

GLOBALISATION AND GOVERNANCE

While it might have been viable for states to isolate themselves from international politics in the nineteenth century, the intensity of economic and social globalisation in the twenty-first century has made this choice impossible. The contemporary world is an international world – a world of collective security systems and collective trade agreements.

What does this mean for the sovereign state and ‘its’ international legal order? Two alternative approaches to the problem of governance in the era of globalisation developed in the twentieth century: universal internationalism and regional supranationalism. The first approaches collective action problems from the perspective of the sovereign equality of all states; yet the consent requirement here typically settles for a governmental minimalism in which the unanimity rule translates into a ‘tyranny against the majority’. A second approach to transnational governance has tried to remedy this by re-establishing majoritarian governmental structures on the regional scale. This regional approach promised to reduce collective action problems, and it did so by inviting states to share their internal sovereignty within a broader supranational ‘union’ of states.

This collection of essays aims to analyse – and contrast – the two types of normative and decisional solutions that have emerged as responses to the ‘international’ problems within our globalised world.

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GLOBALISATION AND GOVERNANCE

International Problems, European Solutions

Edited by

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TABLE OF CASES

I International

- Canada – Certain Measures Affecting the Renewable Energy Sector (Complaint by Japan);
 Canada – Measures Relating to the Feed-in Tariff Program (Complaint by the EU) (con-
 joined cases) [2013] WTO Doc. WT/DS412/AB/R, WT/DS426/AB/R (AB Report)
- China – Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum,
 WTO Doc. WT/DS431/R, Panel Report, 26 March 2014
- Corfu Channel (United Kingdom *v.* Albania), Merits, Judgment (1949) ICJ Reports 4
- Military and Paramilitary Activities in and Against Nicaragua (Nicaragua *v.* United
 States of America), Merits, Judgment (1986) ICJ Reports 14
- Prosecutor *v.* Dusko Tadic (Appeal Judgment), IT-94-1-A, International Criminal
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- Prosecutor *v.* Ahmad Al Faqi Al Mahdi, Judgment and Sentence, ICC-01/12-01/15,
 27 September 2016
- Prosecutor *v.* Dominic Ongwen, Decision on Legal Representatives' Request Regarding
 Opening Statements, ICC-02/04-01/15, 29 November 2016
- Prosecutor *v.* Jean-Pierre Bemba Gombo, Judgment Pursuant to Article 74 of the Statute,
 ICC-01/05-01/08, 21 March 2016
- Prosecutor *v.* Omar Hassan Ahmad Al Bashir, Decision convening a public hearing for
 the purposes of a determination under Article 87(7) of the Statute with respect to the
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- Prosecutor *v.* Thomas Lubanga Dyilo, Judgment Pursuant to Article 74 of the Statute,
 ICC-01/04-01/06, 14 March 2012
- Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect
 to Activities in the Area, Case No. 17, Advisory Opinion (ITLOS Seabed Disputes
 Chamber, 1 February 2011), 50 ILM 458 (2011)
- Whaling in the Antarctic (Australia *v.* Japan: New Zealand intervening), Judgment,
 (2014) ICJ Reports 226

II European Union I: European Court of Justice

- Case 9/56, Meroni & Co., Industrie Metallurgiche, SpA *v.* High Authority of the European
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- Case 26/62, van Gend en Loos, EU:C:1963:1
 Case 75/63, Hoekstra v. Administration of the Industrial Board for Retail Trades and Businesses, EU:C:1964:19
 Case 6/64, Costa v. ENEL, EU:C:1964:66
 Case 44/65, Hessische Knappschaft v. Maison Singer et fils, EU:C:1965:122
 Case 61/65, Vaassen-Göbbels v. Management of the Beambtenfonds voor het Mijnbedrijf, EU:C:1966:39
 Case 120/78, Cassis de Dijon, EU:C:1979:42
 Case 136/78, Ministère Public v. Auer, EU:C:1979:34
 Case 203/80, Criminal Proceedings against Guerrino Casati, EU:C:1981:261
 Case 66/85, Lawrie-Blum v. Land Baden-Württemberg, EU:C:1986:284
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 Case C-476/98, Commission v. Germany, EU:C:2002:631
 Case C-184/99, Grzelczyk v. Centre public d'aide sociale d'Ottignies-Louvain-la-Neuve, EU:C:2001:458
 Case C-192/99, The Queen v. Secretary of State for the Home Department, ex parte: Manjit Kaur, EU:C:2001:106
 Case C-413/99, Baumbast and R v. Secretary of State for the Home Department, EU:C:2002:493

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- Opinion 1/09, *Creation of a unified patent litigation system – European and Community Patents Court*, EU:C:2011:123
- Case C-34/09, *Ruiz Zambrano v. Office national de l'emploi (ONEm)*, EU:C:2010:560
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- Agreement on Trade-related Investment Measures, Annexed to the Marrakesh Agreement Establishing the World Trade Organization, signed 15 April 1994, in force 1 January 1995, 1868 UNTS 186
- Charter of the United Nations and Statute of the International Court of Justice, signed 26 June 1945, in force 24 October 1945, United States Treaty Series Volume 3, 1153
- Constitution of the International Labour Organization, signed 1 April 1919, in force 28 June 1919
- Convention on Biological Diversity, signed 5 June 1992, in force 29 December 1993, 1760 UNTS 79
- Covenant of the League of Nations, signed 28 April 1919, in force 10 January 1920
- Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms ('European Convention on Human Rights'), signed 4 November 1950, in force 2 September 1953, ETS no.005
- General Agreement on Tariffs and Trades, signed 30 October 1947, in force 1 January 1948, 55 UNTS 187
- General Agreement on Trade and Services, Annexed to the Marrakesh Agreement Establishing the World Trade Organization, signed 15 April 1994, in force 1 January 1995, 1869 UNTS 185
- Kyoto Protocol to the United Nations Framework Convention on Climate Change, signed 11 December 1997, in force 16 February 2005, 2303 UNTS 162
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- North American Free Trade Agreement signed 17 December 1992, in force 1 January 1994
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- Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights ('Malabo Protocol'), adopted 27 June 2014, in force 29 January 2018
- Rome Statute of the International Criminal Court, signed 17 July 1998, in force 1 July 2002, 2187 UNTS 3
- Rotterdam Convention on Prior Informed Consent, 24 February 2004 (entry into force), 2244 UNTS 337
- Statute of the International Criminal Tribunal for Rwanda, UNSC Res. 955 (8 November 1994) UN Doc. S/RES/955/1994, Annex, as amended
- Statute of the International Criminal Tribunal for the Former Yugoslavia, UNSC Res. 827 (25 May 1993) UN Doc. S/RES/827/1993, as amended
- Stockholm Convention on Persistent Organic Pollutants, signed 22 May 2001, in force 17 May 2004, 2256 UNTS 119
- Transatlantic Trade and Investment Partnership (currently negotiated)
- United Nations Framework Convention on Climate Change, signed 9 May 1992, in force 21 March 1994, 1771 UNTS 107
- US–Peru Trade Promotion Agreement, signed 12 April 2006, in force 1 February 2009
- Vienna Convention on Diplomatic Relations, signed 18 April 1961, in force 24 April 1964, 500 UNTS 95

II European Union

- Directive 76/464 on Pollution Caused by Certain Dangerous Substances Discharged into the Aquatic Environment of the Community [1976] OJ L 129/23
- Directive 79/409 on the Conservation of Wild Birds [1979] OJ L 103/1
- Regulation 348/81 on Common Rules for Imports of Whales or other Cetacean Products [1981] OJ L 39/1
- Regulation 3626/82 on the Implementation in the Community of the Convention on International Trade in Endangered Species of Wild Fauna and Flora [1982] OJ L 384/1
- Directive 84/360 on the Combating of Air Pollution from Industrial Plants [1984] OJ L 188/20

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- Directive 91/271 Concerning Urban Waste Water Treatment [1991] OJ L 135/40
- Directive 91/676 concerning the Protection of Waters against Pollution Caused by Nitrates from Agricultural Sources [1991] OJ L 376/1
- Directive 93/76 to Limit Carbon Dioxide Emissions by Improving Energy Efficiency (SAVE) [1993] OJ L 237/28
- Council Resolution on a Community Action Programme to Combat Environmental Pollution by Cadmium [1988] OJ C 30/1
- Regulation 338/97 on the Protection of Species of Wild Fauna and Flora by Regulating Trade Therein [1997] OJ L 61/1
- Council Directive 1999/31 on the Landfill of Waste [1999] OJ L 182/1
- Directive 1999/94 relating to the Availability of Consumer Information on Fuel Economy and CO₂ Emissions in respect of the Marketing of New Passenger Cars [2000] OJ L 12/16
- Directive 2000/53 on End-of-life Vehicles [2000] OJ L 269/ 34
- Directive 2000/60 establishing a Framework for Community Action in the Field of Water Policy [2000] OJ L 327/1
- Council Regulation 1334/2000 setting up a Community Regime for the Control of Exports of Dual-use Items and Technology [2000] OJ L 159/1
- Directive 2001/77 on the Promotion of Electricity Produced from Renewable Energy Sources in the Internal Electricity Market [2001] OJ L 283/33
- Directive 2001/95 on General Product Safety [2002] OJ L 11/4
- Consolidated Version of the Treaty Establishing the European Community [2002] OJ C 325/33
- Framework Decision on the European Arrest Warrant [2002] OJ L 190/1
- Directive 2002/91 on the Energy Performance of Buildings [2003] OJ L 1/65
- Council Decision 2002/187/JHA setting up Eurojust with a View to Reinforcing the Fight against Serious Crime [2002] OJ L 63/1
- Directive 2003/6 on Insider Dealing and Market Manipulation (Market Abuse) [2003] OJ L 96/16
- Directive 2003/30 on the Promotion of the Use of Biofuels or Other Renewable Fuels for Transport [2003] OJ L 123/42
- Directive 2003/87 establishing a Scheme for Greenhouse Gas Emission Allowance Trading within the Community and Amending Council Directive 96/61/EC [2003] OJ L 275/32
- Commission Directive 2003/124 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards the Definition and Public Disclosure of Inside Information and the Definition of Market Manipulation [2003] OJ L 339/70
- Commission Directive 2003/125 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards the Fair Presentation of Investment Recommendations and the Disclosure of Conflicts of Interest [2003] OJ L 339/73
- Directive 2004/26 amending Directive 97/68/EC on the Approximation of the Laws of the Member States relating to Measures against the Emission of Gaseous and

- Particulate Pollutants from Internal Combustion Engines to be Installed in Non-road Mobile Machinery [2004] OJ L 146/1
- Commission Directive 2004/72 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards Accepted Market Practices, the Definition of Inside Information in Relation to Derivatives on Commodities, the Drawing up of Lists of Insiders, the Notification of Managers' Transactions and the Notification of Suspicious Transactions [2004] OJ L 162/70
- Directive 2004/101 amending Directive 2003/87/EC Establishing a Scheme for Greenhouse Gas Emission Allowance Trading within the Community, in respect of the Kyoto Protocol's Project Mechanism [2004] OJ L 338/18
- Regulation 850/2004 on Persistent Organic Pollutants and Amending Directive 79/117/EEC [2004] OJ L 158/7
- Directive 2005/32 establishing a Framework for the Setting of Ecodesign Requirements for Energy-using Products and Amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council [2005] OJ L 191/29
- Regulation 2173/2005 on the Establishment of a FLEGT Licensing Scheme for Imports of Timber into the European Community [2005] OJ L 347/1
- Directive 2006/32 on Energy End-use Efficiency and Energy Services and Repealing Council Directive 93/76/EEC [2006] OJ L 114/64
- Directive 2006/66 on Batteries and Accumulators and Waste Batteries and Accumulators and Repealing Directive 91/157/EEC [2006] OJ L 266/1
- Commission Decision 2006/347 on the National Provisions Notified by the Kingdom of Sweden under Article 95(4) of the EC Treaty concerning the Maximum Admissible Content of Cadmium in Fertilisers [2006] OJ L 129/19
- Regulation 842/2006 on Certain Fluorinated Greenhouse Gases [2006] OJ L 161/1
- Regulation 1907/2006 on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) [2006] OJ L 396/1
- Regulation 715/2007 on Type Approval of Motor Vehicles with Respect to Emissions from Light Passenger and Commercial Vehicles (Euro 5 and Euro 6) and on Access to Vehicle Repair and Maintenance Information [2007] OJ L 171/1
- Directive 2008/50 on Ambient Air Quality and Cleaner Air for Europe [2008] OJ L 152/1
- Directive 2008/98 on Waste and Repealing Certain Directives [2008] OJ L 312/3
- Directive 2008/105 on Environmental Quality Standards in the Field of Water Policy, Amending and Subsequently Repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and Amending Directive 2000/60/EC of the European Parliament and of the Council [2008] OJ L 348/84
- Regulation 1102/2008 on the Banning of Exports of Metallic Mercury and Certain Mercury Compounds and Mixtures and the Safe Storage of Metallic Mercury [2008] OJ L 304/75
- Directive 2009/28 on the Promotion of the Use of Energy from Renewable Sources and Amending and Subsequently Repealing Directives 2001/77/EC and 2003/30/EC [2009] OJ L 140/16

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- Directive 2009/31 on the Geological Storage of Carbon Dioxide and Amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 [2009] OJ L 140/114
- Directive 2009/125 establishing a Framework for the Setting of Ecodesign Requirements for Energy-related Products [2009] OJ L 285/10
- Directive 2009/128 establishing a Framework for Community Action to Achieve the Sustainable Use of Pesticides [2009] OJ L 309/71
- Directive 2009/147 on the Conservation of Wild Birds [2009] OJ L 20/7
- Council Decision 2009/371/JHA establishing the European Police Office [2009] OJ L 121/37
- Council Regulation 428/2009 setting up a Community Regime for the Control of Exports, Transfer, Brokering and Transit of Dual-use Items, [2009] OJ L 134/1
- Regulation 443/2009 setting Emission Performance Standards for New Passenger Cars as Part of the Community's Integrated Approach to Reduce CO2 Emissions from Light-duty Vehicles [2009] OJ L 140/1
- Regulation 1005/2009 on Substances that Deplete the Ozone Layer [2009] OJ L 286/1
- Regulation 1007/2009 on Trade in Seal Products [2009] OJ L 286/36
- Regulation 1107/2009 concerning the Placing of Plant Protection Products on the Market and Repealing Council Directives 79/117/EEC and 91/414/EEC [2009] OJ L 309/1
- Council Regulation 1286/2009 amending Regulation (EC) No. 881/2002 Imposing Certain Specific Restrictive Measures Directed against Certain Persons and Entities Associated with Usama bin Laden, the Al-Qaeda Network and the Taliban [2009] OJ L 346/42
- Framework Agreement on Relations between the European Parliament and the European Commission [2010] OJ L 304/47
- Directive 2010/30 on the Indication by Labelling and Standard Product Information of the Consumption of Energy and other Resources by Energy-related Products [2010] OJ L 153/1
- Directive 2010/31 on the Energy Performance of Buildings [2010] OJ L 153/13
- Directive 2010/64 on the Right to Interpretation and Translation in Criminal Proceedings [2010] OJ L 280/1
- Directive 2010/75 on Industrial Emissions (Integrated Pollution Prevention and Control) [2010] OJ L 334/17
- Council Regulation 407/2010 establishing a European Stabilisation Mechanism [2010] OJ L 118/1
- Regulation 995/2010 laying down the Obligations of Operators Who Place Timber and Timber Products on the Market [2010] OJ L 295/23
- Regulation 510/2011 setting Emission Performance Standards for New Light Commercial Vehicles as Part of the Union's Integrated Approach to Reduce CO2 Emissions from Light-duty Vehicles [2011] OJ L 145/1
- Consolidated Version of the Treaty on the European Union [2012] OJ C 326/13

- Consolidated Version of the Treaty on the Functioning of the European Union [2012] OJ C 326/47
- Directive 2012/13 on the Right to Information in Criminal Proceedings [2012] OJ L 142/1
- Directive 2012/19 on Waste Electrical and Electronic Equipment (WEEE) [2012] OJ L 197/38
- Directive 2012/27 on Energy Efficiency, Amending Directives 2009/125/EC and 2010/30/EU and Repealing Directives 2004/8/EC and 2006/32/EC [2012] OJ L 315/1
- Regulation 528/2012 concerning the Making Available on the Market and Use of Biocidal Products [2012] OJ L 167/1
- Regulation 649/2012 Concerning the Export and Import of Hazardous Chemicals [2012] OJ L 201/60
- Directive 2013/39 amending Directives 2000/60/EC and 2008/105/EC as regards Substances in the Field of Water Policy [2013] OJ L 226/1
- Directive 2013/48 on the Right of Access to a Lawyer in Criminal Proceedings and in European Arrest Warrant Proceedings, and on the Right to Have a Third Party Informed upon Deprivation of Liberty and to Communicate with Third Persons and with Consular Authorities while Deprived of Liberty [2013] OJ L 294/1
- Regulation 1257/2013 on Ship Recycling and Amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC [2013] OJ L 330/1
- Regulation 1311/2013 laying down the Multiannual Financial Framework for the Years 2014–2020 [2013] OJ L 347/884
- Directive 2014/41 regarding the European Investigation Order in Criminal Matters [2014] OJ L 130/1
- Directive 2014/57 on Criminal Sanctions for Market Abuse (Market Abuse Directive) [2014] OJ L 173/179
- Commission Regulation 474/2014 amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorization and Restrictions of Chemicals ('REACH') as regards 1,4-dichlorobenzene [2014] OJ L 136/19
- Regulation 517/2014 on Fluorinated Greenhouse Gases and Repealing Regulation (EC) No 842/2006 [2014] OJ L 150/195
- Regulation 596/2014 on Market Abuse (Market Abuse Regulation) and Repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC [2014] OJ L 173/1
- Regulation 1143/2014 on the Prevention and Management of the Introduction and Spread of Invasive Alien Species [2014] OJ L 317/35
- Directive 2015/2193 on the Limitation of Emissions of Certain Pollutants into the Air from Medium Combustion Plants [2015] OJ L 313/1

LIST OF ABBREVIATIONS

AG	Advocate General
AFSJ	Area of Freedom, Security and Justice
AJCL	<i>American Journal of Comparative Law</i>
AJIL	<i>American Journal of International Law</i>
APIC	Agreement on Privileges and Immunities
AU	African Union
AUILR	<i>American University International Law Review</i>
Bull. EC	Bulletin of the European Communities
CAP	Common Agricultural Policy
CCP	Common Commercial Policy
CDE	Cahiers de Droit Européen
CFI	Court of First Instance
CFR	Charter of Fundamental Rights of the Union
CFSP	Common Foreign and Security Policy
CITES	Convention on International Trade in Endangered Species
CJEL	<i>Columbia Journal of European Law</i>
CJEU	Court of Justice of the European Union
CLJ	<i>Cambridge Law Journal</i>
CML Rev	<i>Common Market Law Review</i>
CMO	Common Market Organisation
CoA	Court of Auditors
CoP	Conference of the Parties
CRTA	The Committee on Regional Trade Agreements
CT	Constitutional Treaty
CYELS	<i>Cambridge Yearbook of European Legal Studies</i>
DSU	Dispute Settlement Understanding
EC	European Community (Treaty)
ECA	Enhanced Cooperation Agreement
ECB	European Central Bank
ECHR	European Convention on Human Rights
ECOFIN	Council of Ministers for Economics and Finance
ECtHR	European Court of Human Rights

ECJ	European Court of Justice
<i>ECLR</i>	<i>European Constitutional Law Review</i>
ECR	European Court Reports
ECSC	European Coal and Steel Community
EDC	European Defence Community
EEA	European Economic Area
EEAS	European External Action Service
EEC	European Economic Community (Treaty)
EFSF	European Financial Stability Facility
EFTA	European Free Trade Association
EIO	European Investigation Order
EIT	European-Integration Theory
<i>EJIL</i>	<i>European Journal of International Law</i>
<i>ELJ</i>	<i>European Law Journal</i>
<i>EL Rev</i>	<i>European Law Review</i>
EMU	European Monetary Union
ENP	European Neighbourhood Policy
EP	European Parliament
EPC	European Political Cooperation
EPPO	European Public Prosecutor's Office
ESCB	European System of Central Banks
ESDP	European Security and Defence Policy
ESM	European Stabilisation Mechanism
EU (old)	European Union (Maastricht Treaty)
EWS	Early Warning System
FES	Forest Environmental Services
FIT	Feed-in Tariff
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GC	General Court
<i>GLJ</i>	<i>German Law Journal</i>
GMO	Genetically Modified Organism
GPA	Agreement on Government Procurement
<i>HILJ</i>	<i>Harvard International Law Journal</i>
HR	High Representative
ICC	International Criminal Court
ICJ	International Court of Justice
<i>ICLQ</i>	<i>International & Comparative Law Quarterly</i>
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IGC	Intergovernmental Conference
ILC	International Law Commission

LIST OF ABBREVIATIONS

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ILO	International Labour Organisation
IMF	International Monetary Fund
IO	<i>International Organisation</i>
IRENA	International Renewable Energy Agency
ITA	International Technology Agreement
ITLOS	International Tribunal for the Law of the Sea
JCMS	<i>Journal of Common Market Studies</i>
JEPP	<i>Journal of European Public Policy</i>
JHA	Justice and Home Affairs
JICJ	<i>Journal of International Criminal Justice</i>
JIEL	<i>Journal of International Economic Law</i>
JIL	<i>Journal of International Law</i>
LDC	Least Developed Country
LIEI	<i>Legal Issues of Economic Integration</i>
MBI	Market-Based Instrument
MEEQR	Measures having an Equivalent Effect to Quantitative Restrictions
MFN	Most Favoured Nation
MLR	<i>Modern Law Review</i>
NAFTA	North American Free Trade Agreement
NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Cooperation and Development
OEEC	Organisation for European Economic Cooperation
OJ	Official Journal of the European Union
OJLS	<i>Oxford Journal of Legal Studies</i>
OMC	Open Method of Coordination
OMT	Outright Monetary Transactions
OTP	Office of the Prosecutor
PA	Plurilateral Agreement
PJCC	Police and Judicial Cooperation in Criminal Matters
PTA	Preferential Trade Agreement
QMV	Qualified Majority Voting
REDD	Reducing Emissions from Deforestation and Forest Degradation
RTDEur	<i>Revue trimestrielle de droit européen</i>
SCM	Subsidies and Countervailing Measures
SEA	Single European Act
SGP	Stability and Growth Pact
TA	Treaty of Amsterdam
TEU	Treaty on European Union (post Lisbon)
TFEU	Treaty on the Functioning of the European Union
TN	Treaty of Nice
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights

TPP	Trans-Pacific Partnership
TSCG	Treaty on Stability, Coordination and Governance
TTIP	Transatlantic Trade and Investment Partnership
TWAIL	Third World Approaches to International Law
UN	United Nations
UNEP	United Nations Programme for the Environment
UNGA	United Nations General Assembly
UNSC	United Nations Security Council
US	United States
VJICL	<i>Vienna Journal of International Constitutional Law</i>
WEU	Western European Union
WTO	World Trade Organization
YBIL	<i>Yearbook of International Law</i>
YEL	<i>Yearbook of European Law</i>
YJIL	<i>Yale Journal of International Law</i>
YLJ	<i>Yale Law Journal</i>
ZaöRV	<i>Zeitschrift für ausländisches öffentliches Recht und Völkerrecht</i>