

INDEX

- accession
 plurilateral agreements, 154
 preferential trade agreements, 153
 accountability *see* rule of law
 a-constitutionality *see*
 constitutionalism
 African members of ICC, 206
 agencies
 European constitutionalism, 255
 European criminal justice, 440
 air pollution *see* European
 environmental law
 akrasia (weakness of will), 249
 anarchy
 government by, 68, 69
 and international law, 65, 68
 international system of, 132
 realist perspective, 68
 and society, 133
 sovereignty and, 68
 tyranny and, 65, 68, 69
 Anghie, Antony, 71
 anthropology, beginning of, 119
 arbitrary power of tyranny, 76, 88, 98
 Arendt, Hannah
 benevolent tyranny, 84
 bureaucracy and tyranny, 86
 constitutionalism and tyranny, 83
 contemporary character of tyranny,
 86
 and Hobbes, Thomas, 84
 imperialism and tyranny, 85
 law and power, 82
 Montesquieu and, 83
 Plato and, 83
 power and violence, 83
 powerlessness and tyranny, 84
 totalitarianism and tyranny, 82, 85
 Aristotle, 73, 74, 106, 109
 ‘assimilation’ of European Union law, 425
 authority, assignment of
 constitutionalism and, 139
 and use of force, 142
 who can grant authority, 142
 autonomy of law
 European legal order, 265, 268
 European Union Law, 236
 meanings of autonomy, 236
 theory of, 50
 Bacon, Francis, 108
 balance of power, realism and, 133
 Basic Norm (*Grundnorm*), notion of, 54
 being, idea of, 105
 benevolent tyranny, 77, 84, 88, 98
 Benhabib, Seyla, 83
 biodiversity
 EU environmental law, 402
 integrated approaches at national
 level, 184
 Boesche, Roger, 74
 border protection
 abolition of EU internal borders,
 420, 433
 European constitutionalism, 249
 Brexit
 ‘Brexitism’, 463
 and trade agreements, 168
 Brierly, James L., 47
 Brownlie, Iain, 92
 Bull, Hadley, 68, 68
 bureaucracy, tyranny and, 86

- capitalism
 achievement of human mind, 123
 hegemony and, 67
 philosophical challenges to, 124
 tyranny and, 124
- Castel, Charles-Irénée *see* Saint-Pierre,
 Charles-Irénée Castel, abbé de
- categorisation and knowledge, 111
- Charter (UN) *see* United Nations
- chemicals *see* European environmental
 law
- 'choice hypothesis' of norm
 interpretation, 57
- Christian philosophical world view,
 106
- citizenship
 definition of, 320
 European *see* European citizenship
- civil society coalitions with reformist
 governments, 471
- classical antiquity *see* Greece (classical);
 Rome
- climate change
 European environmental law, 395
 integrated approaches at national
 level, 182
- codes of conduct, plurilateral
 agreements, 148
- collective action, common concerns
 for, 4
- collectivism, internationalisation and, 1
- Common Foreign and Security Policy
 (CFSP) *see* European foreign and
 security policy
- Common Interest of Society, 134
- company director gender equality
 proposal, subsidiarity compliance,
 297
- complementarity
 national courts and ICC, 217
 positive complementarity, 220
- consensus rule
 plurilateral agreements, 165
- consensus rule, plurilateral agreements,
 152
- consent
 customary law, 16
 doctrine of, 3
- express consent, 16
- pragmatic consent-based approaches
 to international law, 59
- as source of international law, 18
- sovereign consent conception of
 international law, 12
- stipulative law, 16
- tacit consent, 16
- unanimous versus majority, 3
- constitutionalism
 a-constitutionality (tyranny) of
 international law, 64, 97
 a-constitutionality of tyranny, 88
- authority, assignment of, 139, 142
- definition of, 138
- democratic polity, 246
- elements of, 138
- embeddedness, 138, 140
- and EU integration *see* European
 integration
- global, 89
- governance and, 139
- hierarchy, 139, 141
- imperialism and, 88
- and international law, 63
- international system of, 136
- law and, 138
- modernity and, 137
- and rule of law, 95, 139, 145
- sources of, 245
- tyranny and, 76, 83, 87, 89, 98, 99
- unity of legal systems, 138, 141
- and use of force, 137, 140
- constitutions
 cosmopolitan constitution, 23, 28
- creation through political
 contestation, 79
- imperial constitution, 70
- international constitution, 27, 137
- ius civitatis*, 26
- ius cosmopolitanicum*, 26
- ius gentium*, 26
- link between national and
 international constitutions, 27
- co-operation between major powers,
 473
- Court of Justice of the EU *see* European
 Court of Justice

- courts
 international *see* international courts
 and tribunals; International
 Criminal Court
 national *see* national law
- criminal law enforcement
 collective action for, 4
 International Criminal Court *see*
 International Criminal Court
 International Tribunal for the
 Former Yugoslavia, creation
 of, 93
- customary law
 European foreign and security policy
 in relation, 372
 international law as, 50
 tacit consent of states, 16
- dangerous chemicals *see* European
 environmental law
- democracy
 achievement of human mind,
 123
 akrasia (weakness of will), 249
 constitutionalism and, 246
 democratic legitimacy of EU
 Member States, 253
 intergovernmentalism and, 386
 new populism, 124
 philosophical challenges to, 124
 subsidiarity and, 287
 tyranny and, 73, 75, 124
- Derrida, Jacques, 57
- Descartes, René, 107
- developing countries, EU
 environmental assistance, 400
- directives, subsidiarity in, 279
- director gender equality proposal,
 subsidiarity compliance, 297
- disordered world, challenge of, 102
- dispute settlement
 plurilateral agreements, 156
 preferential trade agreements, 154
- divided sovereignty, concept of, 16
- domestic law *see* national law
- Doyle, Michael, 66
- dualism, 2
- Dyzenhaus, David, 91
- Early Warning System (EWS) *see*
 subsidiarity
- EAW *see* European Arrest Warrant
- ECB *see* European Central Bank
- economic and financial regulation,
 collective action for, 4
- economic focus of 'good' citizen ideal,
 311
- economic government
 European Central Bank *see*
 European Central Bank
 European constitutionalism, 251
 Eurozone crisis *see* Eurozone
 crisis
- economic law, international economic
 institutions and rule of law, 94
- economic positivism, 61, 72
- economics, beginning of, 119
- eighteenth-century foundations of
 international law
 and 'backlash' against globalisation,
 458
 coexistence of older and newer
 conceptions, 12, 39
 conceptual types, 12, 13
 distinction between national and
 international law, 11
 federalist conception, 12
 imperial ideal, decline of, 11
 Kant, Immanuel, 12, 22, 39
 legal pluralism, rise of, 11
 normative foundations of
 international law, 12
 philosophical perspectives on the
 New World Order, 110
 Rousseau, Jean-Jacques, 20
 sovereign consent conception, 12
 transitional state of, 12, 38
 Vattel, Emer de, 16
 Wolff, Christian, 13
 world republic conception, 12, 13, 23
- embeddedness
 constitutionalism, 138, 140
 and use of force, 140
- emissions *see* European environmental
 law
- empiricism, idealism and, 108
- EMU *see* European Monetary Union

- energy *see* European environmental law
 enhanced co-operation agreements
 (ECAs), 162
 environmental protection
 and ‘backlash’ against globalisation,
 459
 biodiversity, 184
 climate change, 182
 collective action for, 4, 170, 194
 decisions of international courts and
 tribunals, 177
 green economy *see* green economy
 integrated approaches at
 international level, 174
 integrated approaches at national
 level, 182
 introduction to, 170
 market-based instruments (MBIs),
 174
 recent developments, 173
 sustainable development *see*
 sustainable development
 sustainable natural resources, 187
 environmental resource management
see European environmental law
 EPPO *see* European Public Prosecutor’s
 Office
 equality, citizenship and, 311
 Eurojust, 440
 European Arrest Warrant (EAW), 434
 European Central Bank (ECB)
 constitutional status, 258
 expert credibility, 261
 independence, 260
 internal political processes, 261
 legitimacy, 258
 mandate, 259
 permanence, 259
 Single Supervisory Mechanism, 377
 European citizenship
 anthropocentric nature of, 315
 ‘citizenship’, definition of, 320
 competence delimitation and, 312,
 314
 decorative citizenship, 334
 economic focus of ‘good’ EU citizen
 ideal, 311
 equality and, 311
 European Court of Justice and, 313,
 335
 as federal citizenship, 309, 315
 historical arguments as to scope of,
 329
 ‘incipient form’ of, 334
 and internal market, 307, 311, 320,
 333
 introduction to, 305
 legal-theoretical arguments as to
 scope of, 327
 and Member State citizenship, 305,
 307
 nationality and, 311
 naturalisation procedures, 309
 protection of vulnerable groups, 311
 scope of rights, 325
 structural citizenship, 335
 structural and textual arguments as
 to scope of, 326
 supranational rights and, 320
 third-country nationals, 309, 331
 ‘true’ citizenship rights, 325
 European constitutionalism
 advanced state of, 89
 agencies, 255
 autonomy of European legal order,
 265, 268
 border protection regime, 249
 coherent structure. lack of, 254
 complexity, 272
 conceptual issues, 244
 conflicting Member State
 preferences, 248
 Court of Justice, 268
 democratic akrasia (weakness of
 will), 249
 democratic polity, 246
 distinctiveness within international
 law, 243
 economic government,
 fragmentation of, 251
 EU and Member States in relation,
 244
 EU as *sui generis* entity, 243
 European Central Bank, 258
 European integration and, 243
 European Parliament, 246, 255

- Eurozone crisis, 253, 256
- executive action, 255, 261
- executive federalism, 248
- finality of integration, 270
- foreign relations, 250
- formal legislation, decline of, 251
- fragmented authority, 250
- hegemony, 248
- human rights, 263
- institutional complexity, 272
- integrated EU-wide institutional authority, lack of, 250
- introduction to, 243
- law, different understandings and legal cultures, 261
- legal order, autonomy of EU, 265, 268
- Member States' democratic legitimacy, 253
- monetary union, 249
- mutual recognition, principle of, 266
- negative integration, 251
- outcome of, 270
- plurality of legal orders, 245
- regulatory activity, 251
- sources of, 245
- technocracy, 255, 261
- European Court of Justice
 - appointment of judges, 268
 - constitutionalism, 268
 - European citizenship, 313, 335
 - and European criminal law, 422, 426, 435
 - and European environmental law, 414, 415
 - intergovernmentalism and, 391
 - internal organisation, 269
 - internal political processes, 270
 - legitimacy, 268
 - subsidiarity, 285, 291
- European criminal law
 - and abolition of EU internal borders, 420, 433
 - aims of, 419
 - 'assimilation' by Member States, 425
 - and Charter of Fundamental Rights, 443
 - compliance review under Charter of Fundamental Rights, 445
 - criminal justice agencies, 440
 - development of, 418
 - effectiveness of EU law as justification for, 422
 - Eurojust, 440
 - European Arrest Warrant, 434
 - European Court of Justice and, 422, 426, 435
 - European Public Prosecutor's Office (EPPO), 427, 441
 - Europol, 440
 - extraterritoriality, 434
 - fraud prevention, 424
 - fundamental rights as foundation, 443, 450
 - governance of, 428
 - harmonisation, 429
 - introduction to, 418
 - limits on Member States criminal law, 422
 - mutual recognition *see* mutual recognition
 - need for, 419
 - over-criminalisation, 431
 - protection of EU budget, 424
 - protection of European interests, 424
 - securitisation of crime, 419
 - security as justification for, 419
 - subjects of, 443
 - Treaty basis, 421, 426, 430
- European environmental law
 - air emissions, 408, 408, 410
 - biodiversity, 402
 - chemical substances, 406
 - circular economy, 412
 - climate change, 395
 - common position on environmental issues, 414
 - co-operative approach, 398
 - current and future trends, 416
 - dangerous chemicals, 406, 409
 - emission allowance trading, 399
 - emission limit values, 408
 - energy efficiency, 398
 - environmental challenges, 394

- European environmental law (*cont.*)
 and European Court of Justice, 414, 415
 export of electrical and electronic waste (WEEE), 413
 export of end-of life vehicles, 413
 financial assistance to developing countries, 400
 fulfilment of commitments, 401
 and general principles of law, 415
 genetically modified organisms (GMOs), 408
 greenhouse gas emissions reduction, 396, 399
 heavy metals, 407
 integrated product policy, 411
 and international initiatives, 415
 introduction to, 394
 and Kyoto Protocol, 395
 legal formalisation of policy commitments, 401
 objectives, 396
 other legislative measures, 399
 and Paris Agreement on climate change, 396
 pesticides, 407
 precautionary principle, 410
 prior informed consent, 409
 realisation of recycling economy, 414
 relations with third countries, 413
 renewable energy, 397
 resource management, 410
 shipbreaking, safe and environmentally sound, 413
 sustainable development, 395
 sustainable production and consumption, 411
 and UN environmental governance, 415
 United Nations Environmental Organisation proposal, 415
 waste policy, 411
 waste recycling and recovery targets, 412
 water discharges, 408, 409
 European External Action Service (EEAS), 351
 European foreign and security policy
 ambivalent status of, 339
 Commission delegations as Embassies, 367
 Commission involvement, 355
 comprehensive approach, 365
 consistency with other external relations policies, 345
 consolidation of, 340
 contribution to international law, 369
 current and future trends, 374
 as EU competence, 348
 and European Court of Justice, 358
 European External Action Service (EEAS), 351
 European integration theory (EIT) and, 341
 European Parliament involvement, 355
 European Parliament study, 354
 external representation, 366
 integration, external pressures towards, 365
 integration, internal movement towards, 351
 integration, scope for, 351
 integrationist perspective on, 341
 international agreements, 371
 and international customary law, 372
 international law in relation, 365
 introduction to, 339
 legal basis, 348, 356
 norms of international law, promotion of, 373
 objectives, 344
 purpose of, 343
 seen as Member States competence, 340, 348
 ‘specific rules and procedures’, 350
 ‘tradition of otherness’ as to, 340, 341
 Treaty basis, 341, 343, 349
 unanimity in decision making, 350
 unilateral acts, 372
 Union Delegations, 354
 European integration
 advanced state of, 89
 conflicting Member State preferences, 248

- European constitutionalism and, 243
 European integration theory (EIT), 341
 finality of, 270
 foreign and security policy *see* European foreign and security policy
 fragmented institutional authority, 250
 negative integration, 251
 European interests, protection of, 424
 European Mind, existential crisis of, 118
 European monetary union (EMU), 162, 249
 European Parliament
 constitutionalism, 246
 and foreign and security policy, 354, 355
 internal political processes, 247
 power of, 255
 subsidiarity and, 287
 European Public Prosecutor's Office (EPPO), 427, 441
 European Union
 agencies, 255
 'anthropocentric nature' of, 317
 and 'backlash' against globalisation, 460
 Brexit *see* Brexit
 CFSP *see* European foreign and security policy
 citizenship *see* European citizenship
 consent by majority, 3
 Court of Justice *see* European Court of Justice
 criminal law *see* European criminal law
 current study content and structure, 6
 distinctiveness within international law, 227, 230, 231, 236, 241, 243
 enhanced co-operation agreements, 162
 environment *see* European environmental law
 as example for global governance, 7
 federalism, 228, 248, 315
 formal foundations *see* European citizenship; European constitutionalism; European Union Law; subsidiarity
 fundamental rights *see* fundamental rights
 integration *see* European integration
 internationalism contrasted, 3 and Kant, Immanuel, 40
 law *see* European Union Law
 majority decision-making, 3
 monetary union *see* European monetary union
 Parliament *see* European Parliament
 plurilateral agreements, 162
 preferential trade agreements, 152, 155
 subsidiarity *see* subsidiarity
 substantive issues *see* European constitutionalism; European criminal law; European environmental law; European foreign and security policy; European integration
 as *sui generis* entity, 228, 243
 supranationalism, 3
 technocracy, 255
 United Nations non-member, 415
 European Union budget, protection of, 424
 European Union Delegations, 354
 European Union Law
 'assimilation' by Member States, 425
 autonomy of, 236
 binding force, 235
 core principles, 317
 directives, subsidiarity in, 279
 distinctiveness within international law, 227, 230, 231, 236, 241
 EU treaties as international treaties, 227
 exclusive competence, 232
 internal legal order, 231
 international co-operation, 231
 international law norms, creation of, 231
 international law norms, incorporation of, 235

- European Union Law (*cont.*)
 international legal features of, 228
 international perspective, 227
 introduction to, 227
 Member States' joint action in
 Community's interest, 233
 other choices of international law-
 making venues for Member States,
 233
 partial replacement of Member
 States as international actor, 232
 plurality of legal orders, 245
 primacy over international
 agreements, 235
 as quasi-federal system, 228
 rule of recognition, 228
 shared competence, 232
 subsidiarity *see* subsidiarity
 as *sui generis* entity, 228
 Tobacco Products Directive, 291
 treaty reform, 229
 treaty-making power, 232
 Women on Boards proposal, 297
- Europol, 440
- Eurozone crisis
 constitutionalism and, 253
 enhancement of executive power,
 376
 European Stability Mechanism
 (ESM), 377
 executive federalism and, 377
 intergovernmentalist response, 376,
 378
 introduction to, 376
 limited EU competence, 382
 Single Supervisory Mechanism,
 377
 technocracy and, 256
- EWS (Early Warning System) *see*
 subsidiarity
- executive government in the EU *see*
 European constitutionalism;
 intergovernmentalism
- existential crisis
 duty of philosophy in, 123
 of European Mind, 118
 expertise *see* technocracy
 express consent, 16
- extraterritoriality, European Criminal
 Law, 434
- Facebook* and global community, 454
- Fassbender, Bardo, 92
- federalism
 citizenship and, 309, 315
 European constitutionalism, 228,
 248
 European Union as quasi-federal
 system, 228
 federalist conception of international
 law, 12, 20, 22
 subsidiarity and, 275
- financial assistance to developing
 countries, EU environmental
 policy, 400
- force *see* use of force
- foreign relations, European
 constitutionalism, 250
- form of law *see* legal form
- fraud prevention, European Criminal
 Law, 424
- Fuller, Lon, 91, 96
- fundamental rights
 constitutionalism and, 263
 within EU law, 321
 European Court of Justice and, 321
 as foundation for European criminal
 law, 450
 mutual recognition and, 446, 448
 subsidiarity and, 296
- GATT *see* World Trade Organization
- gender equality in economic decision-
 making directive, subsidiarity
 compliance, 297
- general principles of law, EU
 environmental law and, 415
- genetically modified organisms (GMOs),
 EU environmental law, 408
- German Basic Law, subsidiarity and,
 275, 281, 282
- globalisation
 'backlash' against, 453
 constitutionalism and, 89
 current study content and structure,
 3

- dismantling or destruction of global system of authority, 456
Facebook and global community, 454
 global elites, criticisms of, 453, 461
 and human society, 127
 internationalism and, 2
 isolationism and, 1
 knowledge and, 457
 New World Order *see* philosophical perspectives on the New World Order
 people 'left behind' by, 454
 philosophy and, 458
 reason as response to 'backlash', 462
 supranationalism and, 2
 theory of global governance, 465
 widening wealth gap, 455
 winners and losers, 455
- governance
 autonomous and adaptive international institutions, 471
 civil society coalitions with reformist governments, 471
 concentration on common goals and norms, 472
 constitutionalism and, 139
 co-operative approach by major powers, 473
 current study content and structure, 3
 gridlock, pathways out of, 473
 gridlock, reasons for, 468
 imperial, 71
 international, 2
 politicisation of, 463
 and rule of law, 90
 shift in states' interests, 473
 supranational, 2, 3
 theory of global governance, 465
 transitional governance in post-conflict territories, 93
 tyrannical, 65
- government
 by anarchy, 68, 69
 bureaucracy and tyranny, 85
 Kant's four forms of, 68
 Machiavelli's six forms of, 78
 Gramsci, Antonio, 67
- Greece (classical)
 philosophical perspectives on the New World Order, 103
 tyranny, 72
- green economy
 criticisms, 172
 decisions of international courts and tribunals, 177
 definition, 172
 and sustainable development, 172
 transition to, 173, 176
- greenhouse gasses *see* European environmental law
- Grewe, Wilhelm, 66
- Grotius, Hugo, 13
- Grundnorm* (Basic Norm), notion of, 54
- Hardt, Michael, 70
- heavy metals, EU environmental law, 407
- Hegel, Georg Wilhelm Friedrich, 104, 115
- hegemony
 capitalism and, 67
 definitions of global or international hegemony, 66
 establishment of, 67
 European constitutionalism, 248
 and international law, 65, 65
 Marxist perspectives, 67
 and sovereign inequality of states, 66
 tyranny and, 65, 66
- Henkin, Louis, 91
- Heraclitus, 103
- hierarchy
 constitutionalism and, 139, 141
 and use of force, 141
- history, reason and, 116
- Hobbes, Thomas, 13, 68, 84
- Hobson, John A., 71
- hospitality, international right to, 28
- human mind
 achievements of, 123
 existential crisis of European Mind, 118
 fragility of, 123
 modernism and neurosis of, 120

- human mind (*cont.*)
 ordering capacities of, 113
 self-searching, 103
 as source of knowledge, 107
 as *tabula rasa* ('blank sheet'), 109
 thought as interaction between mind
 and physical world, 108
- human rights *see* fundamental rights
- human world
 globalisation and human society, 127
 Observer Effect and, 112
 possibility of, 114
 understanding by analogy, 112
- Hume, David, 110
- ICC *see* International Criminal Court
- ideal, idea of the, 106
- idealism, empiricism and, 108
- ideas
 association of, 110
 relations of, 110
 and understanding, 113
- Ikenberry, G. John, 66
- imperialism
 colonialism and, 70
 constitutionalism and, 88
 contemporary influence on
 governance, 71
 and international law, 65, 70
 Machiavelli's *The Prince*, 80
 Marxist perspectives, 71
 sovereignty and, 70
 tyranny and, 65, 76, 80, 85, 88, 98
- intergovernmentalism
 causes of, 381
 definition of, 378
 democratic control, 386
 EU institutions as enforcers, 384
 and European Court of Justice, 391
 executive dominance, 378, 386, 391,
 393
 international agreements between
 Member States, 379
 Member State freedom of action, 383
 political and practical reasons, 382
 resurgence after Eurozone crisis,
 378
 transparency and, 386
- internal market
 European citizenship and, 307, 311,
 320, 333
 subsidiarity and, 291
- international courts and tribunals
 creation of, 93, 197
 decisions on green economy, 177
 International Criminal Court in
 relation, 197
- International Criminal Court (ICC)
 achievements, 202
 adoption of Statute, 200
 African members, 206
 and 'backlash' against globalisation,
 459
 binding force of Statute, 200
 calls for creation of, 198
 complementarity with national
 courts, 217
 co-operation with states and other
 international bodies, 214
 core international crimes, 195
 creation of, 196
 current and future trends, 222
 effectiveness and efficiency, 213
 independence, 211
 independence, limitations, 212
 individual criminal responsibility,
 195
 international criminal justice system,
 196
 introduction to, 195
 jurisdiction, 200
 legitimacy, 212
 negotiations for Statute, 199
 and other international courts and
 tribunals, 197
 and other justice solutions, 197
 positive complementarity, concept
 of, 220
 Preparatory Committee for
 establishment of, 199
 referral by State Party, 201
 referral by UN, 201
 and regionalised courts, 210
 Rome Statute, 196, 199
 universality, 204
 withdrawals, 206

- international institutions, autonomous
 and adaptive, 471
- international law
 as a-constitutional (tyrannical)
 order, 64
 anarchy and, 65, 68
 autonomisation of, 50
 consent, doctrine of, 3
 constitutionalism and, 63
 crime and *see* International Criminal
 Court
 customary nature of, 50
 definitions, 13
 environment and *see* environmental
 protection
 and EU foreign policy *see* European
 foreign and security policy
 general principles of law, 415
 hegemony and, 65, 65
 imperialism and, 65, 70
 international economic institutions,
 and rule of law, 94
ius gentium and *ius inter gentes*, 11
 Kelsen's theory *see* Kelsen, Hans
 national law in relation, 2, 11, 13, 57
 national public law origins of, 64
 natural law and, 50
 new general philosophy of, 102
 New World Order *see* philosophical
 perspectives on the New World
 Order
 normative foundations in eighteenth
 century, 11
 normativity of, 2
 primacy of, 54, 57
 public law and, 63
 publicness of, 63
 seventeenth-century conceptions, 13
 sources of, 16, 18
 sovereign equality of states, 2
 sovereignty and, 1
 states and, 140
 trade and *see* World Trade
 Organization
 as tyranny, 97
 use of force *see* use of force
 utopianism *see* utopia
see also law of nations
- international legal scholarship
 interpretation of norms, 57
 political dimension of, 57
- international right
 antinomy in doctrine of, 29
 to hospitality, 28
 permissive laws and, 35
- international state
 empirical obstacles to, 30
 normative obstacles to, 31
- international systems, types of, 132
- international treaties
 European foreign and security policy
 in relation, 371
 intergovernmentalism and, 379
 stipulative law, 16 *see also*
 preferential trade agreements
- International Tribunal for the Former
 Yugoslavia, creation of, 93
- internationalisation
 collectivism and, 1
 sovereignty and, 1
- internationalism
 'backlash' against, 458
 common concerns for collective
 action, 4
 current study content and structure, 3
 eighteenth-century origins, 11
 formal foundations *see* eighteenth-
 century foundations of
 international law; Kant,
 Immanuel; Kelsen, Hans;
 philosophical perspectives on the
 New World Order; tyranny
 governance by, 2
 normative (formal) dimension, 4, 5
 practical (substantive) dimension,
 4, 6
 substantive issues *see* environmental
 protection; use of force; utopia;
 World Trade Organization
 supranationalism complementary
 with, 5
 supranationalism contrasted, 3, 3
 theory of global governance, 465
see also globalisation
- Is and Ought, dichotomy between, 49,
 52

- isolationism, globalisation and, 1
 issue linkage in plurilateral agreements, 161
ius civitatis, 26
ius cosmopolitanicum, 26
ius gentium, 26
- Jellinek, Georg, 44, 49, 53
 judicial bodies in international
 economic law, and rule of law, 94
 judicial review of use of force, 145
 juristic fictions, theory of, 52
- Kant, Immanuel
 and ‘backlash’ against globalisation, 458
 categorisation and knowledge, 111
 coincidence of state and nation, 31
 complementary constitutions, 26
 cosmopolitan constitution, 23, 28
 deductive-inductiveness of knowledge, 112
 and European Union, 40
 federalist conception of international law, 22
 forms of government, 68
 importance of ideas on international law, 12
 international constitution, 27
 international right, antinomy in doctrine of, 29
 international right, permissive laws, 35
 international state, obstacles to, 30, 31
 ius civitatis, 26
 ius cosmopolitanicum, 26
 ius gentium, 26
 link between national and international constitutions, 27
 permissive laws, international right and, 35
 perpetual peace treaty, 25
 Plato and, 113
 possibility of human world, 114
 possibility of knowledge, 110
 pure theory of law, 31
 reason and understanding in relation, 111
 right to hospitality, 28
 shift in ideas, 23
 sovereign equality of all states, 38
 synthesis of international law conceptions, 39
 understanding of, 113
 voluntary law of nations, 25
 world republic, 23
- Kelsen, Hans
 application of law, theory of, 55
 approach to international law, 43
 assessment of, 61
 autonomy of law, 50
 and ‘backlash’ against globalisation, 458
 Basic Norm (*Grundnorm*), notion of, 54
 ‘choice hypothesis’ of norm interpretation, 57
 dichotomy of Is/Ought, 49, 52
 distinctiveness, 41
 elements of his legal thought, 48
 importance, 42
 intellectual legacy, 42
 interpretation of norms, by international legal scholarship, 57
 interpretation of norms, theory of, 55
 introduction to, 41
 and Jellinek, Georg, 44, 49, 53
 juristic fictions, theory of, 52
 and Kant, Immanuel, 55
 legal form, force and validity of, 47
 legal form, purity of, 48
 legal ‘science’, 49
 monism, 55, 57
 and neo-Kantianism, 49
 ‘new international law’ movement, 46
 objective legal scholarship, 44, 47
 and Oppenheim, Lassa, 59
 political dimension of law, 57
 primacy of international law, 54, 57
 pure theory of law, 43, 48, 50, 55
 sovereignty, critique of, 46, 54
 unified conception of law, 55
 and Vaihinger, Hans, 52

- 'will' of the personified state (*willensfähige Staatspersönlichkeit*), 52
- and Wolff, Christian, 55
- knowledge
 - categorisation and, 111
 - deductive-inductiveness of, 112
 - human mind as source, 107
 - philosophy as form of, 104
 - possibility of, 110
- Krisch, Nico, 67
- Kunz, Joseph, 48, 51, 58
- Kupchan, Charles, 66
- Kyoto Protocol, European environmental law and, 395
- language
 - logic and, 109
 - normative structures of, 109
 - ordering and, 114
 - and transcendental thinking, 103
- Lauterpacht, Hersch, 48
- law
 - autonomy *see* autonomy of law
 - constitutionalism and, 138
 - different understandings and legal cultures, 261
 - as instrument of governance, 78
 - judicial government in the EU *see* European constitutionalism
 - mutual recognition, principle of, 266
 - plurality of legal orders, 245
 - power and, 82, 90
 - rule by law, 91, 92
 - rule of law, 90, 91, 92
 - tyranny and, 80, 82
- law of nations
 - natural law and, 14
 - necessary law of nations, 18
 - sovereignty and, 16
 - voluntary law of nations, 18, 25
- League of Nations
 - United Nations and, 136
 - and use of force, 140
- legal form
 - force and validity of, 47
 - purity of, 48
- legal rules, specificity of, 141
- legal scholarship *see* international legal scholarship
- legal 'science', 49
- legal systems, unity of, 138, 141
- legislative government in the EU *see* European constitutionalism; European Parliament; subsidiarity
- liberalism, subsidiarity and, 275
- Locke, John, 109, 110
- logic, language and, 109
- Luhmann, Niklas, 57
- Machiavelli, Niccolò, *The Prince* and classical Greek notions of tyranny, 78
 - contradictory view of tyranny, 81
 - emergence of tyranny, 79
 - forms of government, 78
 - imperialism, 80
 - law and governance, 78
 - modern critiques, 77
 - political contestation, protection of, 79
 - reference to tyranny, 77
 - removal of tyranny, 81
- majoritarianism, unanimity and, 3
- market-based instruments (MBIs), 174
- Marxism
 - hegemony and, 67
 - imperialism and, 71
- mathematics and transcendental thinking, 103
- migration *see* European citizenship
- Mill, John Stuart, 119
- mind *see* human mind
- modernity
 - constitutionalism and, 137
 - United Nations and, 136
- monetary union *see* European Monetary Union
- Montesquieu, Charles-Louis de Secondat, Baron de La Brède et de, 83
- More, Thomas, 131
- Most Favoured Nation (MFN)
 - principle, plurilateral agreements, 158

- mutual recognition
 application of, 433
 constitutionalism and, 266
 European Arrest Warrant, 434
 European Court of Justice and, 435
 extraterritoriality, 434
 fundamental rights as foundation,
 448
 fundamental rights as limitation, 446
 harmonisation and, 434
- national law
 complementarity of national courts
 and ICC, 217
 international law in relation, 2, 11,
 13, 57
 natural law and, 14
 supranationalism and, 3 *see also* law
 of nations
- national states *see* states
- nationality *see* European citizenship
- natural law
 conceptions of international law, 13
 identity of state and law (identity
 thesis), 51
 international law and, 50
 national law and, 14
 universal order and, 106
- natural resources sustainability,
 integrated approaches at national
 level, 187
- naturalisation *see* European citizenship
- naturalism and nihilism, 121
- necessity doctrine, subsidiarity and,
 279, 282
- Negri, Antonio, 70
- New World Order *see* philosophical
 perspectives on the New World
 Order
- Newton, Isaac, 103
- nineteenth century
 anthropology, beginning of, 119
 economics, beginning of, 119
 modernism, 120
 naturalism and nihilism, 121
 new ways of thought, 118
 philosophical perspectives on the
 New World Order, 115, 117
 psychology, beginning of, 120
 sociology, beginning of, 119
- non-state actors
 civil society coalitions with reformist
 governments, 471
 use of force, 143
- norms
 Basic Norm (*Grundnorm*), notion
 of, 54
 ‘choice hypothesis’ of interpretation,
 57
 concentration on common
 international goals and norms,
 472
 European Union Law, 231
 of international law, 2, 373
 interpretation, by international legal
 scholarship, 57
 interpretation, theories of, 55
 of language structure, 109
- OECD and plurilateral agreements,
 159
- Oppenheim, Lassa, 59, 72
- optimism, possibility for, 117, 127
- ‘orange card’ subsidiarity compliance
 procedure, 288
- ordering
 human mind’s capacities for, 113
 language and, 114
- Ought and Is, dichotomy between, 49,
 52
- over-criminalisation, 431
- Paris Agreement on climate change,
 EU environmental law and, 396
- Parmenides, 105
- PAs *see* plurilateral agreements
- Pascal, Blaise, 118
- peace and security
 collective action for, 4
 utopia and, 132
- personified state, ‘will’ of (*willensfähige
 Staatspersönlichkeit*), 52
- pesticides, EU environmental law, 407
- philosophical perspectives on the New
 World Order
 association of ideas, 110

- and 'backlash' against globalisation, 458
 being, idea of, 105
 categorisation and knowledge, 111
 challenges to capitalism and democracy, 124
 Christian, early and medieval, 106
 conflict of idealism and empiricism, 108
 deductive-inductiveness of knowledge, 112
 duty of philosophy, 123
 eighteenth century, 110
 existential crisis of European Mind, 118
 globalisation and human society, 127
 Greek classical, 103
 history and reason in relation, 116
 human world, Observer Effect and, 112
 human world, understanding by analogy, 112
 ideal, idea of the, 106
 ideas and understanding in relation, 113
 introduction to, 102
 language, logic and, 109
 language, normative structures of, 109
 language, ordering and, 114
 language and transcendental thinking, 103
 mathematics and transcendental thinking, 103
 mind as source of knowledge, 107
 mind as *tabula rasa* ('blank sheet'), 109
 natural law, universal order and, 106
 naturalism and nihilism, 121
 new general philosophy of international law, 102
 new populism, 124
 new ways of thought, 118
 nineteenth century, 115, 117, 118
 optimism, possibility for, 117, 127
 ordering capacities of mind, 113
 philosophy as form of knowledge, 104
 possibility of human world, 114
 possibility of knowledge, 110
 reason and history in relation, 116
 reason and understanding in relation, 111, 115
 relations of ideas, 110
 religion, new manifestations of, 123
 Roman, 106
 self-searching of human mind, 103
 seventeenth century, 107
 thought as interaction between mind and physical world, 108
 tyranny, danger of, 124
 universal ideas, existence of, 107
 universal ideas, as quasi-things, 107
 universality of philosophy, 103
 will as destructive force, 117
 world disorder, challenge of, 102
 world-making role of philosophy, 102, 105
 Pius XI, Pope, *Quadragesimo Anno* (1931), 274
 Plato's Republic, 73, 83, 106, 113
 plurilateral agreements (PAs)
 accession, 154
 arguments for and against, 158
 codes of conduct, 148
 consensus rule, 152
 consensus rule relaxation, 165
 content and coverage, 152
 on controversial issues, 158
 cost burden on rest of WTO membership, 160
 dispute settlement, 156
 greater use of, 162
 impact on international trade, 151
 issue linkage, 161
 law of, 150
 MFN principle, 158
 OECD member dominance, 159
 preferential trade agreements compared, 156
 provision for, 148
 regulatory co-operation or convergence, 164
 safeguards for non-participants, 163
 single undertaking, 149
 transparency, 155
 two-tier WTO scenario, 159

- political dimension of law, 57
 populism, new, 124
 positive complementarity, concept of, 220
 positivist conceptions of international law
 economic positivism, 61, 72
 Kant, Immanuel, 22
 Kelsen, Hans, 41
 Oppenheim, Lassa, 59
 pure theory of law *see* pure theory of law
 range of, 41
 typology, 13
 Vattel, Emer de, 16
 post-conflict territories, transitional governance, 93
 poverty eradication, European environmental law, 394
 power
 law and, 82, 90
 powerlessness and tyranny, 84
 tyranny and, 82
 violence and, 83
 precautionary principle, EU environmental law, 410
 preferential trade agreements (PTAs)
 accession, 153
 and ‘backlash’ against globalisation, 459
 Brexit and, 168
 content and coverage, 151
 current and future trends, 167
 dispute settlement, 154
 impact on international trade, 151
 plurilateral agreements compared, 156
 transparency, 154
 and Trump presidency, 168
 WTO and, 148
 pre-state actors, use of force, 143
The Prince *see* Machiavelli, Niccolò
 prior informed consent, EU environmental law, 409
 private security actors, use of force, 144
 protection of European interests, 424
 protection of European Union budget, 424
 Proudhon, Pierre Joseph, 68
 psychology, beginning of, 120
 public law, international law and, 63
 pure theory of law
 autonomy of law, 50
 interpretation of norms, theory of, 55
 Kant, Immanuel, 31
 Kelsen, Hans, 43
 and ‘new international law’ movement, 48
 objective legal scholarship, 44
 sovereignty and, 55
 as theory of positive law, 50
 Pythagoras, 103

Quadragesimo Anno (Pius XI) (1931), 274

 Raz, Joseph, 90, 96
 realism
 anarchy and, 68
 and balance of power, 133
 international system of, 133
 utopia and, 132
 reason
 history and, 116
 as response to globalisation
 ‘backlash’, 462
 understanding and, 111, 115
 recycling *see* European environmental law
 reformist governments, civil society coalitions with, 471
 regional supranationalism *see* supranationalism
 regionalised criminal courts, 210
 regionalism, rise of, 4
 religion, new manifestations of, 123
 renewable energy, EU environmental law, 397
 republicanism
 Plato’s Republic, 73, 83, 106, 113
 tyranny and, 79
 world republic conception, 12, 13, 23
 right to hospitality, 28
 rights, human *see* fundamental rights

- Rome
 philosophical perspectives on the
 New World Order, 106
 tyranny, 78, 79
- Rousseau, Jean-Jacques, 20
- Rovira, Monica Garcia-Salmones, 61
- rule by law, and rule of law, 91, 92
- rule of law
 constitutionalism and, 95, 139, 145
 definitional debate as to, 96
 governance and, 90
 international, 91
 international economic institutions,
 92
 judicial review, 145
 and rule by law, 91, 92
 substantive, 96
 tyranny and, 95, 97, 100
 UN Charter, 92
 use of force, 145
- Saint-Pierre, Charles-Irénée Castel,
 abbé de, 20, 136
- scholarship *see* international legal
 scholarship
- Schopenhauer, Arthur, 115, 117
- 'science' of law, 49
- securitisation of crime, 419
- Security Council (UN) as legislative
 body, 93
- self-defence
 extent of force that can be used, 144
 right of, 143
 utopia and, 131
- self-searching of human mind, 103
- seventeenth century
 conceptions of international law, 13
 philosophical perspectives on the
 New World Order, 107
- shipbreaking, safe and environmentally
 sound, 413
- society
 anarchy and, 133
Quadragesimo Anno (Pius XI)
 (1931), 274
- sociology, beginning of, 119
- Socrates, 106
- sovereignty
 anarchy and, 68
 consent, doctrine of, 3
 divided sovereignty, concept of, 16
 eighteenth century, 11
 imperialism and, 70
 and international legal order, 1
 and internationalisation, 1
 and law of nations, 16
 and 'new international law'
 movement, 46
 and normativity of international
 law, 2
 and pure theory of law, 54, 55
 sovereign consent conception of
 international law, 12
 sovereign equality of states, 2
 as ultimate public authority, 11
 specificity of legal rules, 141
- states
 coincidence of state and nation, 31
 and ICC *see* International Criminal
 Court
 and international law, 140
 isolationism, 1
 preservation, 140
 renunciation of use of force, 142
 shift in interests, 473
 sovereignty *see* sovereignty
 'will' of the personified
 state (*willensfähige
 Staatspersönlichkeit*), 52 *see*
also international state; national
 law
- stipulative law, 16
- subsidiarity
 actions for violation, 290
 applicability, 273
 application, protocol on, 283
 'clear legal core' of, 280
 comparative efficiency test, 281
 components, 281
 current and future trends, 303
 and democratic legitimacy of EU,
 287
 development in European law, 279
 development in German Basic Law,
 275
 in directives, 279

- subsidiarity (*cont.*)
 Early Warning System (EWS), 287
 enforcement by Court of Justice, 285, 291
 enforcement by national parliaments (EWS procedure), 287
 and European Parliament, 287
 federalism and, 275
 form of action, 284
 fundamental rights, 296
 importance, 273
 Inter-institutional Agreement, 283
 internal market, 291
 introduction of, 273
 introduction to, 273
 liberalism and, 275
 material dimension, 281
 national insufficiency test, 281
 and necessity doctrine, 279, 282
 'orange card' EWS compliance procedure, 288
 origins, 274
 'Overall Approach', 282, 284, 284
 and Pope Pius XI's *Quadragesimo Anno* Encyclical, 274
 in practice, 290
 principle of, 274
 reception of, 280
 reform, 300
 reimport of EU subsidiarity to German Basic Law, 281
 tests in EU version and German Basic Law version contrasted, 282
 Tobacco Products Directive, 291
 Treaty basis, 279, 280
 Women on Boards proposal, 297
 'yellow card' EWS compliance procedure, 288
- supranationalism
 advantages of, 4
 common concerns for collective action, 4
 current study content and structure, 3
 European Union *see* European Union
 governance by, 2, 3
 internationalism complementary with, 5
 internationalism contrasted, 2, 4
 and national law, 3
 normative (formal) dimension, 4, 6
 practical (substantive) dimension, 4,
 7 *see also* European Union
- sustainable development
 definition of, 170
 European environmental law, 395
 and green economy, 172, 176
 as key objective, 171
 pillars, 171
- sustainable natural resources,
 integrated approaches at national level, 187
- sustainable production and consumption, EU environmental law, 411
- tacit consent, 16
- technocracy
 agencies, 255
 European Central Bank *see* European Central Bank
 European constitutionalism, 255, 261
 Eurozone crisis, 256
 expert credibility, 261
 thought *see* human mind
- Tobacco Products Directive,
 subsidiarity compliance, 291
- totalitarianism, tyranny and, 82, 85
- trade *see* plurilateral agreements;
 preferential trade agreements;
 World Trade Organization
- transitional governance in post-conflict territories, 93
- transparency
 intergovernmentalism and, 386
 plurilateral agreements, 155
 poverty eradication, 394
 preferential trade agreements, 154
- Trump, Donald, and trade agreements, 168
- Tully, James, 98
- tyranny
 a-constitutionality, 76, 88, 97
 anarchy and, 65, 68, 69
 arbitrary power of tyrants, 76, 88, 98

- Arendt, Hannah, 82
 and 'backlash' against globalisation, 458
 benevolent, 77, 84, 88, 98
 bureaucracy and, 86
 capitalism and, 124
 challenge to end, 100
 classical Greek, 72
 constant danger of, 100, 124
 constitutionalism and, 83, 87, 89, 98, 99
 contemporary character of, 86
 contemporary relevance of, 87, 99
 core elements, 75
 curtailment of political contestation, 79
 democracy and, 73, 75, 124
 de-politicised governance, 76
 emergence, 79
 forms of, 74
 governance by, 65
 hegemony and, 65, 66
 imperialism and, 65, 76, 80, 85, 88, 98
 international law as, 97
 international law as a-constitutional (tyrannical) order, 64
 law and, 80, 82
 methodology, 75
 plurality, 76
 power and, 82
 powerlessness and, 84
The Prince, 76, 77
 removal, 81
 republicanism and, 79
 Roman, 78, 79
 and rule of law, 95, 97, 100
 self-serving form, 74
 taxonomy of, 65, 89
 totalitarianism and, 82, 85
 understanding of, 87
 violence and, 82
- unanimity, majoritarianism and, 3
 understanding
 and ideas, 113
 and reason, 111, 115
- United Kingdom, exit from EU *see* Brexit
 United Nations
 creation of, 2
 European Union not a member, 415
 International Criminal Court *see* International Criminal Court
 League of Nations and, 136
 modern international system, 136
 modernity and, 136
 and rule of law, 92
 Security Council as legislative body, 93
 and use of force, 140, 141
 utopian origins, 136
 United Nations Environmental Organisation, EU proposal for, 415
 United States, trade agreements *see* Trump, Donald
 unity of legal systems
 constitutionalism, 138, 141
 and specificity of rules, 141
 and use of force, 141
 universal ideas
 existence of, 107
 as quasi-things, 107
 universal internationalism *see* internationalism
 universal order, natural law and, 106
 universal state *see* international state
 universality of philosophy, 103
 unreality, utopia and, 132
 use of force
 authority, assignment of, 142
 and 'backlash' against globalisation, 459
 constitutionalism and, 137, 140
 control of, 144
 current and future trends, 146
 embeddedness and, 140
 extent of force that can be used, 144
 hierarchy and, 141
 introduction to, 131
 judicial review, 145
 League of Nations and, 140
 legal justifications, 143
 non-state and pre-state actors, 143
 private security actors, 144

- use of force (*cont.*)
 prohibition of, 142
 renunciation of, 142
 rule of law, 145
 self-defence, right of, 143
 United Nations and, 140, 141
 and unity of legal systems, 141
 utopia, war and, 131
- utopia
 and ‘backlash’ against globalisation, 459
 current and future trends, 146
 meaning of, 131
 peace and security, 132
 realism, 132
 and self-defence, 131
 unreality, 132
 war and, 131
- Vaihinger, Hans, 52
 Vattel, Emmerich de, 16, 116
 Verdross, Alfred, 51, 58
- violence
 power and, 83
 tyranny and, 82
- vulnerable groups, protection under
 citizenship law, 311
- Waldron, Jeremy, 90
 Waltz, Kenneth, 68
 war *see* use of force
 waste *see* European environmental
 law
- water pollution *see* European
 environmental law
- will
 as destructive force, 117
 of personified state (*willensfähige
 Staatspersönlichkeit*), 52
 weakness (akrasia), 249
 William of Ockham, 107
 Wolff, Christian, 13
- Women on Boards proposal,
 subsidiarity compliance, 297
- world, human *see* human world
- world disorder, challenge of, 102
- world republic conception of
 international law, 12, 13, 23
- World Trade Organization (WTO)
 and ‘backlash’ against globalisation,
 459
 consensus rule, 152, 165
 creation of GATT, 2
 Panel decisions on green economy,
 178
 plurilateral agreements *see*
 plurilateral agreements
 and preferential trade agreements, 148
 two-tier WTO scenario, 159
 world-making role of philosophy, 102,
 105
- ‘yellow card’ subsidiarity compliance
 procedure, 288
- Zuckerberg, Mark, 454