

CONTENTS

Preface	vii
Acknowledgements	ix
Table of Cases	xiii
Table of Legislation	xxix
Abbreviations	xxxiii
Part One: The Constitutional Law of the EC	1
Introduction	1
1 The Sources of Community Law	15
(A) The Treaties — (B) Legislation — (i) <i>Community legislation</i> — (ii) <i>The legislative process</i> — (iii) <i>Reasoning</i> — (C) General principles of community law — (i) <i>Proportionality</i> — (ii) <i>Fundamental rights</i> — (iii) <i>Technique</i>	
2 The Nature of Community Law: Supremacy	51
(A) Supremacy — (B) Direct applicability — (C) Pre-emption	
3 The Nature of Community Law: Direct Effect	60
(A) The nature and purpose of direct effect — (B) Direct effect as a policy choice — (C) The direct effect of directives — (i) <i>Establishing the principle</i> — (ii) <i>Curtailing the principle</i> — (iii) <i>The scope of the principle: the State</i> — (iv) <i>A new principle: indirect effect</i> — (v) <i>Penalising the defaulting State</i>	

4	Article 177: The Preliminary Reference Procedure	105
	(A) The purpose of Article 177 — (B) The separation of functions — (C) The effect of an Article 177 ruling — (D) Bodies competent to refer — (E) The doctrine of <i>acte clair</i> — (F) The power to refer	
	Part Two: Community Trade Law and Policy	128
	Introduction	128
5	Law and the Economic Objectives of the Community	130
	(A) The common market — (B) The internal market: 1992 — (i) <i>The background</i> — (ii) <i>The internal market defined</i> — (iii) <i>The anticipated benefits of the completion of the internal market</i> — (iv) <i>The business response</i> — (C) Beyond the internal market: towards economic and monetary union	
6	Fiscal Barriers to Trade: Articles 12 and 95	164
	(A) Article 12 — (B) Article 95 — (C) Fiscal harmonisation	
7	Discriminatory Physical and Technical Barriers to Trade: Articles 30–36	181
	(A) The development of Article 30 — (B) The application of Article 30 — (C) Article 36 — (i) <i>Public morality</i> — (ii) <i>The protection of health and life of humans, animals and plants</i> — (iii) <i>The protection of industrial and commercial property</i> — (D) Eliminating remaining barriers to trade	
8	Beyond Discrimination: Article 30	229
	(A) Indistinctly applicable rules: the <i>Cassis de Dijon</i> formula — (B) Justifying indistinctly applicable rules — (C) Locating the outer limit of Article 30 — (D) The Commission's interpretation of the judgment in <i>Cassis de Dijon</i> — (E) Some consequences for consumer protection	
9	The Free Movement of Workers: Article 48	277
	(A) Who is a worker? — (B) To what advantages is the worker entitled? — (C) Exceptions	
10	Freedom of Establishment and the Free Movement of Services: Articles 52 and 59	300
	(A) The rights — (B) Non-discrimination — (C) Beyond discrimination — (D) Harmonisation — (E) European citizenship	

11	Article 85: Cartels	325
	(A) Introduction to competition law — (B) Article 85 — (C) Jurisdiction — (D) An agreement — (E) The concerted practice — (F) Market distortion — (i) <i>Promoting or distorting competition</i> — (ii) <i>De minimis</i> — (iii) <i>State involvement</i> — (G) Exemption — (H) Block exemption	
12	Article 86: Dominant Positions	370
	(A) The dominant position: defining the market — (B) Abuse	
13	The Enforcement of the Competition Rules	389
	(A) Enforcement by the Commission — (B) Enforcement at national level	
14	The Protection of Intellectual Property	429
	(A) Free trade or territorial protection? — (B) The approach of the European Court — (C) Exhaustion of rights — (D) Exhaustion of rights: trademarks — (E) Exhaustion of rights: copyright — (F) Unfair competition rules — (G) Intellectual property rights and the EC competition rules — (i) <i>Article 86</i> — (ii) <i>Article 85</i> — (H) Legislation	
15	Community Policy Making	444
	(A) Introduction — (B) Harmonisation policy — (i) <i>The new approach to harmonisation policy</i> — (ii) <i>Questioning the new approach</i> — (C) Methods of harmonisation — (i) <i>The uniform rule</i> — (ii) <i>Differentiated and flexible integration</i> — (iii) <i>The Product Liability Directive</i> — (D) Subsidiarity — (E) Community social policy — (F) Company law — (i) <i>Harmonisation</i>	
	Part Three: Enforcement of Community Law	492
	Introduction	492
16	Control of Community Institutions	495
	(A) Article 173 — (i) <i>Article 173, first to third paragraphs</i> — (ii) <i>Article 173, non-privileged applicants</i> — (iii) <i>Individual concern</i> — (iv) <i>Direct concern</i> — (v) <i>The example of the anti-dumping cases</i> — (vi) <i>Grounds for annulment</i> — (vii) <i>Interim measures</i> — (B) Article 175 — (C) Article 184 — (D) Articles 178 and 215 — (E) Article 177 — (i) <i>The function of Article 177 in judicial review</i> — (ii) <i>Article 177 and the validity of Community acts</i> — (iii) <i>The effect of an Article 177 ruling</i> — (F) The interrelation of the several remedies	

17 Control of Member States 552

(A) Control at Community level — (i) *The nature of Article 169* — (ii) *The Commission's discretion* — (iii) *The effectiveness of Article 169* — (B) **Control at national level**

Final Questions 577

Selected Bibliography 578

Index 581