Developments in EU External Relations Law

Edited by
MARISE CREMONA



Contents

List of Contributors		ix xi
	Table of Cases Table of Legislation	
14	tole of Legismion	xix
1.	Introduction Marise Cremona	1
•		
Z.	Tous pour un, un pour tous! Coherence in the External Relations of the European Union	10
	Christophe Hillion	10
	1. Introduction	10
	Defining Coherence in the Context of EU Primary Law	12
	A. The Ambiguity of the Notion of Coherence	12
	B. The Multifarious Dimensions of Coherence in EU	12
	External Relations	17
	3. Coherence as a Function of other EU Legal Principles	18
	A. Negative Coherence: Absence of Contradictions in the	
	External Activities of the Union	18
	B. Achieving Positive Coherence: The Principle of Cooperation	27
	4. Conclusion	35
3.	The Contribution of EU Practice to International Law Frank Hoffmeister	37
	1. Introduction	3 7
	2. The EU as an Actor under International Law	38
	A. 'The Notion 'European Union'	38
	B. External Powers	38
	C. Internal Coordination and External Representation	47
	D. Conclusions	54
	3. The EU's Contribution to General International Law	54
	A. Sources of International Law	54
	B. Subjects of International Law	71
	C. Jurisdiction	80
	D. Responsibility. Dispute Settlement, and Enforcement of	
	International Law	86
	E. Conclusion	95

vi Contents

	4. The EU's Contribution to Particular Branches of	
	International Law	96
	A. Jus contra bellum, ius in bello, and the Law of Disarmament	97
	B. The International Law Framework for the Fight	
	against Terrorism	102
	C. International Human Rights and Criminal Law	112
	D. International Economic Development and	
	Environmental Law	118
	E. Conclusion	124
	5. Closing Remarks	125
4.	The Trade and Development Policy of the European Union Lorand Bartels	128
	1. Introduction	128
	2. Origins	129
	A. The French Union	129
	B. The Treaty of Rome	132
	C. The Yaoundé Conventions	135
	D. Reciprocity	137
	E. The EDF and Trade	139
	3. International Reactions	140
	A. Comparable Arrangements	140
	B. GATT Reviews	142
	C. The Principle of Non-reciprocity	143
	4. The Community Response	146
	A. The Lomé Conventions and Cotonou Agreement	147
	B. Generalized System of Preferences	153
	C. Regional Trade Agreements	160
	D. Under-utilization of Preferences: Rules of Origin	161
	5. Post-Cotonou Trading Arrangements	165
	A. Economic Partnership Agreements	166
	B. Alternatives to EPAs	170
	6. Conclusion	171
5.	Of Modes and Sectors: External Relations, Internal Debates,	
	and the Special Case of (Trade in) Services	172
	Markus Krajewski	
	1. Introduction	172
	2. Political Economy of Services Trade and	
	Services Liberalization	174

	3. Conceptualizing Trade in Services from a Legal Perspective	176
	A. In Foro Externo	177
	B. In Foro Interno	183
	C. Towards a Uniform Concept of Trade in Services?	187
	4. Services and the Common Commercial Policy	188
	A. Express Powers	188
	B. Implied Powers	196
	5. Public Services and External Trade Law	201
	A. What are Public Services?	202
	B. Scope of Agreements on Trade in Services	203
	C. Specific Commitments	208
	D. An All-inclusive, but Flexible Approach—if Used Wisely	213
	6. Conclusion	214
6.	Comparing the EU's Role in Neighbourhood Conflicts Nathalie Tocci	216
	1. Introduction	216
	2. An Analytical Framework to Assess the EU's Role in	
	Conflict Resolution	217
	A. EU Channels of Influence through Contractual Relations	218
	B. Understanding the Effectiveness of the EU's Role in	
	Conflict Resolution	220
	3. The EU's Impact on Conflict Resolution	222
	4. Comparing the Effectiveness of EU Contractual Relations	
	in Promoting Peace in the Neighbourhood	226
	A. The Value of EU Contractual Relations	226
	B. The Credibility of EU Obligations	232
	C. The Political Management of EU Contractual Relations	240
	5. Concluding Remarks	243
7.	The European Neighbourhood Policy: More than a Partnership? Marise Cremona	244
	1. What is the ENP?	244
	A. Introduction	244
	B. The Genesis of the ENP	246
	C. Unpacking the Concept	249
	D. Objectives	257
	2. Instruments and Methodologies	263
	A. Instruments	263
	B. Methodologies	281

viii Contents

3. The Future of the ENP	294
A. A Failure or a Win-Win Policy?	294
B. 'Greater Coherence, Effectiveness and Visibility' for EU External Action?	296
Index	301