Tabl	le of Cases from the European Court of Justice and Court	
	of First Instance	xxix
Tabl	le of Cases from Other Jurisdictions	lvii
Tabl	le of European Community Treaties	lix
Tabl	le of European Community Secondary Legislation	lxi
Tabl	le of Legislation from Other Jurisdictions	lxxv
Tabl	le of International Agreements, Conventions, and Treaties	lxxvii
1.	INTRODUCTION	1
A.	Customs duties and customs unions: a broader perspective	2
	1. The economics of customs unions	5
B.	The international dimension in Community customs law	7
C.	GATT and the WTO	14
D.	GATT 94 and EC customs law	17
	1. The primacy of international agreements	18
	2. GATT and direct effect	21
E.	The EC's customs union	23
2.	THE CUSTOMS UNION IN ITS COMMUNITY CONTEXT	25
A.	The customs union: economic and social objectives	26
B.	The legal context of the customs union	28
	1. The customs union, free movement of goods, and transit	28
	2. The Common Agricultural Policy (CAP) and customs law	32
	3. The customs union and internal taxation	33
	3.1 Article 90	37
	4. The customs union: VAT and turnover taxes	41
	5. The customs union and state aid	44
	6 The customs union and competition law	45

xiv	Contents
-----	----------

	7.	The common commercial policy and external affairs	47
		7.1 Anti-dumping and countervailing duties	52
C.	Cus	toms Law and the EU	53
D.	The	financial context of customs duty: own resources	56
	1.	General obligations concerning own resources	58
3.	FUN	NDAMENTAL CONCEPTS OF THE CUSTOMS UNION	63
A.	The	nature of the Community's customs union	63
	1.	A customs union not a free trade area	63
	2.	Euratom and ECSC	66
В.	The	common customs tariff	68
C.	The	prohibition of internal customs duties	
	and	equivalent charges	70
	1.	What is a customs duty or charge having equivalent effect?	72
		1.1 Regional duties	73
		1.2 The relevance of a charge's purpose and use	76
		1.3 Prohibited charges need not be payable to the	
		Member State	79
		1.4 Charges for services may be prohibited charges	80
		1.4.1 Are the activities charged for required	
		or permitted under Community law?	81
		1.4.2 Is the activity a service to the payee?	81
		1.4.3 Is the amount of the charge legitimate?	83
D.		nature of 'goods'	84
	1. '	Treaty goods	85
		1.1 Goods: a broad concept	85
		Community goods	88
E.		circulation	89
F.	The	customs territory of the Community	92
4.	THE	CUSTOMS UNION: LEGISLATION AND ADMINISTRATION	95
A.	The (CCC	97
	1. 7	The nature of the CCC	98
	2.	The contents of the CCC	100

			Contents	XV
	3.	Ame	endments to the CCC	104
		1.1	Amendments in 1996	105
		1.2	Amendments in 1999	106
		1.3	Amendments in 2000	106
		1.4	Amendments in 2005	108
		1.5	Modernized Customs Code	109
	4.	The	application and interpretation of the CCC	111
В.	The	e impl	ementing regulation	115
C.	The	e Com	mission: customs law and administration	118
D.	The	e Mem	nber States: customs law and administration	120
	1.	Pena	alties for customs offences	122
E.	Coo	operat	tion between Member States and	
	wit	h the	Commission	124
	1.	Coop	peration in relation to recovery	124
	2.	Coop	peration in relation to the application of customs law	125
F.	The	e Trad	ler, the Member States, and the Commission	128
5.	TH	E COI	MMON CUSTOMS TARIFF: ADMINISTRATION	
	AN	D IN	TERPRETATION	130
A.	Wł	nat is t	the tariff?	131
В.	Ele	ments	s of the tariff	132
	1.	The	Combined Nomenclature	132
		1.1	Its function, history, and basis	132
		1.2	The CN: what is it?	134
	2.	Cust	toms duties: common features—different types	135
	3.	The	alteration and suspension of customs duties	138
	4.	Tari	iffquotas	139
		4.1	Tariff quotas: applications and licences	141
		4.2	Management of tariff quotas	142
		4.3	Allocation of quotas	143
			4.3.1 Traditional trade flows	144
			4.3.2 Order of applications—first come	
			first served	145
			4.3.3 Application according to quantity requested	145

C.	T_{λ}	ARIC a	and the tariff regulation	145
	1.	The	Commission's discretions in applying the CN and TARIC	147
		1.1	Case law on the Commission's role	148
		1.2	Classification regulations	150
D.	Th	ne tarii	ff, the Court of Justice, and the requirement of objectivity	152
	1.		role of the Court of Justice and national courts	153
	2.	The	Court of Justice's general approach and the	
		requ	airement of objectivity	157
		2.1	Time that objective characteristics considered	159
		2.2	Evidence of objective characteristics	160
	3.	Spec	cific considerations relating to objectivity	160
		3.1	Advances in medical science	161
		3.2	Artistic merit	161
		3.3	Breeding methods	161
		3.4	Functions which the product facilitates	161
		3.5	Geographical origin	162
		3.6	Intention and the creation of products	162
		3.7	The intended use of products and their presentation	162
		3.8	Manufacturing and processing of products	164
		3.9	Sight and sensory perception	164
		3.10	Technological innovation	166
E.	Int		ation of the tariff: rules and aids	167
	1.	Gene	eral rules regarding the CN	167
		1.1	'A'—General rules for the interpretation of the CN	167
		1.2	'B'—General rules applicable to both nomenclature	
			and duties	171
	2.		s and opinions of the WCO and the Community	172
	3.	Case	law generally	175
_	_,	3.1	Case law on specific goods and classification headings	176
F.			sion of information by customs authorities	178
	1.		ng binding information	178
	2.		ng upon binding information	180
	3.		ses of binding information	181
	4.		ng information: validity and invalidity	181
	5.	The U	K and binding information	183

		Contents	xvii			
6.	IN	TERNATIONAL ARRANGEMENTS AND AGREEMENTS	185			
A.	Au	Autonomous Community measures				
	1.	The generalized system of preferences (GSP)	188			
		1.1 The benefits of the GSP	191			
		1.2 Loss of benefits	193			
		1.3 Administrative matters	194			
	2.	Overseas Countries and Territories	195			
		2.1 The Overseas Association Decision	197			
B.	Ag	reements	200			
	1.	The EEA Agreement	202			
	2.	The Europe Agreements and the Stabilization and				
		Association agreements	204			
	3.	Association agreements	206			
	4.	Cooperation, trade, and development agreements:				
		Yaoundé, Lomé, and Cotonou	207			
	5.	Cooperation agreements	212			
	6.	Partnership and cooperation agreements	213			
	7.	Trade and cooperation agreements	213			
C.	Ap	plying and interpreting international agreements	214			
	1.	Agreements as part of the Community legal order	214			
	2.	The Court as interpreter of the agreements	215			
		2.1 Charges having equivalent effect	217			
	3.	Traders' directly effective rights	219			
D.	The	e role and influence of international law	222			
7.	TH	IE ORIGIN OF GOODS	227			
A.	Ru	les of origin: what they concern and their function	228			
В.		ultilateral international agreements and				
	noi	n-preferential origin	230			
	1.	Kyoto: Specific Annex K and Annex D1	231			
		1.1 Criteria for establishing origin	233			
C.	The	e CCC and non-preferential origin	235			
	1.	Origin in only one country	235			
		1.1 Maritime matters	237			

			1.1.1 Territorial sea: CCC, Article 23.2 and 23.3	237
			1.1.2 Products taken from the sea: Article 23(f)	238
			1.1.3 Exclusive rights to exploit the seabed:	
			Article 23(h)	238
	2.	Or	igin in more than one country	240
		2.1	'Last' processing or working	241
		2.2	2 'Substantial' processing or working	241
		2.3	Assembly operations	243
	3.		C, Article 25 and origin shopping	244
	4.		ecial rules for particular products	246
D.	Pr	efere	ntial origin	247
	1.	The	e generalized system of preferences (GSP)	249
		1.1	Origin in a single country	250
		1.2	Barran out more countings	251
			1.2.1 Unit of qualification, accessories, and sets	252
			1.2.2 Norway and Switzerland	253
			1.2.3 Regional cumulation	253
			1.2.4 The least-developed countries	254
	2.		Overseas Countries and Territories	255
	3.		er Community measures governing origin	256
	4.	Pref	erential origin under international agreements	257
		4.1	The EEA	257
			4.1.1 Full and regional cumulation	259
		4.2	The Europe Agreements	260
		4.3	Agreements with EFTA	261
		4.4	Euro-Mediterranean Agreements	261
		4.5	The ACP states	262
E.			origin, customs authorities, the Commission,	
			rader	264
			f of origin	265
		1.1	Proof of origin and the Kyoto Convention	265
		1.2	Proof of origin and the GSP	266
			1.2.1 Certificate of origin form A	267
			1.2.2 The obligations of the competent authorities	267

			Contents	xix	
			1.2.3 Invoice declarations	268	
			1.2.4 Single or global proofs of origin?	269	
			1.2.5 Presentation of the proof of origin	269	
			1.2.6 Errors in certificates and declarations	270	
,			1.2.7 Transactions for which certificates of origin are		
			unnecessary	270	
			1.2.8 Evidence of the status of Community goods	270	
		1.3	Proof of origin and international agreements	271	
	2.	Adm	inistrative cooperation	272	
		2.1	Administrative cooperation and the GSP	272	
			2.1.1 Subsequent verification of origin	273	
		2.2	Case law on relations between importing and		
			exporting states	275	
		2.3	The Commission and subsequent verification	277	
		2.4	The importer and subsequent verification	279	
8.	TH	E VAL	UATION OF GOODS	283	
A.	Cus	stoms	valuation and international agreements	285	
	1.	Then	normal price and the transaction value	286	
B.	Val	uatior	n and Community law	288	
	1. Simple, equitable, and commercial—not arbitrary or				
		fictit	ious	288	
		1.1	Rates of exchange	289	
	2.	Valu	ation for customs duty purposes only	290	
	3.	Thet	ransaction value and alternatives to it	290	
C.	Det	ermin	ning the transaction value	292	
	1.	Whi	ch sale is relevant?	292	
	2.	Wha	t is 'the price actually paid or payable'?	294	
		2.1	Additions to the price actually paid or payable	296	
		2.2	Exclusions from the price actually paid or payable	300	
	3.	Limi	tations on the use of the transaction value	301	
		3.1	Related sellers and buyers	302	
D.	Alt	ernati	ves to the transaction price	304	
	1.	The	value of identical goods	305	

		2. The value of similar goods	306
	3	3. The value based on unit price: the deductive method	306
	4	4. The computed value	308
		4.1 The elements of computed value	309
	5		310
	6	. Simplified procedures for certain perishable goods	311
E.	It	tems excluded from customs value	313
F.	D	eclarations of value	315
			313
9.	C	USTOMS ENTRY AND DECLARATION	319
A.		ntry of goods into the customs territory	321
	1.		321
	2.	Customs supervision	323
		2.1 The duration of supervision	323
	3.		324
	4.		325
	5.	Summary declaration	326
	6.	Temporary storage	326
		6.1 Extending the time of temporary storage	328
		6.2 Global applications for extension	330
B.	Th	e declarant and customs declarations	330
	1.	The declarant	330
	2.	The declaration	331
		2.1 The purpose of the declaration	331
	3.	The form of the standard declaration	332
	4.	Documents accompanying the declaration	333
	5.	Incomplete and simplified procedures	334
	6.	Importers' obligations as regards the customs declaration	335
	7.	Lodging and acceptance	336
	8.	Amending and invalidating the declaration	336
	9.	Examination of the declaration and the goods	337
]	10.	Release of goods	338
1	1.	Post-clearance examination of declarations	330

			Contents	xxi
10.	CU	STOM	S PROCEDURES AND APPROVED USES	
	AN	DTRI	EATMENTS	340
A.	Cu	stoms	controls in a customs union	341
	1.	Sum	mary entry and exit declarations	344
В.	Pro	oving t	the existence of community goods	344
C.	Ru	les gov	verning customs procedures with economic impact	347
	1.	Gene	eral provisions relating to authorizations	348
	2.	Appl	ications for authorization	349
		2.1	Where to apply	350
	3.	Sing	le authorizations	351
	4.	The	examination of economic conditions	351
	5.	Decis	sions on authorizations	352
	6.	The	period for which authorizations are effective	352
D.	The	e auth	orized economic operator	353
E.	Rel	lease fo	or free circulation and 'end use'	355
	1.	Auth	norization for favourable treatment	356
	2.	The	contents and duration of an authorization	358
	3.	Thet	transfer of goods subject to an authorization	358
F.	Tra	ansit p	rocedure	359
	1.	The l	Kyoto Convention	362
	2.	Inter	rnational agreements creating transit regimes	362
		2.1	The TIR Convention	363
		2.2	TIR and ATA procedures and the Implementing	
			Regulation	364
		2.3	The Convention on Common Transit	365
	3.	Com	munity transit	366
		3.1	The external transit procedure	368
		3.2	The internal transit procedure	369
		3.3	Simplifications	370
		3.4	The responsibilities of the principal/holder	371
		3.5	The transit declaration and formalities on departure,	
			en route, and at destination	371
		3.6	The end and discharge of the procedure	372

VV	Ť	1
$\Lambda\Lambda$	1	T

		3.	7 Paperless procedures	373		
		3.8	8 The principal's guarantee	374		
		3.9	Irregularities and the customs debt	375		
G.	C	uston	ns warehousing	376		
	1	. Co	mmunity legislation	377		
		1.1	Goods capable of being stored	378		
		1.2	Storing and handling the goods	379		
		1.3	Customs warehouses	380		
		1.4	Responsibilities of warehouse-keeper and depositor	381		
		1.5		382		
H.	Pi	rocess	sing under customs control	383		
	1.	Cor	nmunity legislation	384		
	2.	Au	thorization	384		
	3.	Ope	eration of the procedure	386		
	4.	Cal	culating the customs debt	386		
I.	Te	mpor	ary admission	387		
	1.	Con	nmunity legislation	389		
	2.		iod of temporary importation	390		
	3.	Tota	al relief from import duty	391		
	4.	Par	tial relief from import duty	392		
	5.	ATA	A carnet	393		
	6.	The	customs debt	393		
	7.	Disc	charge of the procedure	394		
J.	Ex	port		394		
K.	Customs-approved treatments and uses which are not					
	cu	stoms	procedures	397		
	1.	Free	zones and warehouses	397		
		1.1	The designation of free zones and warehouses	398		
		1.2	Entry to a zone or warehouse	399		
		1.3	Use of goods and activity within free zones			
			and warehouses	400		
		1.4	Removal of goods from free zones or warehouses	402		
		1.5	Valuation	402		
	2.	Re-e	xportation, destruction, and abandonment	403		

			Contents	xxiii	
11.	INV	WARD AND OUTWARD PROCESSING			
A.	The	e Inwai	rd Processing Procedure	404	
	1.	What	it is and why it is necessary	404	
	2.	Inwai	rd Processing: a Community procedure	405	
	3.	The su	uspension system and the drawback system	406	
	4.	The e	quivalent compensation and prior exportation systems	408	
		4.1	The equivalent compensation system	408	
		4.2	The prior exportation system	409	
	5.	Trian	gular traffic system	410	
	6.	Perm	itted processing operations	410	
	7.	Autho	orization	410	
		7.1	The form of the application	410	
		7.2	Conditions for authorization	411	
		7.3	Economic conditions	411	
		7.4	Content of authorization	413	
	8.	The ra	ates of duration and yield of the procedure	413	
		8.1	The duration of the procedure and the period		
			for discharge	413	
		8.2	Rates of yield	415	
	9.	Move	ment of goods within the procedure	415	
	10.	The c	ustoms debt	416	
	11.	Calcu	llating the proportion of import goods in		
		comp	ensating products	418	
		11.1	The quantitative scale method	418	
		11.2	The value scale method	419	
	12.	Disch	arge of the procedure	420	
	13.	Admi	nistrative cooperation	421	
B.	Ou	tward 1	Processing	421	
	1.	What	it is and why it is necessary	421	
	2.	. Outward processing: a Community procedure		422	
	3.		tandard exchange and prior importation systems	423	
		3.1	The standard exchange system	423	
		3.2	Prior importation system	424	
	4.	Trian	gular traffic system	424	

xxiv Contents

		. Permitted processing operations	424		
	6	. Authorization and entry	425		
		6.1 The form of the application	425		
		6.2 Conditions for authorization	425		
		6.3 The content of the authorization	426		
		6.4 Entry of goods for the arrangements	426		
	7		427		
		7.1 The duration of the procedure	427		
		7.2 The rate of yield	427		
	8	Relief from import duty	428		
	9.	The method of relief	428		
		9.1 Reasonable means	429		
		9.2 Reduced and zero rates of duty	430		
		9.3 Preferential rates of duty	430		
		9.4 Repair of temporary export goods	431		
	10.	Calculating the proportion of temporary export goods in	131		
		compensating products	431		
	11.	The aggregated discharge procedure	432		
	12.	Administrative cooperation	432		
12.	TH	E CUSTOMS DEBT AND RELIEFS FROM DUTY	433		
A.	Security for the customs debt				
	1.	Compulsory security	434		
	2.	Security at the option of the customs authorities	435		
	3.	Types of security	435		
	4.	Maintenance of, additions to, and release of security	436		
В.	Incurring a customs debt: the basic rules				
	1.	The debt on importation	437		
	2.	The debt on importation for breach of customs law	439		
		2.1 Unlawful introduction of goods into the	440		
		customs territory	440		
		2.2 Unlawful removal of goods from supervision	440		
		2.3 Failure to fulfil obligations or comply with conditions	441 442		
		2.4 Unauthorized consumption or use of goods	442		
		2.5 Two situations in which there is no debt on importation	445		

			Contents	XXV		
		2.6	Reliefs and exemptions	446		
	3.	The	debt on exportation	446		
	4.	debt on exportation for breach of customs law	447			
		4.1	Removal of goods from the customs territory			
			without a declaration	447		
		4.2	Failure to comply with conditions	447		
		4.3	Reliefs and exemptions	447		
C.	Th	e signi	ficance of the time and place at which a			
	cus	stoms	debt is incurred	448		
D.	Recovering a customs debt			449		
	1.	Calc	ulating the debt	449		
	2.	Entr	y in the accounts	450		
		2.1	Time limits for entry in the accounts	450		
		2.2	Extension of time periods	451		
		2.3	Subsequent entry into the accounts	452		
	3.	Com	munication to the debtor	453		
E.	Po	st-clea	rance recovery	455		
	1.	1. National authorities, post-clearance recovery, and				
		non-	-entry in the accounts	456		
	2.	The	Commission, post-clearance recovery, and non-entry			
		in th	ne accounts	457		
F.	Payment of the customs debt			460		
	1.	. The obligation to pay, and the prescribed periods				
	2.	Defe	rment of payment	461		
		2.1	Methods of deferment	462		
		2.2	Periods of deferment	462		
	3.	Payı	ment facilities other than deferment	463		
	4.	Interest				
G.	Ex	tinctio	on of a customs debt	464		
H.	Re	Reliefs from duty				
	1.	Hea	ds of relief from import duty	466		
	2.	Hea	ds of relief from export duty	469		
I.	Ot	her pr	ivileges	470		
	1.	Retu	ırned goods	470		
	2.	Proc	ducts of sea fishing	472		

xxvi Contents

. R	EPAY	MENT, REMISSION, AND APPEALS	473
			473
-			1/3
			474
D	uty n	ot owed or improper entry in the accounts:	1/1
			475
1.	CC	C, Article 220.2(a)–(c)	476
2.			170
			477
3.	CC	C, Article 220.2(b): Detectability	480
4.			484
			486
1.	Cus	stoms declaration invalidated: CCC, Article 237	486
2.			486
Repayment and remission in other situations: CCC, Article 239			
1.	No	deception or obvious negligence	487 488
2.			100
			490
3.	Situ	ations under Article 901	493
4.			494
The general fairness clause: Article 905			495
1.	Wha	at is a special situation?	496
2.	Exar	mples of situations giving rise to special situations	498
	2.1	Access to the Official Journal	498
	2.2	Mistakes by traders	499
	2.3	Fraud by commercial operators and	
		official investigations	499
	2.4	Mistakes by customs authorities, the Commission,	
		and others	500
			502
1.	The	case to the Commission and the Commission's role	503
	1.1	Representations to the Commission	505
			507
3.	The C	Commission's discretion	508
	R 1. D C 1. 2. 3. 4. Re 1. 2. 3. 4. Tho 1. 2. App 1.	Repaying 1. For remarks of the paying 1. Constant of the paying 1. No constant of the paying 1. No constant of the paying 1. No constant of the paying 1. What is a situal of the paying 1. The constant of the paying 1. The	Repayment or remission: an introduction 1. Four groups of situations in which repayment or remission is made Duty not owed or improper entry in the accounts: CCC, Article 236 1. CCC, Article 220.2(a)—(c) 2. CCC, Article 220.2(b): Error on the part of the customs authorities 3. CCC, Article 220.2(b): Detectability 4. CCC, Article 220.2(b): Good faith Relief where declaration invalidated or defective goods 1. Customs declaration invalidated: CCC, Article 237 2. Defective goods: CCC, Article 238 Repayment and remission in other situations: CCC, Article 239 1. No deception or obvious negligence 2. Situations giving rise to repayment or remission under Article 900 3. Situations under Article 901 4. Returned goods: Article 903 The general fairness clause: Article 905 1. What is a special situation? 2. Examples of situations giving rise to special situations 2.1 Access to the Official Journal 2.2 Mistakes by traders 2.3 Fraud by commercial operators and official investigations 2.4 Mistakes by customs authorities, the Commission, and others Applications under CCC, Article 239.2 1. The case to the Commission and the Commission's role 1.1 Representations to the Commission 2. The Commission's decision

			Contents		xxvii	
G.	Ger		510			
	1.	Appl	ications for repayment or remission		510	
		1.1	The form and nature of the application		510	
		1.2	The grounds of the application		511	
	2.	Decis		511		
	3.	The decision			512	
	4.	Inter		513		
	5.	Loss of entitlement to repayment or remission				
	6.	Repa		514		
	7.	Repa				
		arra	ngements apply		514	
H.	Situations which do not give rise to relief				. 515	
I.	Appeals				516	
	1.	Deci	sions		517	
		1.1	Annulment, revocation, and amendment		518	
	2.	The				
	provision of security				518	
		2.1	The provision of security		519	
	3.	The		520		
		3.1	Ancillary and non-ancillary matters		522	
		3.2	The provision of security prior to an appeal		523	
		3.3	Security and unconditional rights of appeal		524	
		3.4	Production of documents		525	
14.	PΙ	ANNI	ING FOR THE FUTURE		527	
Α.	Planning for the future by the Council, the Commission,					
	and Member States				528	
	1. Customs 2007 and Customs 2013				529	
В.	Planning for the future by traders				531	
Con	clus	ion			533	
Sua	gesti	ons for	Further reading		535	
Index				539		