

Table of Contents

<i>Table of International Cases</i>	xv
<i>Table of International Treaties and Conventions</i>	xxxix
<i>Table of National Legislation</i>	xxxvii
<i>List of Abbreviations</i>	xxxix

PART I. CONTENTS, HISTORY, AND STRUCTURE OF INTERNATIONAL ECONOMIC LAW

I. The Law of International Economic Relations: Contents and Structure	3
1. Understanding and Contents of International Economic Law	3
2. The Interaction between International and Domestic Law	5
3. The Interaction of Different National Laws	7
4. Main Areas of International Economic Law	8
5. The Relationship between International Economic Law and Economic Rationality	11
II. Past and Present of the International Economic Order	14
1. The Historical Foundations of International Economic Law	14
2. The Concerns of Developing Countries and the Call for a 'New Economic Order'	17
3. The System of the World Trade Organization (WTO)	20
4. The Regional Integration of Markets	20
5. Globalization of Economic Relations: Chances, Risks, and Asymmetries	21
6. Economic Interdependence and International Security: A Complex Relationship	25
III. The Actors of International Economic Law	27
1. Subjects of International Law and Actors in International Economic Relations	27
2. States	28
3. State Enterprises	28
4. International Organizations	30
5. Non-institutionalized Forums of Cooperation in Economic Relations	36
6. International Inter-Agency Cooperation	38
7. Non-governmental Organizations	39
8. Private Enterprises and Standards for Transnational Corporations	41

IV. The Legal Sources of International Economic Law	54
1. International Law as an Order of Transboundary Economic Relations	54
2. The Law of the European Union	58
3. International Agreements on Private Economic Transactions	59
4. 'Transnational Law' and ' <i>lex mercatoria</i> '	60
 PART II. INTERNATIONAL ECONOMIC LAW AS AN ORDER OF RULES AND PRINCIPLES 	
V. Basic Principles of the International Economic Order	65
1. States' Autonomy in Economic Choices	65
2. Trade Liberalization: Reduction of Tariffs and Elimination of Non-Tariff Barriers	66
3. Fair Treatment of Foreign Investors	67
4. Non-discrimination	67
5. Favourable Conditions for Developing Countries	69
6. Sustainable Development	75
7. Respect for Human Rights	75
VI. Sovereignty and International Economic Relations	77
1. A Modern Concept of Sovereignty: Response to Globalization and Deference to Democratic Choices	77
2. The Principle of Non-Intervention	80
3. State Immunity	81
4. The Treatment of Foreign Persons	85
5. Diplomatic Protection	87
6. National Economic Law and the Jurisdiction of States	90
7. Criteria for Exercising Jurisdiction: Legitimizing Links	101
8. Conflicts of Jurisdiction and Possible Solutions	105
9. The Application of Foreign Laws	109
10. Specifics of 'Cyberspace Regulation'	112
VII. Human Rights and International Economic Relations	116
1. The Exploitation of Natural Resources	119
2. Treaties on Economic Cooperation and Economic Integration	125
3. Transnational Corporations and Human Rights: Standards and Liability for Violations	126
VIII. Environmental Protection and Sustainable Development	136
1. Transboundary Impacts and Transboundary Harm	137
2. Sustainable Development	139
3. The Precautionary Principle	140
4. Treaties on Pollution Control and on the Liability for Environmental Contaminations	142

5. Treaties on the Protection of the Atmosphere and for Climate Protection	144
6. Treaties on Biodiversity, Access to Genetic Resources, and Biosafety	147
7. The Law of Biotechnology	155
IX. Good Governance—The Internal Structure of States and Global Economic Integration	158
1. Standards of Good Governance	159
2. Global Economic Integration: The Relevance of the Constitutional and Economic Order	165
X. Dispute Settlement	168
1. Mechanisms of International Dispute Settlement	168
2. International Commercial Arbitration	174
3. Jurisdiction of National Courts	179
4. Obtaining Evidence Abroad	187
5. Service of Process, Recognition, and Enforcement of Foreign Judgments	190
PART III. WORLD TRADE LAW AND REGIONAL TRADE AGREEMENTS	
XI. History and Development of World Trade Law	195
1. Development up to the Uruguay Round	195
2. The Uruguay Round	197
3. Post-Uruguay Perspectives and Challenges for the WTO System	199
XII. The World Trade Organization	202
1. The WTO as an Institutional Platform for Trade Relations	202
2. Members of the WTO	202
3. Organs of the WTO	204
XIII. The Multilateral and the Plurilateral Agreements on Trade	208
1. Multilateral and Plurilateral Trade Agreements: Concentric Circles	208
2. The GATT 1994 and Related Trade Agreements	209
XIV. The GATT	212
1. Objectives and Basic Principles	212
2. Most-Favoured-Nation Treatment	213
3. National Treatment	219
4. The Reduction of Tariffs and Non-Tariff Barriers to Trade	231
5. General Exceptions (Article XX of the GATT)	236
6. Security Exceptions (Article XXI of the GATT)	246
7. Safeguard Measures (Article XIX of the GATT)	247

8. Waivers	248
9. Burden of Proof	248
XV. The Agreement on the Application of Sanitary and Phytosanitary Measures (SPS)	250
XVI. The Agreement on Technical Barriers to Trade	258
1. Relevance and Scope	258
2. National Treatment	259
3. Proportionality	261
XVII. The General Agreement on Trade in Services (GATS)	265
1. Scope and Relevance	265
2. Telecommunications Services	268
3. WTO Law and Financial Services	270
4. Trade in Services Agreement (TiSA)	271
XVIII. The Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS)	273
1. General Aspects	273
2. Patent Rights	274
3. The Protection of Intellectual Property Rights in Broader International Context	283
XIX. Subsidies and Anti-dumping Measures	287
1. Subsidies and Countervailing Measures (SCM Agreement)	287
2. The Agreement on Agriculture	295
3. Dumping and Anti-dumping Measures	297
XX. Dispute Settlement in the WTO	300
XXI. WTO Law in Broader Perspective: The Interplay with Other Regimes of International Law	308
XXII. WTO Law in Domestic Law	313
XXIII. The Regional Integration of Markets	319
1. Forms of Regional Market Integration (Free Trade Areas, Customs Unions, and Economic Communities)	319
2. The Free Movement of Goods and Services in the European Union	322
3. EFTA and the European Economic Area	326
4. The North American Free Trade Agreement (NAFTA)	329
5. Regional Integration in South America	331
6. Regional Integration in Central America and the Caribbean	335

7. Regional Integration in Asia and the Pacific	336
8. Regional Integration in Africa	338
9. Bilateral Trade Agreements of the European Union and of the United States	339
10. Mega-regional Trade Agreements: CETA, TTP, TTIP, and beyond	341
PART IV. INTERNATIONAL BUSINESS LAW	
XXIV. International Sales and Contract Law	351
1. Introduction	351
2. The Rome Convention, the Rome I Regulation, and the Common European Law on Sales	354
3. UN Convention on Contracts for the International Sale of Goods (CISG)	356
4. Electronic Commerce	368
XXV. Letters of Credit	370
1. Documentary Credit	370
2. Standby Letters of Credit	373
XXVI. International Building and Construction Contracts	375
1. FIDIC Manuals	375
2. Long-term Contracts (BOT, BOO, BOOT, BLOT, BOTT)	376
XXVII. International Company, Competition, and Tax Law	378
1. Relevance	378
2. The Proper Law of a Corporation	378
3. Recognition of Foreign Corporations and Deference to 'Home' Regulation	380
4. EU Company Law: the <i>Societas Europaea</i>	382
5. Corporate Governance	384
XXVIII. International Accounting Standards	386
XXIX. International Competition Law	388
1. National and International Rules against Anti-Competitive Behaviour	388
2. The Application of Competition Law and Extraterritorial Effects	390
3. Bilateral Cooperation	393
4. Convergences and Divergences between EU Competition Law and US Antitrust Law	395
XXX. International Tax Law	398

PART V. THE INTERNATIONAL LAW
OF FOREIGN INVESTMENT

XXXI. Foreign Investment in Practice	405
1. Economic and Political Relevance	405
2. Direct and Indirect Investment	406
3. Investors	407
4. The Control of Foreign Investment	409
XXXII. Customary International Law	411
1. Customary Standards and Foreign Investment	411
2. Expropriation and Compensation	412
3. The Extraterritorial Effects of Expropriations	420
XXXIII. Concessions and Investment: Agreements between States and Foreign Companies	427
1. Stabilization and Internationalization	427
2. Concessions	430
XXXIV. Treaties on Investment Protection	432
1. Bilateral and Multilateral Agreements on the Protection of Investments	432
2. Personal Scope of Protection	439
3. Protected 'Investments'	444
4. Modern Standards of Investment Protection	448
5. Dispute Settlement	477
6. The Call for Enhanced Respect for Regulatory Freedom of Host States	485
XXXV. The International Centre for Settlement of Investment Disputes	489
XXXVI. Multilateral Investment Guarantee Agency	493
XXXVII. The Interplay of Investment Protection and Other Areas of International Law	495

PART VI. INTERNATIONAL MONETARY LAW AND
THE INTERNATIONAL FINANCIAL ARCHITECTURE

XXXVIII. International Monetary Law and International Economic Relations	501
1. The Impact of Monetary Relations on International Trade and Business	501

2. The Bretton Woods System and the Development of Currency Exchange Arrangements	502
3. Currency Exchange Regimes	504
4. Monetary Unions	505
5. 'Eurodollars' and other Eurocurrencies	511
XXXIX. The International Monetary Fund: Objectives, Organization, and Functions	513
1. Objectives	513
2. Membership	514
3. Organization	515
4. Financing of the IMF	516
5. IMF Members' General Obligations and the Surveillance of Exchange Rate Policies: Stability and Fair Competitive Conditions	516
6. Convertibility of Currencies and Restriction of Exchange Controls	520
7. Exchange Control Regulations and their Extraterritorial Effect	523
8. Special Drawing Rights	525
9. Use of the Fund's Financial Resources for Members in Economic Difficulties	526
XL. The World Bank and Other International Financial Institutions	531
1. The World Bank Group	531
2. Regional Development Banks and Other Regional Financial Institutions	536
3. The Bank for International Settlements	537
XLI. Debt Crises and State Insolvency	540
1. The International Management of Debt Crises	540
2. Restructuring Sovereign Debt: The 'Paris Club' and the 'London Club'	542
3. State Insolvency and International Law	542
XLII. International Regulation of the Banking Sector	556
1. The Need for Enhanced Cooperation of Supervisory Authorities and for Harmonized Standards	556
2. Supervisory Authorities and Macro-prudential Oversight of the Financial System	557
3. Global Regulatory Standards for Adequate Bank Capital and Risk Management: the Basel Accords	560
<i>Index</i>	563