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Vols. 151-68 and Consolidated Index and Consolidated Table of Treaties to Vols. 1-160
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Vols. 169-81 Edited by Sir Christopher Greenwood, GBE, CMG, QC, and K. L. Lee
## CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preface</td>
<td>vii</td>
</tr>
<tr>
<td>Editorial Note</td>
<td>ix</td>
</tr>
<tr>
<td>Table of Cases (alphabetical)</td>
<td>xiii</td>
</tr>
<tr>
<td>Table of Cases (according to courts and countries)</td>
<td>xv</td>
</tr>
<tr>
<td>Digest (main headings)</td>
<td>xvii</td>
</tr>
<tr>
<td>Digest of Cases Reported in Volume 181</td>
<td>xix</td>
</tr>
<tr>
<td>Table of Treaties</td>
<td>xxxiii</td>
</tr>
<tr>
<td>Reports of Cases</td>
<td>1</td>
</tr>
<tr>
<td>Index</td>
<td>705</td>
</tr>
</tbody>
</table>
PREFACE

The present volume contains the 2017 order on provisional measures of the International Court of Justice in the Jadhav Case. International jurisprudence is further reflected in the 2018 Grand Chamber judgments of the Court of Justice of the European Union in Achmea BV (together with the 2012 final arbitration award to which it relates) and in Western Sahara Campaign UK (which is included with the 2015 judgment of the English High Court, which referred the case to the Court of Justice), the judgment of the European Court of Human Rights in AB and Others v. France (together with the Norwegian case Huseini which draws upon it) and the reports of the World Trade Organization in Mexico – Soft Drinks. As well as judgments from England and Norway, national jurisprudence is reflected in decisions from Germany (Gaza Flotilla Incident Case) and the Netherlands (“Kouwenhoven” Case).

The Editors wish to thank the many people whose work has made this volume possible. Dr Paschalis Paschalidis summarized both cases from the Court of Justice of the European Union. Mr Michael Becker summarized Kouwenhoven, Mr Massimo Lando wrote the summary of the Jadhav Case and Mr Max Dowbenko summarized English Western Sahara. Dr Lorand Bartels and Ms Eleni Methymaki selected, summarized and edited the text of the WTO case. Professor Claus Kreß supplied and summarized the German decision. Dr Eirik Bjorge supplied and translated the decision from Norway. Ms Karen Lee prepared the summary of the case from the European Court of Human Rights and saw the volume through the press. Ms Maria Netchaeva, the ILR Editorial Assistant, prepared the Tables of Cases and Digest. Miss Maureen MacGlashan, CMG, compiled the Table of Treaties and Index. Mrs Diane Ilott checked the copy and Mr Jack Webb read the proofs.

The Editors are very grateful to the Federal Prosecutor General for permission to reproduce the translation of the German decision not to instigate investigations in the Gaza Flotilla Incident Case, and to the Netherlands Court of Appeal for permission to reproduce its official
translation of Kouwenhoven posted on the official website. The Editors also extend their thanks to the International Court of Justice, the Permanent Court of Arbitration, the Court of Justice of the European Union (which owns the copyright in its material), the European Court of Human Rights and the World Trade Organization (which owns the copyright in its material) for kindly permitting these Reports to use the electronic files posted on their official websites. The decision from England published in this volume carries Crown copyright and contains public sector information licensed under the Open Government Licence v.3.0; the electronic file was sourced from the British and Irish Legal Information Institute website.

Finally, our thanks go to all the others who have worked to complete this volume, particularly our publishers, Cambridge University Press, and typesetters, SPi, and their staff.

C. J. GREENWOOD

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September 2018
EDITORIAL NOTE

The International Law Reports endeavour to provide within a single series of volumes comprehensive access in English to judicial materials bearing on public international law. On certain topics it is not always easy to draw a clear line between cases which are essentially ones of public international law interest and those which are primarily applications of special domestic rules. For example, in relation to extradition, the Reports will include cases which bear on the exception of “political offences” or the rule of double criminality, but will restrict the number of cases dealing with purely procedural aspects of extradition. Similarly, while the general rules relating to the admission and exclusion of aliens, especially of refugees, are of international legal interest, cases on the procedure of admission usually are not. In such borderline areas, and sometimes also where there is a series of domestic decisions all dealing with a single point in essentially the same manner, only one illustrative decision will be printed and references to the remainder will be given in an accompanying note.

Decisions of International Tribunals
The Reports seek to include so far as possible the available decisions of every international tribunal, for example the International Court of Justice, or ad hoc arbitrations between States. There are, however, some jurisdictions to which full coverage cannot be given, either because of the large number of decisions (e.g. the Administrative Tribunal of the United Nations) or because not all the decisions bear on questions of public international law (e.g. the Court of Justice of the European Union). In these instances, those decisions are selected which appear to have the greatest long-term value.

Human rights cases. The number of decisions on questions of international protection of human rights has increased considerably in recent years and it is now impossible for the Reports to cover them all. As far as decisions of international jurisdictions are concerned, the Reports will continue to publish decisions of the European Court of Human Rights and of the Inter-American Court of Human Rights, as well as “views” of the United Nations Human Rights Committee. Decisions of national courts on the application of conventions on human rights will not be published unless they deal with a major point
of substantive human rights law or a matter of wider interest to public international lawyers such as the relationship of international law and national law, the extent of the right of derogation or the principles of the interpretation of treaties.

*International arbitrations.* The *Reports* of course include arbitral awards rendered in cases between States which involve an application of public international law. Beyond this, however, the selection of arbitral decisions is more open to debate. As these *Reports* are principally concerned with matters of public international law, they will not include purely private law commercial arbitrations even if they are international in the sense that they arise between parties of different nationality and even if one of them is a State. (For reports of a number of such awards, see *Yearbook Commercial Arbitration* (ed. Albert Jan van den Berg, under the auspices of the International Council for Commercial Arbitration).) But where there is a sufficient point of contact with public international law then the relevant parts of the award will be reported. Examples of such points of contact are cases in which the character of a State as a party has some relevance (e.g. State immunity, stabilization clauses, *force majeure*) or where there is a choice of law problem involving discussion of international law or general principles of law as possible applicable laws. The same criteria will determine the selection of decisions of national courts regarding the enforcement of arbitral awards.

**Decisions of National Tribunals**
A systematic effort is made to collect from all national jurisdictions those judicial decisions which have some bearing on international law.

**Editorial Treatment of Materials**
The basic policy of the Editors is, so far as possible, to present the material in its original form. It is no part of the editorial function to impose on the decisions printed in these volumes a uniformity of approach or style which they do not possess. Editorial intervention is limited to the introduction of the summary and of the bold-letter rubric at the head of each case. This is followed by the full text of the original decision or of its translation. Normally, the only passages which will be omitted are those which contain either statements of fact having no bearing on the points of international law involved in the case or discussion of matters of domestic law unrelated to the points of international legal interest. The omission of material is usually indicated either by a series of dots or by the insertion of a sentence in square brackets noting the passages which have been left out.
PRESENTATION OF MATERIALS
For reproduction of material in this volume, electronic files have been used wherever possible and their source acknowledged in the Preface. Citations of the reports in which the case may be found are listed in the “Report” section in square brackets at the end of the case; the language of the original decision is also mentioned there. The bold figures in square brackets in the body of the text indicate the pagination of the original report where included.

Notes
Footnotes. Footnotes enclosed in square brackets are editorial insertions. All other footnotes are part of the original report.

Other notes. References to cases deemed not to be sufficiently substantial to warrant reporting will occasionally be found in editorial notes either at the end of a report of a case on a similar point or under an independent heading.

DIGEST OF CASES
With effect from Volume 75 the decisions contained in the Reports are no longer arranged according to the traditional classification scheme. Instead a Digest of Cases is published at the beginning of each volume. The main headings of the Digest are arranged alphabetically. Under each heading brief details are given of those cases reported in that volume which contain points covered by that heading. Each entry in the Digest gives the name of the case concerned and the page reference, the name of the tribunal which gave the decision and an indication of the main points raised in the case which relate to that particular heading of the Digest. Where a case raises points which concern several different areas of international law, entries relating to that case will appear under each of the relevant headings in the Digest. A list of the main headings used in the Digest is set out at p. xvii.

CONSOLIDATED INDEX AND TABLES
A Consolidated Index and a Consolidated Tables of Cases and Treaties for volumes 1-80 were published in two volumes in 1990 and 1991. A further volume containing the Consolidated Index and Consolidated Tables of Cases and Treaties for volumes 81-100 was published in 1996. A Consolidated Index, a Consolidated Tables of Cases and a Consolidated Table of Treaties for volumes 1-125 were published in 2004. A Consolidated Index and a Consolidated Table of Treaties for volumes 1-160 were published in 2017. Volume 180 contains Consolidated Tables of Cases for volumes 126-180.
## TABLE OF CASES REPORTED

**ALPHABETICAL**

(Cases which are reported only in a note are distinguished from cases which are reported in full by the insertion of the word “note” in parentheses after the page number of the report.)

<table>
<thead>
<tr>
<th>Case Description</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>AB and Others v. France (Application No 11593/12)</td>
<td>404</td>
</tr>
<tr>
<td>Achmea BV (formerly known as Eureko BV) v. Slovak Republic (PCA Case No 2008-13) (Final Award)</td>
<td>50</td>
</tr>
<tr>
<td>Achmea Case [Court of Justice of the European Union]</td>
<td>175</td>
</tr>
<tr>
<td>Complaint Regarding the Israeli Actions against the Maritime Flotilla for the Gaza Strip (Case No 3 ARP 77/10-4)</td>
<td>488</td>
</tr>
<tr>
<td>Eureko BV (Achmea BV) v. Slovak Republic (PCA Case No 2008-13) (Final Award)</td>
<td>50</td>
</tr>
<tr>
<td>Gaza Flotilla Incident Case</td>
<td>488</td>
</tr>
<tr>
<td>Huseini v. Ministry of Justice and Public Security</td>
<td>419</td>
</tr>
<tr>
<td>JadHAV Case (India v. Pakistan) (Provisional Measures)</td>
<td>1</td>
</tr>
<tr>
<td>The “Kouwenhoven” Case</td>
<td>568</td>
</tr>
<tr>
<td>Mexico – Tax Measures on Soft Drinks and Other Beverages</td>
<td>436</td>
</tr>
<tr>
<td>R (Western Sahara Campaign UK) v. Commissioners for Her Majesty’s Revenue and Customs and Another (United Kingdom)</td>
<td>263</td>
</tr>
<tr>
<td>R (Western Sahara Campaign UK) v. Commissioners for Her Majesty’s Revenue and Customs and Another (Case C-266/16)</td>
<td>288</td>
</tr>
<tr>
<td>Slowakische Republik (Slovak Republic) v. Achmea BV (Case C-284/16)</td>
<td>175</td>
</tr>
<tr>
<td>Soft Drinks and Other Beverages (Mexico – Tax Measures on)</td>
<td>436</td>
</tr>
<tr>
<td>Tax Measures on Soft Drinks and Other Beverages (Mexico)</td>
<td>436</td>
</tr>
</tbody>
</table>
# TABLE OF CASES REPORTED

ARRANGED ACCORDING TO COURTS AND TRIBUNALS (INTERNATIONAL CASES) AND COUNTRIES (MUNICIPAL CASES)

(Cases which are reported only in a note are distinguished from cases which are reported in full by the insertion of the word “note” in parentheses after the page number of the report.)

## I. DECISIONS OF INTERNATIONAL TRIBUNALS

<table>
<thead>
<tr>
<th>Tribunal/Court</th>
<th>Year</th>
<th>Case</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arbitration Tribunal</td>
<td>2012</td>
<td>Achmea BV (formerly known as Eureko BV) v. Slovak Republic (PCA Case No 2008-13) (Final Award) 50</td>
</tr>
<tr>
<td>Court of Justice of the European Union</td>
<td>2018</td>
<td>R (Western Sahara Campaign UK) v. Commissioners for Her Majesty’s Revenue and Customs and Another (Case C-266/16) 288</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Slowakische Republik (Slovak Republic) v. Achmea BV (Case C-284/16) 175</td>
</tr>
<tr>
<td>European Court of Human Rights</td>
<td>2016</td>
<td>AB and Others v. France (Application No 11593/12) 404</td>
</tr>
<tr>
<td>International Court of Justice</td>
<td>2017</td>
<td>Jadhav Case (India v. Pakistan) (Provisional Measures) 1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mexico – Tax Measures on Soft Drinks and Other Beverages (Appellate Body Report) (WT/DS308/AB/R) 436, 463</td>
</tr>
</tbody>
</table>

## II. DECISIONS OF MUNICIPAL COURTS

<table>
<thead>
<tr>
<th>Country</th>
<th>Year</th>
<th>Case</th>
</tr>
</thead>
<tbody>
<tr>
<td>Germany, Federal Republic of</td>
<td>2014</td>
<td>Complaint Regarding the Israeli Actions against the Maritime Flotilla for the Gaza Strip (Case No 3 ARP 77/10-4) 488</td>
</tr>
<tr>
<td>The Netherlands</td>
<td>2017</td>
<td>The &quot;Kouwenhoven&quot; Case 568</td>
</tr>
<tr>
<td>Norway</td>
<td>2017</td>
<td>Huseini v. Ministry of Justice and Public Security 419</td>
</tr>
<tr>
<td>United Kingdom, England</td>
<td>2015</td>
<td>R (Western Sahara Campaign UK) v. Commissioners for Her Majesty’s Revenue and Customs and Another 263</td>
</tr>
</tbody>
</table>
DIGEST OF CASES

List of Main Headings

(Those headings for which there are entries in the present volume are printed in italics. For a guide to the Digest, see the Editorial Note at p. xi.)

Air
Aliens
Arbitration
Canals
Claims
Comity
Conciliation
Consular Relations
Damages
Diplomatic Relations
Economics, Trade and Finance
Environment
Evidence before International Courts and Tribunals
Expropriation
Extradition
General Principles of International Law
Governments
Human Rights
International Court of Justice
International Criminal Law
International Organizations
International Tribunals
Jurisdiction
Lakes and Landlocked Seas
Nationality
Recognition
Relationship of International Law and Municipal Law
Reprisals and Countermeasures
Rivers
Sea
Sources of International Law
Space
State Immunity
State Responsibility
State Succession
States
Territory
Terrorism
Treaties
War and Armed Conflict

xvii
DIGEST OF CASES
REPORTED IN VOLUME 181

Aliens


Huseini v. Ministry of Justice and Public Security

Arbitration

Applicable law — Investment arbitration — Proceedings instituted by investor incorporated in one European Union State against another European Union State — Bilateral investment treaty between two European Union States — Whether compatible with European Union law — Whether European Union law forming part of the law to be applied by the tribunal — Seat of arbitration in a third European Union State — Jurisdiction of the arbitration tribunal — Costs — UNCITRAL Rules, Article 40(1) — Arbitration Tribunal

Achmea BV (formerly known as Eureko BV) v. Slovak Republic (PCA Case No 2008-13) (Final Award)

Jurisdiction — Bilateral investment treaty — Treaty between two Member States of the European Union — Whether provision for investor–State arbitration compatible with European Union law — Applicable law — Whether including European Union law — Nature of arbitration tribunal — Relationship with national courts and with Court of Justice of the European Union — Court of Justice of the European Union (Grand Chamber)

Slowakische Republik (Slovak Republic) v. Achmea BV (Case C-284/16)
Consular Relations

Right of access to consul for person arrested — Indian national sentenced to death by court in Pakistan — Vienna Convention on Consular Relations, 1963 — Article 36(1) — Failure of arresting authorities to provide consular access — Whether Article 36(1) of Vienna Convention applying to persons suspected of espionage or terrorism — International Court of Justice

*Jadhav Case (India v. Pakistan) (Order on Provisional Measures)*

Damages


*Achmea BV (formerly known as Eureko BV) v. Slovak Republic (PCA Case No 2008-13) (Final Award)*

Economics, Trade and Finance


*The “Kouwenhoven” Case*

Investment — Bilateral investment treaty — Fair and equitable treatment — Health insurance business — Ban on profits and prohibition of sale of portfolio — Full protection and security — Free transfers — Arbitration Tribunal

*Achmea BV (formerly known as Eureko BV) v. Slovak Republic (PCA Case No 2008-13) (Final Award)*

Economics, Trade and Finance

Investment — Bilateral investment treaty — Treaty between two Member States of the European Union — Arbitration provision — Whether provision for arbitration of investor–State dispute compatible with European Union law — Court of Justice of the European Union (Grand Chamber)

*Slowakische Republik (Slovak Republic) v. Achmea BV (Case C-284/16)*
DIGEST OF CASES

World Trade Organization — General Agreement on Tariffs and Trade — Relationship with other international — North American Free Trade Agreement — Measures allegedly taken contrary to GATT said to be countermeasures responding to violation of NAFTA — WTO dispute settlement mechanism — World Trade Organization, Panel, Appellate Body

Mexico – Tax Measures on Soft Drinks and Other Beverages 436

Expropriation

Investment — Bilateral investment treaty — Protection against expropriation — Requirement of deprivation of investment — Measures subsequently reversed — Whether amounting to deprivation of property — Arbitration Tribunal

Achmea BV (formerly known as Eureko BV) v. Slovak Republic (PCA Case No 2008-13) (Final Award) 50

Human rights

Prohibition of torture and inhuman or degrading treatment or punishment — Aliens — Detention of family in detention centre — Child accompanying parents — Foreign child — Relevance of illegal immigrant status — Age of child — Length and conditions of confinement — Whether treatment exceeding permissible threshold — Whether violation of Article 3 of European Convention on Human Rights, 1950 in respect of child — European Court of Human Rights (Fifth Section)

AB and Others v. France (Application No 11593/12) 404

Prohibition of torture and inhuman or degrading treatment or punishment — Whether detention of children and their parents illegal — Jurisprudence of European Court of Human Rights — Age of children — Length and conditions of detention — Whether violation of Article 3 of European Convention on Human Rights, 1950 — Norway, Borgarting Court of Appeal

Huseini v. Ministry of Justice and Public Security 419

Right to freedom and security — Whether detention of children and their parents illegal — Jurisprudence of European Court of Human Rights — Whether detention of family measure of last resort with no possible alternative — Whether violation of Article 5(1) of European Convention on Human Rights, 1950 — Norway, Borgarting Court of Appeal

Huseini v. Ministry of Justice and Public Security 419
Human rights (cont.)
Right to liberty and security — Whether procedure prescribed by law and lawful — Deprivation of liberty in case of child — Whether detention measure of last resort with no possible alternative — Whether violation of Article 5 of European Convention on Human Rights, 1950 in respect of child — European Court of Human Rights (Fifth Section)

AB and Others v. France (Application No 11593/12) 404


Huseini v. Ministry of Justice and Public Security 419


Huseini v. Ministry of Justice and Public Security 419

Self-determination — Obligation erga omnes — Non-self-governing territories — Western Sahara — Whether inclusion of territory of Western Sahara and of waters adjacent thereto within scope of EU–Morocco Fisheries Partnership Agreement, 2006 constituting breach of right of people of Western Sahara to self-determination — Court of Justice of the European Union (Grand Chamber)

R (Western Sahara Campaign UK) v. Commissioners for Her Majesty’s Revenue and Customs and Another (Case C-266/16) 288

International Court of Justice

Provisional measures of protection — Consular relations — Death penalty — Prima facie jurisdiction — Prima facie existence of a

Jadhav Case (India v. Pakistan) (Order on Provisional Measures) 1

International Criminal Law

Circumstances excusing unlawful conduct — National emergency — Whether violations of arms embargo and laws and customs of war justified by right to self-defence under international law — The Netherlands, Court of Appeal in ’s-Hertogenbosch

The “Kouwenhoven” Case 568

Difference between perpetrator and accomplice liability — Complicity in war crimes — Requirement that defendant promoted or facilitated the commission of war crimes — Conditional intent — Whether defendant consciously accepted the probability that war crimes would be committed in connection with his material support — Risk of doing business with a government engaged in international criminal activity — The Netherlands, Court of Appeal in ’s-Hertogenbosch

The “Kouwenhoven” Case 568

Evidence — Admissibility and weight of witness statements — Factors relevant to assessing witness statements obtained in post-conflict environment — Coercion of witnesses — Whether inconsistencies in witness statements requiring acquittal — The Netherlands, Court of Appeal in ’s-Hertogenbosch

The “Kouwenhoven” Case 568

War crimes — Crimes against humanity — Law of armed conflict — Armed conflict at sea — Humanitarian assistance and peacekeeping missions — Wilfully causing great suffering
International Criminal Law (cont.)

and serious injury to body or health — Deportation and forcible transfer — Humiliating and degrading treatment — Unjustifiably delaying return home of a person detained after enforcement of naval blockade — Pillaging and unlawfully destroying, appropriating or seizing property — Crimes against humanity — Contextual element of widespread or systematic attack against any civilian population — Person hors de combat — Whether criminal investigation to be instigated — Whether sufficient reason to believe crime committed to detriment of German and non-German nationals — Germany, Federal Prosecutor General

Complaint Regarding the Israeli Actions against the Maritime Flotilla for the Gaza Strip (Case No 3 ARP 77/10-4) 488

International Tribunals

Jurisdiction — Discretion not to exercise jurisdiction — Whether inherent power — WTO dispute settlement system — Whether Panel empowered to decline to exercise jurisdiction — Whether dispute between two States parties to NAFTA should be heard by arbitral tribunal under NAFTA rather than by panel under the WTO Dispute Settlement Understanding — World Trade Organization, Panel, Appellate Body

Mexico — Tax Measures on Soft Drinks and Other Beverages 436

Jurisdiction

European Court of Justice — Competence to review legality of international agreements concluded by European Union with third countries — EU-Morocco Fisheries Partnership Agreement, 2006 — Whether Monetary Gold principle applicable — Court of Justice of the European Union (Grand Chamber)

R (Western Sahara Campaign UK) v. Commissioners for Her Majesty’s Revenue and Customs and Another (Case C-266/16) 288

Universal jurisdiction — Extraterritorial jurisdiction in case of attack on marine traffic — Passive personality principle — Law of Germany including discretion not to exercise universal jurisdiction — Immunity from foreign criminal jurisdiction — Germany, Federal Prosecutor General

Complaint Regarding the Israeli Actions against the Maritime Flotilla for the Gaza Strip (Case No 3 ARP 77/10-4) 488
Universal jurisdiction — War crimes — Prosecution of a Dutch national for offences committed abroad — Whether conduct of investigation by Dutch authorities making prosecution inadmissible — Whether amnesty scheme in Liberia barrier to prosecution — No violation of fair trial rights — The Netherlands, Court of Appeal in ’s-Hertogenbosch

The “Kouwenhoven” Case

Recognition

Obligation not to recognize an illegal situation resulting from a breach of right to self-determination and not to render aid or assistance in maintaining that situation — Whether European Union breaching this obligation by concluding EU–Morocco Fisheries Partnership Agreement, 2006, in as far as it applies to Western Sahara and waters adjacent thereto — Court of Justice of the European Union (Grand Chamber)

R (Western Sahara Campaign UK) v. Commissioners for Her Majesty’s Revenue and Customs and Another (Case C-266/16)

Relationship of International Law and Municipal Law

European Union law — Double nature of European Union law as part of the law in force in every Member State and as deriving from an international agreement between the Member States — Relationship between rights accorded to investors under bilateral investment treaty and principles of European Union law — Court of Justice of the European Union (Grand Chamber)

Slowakische Republik (Slovak Republic) v. Achmea BV (Case C-284/16)

Treaties — Custom — Judicial review of international agreements concluded by European Union — Whether rules of international law can be invoked in judicial review — Conditions that must be met in order to invoke rules of international law in judicial review — Whether right to self-determination, principle of permanent sovereignty over natural resources and rules of international humanitarian law applicable to conclusion of international agreements concerning exploitation of natural resources of occupied territory can be invoked — Court of Justice of the European Union (Grand Chamber)

R (Western Sahara Campaign UK) v. Commissioners for Her Majesty’s Revenue and Customs and Another (Case C-266/16)
xxvi

DIGEST OF CASES

Relationship of International Law and Municipal Law (cont.)


_Huseini v. Ministry of Justice and Public Security_ 419

Treaties — United Nations Charter, 1945 — Principles of international law — Customary international law — European Union law — Judicial review — Defendants applying EU law provisions — Whether defendants acting unlawfully — International agreements concluded by European Union — Failure to distinguish between sovereign territories of Morocco and Western Sahara — Morocco’s occupation of Western Sahara — Right of people of Western Sahara to self-determination — Validity of actions of European Union in reaching agreements — Whether European Commission able to make agreements and remain in conformity with international law and UN Charter without consultation and consent of Saharawi people and recognized representatives having been obtained — Whether claimant’s claims justiciable — Whether EU measures arguably unlawful — Whether arguable case of manifest error by European Commission in understanding and applying international law — Whether appropriate for English court to request preliminary reference from Court of Justice of the European Union — England, High Court, Queen’s Bench Division (Administrative Court)

_R (Western Sahara Campaign UK) v. Commissioners for Her Majesty’s Revenue and Customs and Another_ 263

Reprisals and Countermeasures

Nature and scope — Relationship between countermeasures under international law and measures to secure compliance with laws and regulations within the WTO — Whether falling under GATT Article XX(d) — World Trade Organization, Panel, Appellate Body

_Mexico – Tax Measures on Soft Drinks and Other Beverages_ 436
Sea

Armed conflict at sea — Treaties — Customary international law — Right to a naval blockade — Legal prerequisites — Status of merchant vessel breaching naval blockade — Status of goods on merchant vessel breaching naval blockade — Contraband — Enforcement of naval blockade on high seas — Naval blockade in law of armed conflict — Whether power to impose a naval blockade applicable — Whether criminal investigation to be instigated — Whether sufficient reason to believe crime committed to detriment of German and non-German nationals — Germany, Federal Prosecutor General

Complaint Regarding the Israeli Actions against the Maritime Flotilla for the Gaza Strip (Case No 3 ARP 77/10-4) 488

Maritime zones — Territorial sea — Exclusive economic zone — Rights and jurisdiction of coastal State — Fisheries — Whether waters adjacent to territory of Western Sahara forming part of Moroccan fishing zone under EU–Morocco Fisheries Partnership Agreement, 2006 — Court of Justice of the European Union (Grand Chamber)

R (Western Sahara Campaign UK) v. Commissioners for Her Majesty’s Revenue and Customs and Another (Case C-266/16) 288

State Responsibility

International Law Commission’s Articles on Responsibility of States for Internationally Wrongful Acts, 2001 — Duty of States to cooperate to end serious breaches of peremptory norm of international law — Customary international law — Whether failure by administering power to promote self-determination constituting a breach — Whether arguable case of manifest error by European Commission in understanding and applying international law — Whether appropriate for English court to request preliminary reference from Court of Justice of the European Union — England, High Court, Queen’s Bench Division (Administrative Court)

R (Western Sahara Campaign UK) v. Commissioners for Her Majesty’s Revenue and Customs and Another 263

States

Sovereignty — Extent of sovereignty — Morocco — Western Sahara — International recognition of Western Sahara as a
States (cont.)
non-self-governing territory — Whether agreements concluded between Morocco and European Union applicable to Western Sahara — Court of Justice of the European Union (Grand Chamber)

*R (Western Sahara Campaign UK) v. Commissioners for Her Majesty's Revenue and Customs and Another (Case C-266/16)* 288

Territory
Non-self-governing territory — Western Sahara — Morocco’s occupation of Western Sahara — Agreements between European Union and Morocco — Failure to distinguish between sovereign territories of Morocco and Western Sahara — Validity of actions of European Union in reaching Agreements — Whether European Commission able to make Agreements and remain in conformity with international law and UN Charter without consultation and consent of Saharawi people and recognized representatives having been obtained — Whether arguable case of manifest error by European Commission in understanding and applying international law — Whether appropriate for English court to request preliminary reference from Court of Justice of European Union — England, High Court, Queen’s Bench Division (Administrative Court)

*R (Western Sahara Campaign UK) v. Commissioners for Her Majesty's Revenue and Customs and Another* 263

Terrorism
Consular relations — Right to consular access — Treaties — Interpretation — Vienna Convention on Consular Relations, 1963 — Article 36(1) — Whether Article 36(1) of Vienna
Convention applying to persons suspected of espionage or terrorism — International Court of Justice

_Jadhav Case (India v. Pakistan) (Order on Provisional Measures)_

Treaties

Application — Scope — Principle that treaty not applicable to third parties — Agreements between European Union and Morocco — Whether applicable to Western Sahara — Whether Western Sahara a third party — Court of Justice of the European Union (Grand Chamber)

_R (Western Sahara Campaign UK) v. Commissioners for Her Majesty’s Revenue and Customs and Another (Case C-266/16)_

288

Bilateral investment treaty — Agreement on Encouragement and Reciprocal Protection of Investments between the Kingdom of the Netherlands and the Czech and Slovak Federal Republic, 1991 — Whether investor–State dispute resolution provision providing for arbitration compatible with Treaty on the Functioning of the European Union, 2007 — Court of Justice of the European Union (Grand Chamber)

_Slowakische Republik (Slovak Republic) v. Achmea BV (Case C-284/16)_

175

Interpretation — Effect — Interpretation of GATT Article XX(d) — Relationship between GATT and other international agreements — World Trade Organization, Panel, Appellate Body

_Mexico – Tax Measures on Soft Drinks and Other Beverages_ 436

Interpretation — Vienna Convention on Consular Relations, 1963 — Article 36(1) — Whether Article 36(1) of Vienna Convention applying to persons suspected of espionage or terrorism — International Court of Justice

_Jadhav Case (India v. Pakistan) (Order on Provisional Measures)_ 1

Interpretation — Vienna Convention on the Law of Treaties, 1969, Article 31 — Whether binding on European Union — Subsequent agreement between parties — Special meaning given by parties to term of treaty — Court of Justice of the European Union (Grand Chamber)

_R (Western Sahara Campaign UK) v. Commissioners for Her Majesty’s Revenue and Customs and Another (Case C-266/16)_ 288
War and Armed Conflict

Existence of armed conflict — Whether armed conflict international or internal — Limited gap between norms applicable to international versus non-international armed conflict — Whether violations of laws and customs of war giving rise to individual criminal liability under Dutch law — The Netherlands, Court of Appeal in ‘s-Hertogenbosch

The “Kouwenhoven” Case

International armed conflict — Non-international armed conflict — Status of armed conflict — Law of armed conflict — Armed conflict at sea — Whether armed conflict between non-State organization and Israel — Terrorism — Use of terrorist methods — Relevance — Prerequisites for determining existence of armed conflict — Whether necessary to determine whether armed conflict international or non-international in character — Distinction between war crime and ordinary crime — War crimes — Nexus requirement — Attack in law governing conduct of hostilities — Military objective — Law governing armed conflict at sea — Right to a naval blockade — Status of merchant vessel breaching naval blockade — Status of goods on merchant vessel breaching naval blockade — Contraband — Enforcement of naval blockade on high seas — Naval blockade in law of international armed conflict — Non-international armed conflict — Whether power to impose a naval blockade applicable — Distinction between members of non-State organized armed groups and civilians — Journalists and war correspondents — Civilian taking a direct part in hostilities — Proportionality — International criminal law — Humanitarian assistance and peacekeeping missions — Wilfully causing great suffering and serious injury to body or health — Deportation and forcible transfer — Humiliating and degrading treatment — Unjustifiably delaying return home of a person detained after enforcement of naval blockade — Pillaging and unlawfully destroying, appropriating or seizing property — Crimes against humanity — Contextual element of widespread or systematic attack against any civilian population — Person hors de combat in law of armed conflict and international criminal law — Whether criminal investigation to be instigated — Whether sufficient reason to believe crime committed to detriment of German and non-German nationals — Germany, Federal Prosecutor General

Complaint Regarding the Israeli Actions against the Maritime Flotilla for the Gaza Strip (Case No 3 ARP 77/10-4)
Occupation — Existence of occupation — Powers of occupant — Treaty-making power in relation to occupied territory — Exploitation of natural resources of occupied territory — Hague Convention IV of 1907 — Articles 42, 43 and 55 of the Hague Regulations — Fourth Geneva Convention, Article 64(2) — Whether lex specialis in comparison to principle of permanent sovereignty over natural resources — Whether Morocco occupying power of Western Sahara — Court of Justice of the European Union (Grand Chamber)

R (Western Sahara Campaign UK) v. Commissioners for Her Majesty’s Revenue and Customs and Another (Case C-266/16) 288
# TABLE OF TREATIES

This table contains a list, in chronological order according to the date of signature, of the treaties referred to in the decisions printed in the present volume. It has not been possible to draw a helpful distinction between treaties judicially considered and treaties which are merely cited.

In the case of bilateral treaties, the names of the parties are given in alphabetical order. Names of countries follow contemporaneous usage except in the case of small spelling changes (e.g. Roumania/Romania) where modern usage is adopted throughout. Where this seems helpful, the name of a treaty as it is commonly known is included.

Wherever possible, each treaty includes a reference to where an online English-language version of the treaty can be found. For treaties between 1648 and 1919, this is almost always the Consolidated Treaty Series (CTS), under Oxford Historical Treaties on the Oxford Public International Law website. Post-1919, references are most frequently to the League of Nations Treaty Series/United Nations Treaty Series (LNTS/UNTS). Here it should be noted that historically LNTS/UNTS references have taken the form “39 UNTS 55”, 39 being the volume number, 55 the page number. With effect from UNTS volume 2301, UNTS no longer includes the volume and page number as part of the reference, using simply the registration number. UNTS references are now in the form UNTS 42146. For ILR purposes, because of its value as an identifier, the registration number is now being added parenthetically to pre-volume 2301 treaties in the form 213 UNTS 221 [UNTS 2889].

Reference is also made to other treaty databases such as the European Treaty Series (ETS), Organization of American States Treaty Series (OASTS) or to Official Journals, particularly where these are the only databases currently hosting a treaty. Where a treaty appears to be available only on the website of the parent international organization, usually without any citation identifier, users are referred to the relevant website. For bilateral treaties, often the only source it has been possible to find is a non-English-language version on one of the parties’ official websites, such as the parliamentary proceedings approving the treaty. Users requiring a comprehensive list of written sources should refer to the CTS, or to the Flare Index to Treaties, available at IALS Digital.

For abbreviations used in the Table of Treaties reference should be made to the list of abbreviations on pages xi-xvi of the Consolidated Table of Treaties, Volumes 1-160.

1907

Oct. 18  Hague Convention No IV on the Laws and Customs of Warfare on Land, Regulations annexed to the Convention (205 CTS 277)  (Hague Regulations) ........................................... 338-9

xxxiii
## TABLE OF TREATIES

<table>
<thead>
<tr>
<th>Year</th>
<th>Date</th>
<th>Treaty Description</th>
<th>UNTS Registration Number</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Chapter I</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. 1</td>
<td>273-4, 398</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. 1(2)</td>
<td>332-3, 385</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Chapter VII</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. 51</td>
<td>398, 504, 693-4</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Chapter XI</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. 73</td>
<td>273-5, 311, 323-4, 334, 361-5, 373, 385, 391-2, 401</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. 73(e)</td>
<td>274-5, 354</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Chapter XIV</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. 96</td>
<td>316</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Chapter XV</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. 103</td>
<td>335-7</td>
</tr>
<tr>
<td>1947</td>
<td>Oct. 30</td>
<td>General Agreement on Tariffs and Trade (GATT 1947)</td>
<td>(55 UNTS 194 [UNTS 814])</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Part I</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. II:4</td>
<td>480-1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. II:5</td>
<td>459</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Part II</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. III</td>
<td>465-7, 473-4</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. III:4</td>
<td>459</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. III:8</td>
<td>459</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. V:3</td>
<td>459</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. VII:2</td>
<td>459</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. VIII:2</td>
<td>459</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. X:1</td>
<td>459, 481</td>
</tr>
</tbody>
</table>
### TABLE OF TREATIES

| Art. X:3(a) | 459 |
| Art. XVII | 480-1 |
| Art. XX Preamble | 484 |
| Art. XX(d) | 449, 475-86 |
| Art. XX(g) | 484 |
| Art. XX(h) | 481 |
| Art. XXIII:2 | 484-5 |
| Part III | 481 |
| Art. XXIV | 481 |

#### 1949

**Aug. 12** Geneva Conventions Relative to the Protection of the Victims of International Armed Conflicts (Common Articles) 667-8
- Art. 1 366-7
- Art. 2 366-8, 535
- Art. 2(2) 504-5, 538-9
- Art. 3 576-610, 618, 666-8, 677-8, 687-96
- Art. 3(1) 590-610

**Aug. 12** Geneva Convention Relative to the Treatment of Prisoners of War (GC III) (75 UNTS 135 [UNTS 972])
- Art. 4A(4) 549-50
- Art. 109(1) 556-7
- Art. 118(1) 556-7
- Art. 130 576-89

**Aug. 12** Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC IV) (75 UNTS 287 [UNTS 973])
- Art. 4 504-5
- Art. 5 556-7
- Art. 27(4) 556-7
- Art. 33 504
- Art. 35(1) 556-7
- Art. 42 556-7
- Art. 43 556-7
- Art. 47 371-3
- Art. 49 555
- Art. 49(6) 379
- Art. 64 339, 366-8, 370-1
- Art. 64(2) 371-2
- Art. 134 556-7
- Art. 147 504-5, 555-7, 576-89
<table>
<thead>
<tr>
<th>Year</th>
<th>Date</th>
<th>Treaty Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1957</td>
<td>Mar. 25</td>
<td>Treaty Establishing the European Economic Community (Treaty of Rome) (298 UNTS 11 [UNTS 4300]) (as amended by the Treaties of Amsterdam (2700 UNTS 161 [UNTS 47936]) and Nice (2701 UNTS 3 [UNTS 47937])) (EC) (numbers shown in square brackets indicate original treaty numbers)&lt;br&gt;Art. 293 [220] ............................. 204</td>
</tr>
<tr>
<td>1958</td>
<td>Apr. 29</td>
<td>Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas (559 UNTS 285 [UNTS 8164]) 356&lt;br&gt;Art. 2 ...................................... 356&lt;br&gt;Art. 6 ...................................... 356</td>
</tr>
<tr>
<td>1962</td>
<td>Aug. 15</td>
<td>Indonesia–Netherlands, Agreement concerning West New Guinea (West Irian) (437 UNTS 274 [UNTS 6311])&lt;br&gt;Art. I ....................................... 364&lt;br&gt;Art. XXVII .................................. 364</td>
</tr>
<tr>
<td>1963</td>
<td>Apr. 24</td>
<td>Vienna Convention on Consular Relations (VCCR) (596 UNTS 261 [UNTS 8638])&lt;br&gt;Art. 36(1) .................................. 1-49&lt;br&gt;Art. 73 ...................................... 10, 13&lt;br&gt;Art. 73(2) .................................. 11&lt;br&gt;Optional Protocol Concerning the Compulsory Settlement of Disputes (596 UNTS 487 [UNTS 8640])&lt;br&gt;Art. I ..................................... 2, 9-13, 39-44</td>
</tr>
<tr>
<td>Year</td>
<td>Date</td>
<td>Treaty Description</td>
</tr>
<tr>
<td>------</td>
<td>------</td>
<td>--------------------</td>
</tr>
<tr>
<td>1965</td>
<td>Mar. 18</td>
<td>Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID) (575 UNTS 159 [UNTS 8359])&lt;br&gt;Art. 53(1) ................................. 245</td>
</tr>
<tr>
<td>1966</td>
<td>Dec. 16</td>
<td>International Covenant on Civil and Political Rights (ICCPR) (999 UNTS 171 [UNTS 14668])&lt;br&gt;Art. 1 .............................................. 330</td>
</tr>
<tr>
<td>1969</td>
<td>May 23</td>
<td>Vienna Convention on the Law of Treaties (VCLT) (1155 UNTS 331 [UNTS 18232])&lt;br&gt;Art. 3 ......................................................... 387&lt;br&gt;Art. 29 ....................................................... 340-1&lt;br&gt;Art. 30 ....................................................... 190-1&lt;br&gt;Art. 30(3) ................................................... 190-1, 197-8&lt;br&gt;Art. 31 ....................................................... 318, 387, 397&lt;br&gt;Art. 31(3)(a) ............................................... 223, 398&lt;br&gt;Art. 31(3)(c) ............................................... 223&lt;br&gt;Art. 31(4) ................................................... 318, 322-3, 399-400&lt;br&gt;Arts. 31-3 .................................................. 114&lt;br&gt;Art. 34 ....................................................... 340-1&lt;br&gt;Arts. 46-53 .................................................. 314-15&lt;br&gt;Art. 56 ....................................................... 316&lt;br&gt;Art. 59 ....................................................... 109-10, 184&lt;br&gt;Art. 59(1) .................................................... 193-8&lt;br&gt;Arts. 65-8 .................................................. 316</td>
</tr>
<tr>
<td>1970</td>
<td>Oct. 19</td>
<td>Belgium–Netherlands, Double Taxation Agreement (811 UNTS 3 [UNTS 11542])&lt;br&gt;Art. 24 ....................................................... 201-2&lt;br&gt;Art. 25 ....................................................... 201-2&lt;br&gt;Art. 25(3) .................................................... 203</td>
</tr>
<tr>
<td>1974</td>
<td>Mar. 4</td>
<td>Czechoslovakia–Netherlands, Double Taxation Agreement (970 UNTS 123 [UNTS 14043]) .............................................. 204</td>
</tr>
</tbody>
</table>
TABLE OF TREATIES

1975
Nov. 14 Mauritania, Morocco, Spain, Joint Declaration of Principles on Western Sahara (988 UNTS 257 [UNTS 14450]) (Madrid Agreement) 344-6, 348, 362-5, 369-70

1976


1977
Feb. 17 Morocco–Spain, Agreement on cooperation in sea fisheries (not in force) 321-2, 344-5, 348, 355-6


June 8 Protocol additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (AP I) (1125 UNTS 3 [UNTS 17512]) 366-8, 666, 668-9, 677-8
Art. 1(2) (Martens Clause) 535-7
Art. 1(4) 366-70, 538-9
Art. 3(1) 694-5
Art. 4 371
Art. 4(1) 538-9
Art. 13(1) 541-2
Art. 13(2) 541-2
Art. 13(3) 550-2
Art. 17(1) 555
Art. 48 541-2
Art. 49(1) 541
Art. 49(3) 544-5
Art. 51(2) 541-2
Art. 51(3) 550-2
TABLE OF TREATIES

Art. 52(1)(2) ............................................. 542-3
Art. 52(2)(2) ............................................. 542-3
Art. 54(1) ............................................. 544-5
Art. 70(1) ............................................. 553-4
Art. 79(1) ............................................. 549-50
Art. 79(2) ............................................. 550-2
Art. 84(4)(a) ........................................... 379
Art. 85(4)(a) ........................................... 555
Art. 85(4)(b) ........................................... 556-7

June 8 Protocol additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts (AP II) (1125 UNTS 609 [UNTS 17513]) ................................... 666

1979

June 15 EEC–Senegal, Agreement on fishing off the coast of Senegal (OJ 1980 L226/16) ........................................... 280-2

1980

Feb. 27 EEC–Guinea-Bissau, Agreement on fishing off the coast of Guinea-Bissau and of the two exchanges of letters referring thereto (OJ 1980 L226/33) ........................................... 280-2

1982

Dec. 10 UN Convention on the Law of the Sea (UNCLOS) (1833 UNTS 3 [UNTS 31363])
  Part II, Section 1
    Art. 2(1) ......................... 357, 386, 399
    Art. 2(3) ......................... 386
  Part V
    Art. 55 ......................... 356-8, 386, 399
    Art. 56 ......................... 399
    Art. 56(1) ......................... 386
    Art. 56(1)(a) ......................... 358
    Art. 75(2) ......................... 358
  Part XVI
    Art. 311(1) ......................... 355-8
  Resolution III annexed to the Final Act of UNCLOS III ......................... 373

1983

Aug. 1 Morocco–Spain, Agreement on cooperation on sea fisheries between Spain and Morocco (BOE 243 of 11 October 1983, p. 27588) ........................................... 321-2
**TABLE OF TREATIES**

1986


<table>
<thead>
<tr>
<th>Arts.</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>65-8</td>
<td>316</td>
</tr>
</tbody>
</table>

1989

Nov. 20 Convention on the Rights of the Child (CRC) (1577 UNTS 3 [UNTS 27531])

<table>
<thead>
<tr>
<th>Art.</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>37</td>
<td>433-4</td>
</tr>
<tr>
<td>37(b)</td>
<td>433-4</td>
</tr>
</tbody>
</table>

1991

Mar. 26 Treaty Establishing a Common Market between Argentina, Brazil, Paraguay and Uruguay (Treaty of Asunción) (Mercosur) (2145 UNTS 252 [UNTS 37341])

<table>
<thead>
<tr>
<th>Olivos Protocol for the Settlement of Disputes in Mercosur (18 February 2002) (42 ILM 2 (2003))</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>468-9</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>Preamble</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>114</td>
</tr>
<tr>
<td>Art. 1(a)</td>
<td>103-7, 111-16</td>
</tr>
<tr>
<td>Art. 1(a)(ii)</td>
<td>111</td>
</tr>
<tr>
<td>Art. 1(a)(iv)</td>
<td>111-12</td>
</tr>
<tr>
<td>Art. 2</td>
<td>113, 186, 226</td>
</tr>
<tr>
<td>Art. 3</td>
<td>186-7, 191, 199</td>
</tr>
<tr>
<td>Art. 3(1)</td>
<td>62-3, 97-8, 140-8, 154-5, 159, 170, 190-1, 221, 226, 249-50</td>
</tr>
<tr>
<td>Art. 3(2)</td>
<td>62-3, 97-8, 148-50, 190-1, 202, 226, 232</td>
</tr>
<tr>
<td>Art. 3(3)</td>
<td>226</td>
</tr>
<tr>
<td>Art. 3(4)</td>
<td>226</td>
</tr>
<tr>
<td>Art. 3(5)</td>
<td>223</td>
</tr>
<tr>
<td>Art. 4</td>
<td>62-3, 97-8, 156, 159, 170, 187, 190-1, 199, 249-50</td>
</tr>
<tr>
<td>Art. 5</td>
<td>62-3, 97-8, 132-40, 156-8, 187, 190-1, 198, 226, 235-7</td>
</tr>
<tr>
<td>Art. 6</td>
<td>226</td>
</tr>
<tr>
<td>Art. 7</td>
<td>226</td>
</tr>
<tr>
<td>Art. 8</td>
<td>187-8, 205-62</td>
</tr>
<tr>
<td>Art. 8(1)</td>
<td>64, 257-8</td>
</tr>
<tr>
<td>Art. 8(2)</td>
<td>64, 212</td>
</tr>
<tr>
<td>Art. 8(4)</td>
<td>64</td>
</tr>
</tbody>
</table>
TABLE OF TREATIES

Art. 8(5) ......................... 64, 210, 212-13, 259-61
Art. 8(6) ......................... 104, 152-3, 213, 221, 223-39, 257-8
Art. 8(7) ........................ 211, 259-61
Art. 10 ................................. 220, 226
Art. 10(7) ................................ 221
Art. 13 ..................................... 188-9
Art. 13(3) .............................. 226, 232


Art. 72(2) ................................. 195

Dec. 16 EC–Poland, Association Agreement (OJ 1993 L348)
Art. 73(2) ................................. 195

1992
    Chapter Twenty
    Art. 2005(6) .............................. 473-4
    Art. 2008 ................................. 473-4
    Chapter Twenty-one ....................... 444-9

1993
Art. 72(2) ................................. 195


1994
Apr. 15 Agreement Establishing the World Trade Organization (WTO) (1867 UNTS 154 [UNTS 31874])
    Art. VI ................................. 481
    Art. VII ................................. 481
    Art. XVI:4 .............................. 459

Apr. 15 Agreement Establishing the World Trade Organization (WTO), Annex 1B (General Agreement on Trade in Services (GATS)) (1869 UNTS 183 [UNTS 31374])
    Art. XIV(a) ............................. 482-3
<table>
<thead>
<tr>
<th>Date</th>
<th>Treaty Description</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Art. 7.1: 470-1</td>
</tr>
<tr>
<td>May 4</td>
<td>Agreement on the Gaza Strip and the Jericho Area (Cairo Agreement)</td>
<td>Art. 11: 444-9, 466-75</td>
</tr>
<tr>
<td>Dec. 17</td>
<td>Energy Charter Treaty (UNCTS 36116)</td>
<td>Preamble</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. 17: 478, 484-5</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. 22: 484-5</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Art. 23: 446-7, 466-7, 470, 472-3, 478, 484-5</td>
</tr>
<tr>
<td>Nov. 20</td>
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<td>Preamble: 275</td>
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<td>Art. 16: 389, 400-2</td>
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<td>Art. 17: 275, 311</td>
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<td></td>
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<td>Art. 29: 275</td>
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<td></td>
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<td>Art. 94: 311, 388, 397-8</td>
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<td>Art. 96: 388</td>
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<td>Protocol 4</td>
<td>Art. 6: 311</td>
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<td>Art. 6(4): 275</td>
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<td>Treaty Description</td>
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<td>Rome Statute of the International Criminal Court (ICC) (2187 UNTS 90 [UNTS 3854])</td>
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<td>Art. 1</td>
<td>305, 376-7, 388, 400-2</td>
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<td>Art. 2(a)</td>
<td>276-7, 305, 318, 389, 397-402</td>
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<td>Art. 3</td>
<td>305, 388</td>
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<td>Art. 3(1)</td>
<td>376-7</td>
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<td>Art. 5</td>
<td>305, 388-9, 397-402</td>
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<td>Art. 5(1)</td>
<td>388-9</td>
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<td>Art. 5(4)</td>
<td>357-8, 388-9, 397</td>
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<tr>
<td>Art. 6</td>
<td>377, 388</td>
<td></td>
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<td>Art. 6(1)</td>
<td>388-9</td>
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<td>Art. 7</td>
<td>305-6, 358, 377</td>
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<td>Art. 8</td>
<td>376-7</td>
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<td>Art. 9</td>
<td>376-7</td>
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<td>Art. 11</td>
<td>276-7, 306, 318, 355-6, 389, 397-400</td>
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<td>Art. 13</td>
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<td>Art. 14</td>
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<tr>
<td>Art. 16</td>
<td>306, 382-3</td>
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</tr>
<tr>
<td>Art. 17</td>
<td>388</td>
<td></td>
</tr>
</tbody>
</table>

Art. 5(4) 358

Art. 11 358

Art. 2(a) 358
Art. 11 358

Title I Common Provisions
Art. 2 256-7
Art. 3(5) 268-70, 309-17, 322-84, 391-4, 396-7, 402-3
Art. 4(3) 215, 240, 246-8, 252, 256-7
Art. 6(2) 219
Title III Provisions on the Institutions
Art. 19 257, 259-61
Art. 19(1) 233, 240-1, 257, 259-61
Art. 19(3)(b) 394-5
Title IV Provisions on Enhanced Cooperation

Art. 21 ...................................... 329-31
Art. 21(1) ...................................... 326, 332, 359-60, 380, 383-4
Art. 21(2)(b) ...................................... 326, 332, 359-60, 380, 383-4
Art. 21(2)(c) ...................................... 326, 330-2, 359-60, 380, 383-4

Title V, Chapter 2 Specific Provisions on the Common Foreign and Security Policy, Section 1 Common Provisions

Art. 23 ...................................... 326, 332, 359-60, 380, 383-4

Title VI, Final Provisions

Art. 50(3) ...................................... 232
TABLE OF TREATIES

Part VI Institutional Financial Provisions, Title I Institutional Provisions, Chapter 1 The Institutions, Section 5 The Court of Justice of the European Union

Art. 258 ........................................ 245-6, 314-15
Art. 259 ........................................... 246
Art. 260 ........................................ 245-6
Art. 263 ....................................... 314-15
Art. 267 ........... 77-8, 184-5, 192, 205-14, 240-1, 252-3,
255-61, 266-87, 300-403
Art. 267(1)(b) ...................... 313-17, 394-6
Art. 272 ........................................... 207
Art. 273 ....................................... 217-18

Part VII General and Final Provisions

Art. 344 ............. 77-8, 184, 186, 191-2, 214-48, 252,
255-61
Art. 351 [TEC 307] ...................... 197-8, 316

2008
Art. 2(c) ........................................... 358

May 21 India–Pakistan, Agreement on Consular Access
(UNTS 54471) ......................... 10-11, 13, 15-16, 37-9

2013
Nov. 18 EU–Morocco, Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community and the Kingdom of Morocco (OJ 2013 L328/2) ............... 277, 283-7,
300-403
Art. 1 .................. 306-7, 333, 389, 398
Art. 1(1) .................. 306, 382-3
Art. 2 .................. 307, 382-3, 390
Art. 3 .................. 307
Art. 3(1) .................. 358, 377
Art. 3(1)(a)(ii) .................. 321
Art. 3(4) .................. 358, 377-8
Art. 3(5) .................. 358, 378
Art. 4 .................. 376-7
Art. 5 .................. 376-7, 390
Art. 5(6) .................. 378
Art. 6 .................. 307-8, 358
Art. 6(1) .................. 378
TABLE OF TREATIES

Annex
Chapter III .......................... 319-20, 390, 401
Chapter X ........................................ 321
Appendix 2 .............................. 377, 390
Appendix 4 .......................... 319-20, 390, 401

Dec. 7 WTO Trade Facilitation Agreement (TFA) (www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm)
Art. VI:2 ............................................ 459
Art. VI:3 ............................................ 459
Art. VII:2 ......................................... 459
Art. VII:3 ......................................... 459
Art. VII:4 ......................................... 459
Art. XVI:4 ......................................... 459

2014
Oct. 8 EU–Senegal, Sustainable Fisheries Partnership Agreement (OJ 2014 L304/3)
Art. 1(f) ............................................ 358