person and interest group litigation before, 146–8
 - model legislation for judgments, enforcement and judicial cooperation, 264–70
 - national court enforcement of judgments by, 145–6, 244–9
 - political power of, 144
 - proliferation of staff cases before, 75–6
 - public international law and rulings of, 156–9
 - state legal systems and, 82–4
 - structure of, 118–33, 119–24
- community institutions, arbitral jurisdiction and immunity claims of, 243
- community law
 - AEC treaty on supremacy of, 92–106, 185–6
 - African Court of Justice and, 180–3
 - 'automatically enforceable' community law, 196–200
 - autonomy and, 40–2
 - customary law *vs.*, 224–7
 - direct applicability of, 42–4, 190–5
 - direct effect of, 44–6, 153–4, 195–6
 - economic integration and, 4, 8
 - enforcement mechanisms for, 165–6
 - forms of, 8n.12
 - grundnorm* validation of, 208
 - individual rights and responsibilities and, 51–3
 - interpretative and adjudicative principles, 55–7
 - jurisprudential communication and, 53–5, 283–5
 - legal framework for, 31–2, 84–8, 90–1
 - national constitutions and, 203–15
 - national courts' role in enforcement of, 149–56
 - national judicial philosophy and, 215–22
 - national law and implementation of, 13, 203–27
 - preliminary reference procedure and, 48–50
 - protection for implemented laws, 200–3
 - state legal systems and, 82–4
 - supremacy principle and, 47–8, 97–102, 312–13
 - treaty provisions for implementation of, 189–203
 - Uniform Acts in relation to, 91
 - WTO law and, 13–14
- Community of Sahel-Saharan States (CENSAD), 16
- community parliaments, 22–3, 51–2, 169–71
- community–state relations
 - African Court of Justice and, 179–80
 - autonomy in, 41–2
 - community courts' standing and preconditions provisions and, 128–33
 - direct applicability principle and, 43–4
 - economic integration and, 4–5, 315–16
 - enforcement of foreign awards and, 240–3

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

350

INDEX

- community–state relations (cont.)
 - international laws and, 36
 - legal status of AEC and, 84–8
 - non-law mechanisms for, 185–6
 - preliminary reference procedure and, 48–50
 - sovereignty issues and, 159–63
 - supremacy principle and, 47–8, 92–106
- comparative law, interstate relations and, 281–5
- conflicting judgments, overlapping jurisdictions in community courts and, 255–9
- conflict of norms rules, 44, 85–6, 191–2. *See also* norms and normative acts
- conflict resolution, economic integration hampered by need for, 28–9
- Congo, Democratic Republic of, 28, 277n.23
- consensus-based decision-making, advisory opinions of community courts on, 132
- consistent interpretation, principle of, 55–7, 215–22
- constituent interests, private international law regime building and, 302–6
- constitutional law
 - automatically enforceable community law principle and, 199
 - due ratification procedures, 207
 - foreign judgment enforcement and, 277–81
 - national constitutions and community law, 203–15
 - national court enforcement of community judgments and, 193–4, 250–1, 254
 - protection of implemented community laws through, 200–3, 204n.61, n.62
 - regime construction for private international law and role of, 303
 - relational principles and, 314
 - supremacy principle and, 92–106, 207–15
 - treaty ratification and, 190
- Constitution of the Republic of South Africa, 55n.77
- Constitutive Act of the African Union, 67
 - African Court of Justice and, 172
 - African Economic Community and, 22
 - AU–AEC political integration and, 184
 - future merger of RECs and, 72–3
 - juridical personality principle in, 69–72
 - Pan-African Parliament establishment under, 170
 - sovereign equality principle in, 89–90
- continental customs union, AEC Treaty provisions concerning establishment of, 18
- contra bonos mores* principle, 293–4
- contractual liability, community courts' jurisdiction over, 126–8
- Convention on Privileges and Immunities of the Organization of African Unity, 69–72
- Council of Ministers (AEC), 19–21, 85–6, 168
- Council of Ministers (ECOWAS), 22–3
- Court of Appeal for East Africa, 98
- Court of Justice (AEC), 19–21, 85–6. *See also* African Court of Justice and Human Rights
- Court of Justice of the Caribbean Community, 114, 232–3n.13
- Court of Justice of the European Free Trade Area, 232–3n.13
- Court of Justice of the European Union (ECJ), 35, 39
 - arbitration in dispute settlement and, 233
 - autonomy principles and, 41–2
 - direct applicability principle and, 43, 190
 - enforcement of EU law under, 168–9
 - European Parliament standing with, 161n.153

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

INDEX

351

- jurisprudential borrowing by African courts from, 155
- legal status of European Union and, 86
- national courts' role in preliminary rulings and, 149
- preliminary reference procedure in, 49, 199–200
- socio-political forces and influence of, 102–3
- supremacy principle and, 95–6, 98n.49
- cross-border disputes
 - interstate relations and, 316
 - private international law and, 275–81
 - regime development for private international law and, 298–309
- currency issues, enforcement of foreign judgments relating to, 295–8, 297n.101
- customary international law
 - national law and, 190
 - relational issues and, 33–4
- customary national law
 - community law and, 224–7
 - legal pluralism and, 223
 - non-uniformity in Africa of, 224n.126
 - socio-cultural context for, 226
- customs area, economic integration and creation of, 6
- customs unions, 24, 27–8, 67–8, 311–12. *See also* specific customs unions
- Decision on Differential and More Favourable Treatment Reciprocity and Fuller Participation of Developing Countries, 13
- defined entities, economic communities as legal systems and role of, 37–9
- democratic governance, 28–9, 214–15
- Democratic Republic of Congo, 28, 277n.23
- diplomatic protection principle, national court enforcement of community court judgments and, 244–9
- direct applicability principle 'automatically enforceable'
 - community law principle and, 196–200
 - community law and, 42–4, 153–4, 190–5
 - direct effect *vs.*, 46
 - enforcement of foreign judgments and, 279–81
 - relational issues and principles in context of, 59–60
 - supremacy principle and, 60–1
 - surrender of sovereignty to AEC and, 89
- direct effect principle
 - automatically enforceable
 - community law principle and, 199–200
 - community law and, 44–6, 153–4, 195–6
 - direct applicability principle *vs.*, 46
 - dispute settlement regimes and, 118
 - normative supranationalism and, 35–6
 - relational issues and principles in context of, 59–60
 - supremacy principle and, 60–1
 - WTO law and, 207n.74
- dispute settlement
 - in African Court of Justice, 177–9
 - African legal culture relating to, 225
 - arbitration as preferred means for, 233–4
 - community courts' role in, 118–33
 - subject-matter jurisdiction and, 124–8
 - supranational jurisdiction and, 119
- double actionability rule, torts and, 301
- Draft Protocol for the Enforcement of ICJ Judgments, 246, 252–3
- dualism
 - international law and doctrine of, 33–4

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

352

INDEX

- dualism (cont.)
 - national constitutions and perspective of, 206–7
 - national law *vs* international law and, 42–4
 - supremacy of AEC law and, 93–5, 97–102
- dual jurisdiction, community court arbitration and, 233–4
- Dutch law. *See* Roman–Dutch law
- East African Authority, 166–7, 169
- East African Common Market, 185
- East African Community (EAC). *See also* Treaty for the Establishment of the East African Community
 - advisory opinions of community courts sought by, 131–2
 - amicus curiae* briefs before, 147–8
 - colonial experience and geographical proximity in, 26
 - commercial litigation for economic integration in, 146–8
 - community and national law interactions in, 209
 - community court structure in, 119–24
 - conflicting jurisdictions issues in, 257–8
 - direct applicability of community law in, 192–3
 - economic integration and, 2, 311–12
 - emerging jurisprudence from courts of, 133–42
 - goals of, 11–12
 - harmonization of laws and, 107–8, 108–9, 112–13
 - individual standing in courts of, 144–5
 - Investment Climate Facility for Africa and, 109
 - judicial cooperation in court rules of, 262–4
 - Kenya national constitution and laws of, 210–11
 - legal defences to supremacy of, 102
 - objects and goals of, judicial philosophy concerning, 220–2
 - Official Secrets Act of 1968, 98–9
 - overview of, 14–15
 - political integration and, 185
 - prospective annulment doctrine and court of, 161–2
 - registration of foreign judgments in, 279n.28
 - relational issues facing, 4
 - Sectoral Council on Legal and Judicial Affairs, 134–5
 - socio-cultural factors and legal pluralism in, 224n.125
 - sovereign equality in court rulings of, 163
 - state institutions' role in, 311n.2
 - structure and purposes of, 24–5, 75
 - subsidiarity principle and, 227
 - supranationalism of, 35n.10
 - supremacy of law in, 98–101
 - trade and economic development initiatives of, 27–8
- East African Community Customs and Management Act, 192–3, 215
- East African Court of Appeal, 114, 283n.47
- East African Court of Justice, 52
 - harmonization of laws through, 114
 - political reactions resulting in amendments to, 103nn.67–8
 - supremacy principle and, 97, 313–14, 315–16
- East African Customs and Transfer Management Act, 99–100
- East African Customs Union
 - establishment of, 192–3
 - international law principles and, 157n.132
 - national *vs* international law and, 191–2
- East African Law Society, 147–8
- East African Legislative Assembly (EALA), 51–2, 145–6
 - enforcement of law through, 169–71

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

INDEX

353

- inter-institutional litigation and limitations of, 161
- ECJ. *See* Court of Justice of the European Union (ECJ)
- Economic and Social Commission (AEC), 19–21
- Economic and Social Council (ECOWAS), 22–3
- economic communities.
 - See also* regional economic communities (RECs)
 - autonomy of, 40–2
 - judicial appointment process and independence and, 120–4
 - as legal systems, 37–9
 - preliminary reference procedure in, 49
 - private international law and, 272–5
 - supranationalism of, 35
- Economic Community of Central African States (ECCAS), 14–15, 22–3, 169–71
- Economic Community of Great Lakes Countries (CEPGL), 14–15
- Economic Community of West African States (ECOWAS). *See also* Treaty Establishing the Economic Community of West African States (ECOWAS Treaty)
 - as AEC entity, 68–9, 74n.57
 - African legal culture and free movement protocols of, 225–6
 - community court structure in, 119–24, 128–33, 129n.53, 145–6, 161n.148, 231–43
 - conflicting jurisdictions issues in, 258
 - economic integration and, 2, 188–9, 311–12
 - harmonization of laws in, 112–13
 - human rights claims linked to economic integration in, 146–8
 - individual standing in community courts and, 145
 - inter-institutional disputes and sovereignty issues for, 159
 - jurisprudential borrowing and judicial dialogue in courts of, 133–42, 154–6
 - member states' adoption of protocols, gaps in, 193–4
 - Parliament of, 51–2, 169–71
 - political pressure on protocols of, 167–9
 - public international law and courts of, 156–9
 - relational issues facing, 4
 - state institutions' role in, 311n.2
 - statutory law *vs* community laws of, 215
 - structure and goals of, 11–12, 14–15
 - supranational institutions and, 311
 - supremacy of community law disputes and, 97
 - trade and economic development initiatives of, 27–8
- Economic Community of West African States Monitoring Group (ECOMOG), 28–9
- economic integration
 - African states' embrace of, 1–3
 - AU–AEC political integration and, 183–5
 - Balassian model for, 6–7, 18–19
 - community court jurisprudence and, 142–63
 - community law and, 4
 - comparative law and, 281–5
 - conflict of jurisdiction between community courts and, 255–9
 - current trends in relational issues and, 310–18
 - definition and theoretical background, 6–12
 - effectiveness criteria for, 10–11
 - emerging jurisprudence from community courts concerning, 133–42
 - exhaustion of local remedies rule and, 52–3
 - future trends in, 318–19
 - implementation of, 188–9
 - individuals' role in, 142–8

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

354

INDEX

- economic integration (cont.)
 - inter-institutional relations and, 231–64
 - interstate relations and, 271–2
 - legal aspects of, 2, 3
 - legal pluralism and, 222–7
 - national constitutions and, 203–15
 - national courts' role in, 149–56
 - national judicial philosophy and, 215–22
 - non-monetary judgments and, 292–3
 - Pan-African Parliament and enforcement of, 169–71
 - private international law and, 229–30
 - public international law and, 156–9
 - regime development through private international law for, 298–309
 - relational issues and mechanisms for, 5, 8–10, 39–59
 - supranational authority and total integration, 6, 310–18
 - surrender of sovereignty and, 89
 - urgency in Africa for, 7
- effectiveness criteria, economic integration and importance of, 10–11
- enforcement mechanisms
 - for AEC legal principles, 166–83
 - in African Court of Justice, 171–83
 - 'automatically enforceable' community law principle and, 196–200
 - challenges to national court enforcement of community court judgments, 249–55
 - community court arbitration and choice of, 231–43
 - in community law, 165–6
 - in economic communities, 37–9
 - executive institutions as, 166–9
 - foreign judgments, 36, 277–81, 285–8
 - model legislation for judicial cooperation and, 264–70
 - national court enforcement of community court judgments, 244–9
 - Pan-African Parliament as tool for, 169–71
 - regional economic communities' adoption of, 312
- Enforcement of Civil Judgment Act, 289
- Enforcement of Community Judgments Act (model), 264–7
- English law
 - common law principles and, 283
 - double actionability rule in, 301
 - foreign judgment enforcements and, 295–8
 - judicial notice of international law in, 56–7
 - private international law and, 287
 - supremacy of international law and, 93, 96
- European Coal and Steel Community (ECSC), 35
- European Commission, as political force in EU, 168–9
- European Communities Act (United Kingdom), 313n.9
- European Community (EC), 70, 79
 - constitutional law and integration issues in, 209–10
 - direct applicability of community law in, 192–3
- European Economic Area and, 73
 - legal status of, 86
 - supranationalism of, 35
 - supremacy principle and establishment of, 95–6
- European Council, 169
- European Economic Area (EEA), 73
- European Free Trade Area, European Economic Area and, 73
- European Parliament, individual rights and responsibilities and, 51–2
- European Union (EU)
 - autonomy in, 41–2, 41n.30
 - contractual and non-contractual liability law in, 126–7
 - customary law provisions in, 224
 - direct effect principle and laws of, 46, 199–200
 - ECJ influence in, 102–3

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

INDEX

355

- Economic Partnership Agreements
 - and, 64
- European Community and, 70
- legal framework for, 35, 38, 39, 86
- national constitutions and laws of, 209–10, 211
- political forces within, 168–9
- preliminary reference procedure in, 49
- private international law regime in, 36, 274–5, 306–7
- public international law and agreements of, 156
- relational principles in, 61–2
- socio-cultural issues in community law implementation, 62
- support for African economic integration in, 146–8
- supranationalism of, 35
- supremacy principle and establishment of, 95–6
- World Trade Organization and, 80
- evidence, rules of
 - international law and, 55–7
 - judicial cooperation on obtaining of, model act for, 267–8
- exchange rates, enforcement of foreign judgments relating to, 295–8
- executive institutions
 - economic integration and domination of, 161
 - enforcement of AEC law using, 166–9
 - foreign judgment enforcement and, 278–9
 - implementation of economic integration and, 188–9
 - national court enforcement of community court judgments and, 244–9
 - treaty ratification and, 190n.4
- Executive Secretariat (ECOWAS), 22–3
- exhaustion of local remedies rule, 52–3
 - individual standing in community courts and, 144–5
 - inter-institutional disputes *vs* national sovereignty and, 161–2
 - relational issues and principles in context of, 60
- External Auditors (AEC), 19–21
- factor mobility, economic integration and, 273
- family law, legal pluralism relating to, 222–7
- federal institutions
 - private international law and, 273
 - surrender of sovereignty with economic integration, 89n.21
- financial controller (AEC), 19–21
- financial security
 - of African Court of Justice judiciary, 173
 - community court structure and judicial appointment and independence and, 123–4
- Food and Agriculture Organization, 71–2
- force of law principle, 192–3, 193–4
- Foreign Judgment Extension Ordinance (Gold Coast), 285–6
- foreign judgments
 - arbitral jurisdiction of community courts and, 240–3
 - conflicting judgments, enforcement of, 254
 - international conventions on enforcement of, 272n.4
 - interstate relations and enforcement of, 288–98
 - judicial cooperation between national and community courts and, 259–64
 - national court enforcement of, 244–9
 - normative acts, recognition and enforcement of, 58–9
 - private international law and enforcement of, 36, 277–81, 285–8
 - recognition and enforcement of, 5 relational issues and, 32–6
 - foreign policy, judicial power and, 215–22

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

356

INDEX

- forum agreements, 280–1, 286–7, 287–8
- forum non conveniens*, conflicting jurisdictions and, 258
- forum shopping, 65, 287
- free trade areas, 6, 18
- Free Trade Commission, structure and function of, 50
- French Constitution of 1958, 206–7
- Fund for Cooperation, Compensation and Development (ECOWAS), 22–3
- Gambia
 - economic conditions in, 27
 - ECOWAS infrastructure in, 188n.2
- General Agreement on Tariffs and Trade (GATT), African economic integration and, 13
- General Secretariat (AEC), 19–21, 185–6
- geography, African economic integration and, 26
- Ghana
 - border dispute with Togo and, 167
 - currency foreign judgments in, 295–8
 - land tenure and customary law in, 225
 - legal system in, 86–7
 - national constitution of, 204, 208, 211
 - national judicial philosophy in, 217
 - private international law in, 285–6
 - tort law in, 301
- grundnorm* concept, 38, 39, 208
- Guinea, Republic of, 211
- Hague Conference on Private International Law, 71–2, 80, 302–3, 306–7
- Hague Convention on the Protection of Children and Cooperation in respect of Inter-Country Adoption, 217
- Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters, 259–64
- Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, 259–64
- harmonization of law
 - absence in AEC Treaty of, 83–4
 - comparative law as tool for, 283–5
 - continental and international engagement in, 306–7
 - differences in national laws and, 106–11
 - economic integration and, 106–15
 - paths to, 111–15
 - regime development for private international law and, 298–309
- hierarchical norms, legal systems and, 38
- human rights claims
 - African Court of Justice jurisdiction covering, 176–7n.60
 - economic integration support linked to, 146–8
 - national constitutions and community law and role of, 214–15
 - subject-matter jurisdiction of community courts and, 126
 - unincorporated treaties and, 215–22
- immunity claims, 243, 252, 267
- Indian Ocean Commission (IOC), 14–15
- individual rights and responsibilities in African Court of Justice, 177–9, 200n.50
- community court access and, 128–33, 312
- community law and, 31–2
- direct effect of community law and, 45–6, 195–6
- disjunction of African community and national law and barriers to, 13
- in international law, 51–3
- jurisprudence and economic integration in community courts and, 142–8

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

INDEX

357

- legal systems for economic communities and, 37–9
- national court enforcement of community law and, 151–3, 244–9
- relational issues in economic integration and, 315
- in personam* interdiction, 284, 292–3
- Institute for Private International Law in Africa, 111, 302–3, 306–7
- Institute for Private International Law in Southern Africa, 302–3, 306–7
- Institute of Foreign and Comparative Law of the University of South Africa, 302–3
- institutional density, regional economic communities and, 65–6
- Inter-American Children's Institute, 306–7
- Inter-American Conference on Private International Law, 274–5
- inter-community relations
 - as barrier to economic integration, 13
 - inter-system jurisprudential communication and, 53–5
 - legal person and interest group litigation concerning, 146–8
 - multiple memberships in RECs and, 77–81
- interest group participation, promotion of economic integration by, 146–8
- Inter-Governmental Authority on Development (IGAD), 14–15, 75
- intergovernmental cooperation
 - African economic integration and, 14–15, 75, 314n.15
 - individual rights and responsibilities and, 51–3
 - supranational organizations and, 34–6
- inter-institutional relations
 - community court arbitration and, 231–43
 - economic integration and, 231–64
 - individuals' standing and community court jurisprudence in litigation over, 144
 - private international law and, 229–30
 - sovereignty issues and, 159–63
- international adjudication
 - African Court of Justice and regime of, 178
 - international trade and, 118
- International Centre for the Settlement of Investments Disputes Convention (ICSID), 241–3
- international competence, foreign judgment enforcement and, 289–91
- International Court of Justice (ICJ), 41n.30
 - African Court of Justice influenced by, 176, 177n.64, 178–9
 - community court structure and recognition of, 121–2, 275–6
 - conflicting jurisdictions with WTO and, 256–7
 - contractual and non-contractual liability law in community courts and, 127
 - national court enforcement of judgments by, 246
 - preliminary reference procedure and, 48–50
- internationalist policy consciousness, regime for private international law and, 304–6
- international law. *See also* private international law; public international law
 - community court structure and recognition of, 121–2, 255–9
 - direct applicability of community law and, 42–4, 190–5
 - direct effect of community law and, 44–6
 - economic integration and, 9
 - exhaustion of local remedies rule in, 52–3
 - individual rights and responsibilities and, 51–3

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

358

INDEX

- international law. (cont.)
 - interpretative and adjudicative principles, 55–7
 - inter-system jurisprudential communication and, 53–5
 - judicial cooperation in Africa with, 259–64
 - legal status of AEC and, 84
 - monist and dualist views of, 93–5
 - national constitutions and issues of, 203–15
 - national court enforcement of
 - community court judgments and, 244–9, 251
 - national judicial philosophy and, 215–22
 - national law and incorporation of, 188–9
 - normative acts, recognition and enforcement of, 58–9
 - political culture in Africa and support for, 102–6
 - preliminary reference procedure and, 48–50
 - relational issues and, 32–6, 317
 - supremacy principle and, 47–8, 92–106
- International Law Commission, 34n.5
- international organizations
 - autonomy of, 40–2
 - individual rights and responsibilities and, 51–3
 - legal personality doctrine and, 84
 - supranationalism in, 34–6
- international trade
 - conflict of laws and jurisdictions concerning, 76–7
 - dispute settlement regimes of, 118
 - existing regulatory legal framework and, 66–9
 - harmonization of law and, 106–11
 - multiple state memberships in RECs as barrier to, 64
 - regional trade agreements proliferation and, 30–1
- Inter-Parliamentary Union of the Intergovernmental Authority on Development, 169–71
- interpretive autonomy, community law and, 40–1
- interpretive relational principles, international law and, 55–7
- interstate relations
 - arbitral jurisdiction of community courts and, 235n.22
 - as barrier to economic integration, 13
 - comparative law and, 281–5
 - economic integration and, 4–5, 271–2, 316
 - foreign judgment enforcement and, 288–98
 - individuals' standing and community court jurisprudence, 143
 - international laws and, 36
 - legal relations, measuring strength of, 275–85
 - national constitutions' recognition of, 205
 - private international law and, 13, 272–5, 275–81
 - regime development for private international law and, 298–309
- inter-system jurisprudential communication, 53–5
- invalidity rules, national vs international law and, 191–2
- Investment Climate Facility for Africa, 109
- investment transactions, private international law and, 287
- investor arbitration, international trade and, 118
- investor's assets jurisdiction, harmonization of laws concerning, 107–8
- Japan, cultural norms and WTO compliance in, 62
- job generation, economic integration as tool for, 75–6
- judgments, African Court of Justice and status of, 176
- Judicial Cooperation with Community Courts Act (model), 267–70

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

INDEX

359

- judicial notice doctrine, 55–7
- judiciary structure
 - of African Court of Justice, 172–3
 - bias allegations and, 122n.33
 - in Caribbean Court of Justice, 174–5
 - community court arbitration proceedings and, 231–43
 - community law and national judicial philosophy, 215–22
 - independence and appointment process and, 120–4, 173–4
 - judicial cooperation between national and community courts and, 259–64
 - jurisprudence and economic integration and, 142
 - jurisprudential borrowing and judicial dialogue and, 154–6
 - locus of final judicial power and, 254
 - model legislation for judgments, enforcement and judicial cooperation, 264–70
 - model legislation for judicial cooperation, 267–70
 - national constitutions and community law and, 203–15
 - political power of, 144
 - sovereignty issues and, 159–63
- jurisdiction, issues relating to
 - African Court of Justice and, 175–7, 176–7n.63, 178n.67
 - community and national court tensions over, 145–6
 - in community courts, 118–33, 231–43, 255–9
 - conflict between AECs and RECs over, 76–7
 - harmonization of law and, 106–7, 107–8, 114–15
 - overlapping jurisdictions, 158–9, 255–9
 - preliminary reference procedure and, 149
 - private international law and economic transactions, 283n.47, 286–7
 - Roman–Dutch rules on, 287–8
 - Subject-matter jurisdiction in community courts, 124–8
 - ‘jurisdictional tourism’, 287–8
 - jurisprudential communication between African Court of Justice and national courts, 180–3
 - community courts’ judgments impacted by, 154–6
 - comparative law and, 283–5
 - direct effect of community law and, 195–6
 - economic integration and community court jurisprudence, 142–63
 - emerging jurisprudence from community courts, 133–42
 - harmonization of laws through, 115
 - individuals’ role and, 142–8
 - judicial cooperation between national and community courts and, 259–64
 - objects and goals of communities and, 220–2
- Kenya
 - Arbitration Act of 1995 in, 236n.26, 240
 - common legal system of EAC and, 109, 313–14
 - foreign judgment legislation in, 264n.123, 280, 295–8
 - Investment Dispute Convention Act, 242
 - judicial philosophy in, 217
 - legal system in, 107–8
 - national law vs EAC law in, 98–101, 103, 210–11
 - registration of foreign judgments in, 279n.28
 - tort law in, 300n.111
 - Kenya Court of Appeal, 145–6
 - Kenya Ports Authority, 146–8
- Lagos Plan of Action, 17
- land-reform laws, 139–42

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

360

INDEX

- law reporting councils, jurisprudential communication and importance of, 155–6
- legal education, supremacy issues and importance of, 102
- legal personality doctrine, 69–72, 76, 84, 202–3
- legal persons (companies), economic integration litigation actions by, 146–8
- legal pluralism, 222–7, 273
- legal positivism, dualist perspective and, 206–7
- legal system(s). *See also* community law; national law
 - African Economic Community as, 84–8
 - architecture of, relational principles and, 62
 - basic principles of, 31–2
 - community institutions and, 82–4
 - conflict between AECs and RECs over, 69–72, 76–7
 - economic communities and, 37–9, 82–4
 - existing regulatory legal framework and RECs, 66–9
 - infrastructure for, 188–9
 - legal status of AEC and, 69–72, 84–92
 - normative supranationalism and, 35–6
 - private international law and maintenance of, 273–4
 - relational issues in economic integration and, 8–9, 310–18
- legislation
 - African enforcement of foreign awards through, 240–3
 - challenges to national enforcement of community judgments and in absence of, 252–3
 - community institutions' role in, disputes over, 160–1
 - constitutional ratification and, 207
 - enforcement of law through, 169–71
 - litigation over validity of, 134–5, 164n.68–70
 - model legislation for judgments, enforcement and judicial cooperation, 264–70
 - regime construction for private international law and lack of, 303
 - treaty ratification and, 190n.5, n.6
- legitimate expectation, doctrine of, national judicial philosophy and, 218–20
- Lesotho, 27, 221
- lex causae* principle, 48, 300–1
- lex fori* principle, 32–3, 48, 286–7
- lex loci delicti*, 300–1
- lex posterior derogat priori*, 44, 47, 191–2
- lex specialis derogat generali*, 47, 191–2
- libel law, in Kenya, 300n.111
- Liberia
 - conflict in, 28
 - English Law heritage in, 107n.78
- lis alibi pendens*, 258, 261–2
- locus standi* principle
 - in AEC treaty, 75
 - African Court of Justice and absence of, 178
 - community courts, 118, 130
 - inter-institutional litigation and sovereignty issues and, 160
 - national court enforcement of community court judgments and, 244–9
- Maastricht Treaty, 211
- Malawi
 - absence of foreign judgment enforcement in, 277–8, 280
 - national judicial philosophy in, 217n.101, 220–1
- Mano River Union (MRU), 14–15
- Mareva injunction, 292–3
- marginalization, economic integration as solution to, 91–2
- Memorandum of Understanding on Interregional Cooperation and Integration, COMESA–EAC–SADC Tripartite Summit and establishment of, 67–8

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

INDEX

361

- MERCOSUR (Southern Cone Common Market), 36, 73, 274–5, 306–7
- monetary union, COMESA proposal for, 24
- monism
 - international law and, 33–4
 - national constitutions and perspective of, 206–7
 - national law *vs* international law and, 42–4
 - supremacy principle and, 93–5
- most favoured nation status, 34n.5
- Mozambique, 295
- multilateralism, economic integration and, 8
- multi-level governance, private international law and, 273
- multiple-state memberships in African regional economic communities, 64, 77–81, 158–9
- mutual recognition principle, 36, 59
- Namibia
 - legal system in, 86–7
 - national constitution of, 208, 209
 - respect for international law in, 104
- national courts
 - AEC law and response of, 97–102
 - African Court of Justice in relation to, 178, 180–3
 - arbitral jurisdiction in community courts and, 239–43
 - automatic enforceability principle and role of, 199–200
 - challenges to enforcement of community court judgments by, 249–55
 - community court tensions with, 145–6
 - community law enforcement and, 45–6, 149–56, 244–9, 313–14
 - constitutional law and, 208–9
 - contractual and non-contractual liability disputes in, 127–8
 - direct effect principle and, 45–6
 - economic integration and role of, 149–56, 313–14
 - EU law and role of, 96
 - exhaustion of local remedies rule and, 52–3
 - foreign judgment enforcement denied by, 277–8
 - harmonization of laws through, 114–15
 - human rights claims in, 126
 - individuals' standing and role of, 142–8
 - interpretative and adjudicative principles and, 55–7
 - inter-system jurisprudential communication and, 54–5
 - judicial cooperation with community courts, 121, 259–64
 - judicial philosophy in, 215–22
 - jurisprudential borrowing and judicial dialogue with community courts and, 154–6
 - preliminary reference procedure and, 48–50
 - preliminary rulings of community courts sought by, 131
 - protection of community law in, 200–3
 - regime construction for private international law and role of, 302–6
- national economic decision-making, economic integration as limitation on, 6–7
- nationalistic policies, enforcement of foreign judgments and, 294–5
- national law
 - 'automatically enforceable' law principle and, 196–200
 - community law and, 200–3, 312–13
 - direct effect principle and, 46
 - disjunction of African community law with, 13
 - economic integration and, 9, 82–4
 - effective implementation of community law using, 150

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

362

INDEX

- national law (cont.)
 - enforcement of community judgments and review of, 249–55
 - foreign judgment enforcement and, 277–81
 - foreign normative acts, recognition and enforcement of, 58–9
 - harmonization of differences in, 106–11
 - international law *vs.*, 32–6, 42–4
 - inter-system jurisprudential communication and, 53–5
 - judicial philosophy in, community law and, 215–22
 - jurisprudential communication and, 283–5
 - legal framework for, 31–2, 86–7
 - monist and dualist views of, 93–5
 - national constitutions and, 203–15
 - national legal culture and, 222–7
 - political culture in Africa and AEC challenges to, 102–6
 - in public international law, 57
 - relational issues and principles in context of, 59–62
 - sovereignty of, AEC interference with, 88–92
 - supremacy principle and, 47–8, 93–5, 97–102, 118
 - WTO law and, 13–14
- national sovereignty
 - African Economic Community and, 88–92
 - African unity concept in relation to, 1, 211–13
 - automatically enforceable principle and, 199
 - community law and, 189–203
 - economic integration as limitation on, 6–7, 28–9
 - exhaustion of local remedies rule and, 52–3
 - inter-institutional litigation and issues of, 159–63
 - national constitutions and principle of, 203–15
 - private international law and maintenance of, 273–4
 - relational issues and principles in context of, 59–62
 - supranationalism and, 34–6
- native courts, national legal culture and, 223
- natural law theory, monist perspective and, 206–7
- natural persons principle, 128–33
- negative declaration, 292–3
- negative integration, economic integration as, 6–7
- negotiation regime, international trade and, 118
- neo-liberal economic theory, economic integration and, 7
- Netherlands. *See* Roman–Dutch law
- Niger, 212
- Nigeria
 - doctrine of legitimate expectation and unincorporated treaties in, 218–19
 - legal system in, 107–8, 145–6
 - sovereignty in, 89n.21
 - tort law in, 301
- non-contractual liability, community courts' jurisdiction over, 126–8
- non-governmental organizations (NGOs)
 - African Court of Justice jurisdiction concerning, 176–7n.60
 - community courts' standing and preconditions provisions and, 131
 - rights in African Court of Justice of, 200n.50
- non-monetary judgments
 - challenges to enforcement of, 251–2
 - limits on enforcement of foreign judgments, 292–3
- non-recognition principle, enforcement of foreign judgments and, 293
- No Review on Merits principle, in Enforcement of Community Judgments Act model, 266
- normative supranationalism, principles of, 35–6

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

INDEX

363

- norms and normative acts
 - conflicting jurisdictions and regulation of, 258
 - conflict of norms rules, 44, 85–6, 191–2
 - economic communities as legal systems and, 37–9
 - judicial power of community courts and, 144
 - monist and dualist views of, 93, 94
 - national courts' role in promotion of, 149–56
 - recognition and enforcement of, 58–9
 - relational issues in context of, 62
- North American Free Trade Agreement (NAFTA), 50, 79, 254n.91
- objects and goals of communities, national judicial philosophy and reliance on, 220–2
- offences against administration of justice, model act for judicial cooperation on, 269–70
- Olivos Protocol for the Settlement of Disputes, 53n.68
- one-country, one-community principle, REC–AEC membership integration and, 80
- Organization for the Harmonization of Business Laws in Africa (OHADA), 91, 110–11
 - Court of Justice and Arbitration of, 232–3n.13
 - enforcement of foreign judgments and, 280–1
 - regime development for private international law and, 307n.140
- Organization of African Unity (OAU). *See also* African Union (AU)
 - African Court of Justice and, 172
 - African Economic Community and, 17, 21–2, 64–6, 84
 - African Union as replacement for, 17n.28
 - AU–AEC political integration and, 184
 - collapse of, 79–80
 - Commission of Mediation, Conciliation and Arbitration and, 232n.11
 - Convention on Non-Discrimination, 216–17
 - establishment of, 276n.19
 - juridical personality principle in, 69–72
 - national constitutions' acknowledgment of, 204
 - national sovereignty vs African unity concepts and, 211–12
- Organization of American States (OAS), 36, 274–5, 306–7
- Pan-African Economic and Monetary Union, AEC Treaty proposal for, 18–19
- Pan-African Parliament, 18–19, 19–21, 51–2, 85–6, 87, 112–14, 169–71
- Pan-America Code on Private International Law, 274–5
- Parliament de l'Union Économique et Monétaire Ouest Africaine, 169–71
- party autonomy principle, 40–2, 280
- pecuniary judgments, national enforcement of community judgments, 255
- peregrine* defendants, in Roman–Dutch law, 286–91
- Permanent Court of International Justice, 46, 251
- personal jurisdiction, African Court of Justice and, 176–7
- place of performance test, enforcement of foreign judgments and, 280
- politics
 - African Economic Community goals and role of, 166
 - AU–AEC integration and, 183–5
 - economic integration and role of, 11, 12–14, 26–9, 167–9
 - judicial appointment process and independence in community courts and, 120–4

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

364

INDEX

- politics (cont.)
 - lobbying for economic integration and, 148
 - private international law as tool in, 273–4
 - relational issues and principles in context of, 59–62, 314
 - sovereignty issues and, 90
 - supremacy of AEC and context of, 102–6
- positive integration, economic integration as, 6–7
- pre-emption, normative
 - supranationalism and, 35–6
- Preferential Trade Area Bank, 138
- Preferential Trade Area for Eastern and Southern African States (PTA), 232n.12, 233
- preliminary reference/preliminary rulings procedures, 48–50
- African Court of Justice and absence of, 180, 182
- automatic enforceability and, 199–200
- direct effect of community law and, 195–6
- national courts' role in, 149–56
- protection of community law and, 200–3
- regional economic communities' adoption of, 312
- relational issues and principles in context of, 59–60
- private enforcement mechanisms, African Court of Justice and, 178–9
- private international law
 - absence in AEC treaty of, 231
 - African national legal systems and, 5
 - community–state relations and, 4–5
 - conflicting jurisdictions and, 258
 - constituent interests and, 302–6
 - continental and international engagement in, 306–7
 - contractual and non-contractual liability law in community courts and, 126–8
 - differences in national laws and harmonization in, 106–11
 - economic transactions and, 285–98
 - harmonization of national law and, 110–11
 - inter-institutional relations and, 229–30
 - interstate relations and, 4–5, 13, 272–81, 316n.22
 - jurisprudential communication and, 283–5
 - national court enforcement of community court judgments and, 244–9
 - reform proposals for, 36
 - regime development for economic integration and, 298–309
 - relational issues and, 32–6
 - values as basis for, 308–9
- private sector institutions, African economic integration and, 314n.15
- pro lex fori* principle, private international law and, 274
- property law, legal pluralism relating to, 222–7
- prospective annulment doctrine, 161–2
- protectionism
 - enforcement of foreign judgments and, 294–5
 - private international law and, 286–7
- protection of implemented community laws, 200–3
- Protocol on Relations between the African Union and the Regional Economic Communities, 66–7
- conflicting jurisdictions and, 257
- conflict of laws and jurisdictions and provisions of, 76–7
- harmonization of laws and, 112–14
- legal status of AEC and, 71, 76n.46
- REC–AEC membership integration and, 80
- Protocol on the Court of Justice of the African Union, 171–2
- Protocol on the Statue of the African Court of Justice and Human Rights, 171–2

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

INDEX

365

- public choice theory, future merger of RECs and, 75–6
- public interest litigation, community courts' standing and preconditions provisions and, 131
- public international law
 - community–state and interstate relations and, 4–5
 - contractual and non-contractual liability law in community courts and, 126–8
 - economic integration and role of, 156–9
 - legal separateness of AEC, RECs and AU and, 69–72
 - national court enforcement of community court judgments and, 244–9
 - national law and, 57
 - relational issues and, 32–6
 - supremacy principle and, 47–8
- public policy, enforcement of foreign judgments and non-recognition of, 293–4, 297n.101
- purposive approach, direct effect of community law and, 196
- pyramid harmonization scheme, harmonization of African laws using, 111–15
- rationes jurisdictionis*, 286–7
- real and substantial connection test, 280, 291
- reciprocity
 - community law and role of, 31–2
 - constitutional ratification and, 207
 - enforcement of foreign arbitral awards under, 240
 - foreign judgment enforcement and, 288–98
 - inter-system jurisprudential communication and, 53–5
 - jurisprudential borrowing and judicial dialogue in community courts and, 154–6
- regime complexity, 65–9, 76–7
- regional conflicts, economic integration limited by, 28–9
- regional courts, harmonization of laws through, 114–15
- regional economic communities (RECs). *See also* economic communities
 - AEC Treaty provisions concerning, 18–19
 - African Economic Community as example of, 3, 8–9, 64–6
 - African Union and, 3, 64–6
 - competition among, 8
 - future merger of, 72–6
 - harmonization of laws in, 112–13
 - inter-community relational issues, 69–81
 - international proliferation of, 30–1
 - judicial appointment process and independence and, 120–4
 - jurisdictional issues for, 76–7
 - legal framework for, 66–72
 - multiple state memberships in, 64–6, 77–81
 - national constitutions' acknowledgment of, 204–6
 - Organization of African Unity and, 17
 - overview of, 14–15
 - political instability and conflict as barriers to, 28–9
 - preliminary reference procedures in, 50
 - proliferation of, 64–6
 - Protocol on Relations and, 66–7
 - regime development for private international law and, 306–7
 - socio-economic matrix and, 26–9
 - structure and goals of, 11–12
 - treaties and establishment of, 189–203
 - World Trade Organization and, 13–14
- registration orders, 265–7, 278–9
- relational issues and principles
 - adjudicative principles, 55–7
 - African Court of Justice gaps in jurisdiction and, 177

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

366

INDEX

- relational issues and principles (cont.)
 - African integration process and, 12–14
 - community autonomy as foundation of, 40–2
 - context for, 59–62
 - current trends in economic integration and, 310–18
 - economic integration and, 5, 8–10, 39–59
 - future trends in, 318–19
 - inter-community relational issues, 69–81
 - international law and, 32–6, 55–7
 - legal frameworks and, 31–2
- res nova* principle, tort law and, 300–1
- Restatement of African Law Project, 224n.126
- right of access, in treaty law, 43n.38
- Roman–Dutch law
 - attachment as basis of jurisdiction in, 106–7
 - in Botswana, 282
 - colonial legacy of, 26–7
 - common law comparisons with, 283
 - international competence bases and, 289–91
 - investor's assets jurisdiction in, 107–8
 - jurisprudence of, 282
 - peregrini* parties in, 286–8, 289–91
 - Southern Africa jurisdictions using, 115
 - torts in, 300–1
- Romania, national constitution and EU integration of, 209–10
- Rome Convention on the Law Applicable to Contractual Obligations, 217
- rule of law
 - economic integration and necessity of, 28–9
 - national constitutions and community law and role of, 214–15
- rule of recognition, 38, 44
- rules and rule-making institutions, legal status of AEC and, 85–6
- rules for conduct, economic communities as legal systems and, 37–9
- Rules of Procedure of the Assembly of the African Union, 198–9
- Rules of Procedure of the Executive Council, 198–9
- rules of proof, national judicial philosophy and, 215–22
- Rwanda, 109, 279n.28
- Secretary-General (AEC), 19–21, 69–72
- self-executing treaties, 46, 199–200
- separation of powers doctrine, national judicial philosophy and, 215–22
- service of documents, judicial cooperation on, model act for, 269
- service principle of jurisdiction, in common law states, 106–7
- Sierra Leone, conflict in, 28
- single African currency, AEC Treaty proposal for, 18–19
- socio-cultural context
 - national legal culture and community law in, 222–7
 - relational issues and principles, 59–62, 314
- socio-economic conditions
 - African economic integration and, 26–9
 - economic integration theory and role of, 11
 - political repercussions of, economic integration impeded by, 167–9
 - relational issues in context of, 61–2
 - sovereignty issues and, 90
- South Africa
 - comparative law applications in, 283–5
 - enforcement of foreign awards in, 242n.47, 248–9, 304n.128
 - international competence in law of, 291
 - judicial philosophy in, 217
 - judiciary system in, 86–7
 - legal system in, 107–8
 - respect for international law in, 104
 - Roman–Dutch law in, 115

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

INDEX

367

- South African Protection of Business Act of 1978, 294–5
- Southern African Customs Union (SACU), 14–15, 27, 75, 77–81, 276–7, 311n.2
- Southern African Development Community (SADC).
See also Treaty of the Southern African Development Community
 AEC and, 67–8
 business and civil institutions' support for, 314n.16
 Code of Conduct on HIV/AIDS and Employment, 221
 community and national law interactions in, 209
 community court structure in, 119–24, 231–43
 Declaration on Gender and Development, 221
 doctrine of legitimate expectation and electoral guidelines of, 218–19
 economic integration and, 2, 311–12
 foreign judgment enforcement and, 277–8
 harmonization of laws in, 112–13
 judicial philosophy and substantive community law and, 220–1
 jurisprudence from courts of, 133–42
 overview of, 14–15
 Parliamentary Forum of, 169–71
 purposes of, 11–12, 28
 relational issues facing, 4
 structure of, 25–6
 Tribunal of, 52–3
 Zimbabwe dispute and, 104
- Southern African Development Coordination Conference, 25, 28
- Southern Cone Common Market (MERCOSUR), 36, 73, 274–5, 306–7
- sovereignty. *See* national sovereignty
- Specialized Technical Commissions (ECOWAS), 22–3
- Specialized Technical Committees (AEC), 19–21
- Staff Rules and Regulations (AEC), 19–21
- standing rules, in community courts, 52, 142–8
- state institutions
 - African Court of Justice jurisdiction concerning, 176–7, 179–80
 - arbitrational jurisdiction and immunity claims of, 243
 - community courts' standing and preconditions concerning, 128–33
 - economic communities and, 82–4, 213–14
 - economic integration and role of, 311n.2
 - obligations to AEC of, 85–6
 - private international law and, 273
- Statute of the African Court of Justice, legal status of AEC and, 85–6
- Statute of the African Union Commission on International Law, 306–7
- statutory designation, registration of foreign judgments and, 279
- subject-matter jurisdiction, 124–8, 176–7
- submission, international competence based on, 290–1
- subsidiary principle, customary law and, 227
- substantive law
 - harmonization of, 110–11
 - judicial philosophy concerning community law as, 220–1
 - national courts' enforcement of community law and principle of, 151–3
- succession law, legal pluralism relating to, 222–7
- supervisory jurisdiction, arbitral jurisdiction and, 239
- supranational organizations
 - African court regimes as, 119
 - autonomy and, 41
 - community courts as, 118
 - normative supranationalism and, 35–6

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

368

INDEX

- supranational organizations (cont.)
 - relational issues and, 34–6, 310–18
 - total economic integration and creation of, 6
- supremacy principle
 - of AEC law, 92–106
 - in community law, 47–8, 312–13, 315
 - direct effect and direct applicability and, 60–1
 - national constitutions and, 207–9
 - normative supranationalism and, 35–6
 - political reaction in Africa to, 102–6
 - protection of implemented
 - community laws through, 200–3
 - in treaties for economic integration, 191–2, 312–13
- Supreme Court of the United States, 245–6
- Swaziland, 27, 220–2, 277–8, 280
- Tanzania
 - absence of foreign judgment enforcement in, 277n.23
 - EAC legal system and, 109, 145–6
 - legal system in, 86–7
 - registration of foreign judgments in, 279
- Togo, Ghana border dispute with, 167
- torts
 - choice of law in, 299
 - in common law countries, 300
 - in Roman–Dutch law, 300–1
- trade development
 - judicial philosophy and, 215–22
 - private international law and, 274, 286–7
 - in regional economic communities, 27–8
- Trade Law Center for Southern Africa, 314n.15
- tragedy of the regional commons, collapse of OAU and, 79–80
- transaction costs for businesses, legal pluralism and, 225
- treaties of regional economic communities. *See also* individual treaties
 - community courts and role of, 117–18, 259–64
 - community law implementation using, 189–203
 - direct applicability of community law and, 42–4
 - dispute settlement and conflicting jurisdictions in, 259
 - individuals' standing and role of, 142–8
 - international law and role of, 32–3, 33–4
 - inter-system jurisprudential communication and, 53–5
 - judicial cooperation in provisions of, 259–64
 - legal status of AEC and provisions in, 86
 - national constitutions and implementation of, 213
 - national courts and, 246–7, 259–64
 - preliminary reference/preliminary rulings procedures in, 312
 - relational principles in, 61–2
 - right of access in, 43n.38
- Treaty Establishing the African Economic Community (AEC Treaty), 17n.32. *See also* African Economic Community (AEC)
 - absence of legal issues in, 83–4, 85–6
 - African Court of Justice in provisions of, 171–83
 - AU–AEC political integration and, 184
 - 'automatically enforceable' community law principle and, 196–200
 - executive institutions in, enforcement of AEC law using, 166–9
 - harmonization of laws principles and, 109
 - institutional arrangements in, 87
 - legal personality doctrine within, 69–72
 - Pan-African Parliament establishment under, 170

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

INDEX

369

- private international law ignored in, 231
- Protocol on Relations and, 67
- REC treaty provisions concerning, 68–9
- regime development for private international law and, 299, 306–7
- sovereignty issues omitted in, 89–90, 90–1
- stages for establishment of AEC in, 18–19
- technical committees listed in, 83–4
- timelines for evolution in, 18n.37
- Treaty Establishing the Common Market for Eastern Southern Africa (COMESA Treaty), 23–4
 - AEC and provisions of, 68–9
 - arbitral jurisdiction provisions in, 234–5, 237, 239–40
 - automatically enforceable law principle and, 196–200
 - COMESA as AEC entity, provision for, 73–4
 - community court provisions in, 119–24, 128–33
 - contractual and non-contractual liability law in, 126–8
 - direct applicability of community law in, 192–3
 - direct effect of community law and, 44–6, 153–4, 195–6
 - executive institutions in provisions of, 167
 - judicial philosophy in, 220–1
 - national courts' role in provisions of, 149–56, 246–7
 - national law supremacy in, 191–2
 - protection of implemented community laws through, 200–3
 - regional economic communities provisions in, 67–8
 - subject-matter jurisdiction provisions in, 124–8
- Treaty Establishing the Economic Community of West African States (ECOWAS Treaty), 22–3
 - AEC and provisions of, 68–9, 74n.58
 - arbitral jurisdiction provisions in, 232, 234–5, 288n.12
 - automatically enforceable law principle and, 196–200
 - community court structure in provisions of, 119–24
 - community institutions' revisions to, 28
 - community laws protected in, 200–3, 315–16
 - contractual and non-contractual liability law in, 126–8
 - direct applicability of community law in, 192–3
 - direct effect of community law and, 44–6, 153–4, 195–6
 - executive institutions in provisions of, 167
 - national courts in provisions of, 149–56, 246–7
 - private international law provisions in, 275
 - public international law in provisions of, 156–9
 - regional economic communities provisions in, 67–8
 - sovereignty issues discussed in, 90
 - subject-matter jurisdiction provisions in, 124–8
- Treaty Establishing the Organization for the Harmonization of Business Laws in Africa, 91
- Treaty for East African Cooperation, 24–5, 108–9, 166–7, 185
- Treaty for the Establishment of the East African Community (EAC Treaty), 24–5
 - AEC and provisions of, 68–9, 74n.59
 - arbitral jurisdiction provisions in, 234, 236, 238–40
 - automatically enforceable law principle and, 196–200

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

370

INDEX

- Treaty for the Establishment of the East African Community (EAC Treaty) (cont.)
 community court structure
 provisions in, 119–24, 164
 community law supremacy in, 191–2, 246–7, 312–13
 conflicting jurisdictions issues in, 257–8
 contractual and non-contractual liability law in, 126–8
 direct applicability of community law in, 192–3
 direct effect of community law and, 44–6, 153–4, 195–6
 executive institutions in provisions of, 166–7
 force of law given to, 252n.84
 harmonization of laws through, 114–15
 individual standing in courts and, 144–5
 national courts' role in provisions of, 149–56, 246–7
 political reactions towards, 103nn.67–8
 private international law provisions in, 275
 protection of implemented community laws through, 200–3
 public consultations concerning, 83
 public international law and provisions of, 156–9
 regional economic communities and, 67
 sovereignty issues in, 91, 163
 subject-matter jurisdiction provisions in, 124–8
 supremacy principle in, 47, 95, 98–9, 100–1
 two-month limitation on standing in, 145
- Treaty for the Establishment of the Preferential Trade Area for Eastern and Southern African States, 23, 138
- Treaty of Rome, 86, 95–6, 193n.25
- Treaty of the Southern African Development Community, 25–6, 104–5
 community court structure in, 119–24
 community law protections in, 200–3, 246–7
 contractual and non-contractual liability law in, 126–8
 direct effect of community law and, 44–6, 153–4, 195–6
 international obligations and, 181
 national courts' role in provisions of, 149–56, 246–7
 national laws' status in, 191–2
 public international law and provisions of, 156–9
 subject-matter jurisdiction provisions in, 124–8
 uniform application principle in, 192n.11
- Treaty on Organs of Partner States, 124–8
- Uganda
 common legal system of EAC and, 109
 national constitution vs community law in, 214
 registration of foreign judgments in, 279, 283n.47
 supremacy principle vs national courts in, 100n.60
- Uganda Law Reform Commission, WTO (Implementation) Agreement, 196
- UMA (Arab Maghreb Union), 14–15
- UNCITRAL Model Law on International Commercial Arbitration, 237n.27, 240
- underdevelopment, economic integration as solution to, 91–2
- UNIDROIT, 307n.141
- Uniform Acts, surrender of sovereignty under, 91
- unincorporated treaties, 215–22
- Union of South American Nations, 73n.53

Cambridge University Press

978-1-107-00717-8 - Legal Aspects of Economic Integration in Africa

Richard Frimpong Oppong

Index

[More information](#)

INDEX

371

- United Nations Convention on the Carriage of Goods by Sea, 217
- United Nations Convention on the Recognition and Enforcement of Foreign Arbitration Awards, 240n.38
- United Nations Economic Commission for Africa (UNECA)
 - economic integration urged by, 7
 - on legal framework in Africa, 13
 - multiple state memberships in RECs criticized by, 64–6, 77–81
 - supranationalism and findings of, 311
 - on tensions between RECs and AEC, 72–3, 80–1
- United Nations Universal Declaration of Human Rights, national law and incorporation of, 217n.100
- United States
 - direct effect of community law in, 44–6
 - self-executing treaties in, 199–200
 - sovereignty in, 89n.21
- universal suffrage, Pan-African Parliament and absence of, 170–1
- Uruguay Round Agreements Act (United States), 44–5
- values for private international law regime, 308–9
- variable geometry principle, advisory opinions of community courts on, 132
- Vienna Convention on the Law of Treaties, direct effect of community law and, 196
- waiver of immunity, individual claims against community and, 202n.52
- West African Court of Appeal, 114, 283n.47
- West African Economic and Monetary Union (UEMOA), 16
- witnesses, privilege of, judicial cooperation on, model act for, 268–9
- women, in African Economic Community, 20
- World Trade Organization (WTO)
 - African economic integration and, 13–14, 317–18
 - conflicting jurisdictions with ICJ and, 256–7
 - Constitution of the Republic of South Africa and, 55n.77
 - cultural norms and compliance with, 62
 - direct effect of community law and, 45–6, 207n.74
 - dispute settlements by, African participation in, 256n.97
 - European Union and, 80
 - existing regulatory legal framework within, 66–9
 - membership criteria for, 71–2, 79
 - public international law and agreements of, 156–8
 - regional trade agreements recognized by, 30–1
- World Trade Organization Agreement Implementation Act (Canada), 45–6
- Zambia, ICSID convention and, 242
- Zimbabwe
 - Customs and Excise Act dispute and, 105–6
 - doctrine of legitimate expectation and judicial philosophy in, 218–19
 - enforcement of foreign judgments in, 279–80
 - ICSID convention and, 242
 - judicial cooperation in, 261
 - mandatory *vs* prohibitory interdicts in, 284
 - national court enforcement of community judgments in, 250–1, 253
 - political reaction to international law in, 103
 - Supreme Court of, 181
 - tribunal judgments against, 104–5