

Index

Note: Page references in italics indicate tabulated materials

```
acquis communautaire, 263
                                                     policy goals and, 147
aggregation of nation-states, 20-21
                                                     standard of review and, 169, 171
agricultural goods
                                                     WTO dispute settlement activity involving,
  at Doha Round, 31, 163, 229
                                                          95, 162
  EU CAP (Common Agricultural Policy),
                                                   Antigua and Barbuda, 163
                                                   appellate process and Appellate Body, WTO
  EU import restrictions, 163, 229
                                                          dispute settlement, 156-58, 159,
  FAO (UN Food and Agriculture
                                                          200 - 202
                                                   Asian financial crisis (1997-98), 6
       Organization), 247
  as global issue, 30-31, 163
                                                   ASIL (American Society of International Law),
  GMOs (genetically modified foodstuffs), 182,
       218, 319n9, 328n32
                                                   Austin, John, 18, 32
  Japanese import restrictions, 163
                                                   authority to make decisions, allocation of. See
  Tokyo Round's failure to establish discipline
                                                          power allocation analysis
       for, 101
  at UR, 100-101
                                                   balance of power theories, 13, 266
  US import restrictions, 30-31, 100, 101,
                                                   bankruptcy laws, WTO subject matter
       139-40, 164, 229
                                                          competence regarding, 133
AIDS/HIV, 245, 247
                                                   Belgium, fragmentation and aggregation of
Aleinikoff, Alex, 70
                                                          government in, 21
                                                   Berlin Wall, fall of (1989), 5, 6, 12
allocation of power. See power allocation
                                                   bilateral investment treaties (BITs), 241
       analysis
American Indian tribes, sovereignty of, 70,
                                                   bilateral treaties, 44
       224
                                                   Blackhurst, Richard, 116
amicus curiae briefs and dispute settlement at
                                                   Blair, Tony, 66
       WTO, 155, 181, 207
                                                   Bosnia, 65
Annan, Kofi, 18, 60, 65-66, 67
                                                   Boutros-Ghali, Boutros, 65
                                                   Brazil, 30-31, 161, 163, 165-66
antidumping
                                                   Bretton Woods Conference (1944), 6, 92, 147,
  domestic and international law, interaction
       of, 194
                                                          274n9
  "effect" or "measure," actual occurrence of,
                                                   Bretton Woods institutions. See General
       179
                                                          Agreement on Tariffs and Trade;
  as exceptional WTO measure answering
                                                          International Monetary Fund; World
       specific nation-state needs, 237
                                                          Bank
  fact-finding issues and, 181-182
                                                   Breyer, Stephen G., 253
  interface theory (variable geometry) and,
                                                   Britain. See United Kingdom
       231, 233
                                                   Brown, Winthrop, 81
```



Cambridge University Press 978-0-521-86007-9 - Sovereignty, the WTO and Changing Fundamentals of International Law John H. Jackson Index

Index

Canada, 117, 142-43, 163 decision-making authority, allocation of. See Cancún Ministerial Conference (2003), 12, 27, power allocation analysis deference, degree of (standard of review) 103, 118, 121, 130 CAP (Common Agricultural Policy), EU, dispute settlement at WTO, 169-72, 239-40 "margin of appreciation" concept, 52, 226, "Charming Betsy" principle, 124-25, 193 240, 249, 254-55 "democratic entitlement," 21 Charney, Jonathan, 228 Chevron doctrine, 170 democratic legitimacy of international system, Chile, 201, 340n8 216, 226 China, 109, 110, 127, 231 developing countries' involvement in WTO Chomsky, Noam, 216 dispute settlement activity, 160-61, 229 Coase, Ronald, 86 Dewey, John, 264 Codex Alimentarius Commission, 247 disease, rapid transmittal of, 31 Common Agricultural Policy (CAP), EU, 101 dispute settlement at WTO, 134-37, 204-08 amicus curiae briefs, 155, 181, 207 communications, effects of developments in, 10-11, 31-32 appellate process and Appellate Body, 156-58, 159, 200-202 competition policy, disputes as to internationalization of, 221-22 consensus approach, 113 consultations, 152-53 compliance and implementation requirements, WTO dispute settlement, 158-59, domestic and international law, relationship 195-99 between, 192-95 domestic law affected by, 124 consensus approach dispute settlement at WTO, 113 DSB (Dispute Settlement Body), 107 DSU (Dispute Settlement Understanding) in international governmental organizations, 24, 43, 50 (see Table of Statutes and Regulations) sovereignty and, 58, 216 "effect" or "measure," actual occurrence of, at WTO, 43, 50, 112-16, 206, 237-38, 177-180 262 fact-finding issues, 180-82, 240 consent theory for international law norms, 36, general international law and, 164-68 58, 206, 215 growing importance of, 227-29 consequential immunity, 58 historical background under GATT and UR, constitutional issues 137 - 45international law, "constitutional" approach implementation and compliance to, 224-27, 268 requirements, 158-59, 195-99 power allocation analysis and issue avoidance, 172-73 constitutionalism, 222-27 obligation to perform, 168 treaties with constitutional functions, 44, panel process, 153–56, 202–03 51 - 52policy goals, 145-51 "treaty rigidity" as "constitutional" question, power allocation analysis and, 238-40 45, 50 precedent, 173-77, 195, 239 constitutions. See also Table of Statutes and reform proposals, 199–204 Regulations remedies and relief, 203-204 review of activity (1995-2005), 159-63 EU draft constitution, 44, 51, 223, 249, 254 (see also Table of Statutes and review of process, 199-200 Regulations) rule-oriented vs. power-oriented systems, Netherlands, 23 146 - 47UK, unwritten constitution of, 222 sovereignty issues, 163–73 UN Charter, constitutional character of, 223, standard of review or degree of deference, 225 169-72, 239-40 WHO, 246 stare decisis, 173-77, 193, 239 WTO, 236-40 structural doctrines, 173-82 structural problems faced by, 199-204 consultations as part of dispute settlement at WTO, 152-53 structure and operation of system, 152-59 contractual treaties, 44 treaty interpretation and, 182-92 Costa Rica, 148-149 Doha Ministerial Conference (2001) "Consultants to the Chair" at, 118 customary international law, 35, 39-42, 58-59, 212 declarations, 103



Cambridge University Press 978-0-521-86007-9 - Sovereignty, the WTO and Changing Fundamentals of International Law John H. Jackson Index

Index

relative success of, 102-03, 121 dispute settlement activity at WTO, two-track approach used at, 130 involvement in, 160, 163, 170-71, 198, World Trade Organization (WTO), 242 Doha Round domestic application of international norms agricultural subsidies as issue for, 31, 163, 229 in, 127, 255 designation as development round, 103 draft constitution, 44, 51, 223, 249, 254 (see domestic and international law, relationship also Table of Statutes and Regulations) between. See also sovereignty federalism in, 253-54 dispute settlement at WTO and, 192-95 greater unity as response to world human rights protections and sovereignty circumstances, 5 principle, 217, 248-52 human rights tradition of, 249 "margin of appreciation" given to federal legal application of international norms in, states, 254-55 123 monist vs. dualist view of, 23, 123 MIAs (multilateral investment agreements), "self-executing" effect of international development of, 242 norms in domestic context, 123, 126, organizational evolution of, 122, 205 134, 151, 192 power allocation as major issue in, 224 sovereignty, sub-national use of term in, 70 sovereignty, 60, 69 sub-federal units, applicability of US petroleum product import tax, GATT international law to, 127-28 dispute settlement regarding, 142-43 treaties, 21-23, 45 voting and majority requirements, 25, 51 WTO rules, 122-28 voting block powers in international Drucker, Peter, 268 organizations, 24, 115 WTO Ministerial Conference reforms called DS. See dispute settlement at WTO dualist view of relationship between for by, 121 international and national law, 23, 123 as WTO Quad Group member, 117 dumping. See antidumping extraterritorial effects of domestic government regulation, 22 EC/EEC (European Community/European Economic Community). See European fact-finding issues in WTO dispute settlement Union mechanism, 180-82, 240 ECJ. See European Court of Justice failed states, 21-22, 257 economic law, international. See international FCN (friendship, commerce, and navigation) economic law agreements, 241 ECOSOC (UN Economic and Social federalism issues, 69-70, 252-55 Committee), 245 Food and Agriculture Organization (FAO), 247 Ehlermann, Claus-Dieter, 187 fragmentation of governments, 20-21 enforcement requirements, WTO dispute France's referendum on EU constitution, 44, settlement, 158-59, 195-99 349n7 England. See United Kingdom Franck, Thomas, 21, 40, 51, 68, 72, 225, 264 environmental policies, international, 243-44 free trade agreements as types of governmental "equality of nations" doctrine, 24, 50, 112, aggregation, 21 216, 262 Friedman, Thomas L., 3, 13, 64 erga omnes treaties, 44 Friedman, Wolfgang, 64 European Court of Justice (ECJ) friendship, commerce, and navigation (FCN) establishment and purpose of, 227, 312n33 agreements, 241 on relationship between international and domestic law, 23, 127 gambling on Internet, WTO dispute settlement stare decisis vs. precedent, 174-76 regarding US restrictions on, 163 European Union (EU) General Agreement on Tariffs and Trade agricultural import restrictions, 163, 229 (GATT). See also Table of Statutes and CAP (Common Agricultural Policy), 101 Regulations, for specific sections of competition policy, disputes as to treaty internationalization of, 221 dispute settlement under, 137-45 dispute settlement activity at WTO (see also grandfather rights under, 96 'green room" meetings, 103, 116, 117 specific cases involving EC/EEC, in Table of Cases) institutional evolution of, 82, 96-98, 205



Cambridge University Press 978-0-521-86007-9 - Sovereignty, the WTO and Changing Fundamentals of International Law John H. Jackson Index

Index

General Agreement on Tariffs and Trade Hobbes, Thomas, 264 (GATT). (cont.) "holdout" states, 59 interface theory (variable geometry), 230-31 Hong Kong Ministerial Conference (2005), ITO draft charter and, 92-94 103, 121 provisional application of, 94-96 Hong Kong's membership in WTO, 109 Rounds of, 305n30 (see also specific human rights negotiating rounds, e.g. Uruguay international protections and sovereignty Round) issues, 217 significance of, 91 "margin of appreciation" concept, 226 sovereignty and membership criteria, 69 nation-state sovereignty and, 248-52 WTO and, 91, 105 policy analysis matrix and, 218 General Agreement on Trade in Services (GATS). See Table of Statutes and ICITO (Interim Commission for the Regulations International Trade Organization), 97 genetically modified foodstuffs (GMOs), 182, ICJ or International Court of Justice (World 218, 319n9, 328n32 Court), 135, 246. See also Table of Cases Geneva Ministerial Conference (1998), 102, and Table of Statutes and Regulations IMF. See International Monetary Fund Ginsburg, Ruth, 253 immunity, 58, 205 globalization implementation and compliance requirements, criticism of and challenges to, 6, 13 WTO dispute settlement, 158-59, defined and described, 8-10 195-99 exogenous and endogenous, 9 in dubio mitius, 184-85, 262 of health issues, 245-248 India, 109 interface theory (variable geometry) and, 25, Indian tribes in America, sovereignty of, 70, 226, 230-33, 232, 254 224 international law and, 54-56 information technology, effects of international legal principles challenged by, developments in, 10-11, 31-32 institutional international law, 49-54. See also 3, 5 market economy and, 30-31, 220-22 international governmental sovereignty affected by, 60, 61, 69 organizations "transmittals," increasing effects of rapidity institutional structures' importance to market, of, 31-32 214 WTO subject matter competence and, 133 intellectual property rights GMOs (genetically modified foodstuffs), 182, subject matter competence of WTO 218, 319n9, 328n32 regarding, 130 Goldsmith, Jack L., 35-36 TRIPS (WTO Agreement on Trade-Related Aspects of Intellectual Property Rights), good governance as basis for legitimation of international law 105, 227, 247, 347n29 norms, 216 UR introducing WTO involvement in, 99, in international organizations, 25, 53-54, 144 WIPO, 227 263, 267-68 WTO ideals, 118-21, 203 interdependence, concept of, 8-13, 264. See also governments. See nation-states globalization grandfather rights under GATT, 95, 96 interface theory (variable geometry), 25, 226, Great Britain. See United Kingdom 230-33, 232, 254 "green room" meetings, 103, 116, 117 Interim Commission for the International Grotius, Hugo, 18 Trade Organization (ICITO), 97 Gulf War (1991), 5 internal governance, international involvement in. See domestic and international law, Haass, Richard N., 63 relationship between Havana Charter of ITO, 84, 92-93, 129. See International Commission on Intervention and also Table of Statutes and Regulations State Sovereignty (2001), 57, 67 International Court of Justice or ICJ (World Hawkins, Harry, 134, 138 health issues, international aspects of, 245-48 Court), 135, 246. See also Table of Cases Henkin, Louis, 38, 61, 69, 265 and Table of Statutes and Regulations

international economic law, 46-49

HIV/AIDS, 245, 247



Index

general international law concepts and, 4, inception of, 274n9 13, 46-49, 81-82, 234 "treaty rigidity" in, 45 implications of current situation, 13-15 weighted voting system, 24, 115-16 investment flows, 240-43 WTO resources compared, 116, 117 transactional and regulatory aspects of, 47 International Trade Organization (ITO) international governmental organizations. See dispute settlement mechanism intended for, also specific institutions, e.g. World 138 Trade Organization failure of, 94, 107, 205 consensus approach, 24, 43, 50 GATT Secretariat evolving from staff of, 97 Havana Charter, 84, 92-93, 129, 138 (see also constitutional treaties of, 51-52 diplomatic and governance activities of, Table of Statutes and Regulations) 24 - 26historical background, 82, 92–94 "equality of nations" doctrine, 24, 50 subject matter agenda, 129 good governance ideals, 25, 53-54, 263, Internet gambling restrictions, WTO dispute 267 - 68settlement regarding, 163 international institutional law, 49-54 investment flows, international, 240-243 public support for, 268 Iraq "treaty rigidity," 45, 50 voting systems, 24, 43, 50–51 current war in (2003-), 31, 256-57 Gulf War (1991), 5 international investment flows, 240-43 issue avoidance and dispute settlement at international law, 32-35 WTO, 172-173 basis for legitimation of, 215-17, 263-68 ITO. See International Trade Organization changing circumstances and challenges, 3-7 conclusions regarding, 260-268 James, William, 264 "constitutional" approach to, 224-27, 268 Japan criticisms of, 18-19, 34-35 agricultural import restrictions, 163 current landscape of, 6-13, 20 domestic application of international norms customary international law, 35, 39-42, in, 127 58-59, 212 membership in WTO, 109 dispute settlement at WTO and, 164-68 MIAs (multilateral investment agreements), domestic law, relationship to (see domestic development of, 242 and international law, relationship as WTO Quad Group member, 117 between) juridical institutions economic (see international economic law) constitutionalism and, 225 environmental policies, 243-44 ECJ (See European Court of Justice) foundations of, 35-39 growing importance of international future challenges, possible responses to, systems, 227-230 ICJ (International Court of Justice or World 211 - 14globalization, challenges posed by, 54-56 Court), 135, 246 health issues, 245–48 Law of the Sea Tribunal, 227, 280n28 implications of current situation, 13-15 standard of review or degree of deference of institutions, 49-54 (see also international dispute settlement at WTO, 169-172, 239-240 governmental organizations) interface theory (variable geometry), 25, 226, "margin of appreciation" concept, 52, 230-33, 232, 254 226, 240, 249, 254-255 juridical institutions, growing importance of, WHO system, 246 227 - 30WTO system (See dispute settlement at sovereignty's relationship to, 57-62 (see also WTO) sovereignty) jus cogens, 42, 48, 250, 287n27-28 "state consent" theory and, 36, 58, 206, 215 treaty law (see treaties) Kant, Immanuel, 32 Kelly, J. Patrick, 40 unified theory, impossibility of constructing, Kelsen, Hans, 32, 35, 264 international law associations, 4, 273n3 Kennedy Round, 98 International Monetary Fund (IMF) Keohane, Robert, 265 Asian financial crisis testing capacity of, 6 Kosovo crisis, 6, 65, 263 "conditionality," 69 Krasner, Stephen, 63



Cambridge University Press 978-0-521-86007-9 - Sovereignty, the WTO and Changing Fundamentals of International Law John H. Jackson Index

Index

Lamy, Pascal, 114 NGOs. See nongovernmental actors and Law of the Sea Tribunal, 227, 280n28 organizations lex specialis, 167 non-contractual treaties, 44 non-interference/non-intervention principle, 217, 263 "margin of appreciation" concept, 52, 226, 240, 249, 254-55 non liquet, 172-173 market economy non-tariff barriers (NTBs), 96, 98, 131 failure of markets, power allocation in cases nongovernmental actors and organizations, of, 220-22 26 - 29globalization of, 30-31, 220-22 environmental policies, international, 244 institutional structures, importance of, 214 illicit operators, 29 increase in number and participation, socialist collapse and upsurge in market economic thinking, 12 implications of, 11-12, 14-15, 24, Marshall, John, 51, 134 26-28, 120 McRae, Donald, 49 non-profits, 26-28 Mercosur, 21, 227–228 profit organizations and businesses, 28-29 Mexico, 142-143 North American Free Trade Agreement MFN (Most Favored Nation) obligations, 95, (NAFTA), 126, 227 NTBs (non-tariff barriers), 96, 98, 131 96, 115 MIAs (multilateral investment agreements), 242 - 43obligation to perform as feature of WTO Millikin, Eugene, 81 dispute settlement, 168 Ministerial Conferences of WTO, 102-04, 106, OECD. See Organisation for Economic Co-121-122. See also individual conferences, operation and Development O'Neill, Tip, 268 e.g. Singapore MNCs (multinational corporations), 29–30, opinio juris, 39, 59, 263, 265 241. See also nongovernment actors and opt-out clause in WTO charter, 109 organizations Organisation for Economic Co-operation and monist view of relationship between Development (OECD) international and national law, 23, 123 member states, 344n11 Monterrey Conference 2002 (International MIAs (multilateral investment agreements) Conference on Financing for development of, 242 Development), 27 WTO resources compared, 116, 117 Most Favored Nation (MFN) obligations, 95, Organization for Trade Cooperation (OTC), 96, 115 97, 107 multilateral investment agreements (MIAs), OXFAM, 27, 311n24 242 - 43multilateral treaties, 44 panel process, WTO dispute settlement, multinational corporations (MNCs), 29-30, 153-56, 202-03 241. See also nongovernment actors and Panitchpakdi, Supachai, 83, 114 participation as good governance ideal, 25, organizations 120 - 21Peirce, Charles Sanders, 264 Nader, Ralph, 70 nation-states. See also domestic and plurilateral agreements, 106, 115 international law, relationship between; policy objectives sovereignty of dispute settlement at WTO, 145-51 democratic protections afforded by, 226 of international law, 37–39 extraterritorial effects of domestic actions of, matrix for analysis of, 217-20 power allocation analysis and, 70-76, 217 - 20fragmentation or aggregation of, 20-21 Native American tribes, sovereignty of, 70, of sovereignty concept, 70-76 of WTO, 84-91 224 natural law or natural reason, 216 Posner, Eric A., 35–36 Netherlands power allocation analysis EU constitution, referendum on, 44, 349n7 constitutionalism and, 222-27 monist legal system of, 23, 123 federalism issues (sub-national sovereignty), 69-70, 252-55 US dairy import restrictions, 139-140



Index

future challenges involving, 211–14 illustrative examples invoking, 235	Services) (see Table of Statutes and Regulations)
interface theory (variable geometry), 25, 226,	subject matter competence of WTO
230–33, 232, 254	regarding, 133
juridical institutions, growing importance of, 227–30	UR introducing WTO involvement in, 99, 144
market failure in global economy, response to, 220–22	"Singapore issues," 103, 131, 242, 345n17 Singapore Ministerial Conference (1996), 102,
policy objectives and, 70-76, 217-20	121
sovereignty concepts and, 70–77, 212–13, 214–17, 252 (see also sovereignty)	single undertaking arrangement at UR, 100 Slaughter, Anne-Marie, 335n5, 351n3
UN, use of force by, 256–57	socialist structures, decline and fall of, 12
WTO and, 238–40	Somalia, 6, 65
pragmatism, 264	Souter, David, 253
precedent, 173–77, 195, 239	South Africa, 109
public support for international institutions, 268	sovereign immunity, 58, 205
	sovereignty
Punta del Este Conference (1986), 5, 99, 141	"anomaly examples" of, 68–69, 214
Quad Group, 117–18	challenges to entire concept of, 13–14, 214 changing fundamentals of international law
~	and, 76–78
reciprocity, concept of	conclusions regarding, 260–68
in international law, 30, 51	and constitutionalism, 222–27
in WTO, 88, 131, 148, 149, 196, 199, 237	continuing usefulness of concept, 69–70,
Rehnquist, William, 253	214–15, 217
remedies and relief, WTO dispute settlement,	disaggregation or "slicing" of concept, 215
203-04	dispute settlement at WTO and, 163–73
rights. See human rights	domestic and international law, tension
"risk premium," rule-oriented approach	between, 60, 69
lowering, 15, 38–38, 88, 187, 205, 262	future challenges regarding, 214–17
rogue states, 21–22, 217, 226–27 Roosevelt, Franklin Delano, 251	globalization affecting, 60, 61, 69 human rights and, 217, 248–52
Ruggiero, Renato, 114	of Native American tribes, 70, 224
rule-oriented approach	policy objectives and, 70–76
of dispute settlement of WTO, 146–47,	power allocation analysis and, 70–77,
206	212–13, 214–17, 252
of GATT and ITO charter, 138, 205, 206	relationship to international law, 57–62
importance of juridical institutions and, 229	"state consent," concept of, 36, 58, 206, 215
importance of structures based on, 214	sub-national (federalism issues), 69-70,
of international law, 37–39	252–55
"risk premium," lowering, 15, 38–38, 88,	UN, use of force by, 256–57
187, 205, 262	Westphalian concept, criticism of, 14, 57,
of WTO, 88–90, 205, 206	62-70, 260-61
Rwanda, 6, 65	WTO and, 69, 237, 261–62
CARC 045	standard of review
SARS, 245	dispute settlement at WTO, 169–72,
Scalia, Antonin, 253	239–40
Schachter, Oscar, 36–37, 216	"margin of appreciation" concept, 52, 226,
Schermers, Henry, 64, 257 Seattle Ministerial Conference (1999), 6,	240, 249, 254–55 stare decisis, 173–77, 193, 239
102–03, 118, 121, 130	"state consent," concept of, 36, 58, 206, 215
"self-executing" effect of international norms	states. See nation-states
in domestic context, 123, 126, 134, 151,	Stephens, John Paul, 253
192	Stiglitz, Joseph E., 258
September 11, 2001 attacks, impact of, xi, 4, 6	Stone, Christopher D., 32
services, trade in	structural doctrines and dispute settlement at
GATS (General Agreement on Trade in	WTO, 173–82



Cambridge University Press 978-0-521-86007-9 - Sovereignty, the WTO and Changing Fundamentals of International Law John H. Jackson Index

Index

sub-national units unwritten constitution of, 222 applicability of international law to, 127-28 United Nations (UN) sovereignty or federalism issues, 69-70, constitutional character of Charter, 223, 225 252 - 55(see also UN Charter, in Table of subsidiarity, concept of, 25, 68, 226, 230 Statutes and Regulations) subsidies, agricultural. See agricultural goods ECOSOC (Economic and Social Committee), 245 Taiwan, 109 FAO (Food and Agriculture Organization), Thirty Years War, 62 247 force, use of, 256-57 Thomas, Clarence, 253 Gulf War (1991), prosecution of, 5 Tokyo Round agricultural discipline, failure to establish, human rights protection, role in, 251 international law challenges currently faced consensus approach, problems created by, 114 number of treaties registered with, 42 dispute settlement at, 140, 142, 143-44 organizational evolution of, 122 grandfather rights and US position during, 96 veto powers in, 24, 51 United States (US) NTBs, focus on, 98, 131 single-sector agreements vs. single agricultural import restrictions, 30–31, 100, undertaking of UR, 100 101, 139-40, 164, 229 Trade Policy Review Mechanism (TRPM), 105, Appellate Body reform proposal, 201 107 Chevron doctrine and standard of review, trade remedy cases, 162 170 - 171"transmittals," increasing effects of rapidity of, competition policy, disputes as to 31 - 32internationalization of, 221 transparency as good governance ideal, 25, 53, constitutionalism in, 223-24 118-21, 203 customary international law arguments in transportation, effects of developments in, 10, US Supreme Court, 40-41 31 - 32dispute settlement activity at WTO, treaties, 35, 42-45. See also Table of Statutes involvement in, 160, 162, 163, 170-71, and Regulations, for specific treaties 184-95, 198, 229 (see also specific cases bilateral, 44, 241 involving US, in Table of Cases) challenges to continued viability of, 14-15 distinctions between treaties made by, 43 with constitutional functions, 44, 51–52 domestic application of international norms customary international law and, 41-42 in, 45, 123-27, 255 differential treatment of, 44, 51 federalism in, 252-53 dispute settlement at WTO involving GATT, initiatives leading to establishment of, interpretation of, 182-92 99-93 domestic law impacts of, 21-23, 45 human rights tradition of, 249-51 FCN (friendship, commerce, and navigation) mixed monist/dualist legal system of, 23, 123 agreements, 241 public support for international institutions foundations of law regarding, 35 in, 268 MIAs (multilateral investment agreements), as sole superpower, 5, 12-13 242 - 43sovereignty, sub-national use of term in, 69-70 multilateral, 44, 242-43 opt-out clause in WTO charter, 109 stare decisis vs. precedent, 173-75 sovereignty and, 58 WTO, domestic law impact of, 45 "treaty rigidity," 45, 50, 206, 262 as WTO Quad Group member, 117 TRPM (Trade Policy Review Mechanism), 105, universal jurisdiction, treaties calling for, 44 Uruguay, GATT violations of industrial countries alleged by, 140 Uruguay Round (UR) underwear imports, Costa Rican protest of US restrictions on, 148-149 dispute settlement and, 137–45 United Kingdom (UK) historical outline of, 99–102 dualist legal system of, 123 impact of, 5-6 GATT, initiatives leading to establishment of, subject matter competence of WTO expanded at, 99, 131, 133, 144 99



Index

WTO established at, 99, 269-70 variable geometry (interface theory), 25, 226, 230-33, 232, 254 Venezuela, 161, 165–66 voting systems in international organizations, 24, 43, 50-51, 112-16, 237

treaty agreements at, 269-70

treaty structure for WTO, 104-06

"Washington Consensus," 267 weapons, effects of developments in, 11 weighted voting systems, 24, 115-16 Westphalian sovereignty, criticism of, 14, 57, 62-70, 260-61 WHO (World Health Organization), 29, 245-248

Wilcox, Clair, 138

WIPO (World Intellectual Property Organization), 227

World Bank

Asian financial crisis testing capacity of, 6 inception of, 99, 274n9 "treaty rigidity" in, 45 weighted voting system, 24, 115-16 WTO resources compared, 116, 117

World Court (International Court of Justice or ICJ), 135, 246. See also Table of Cases and Table of Statutes and Regulations

World Health Organization (WHO), 29, 245 - 48

World Intellectual Property Organization (WIPO), 227

World Summit on Sustainable Development (2002), 11, 26

World Trade Organization (WTO) agricultural subsidies as major issue in, 30 - 31

Charter, 104-106, 269-70, 306n36 (see also Table of Statutes and Regulations, for specific sections)

competition policy, disputes as to internationalization of, 221-22 consensus approach at, 43, 50, 112-16, 206, 237-38, 262 "constitution" of, 236-40 criticism of and challenges to, 6 decision-making processes, 107-108 dispute settlement mechanism (see dispute settlement at WTO) GATT and, 91, 105 good governance ideals of, 118-21, 203 health issues, involvement with, 247 inception of, 5-6 interface theory (variable geometry), 230-31 internal domestic legal systems and rules of, 122 - 28link to general international law, 3-4, 13, 81-84 membership and membership accession, 107, 108–10 MIAs (multilateral investment agreements) development of, 242-43 Ministerial Conferences, 102-04, 106, 121-22 (see also individual conferences, e.g. Singapore) nongovernmental actors' participation in, 12, 15, 27–28 policy objectives of, 84-91 power allocation analysis and, 238-40 problems and criticisms, 110-12, 262 reasons for use as case study, 16-17, 261-62 resources of, 116, 117 sovereignty and, 69, 237, 261-62 steering group issues, 116-18 structure and organization of institution, 106-07, 122 subject matter competence of, 128-33,

super-majority requirements at, 237 UR agreements establishing, 99, 269–70 Wyndham-White, Eric, 98, 139

236-40