Table of Contents

Table of Cases Table of Legislation	xiii xxi xxxvii		
Other Documents			
List of Abbreviations			
I. PRIMARY LAW, INSTITUTIONAL AND HISTORICAL PREMISES			
1. The European Union and Its Structure	3		
1.1 The Origin and Development of the European Union	3		
1.2 The Nature of the European Union	6		
1.3 The Institutional Structure	7.		
1.3.1 The European Council	8		
1.3.2 The Council	8		
1.3.3 The Commission	9		
1.3.4 The European Parliament	10		
1.3.5 The Court	11		
1.3.6 The Economic and Social Committee and the Committee of	1.0		
the Regions	13		
1.4 The EFTA and the EEA	14		
1.5 Sources of Law in the European Union	15		
1.6 Priority and Direct Effect	17		
1.7 Decision-making Procedures	22		
1.8 Comitology	23		
2. Objectives, Principles, and Resources	27		
2.1 Introduction	27		
2.2 Environment Action Programmes	28		
2.2.1 The first four Action Programmes	28		
2.2.2 The Fifth Environment Action Programme	30		
2.2.3 The Sixth Environment Action Programme	31		
2.2.4 The Seventh Environment Action Programme	32		
2.3 Environmental Objectives and Policy	33		
2.3.1 Historical development	33		
2.3.2 Nature and limits of the environmental objectives	34		
2.3.3 Geographical limits of EU environmental policy	36		
2.4 Pertinent Principles	40		
2.4.1 Sustainable development	42		
2.4.2 Subsidiarity	46		

	2.4.3 Proportionality	48
	2.4.4 A high level of protection	49
	2.4.5 Precaution	51
	2.4.6 Preventive action	53
	2.4.7 Proximity	54
	2.4.8 Polluter-pays principle	55
	2.4.9 Integration	58
	2.4.10 Sincere cooperation	62
	2.4.11 Equal treatment and legal certainty	63
	2.5 Institutional Development	64
	2.6 Financial Instruments	66
3.	Free Movement of Goods and the Room for Member State Action	69
	3.1 Introduction	69
	3.2 Quantitative Restrictions on Trade and Measures	
	Having Equivalent Effect	70
	3.3 Legitimising Trade Restrictive Measures	76
	3.3.1 Environmental protection as a mandatory requirement	79
	3.3.2 Developments since the <i>Danish bottle</i> case	80
	3.3.3 Legitimate grounds for exceptions	81
	3.3.4 Discrimination	82
	3.3.5 Proportionality	85
	3.3.6 Acceptable level of protection	89
	3.4 Notification of Technical Standards	91
	3.5 Environmental Taxes	92
4.	Division and Exercise of Competence	95
	4.1 Competence and Legal Bases	95
	4.2 Environmental Policy as Legal Basis (Article 192 TFEU)	97
	4.2.1 Decision-making under Article 192	99
	4.2.2 Factors to be taken account of and financing	100
	4.2.3 More stringent protective measures	102
	4.3 The Internal Market as a Legal Basis (Article 114 TFEU)	105
	4.3.1 National provisions derogating from a harmonisation measure	107
	4.3.2 New derogating national provisions	108
	4.3.3 The Commission's assessment	111
	4.4 Other Legal Bases	114
	4.4.1 Agricultural and fisheries policy, Article 43 TFEU	114
	4.4.2 Common commercial policy, Articles 206 and 207 TFEU	116
	4.4.3 Transport, Article 91 TFEU	117
	4.4.4 Energy, Article 194 TFEU	117
	4.5 The Extent of the Harmonising Effect	118
	4.6 Choice of Legal Basis	122
	4.7 The EU's External Competence	124
	4.7.1 Mixed agreements and exclusive competence	125
	4.7.2 The status of international agreements in EU law	128

	Table of Contents	ix
5.	Monitoring the Application of Union Environmental Law	
	and Sanctions	131
	5.1 Member States' Obligations	131
	5.2 Penalties for Individuals	132
	5.3 Implementation of EU Law	134
	5.4 The Infringement Procedure	135
	5.4.1 Procedure before the Commission	136
	5.4.2 Infringement cases before the Court	138
	5.4.3 Sanction	138
	5.5 Actions for Annulment and for Failure to Act	140
	5.6 Preliminary Rulings	142
	5.7 Access to Justice for Natural and Legal Persons	144
	II. SECONDARY LAW	
6.	Instruments, Approaches, and Trends in EU Secondary	
	Environmental Law	151
7.	Crosscutting Issues	157
	7.1 Environmental Impact Assessment (EIA)	157
	7.1.1 Introduction	157
	7.1.2 The EIA Directive	158
	7.1.3 The SEA Directive	166
	7.2 Prevention of Major Industrial Accidents (the Seveso Directive)	169
	7.3 Ecolabelling	172
	7.4 The EU Eco-Management and Audit Scheme (EMAS)	174
	7.5 Access to Information, Public Participation, and Access to Justice	177
	7.5.1 Access to environmental information in the Member States	178
	7.5.2 Public participation and access to justice in the Member States	181
	7.5.3 Access to information, public participation, and access	183
	to justice regarding EU institutions and bodies 7.6 Infrastructure for Spatial Information in the European	103
	Community (INSPIRE)	185
	7.7 European Pollutant Release and Transfer Register	186
	7.8 Environmental Liability	187
	7.8.1. Environmental damage and applicability of the ELD	188
	7.8.2 Obligations on operators and authorities	190
	7.8.3 Cost recovery	192
	7.8.4 Request for action and more protective measures	192
8	. Industrial Emissions	195
	8.1 Introduction	195
	8.2 The Industrial Emissions Directive (IED)	196
	8.2.1 Annex I activities	199
	8.2.2 BAT and emission limit values	200

		 8.2.3 Permits 8.2.4 Closure and remediation 8.2.5 Inspections and public participation 8.2.6 Special provisions on certain activities 	202 204 204 206
		8.2.7 Final Provisions	208
9.	Air (Quality and Noise	211
	9.1	Introduction	211
	9.2	Ambient Air Quality and Cleaner Air for Europe	212
	9.3	National Emission Ceilings for Certain Atmospheric Pollutants	215
	9.4	The Clean Air Policy Package	216
	9.5	Substances that Deplete the Ozone Layer	217
	9.6	Emissions from Specific Sources	219
	9.7	Noise	221
10.	Wate	er	223
	10.1	Introduction	223
		The Water Framework Directive (WFD)	224
		10.2.1 Environmental objectives	226
		10.2.2 Exemptions and common implementation	229
		10.2.3 Programmes of measures, monitoring, and management	231
		10.2.4 Combined approach	232
		10.2.5 Recovery of costs	233
		10.2.6 Groundwater	233
		10.2.7 Priority hazardous substances	234
	10.3	Other Legal Acts on Water Protection	235
		10.3.1 Urban waste-water treatment	235
;		10.3.2 Pollution by nitrates from agricultural sources	236
		10.3.3 Bathing water quality	236
		10.3.4 Water for human consumption	237
	10 6	10.3.5 Flood risks	237
	10.4	The Marine Strategy Framework Directive (MSFD)	237
		10.4.1 Targets, strategies, and monitoring	240
		10.4.2 Programmes of measures	242 242
	10.5	10.4.3 Exceptions Ship-related Pollution	
	10.)	10.5.1 Ship-source pollution and penalties for infringements	245 245
		10.5.2 Other acts on ship-related pollution	246
	10.6	Offshore Oil and Gas Operations	248
		Maritime Spatial Planning	249
11			
11.		ate and Energy	253
	11.1	Commitments, Distribution, and Monitoring	253
		11.1.1 The climate and energy package	255
		11.1.2 The 2030 Climate and Energy Policy Framework	256
		11.1.3 Monitoring, accounting, and reporting	257

		Table of Contents	`	xi
	11 2	The EU ETS		258
	11.2	11.2.1 Allocation of allowances		260
		11.2.2 Aviation in the EU ETS		263
		11.2.3 Issuance, surrender, and transfer of allowances		265
	113	Sources of Greenhouse Gases Outside the EU ETS		266
	11.5	11.3.1 Emissions of carbon dioxide from cars		266
		11.3.2 Fluorinated greenhouse gases		267
	114	Energy from Renewable Sources		268
	11.5	Carbon Capture and Storage		271
		Energy Efficiency		274
		Energy Efficiency in the Built Environment		276
		Ecodesign of Energy-using Products		279
	11.9	Eco Labelling		280
12.	Wast	te e		283
	12.1	Introduction		283
		The Framework Directive on Waste		285
	100	12.2.1 The waste hierarchy and waste management		286
		12.2.2 The problem of defining waste		288
		12.2.3 By-products and end-of-waste	;	289
		12.2.4 Responsibility for waste management and its costs		290
		12.2.5 Hazardous waste		292
		12.2.6 Waste management plans and waste prevention programmes		293
	12.3	Shipments of Waste		293
		Landfill of Waste		297
		Specific Waste Streams		298
		12.5.1 Packaging and packaging waste		298
		12.5.2 End-of-life vehicles		300
		12.5.3 Waste electrical and electronic equipment (WEEE)		301
		12.5.4 Batteries and accumulators		302
		12.5.5 PCB/PCT		303
		12.5.6 Waste from extractive industries		303
		12.5.7 Sludge		304
		12.5.8 Ship-generated waste and cargo residues		304
		12.5.9 Ship Recycling		305
13.	Chen	nicals		309
		Introduction		
				309
	13.2	REACH 13.2.1 P		311
		13.2.1 Registration		312
		13.2.2 Chemical safety report		316
		13.2.3 Information in the supply chain		316
		13.2.4 Substance evaluation		317
		13.2.5 Authorisation and substitution		318
		13.2.6 Restrictions		321
		13.2.7 Harmonising effect 13.2.8 Further provisions		321 323
		10.2.0 Turtifer provisions		242

		Classification, Labelling, and Packaging Pesticides	323 324
	1011	13.4.1 Plant protection products	325
		13.4.2 Sustainable use of pesticides	330
		13.4.3 Maximum residue levels	330
		13.4.4 Biocides	331
	13.5	Export and Import of Dangerous Chemicals	331
		Hazardous Substances in Electrical and Electronic	
		Equipment (RoHS)	334
	13.7	Metallic Mercury	335
		Persistent Organic Pollutants (POPs)	336
14.	Gene	etically Modified Organisms	339
	14.1	Introduction	339
		Deliberate Release into the Environment	340
		14.2.1 Deliberate release	342
		14.2.2 Placing on the market	342
		14.2.3 National prohibitions on cultivation	344
		14.2.4 Food and feed	345
	14.3	Contained Use	345
	14.4	Transboundary Movements of GMOs	346
15.	Biodiversity		349
	15.1	Introduction	349
		The Conservation of Wild Birds	351
		The Habitats Directive	354
	- 5 .0	15.3.1 Defining areas and species to be protected	354
		15.3.2 Designation of areas	356
	1	15.3.3 Protective measures	358
	15.4	International Trade in Species of Wild Fauna and Flora	362
		Invasive Species	364
		Other Legal Acts and Strategies Protecting Biological Diversity	368
Rih	liograp		371
Inde		nn y	379
THUR			3/9