
TABLE OF CONTENTS

| | |
|---|----|
| Preface | v |
| Abbreviations | xI |
| General Introduction | 1 |
| International treaty law | 1 |
| The legal personality of international organisations | 2 |
| The legal personality of the European Community and the European Union | 4 |
| The purpose and scope of the research | 7 |
| Methodology | 10 |
| <i>Part One</i> | |
| Chapter 1 | |
| The EC's external treaty-making competence | 15 |
| 1.1 Introduction | 15 |
| 1.2 The concept of express versus implied external competence | 18 |
| 1.2.1 The express external competence of the European Community | 18 |
| 1.2.2 The implied powers of the Community | 22 |
| 1.3 Nature of the European Community's external competence | 27 |
| 1.3.1 The exclusive external competence of the Community | 27 |
| 1.3.1.1 Express provisions in the Treaty or Acts of Accession | 29 |
| 1.3.1.2 Express provisions in internal measures | 31 |
| 1.3.1.3 Exclusive competence derived from the scope of an internal measure | 32 |
| 1.3.1.4 Exclusive competence derived from a simultaneous exercise of the internal and external powers | 34 |
| 1.3.2 Mixed agreements | 35 |
| 1.4 Related topics | 41 |
| 1.4.1 The use of Article 308 EC | 42 |
| 1.4.2 The role of Article 10 EC in the external relations of the Community | 46 |
| 1.4.3 The application of the principle of subsidiarity | 52 |
| 1.5 Conclusions | 56 |

| | | |
|---|--|-----------|
| Chapter 2 | | |
| The EU's external treaty-making competence | | 59 |
| 2.1 | Introduction | 59 |
| 2.2 | The European Union as an international organisation | 63 |
| 2.3 | The legal personality of the Union | 66 |
| 2.3.1 | Legal theories | 66 |
| 2.3.2 | The case of the European Union | 69 |
| 2.4 | The legal implications of the Articles 24 and 38 TEU | 71 |
| 2.5 | The new European Constitution | 77 |
| 2.5.1 | The legal personality of the European Union | 77 |
| 2.5.2 | The conclusion of international agreements | 78 |
| 2.6 | Conclusions | 82 |

Part Two

| | | |
|--|--|-----------|
| Chapter 3 | | |
| The EC and the EU and the international law of treaties | | 87 |
| 3.1 | Introduction | 87 |
| 3.2 | The negotiation and conclusion of international agreements | 89 |
| 3.2.1 | The concept of agreement | 89 |
| 3.2.2 | The classification of international agreements | 100 |
| 3.2.3 | Negotiating an international agreement | 102 |
| 3.2.4 | The signing and concluding of international agreements | 111 |
| 3.2.4.1 | Signature | 116 |
| 3.2.4.2 | Ratification | 119 |
| 3.2.4.3 | Exchange of instruments | 121 |
| 3.2.4.4 | Accession | 122 |
| 3.3 | Provisional application of international agreements | 124 |
| 3.4 | Reservations | 128 |
| 3.5 | Entry into force of international agreements | 132 |
| 3.6 | Application of international agreements | 134 |
| 3.6.1 | Non-retroactivity | 134 |
| 3.6.2 | Territorial application of agreements | 134 |
| 3.6.3 | Successive treaties | 136 |
| 3.7 | Invalidity, termination and suspension of international agreements | 139 |
| 3.7.1 | Invalidity of international agreements | 139 |
| 3.7.2 | Termination of international agreements | 142 |
| 3.7.2.1 | State succession | 142 |
| 3.7.2.2 | Operation of the provisions of agreements | 144 |
| 3.7.2.3 | Material breach | 145 |
| 3.7.2.4 | A fundamental change of circumstances | 146 |
| 3.8 | The effect of international agreements concluded by the Community on its Members | 149 |

| | | |
|---|--|-----|
| 3.9 | The Community's participation in the preparation of international agreements | 151 |
| 3.10 | Conclusions | 152 |
| Chapter 4 | | |
| Mixed agreements and the international law of treaties | | 155 |
| 4.1 | Introduction | 155 |
| 4.2 | Negotiating mixed international agreements | 157 |
| 4.3 | The signing and concluding of mixed agreements | 167 |
| 4.3.1 | Defining the concept of 'regional economic integration organisation' | 167 |
| 4.3.2 | The concluding of mixed agreements | 171 |
| 4.3.2.1 | Signature | 178 |
| 4.3.2.2 | Ratification | 179 |
| 4.3.2.3 | Exchange of instruments | 180 |
| 4.3.2.4 | Accession | 181 |
| 4.4 | Provisional application of mixed agreements | 182 |
| 4.5 | Reservations | 184 |
| 4.6 | Entry into force of mixed agreements | 189 |
| 4.6.1 | Article 18 of the Vienna Conventions | 194 |
| 4.7 | Application of mixed agreements | 197 |
| 4.7.1 | Territorial application of mixed agreements | 197 |
| 4.7.2 | Successive mixed agreements | 201 |
| 4.8 | Invalidity, termination and suspension of mixed agreements | 202 |
| 4.9 | Conclusions | 206 |
| Chapter 5 | | |
| Treaty interpretation and dispute settlement | | 209 |
| 5.1 | Introduction | 209 |
| 5.2 | Competence to interpret international agreements | 211 |
| 5.2.1 | Article 31 of the Vienna Conventions | 221 |
| 5.2.2 | Article 32 of the Vienna Conventions | 231 |
| 5.2.3 | Article 33 of the Vienna Conventions | 232 |
| 5.3 | Dispute settlement | 233 |
| 5.3.1 | Characteristics of treaty disputes | 233 |
| 5.4 | Bilateral agreements | 235 |
| 5.4.1 | Political dialogue | 236 |
| 5.4.2 | Consultation | 241 |
| 5.4.3 | Conciliation | 244 |
| 5.4.4 | Arbitration | 245 |
| 5.4.5 | Judicial procedures | 248 |
| 5.5 | Multilateral agreements | 249 |

| | | |
|-------|--|-----|
| 5.5.1 | Negotiations and consultations | 251 |
| 5.5.2 | Dispute settlement | 253 |
| 5.6 | Conclusions | 256 |
| | Final remarks and recommendations | 259 |
| | Selected Bibliography | 269 |
| | Table of cases | 287 |
| | Selected documents | 291 |
| | Index | 305 |