

## TABLE OF CONTENTS

PREFACE TO THE FIFTH EDITION .....	v
ABOUT THE AUTHORS .....	vii
<b>1. INTRODUCTION – THE EU TRADE DEFENCE LAWS IN PERSPECTIVE .....</b>	<b>1</b>
§1.1. Scope of this work .....	1
(1) Anti-dumping measures .....	1
(2) Countervailing measures .....	1
(3) Safeguard measures .....	2
(4) Measures under the ‘Trade Barriers Regulation’ .....	2
INSTITUTIONAL BACKGROUND .....	2
§1.2. General .....	2
§1.3. TFEU: common commercial policy .....	3
§1.4. TFEU: Union Institutions .....	4
(1) The Commission .....	4
(2) The Council of Ministers .....	5
(3) The Committee .....	8
(4) The European Parliament .....	9
(5) The Court of Justice of the European Union .....	10
OVERVIEW OF PRACTICE .....	15
§1.5. Anti-dumping proceedings .....	15
§1.6. Anti-subsidy proceedings .....	15
§1.7. Safeguard proceedings .....	15
§1.8. Trade Barrier Regulation .....	16
§1.9. General comments .....	16
<b>PART I</b>	
<b>ANTI-DUMPING MEASURES</b>	
<b>2. INTRODUCTION .....</b>	<b>19</b>
§2.1. General position .....	19
THE UNION FRAMEWORK .....	20
§2.2. Legislative history .....	20
§2.3. Scope of the Regulation .....	25
§2.4. The European Economic Area .....	25
(1) ‘Union acquis’ .....	26
(2) Anti-circumvention .....	27
§2.5. Customs Union with Turkey .....	28

(1) The Association Agreement .....	28
(2) The Decision implementing the final phase of the Customs Union .....	29
<b>3. SUBSTANTIVE ELEMENTS I: DUMPING.....</b>	<b>31</b>
§3.1. Introduction.....	31
NORMAL VALUE .....	33
§3.2. Introduction.....	33
(1) The notion of ‘exporting country’ .....	35
(2) Trading companies .....	36
(3) Normal value computed on a monthly, quarterly or six-monthly basis.....	37
(4) Calculation of the normal value in cases where two or more related exporting producers manufacture products originating in the same investigated country .....	39
(5) Type-by-type analysis: the notion of ‘product control number’ (“PCN”).....	39
§3.3. Normal value determinations for products originating in market economy countries or manufactured by exporting producers located in non-market economy countries who were granted market economy treatment .....	41
§3.4. Domestic market prices .....	42
§3.5. Grounds for disregarding domestic market prices .....	45
(1) No or insufficient sales of the like product .....	45
(2) No sales in the ordinary course of trade .....	47
(3) Sales not permitting a proper comparison .....	56
§3.6. First alternative normal value: normal value established on the basis of prices of other sellers or producers.....	57
§3.7. Second alternative normal value: constructed value.....	59
§3.8. Constructed value: rules concerning the determination of costs .....	60
(1) Use of the party’s records and costs not reasonably reflected in the records of the party concerned .....	60
(2) Cost allocations .....	63
(3) Start-up operations .....	64
§3.9. The elements of constructed value .....	66
(1) Cost of production .....	66
(2) Selling, general and administrative expenses (SGA) .....	70
(3) Reasonable profits .....	79
§3.10. Third alternative normal value: export price to a third country .....	82
EXPORT PRICE .....	84
§3.11. Notion of export price .....	84
(1) Volume of transactions investigated .....	84
(2) Imports under inward processing relief arrangements .....	88
(3) Sample sales .....	89

§3.12.	The actual export price .....	90
(1)	Sales through unrelated intermediaries .....	90
(2)	OEM sales .....	91
§3.13.	Constructed export price .....	92
(1)	Circumstances under which the export price may be constructed ..	92
(2)	Construction of the export price .....	94
COMPARISON BETWEEN NORMAL VALUE AND EXPORT PRICE .....		104
§3.14.	Introduction .....	104
§3.15.	General principles .....	104
(1)	Comparison at the same time .....	105
(2)	Non-exhaustive list of permissible adjustments .....	105
(3)	No duplication .....	106
(4)	Burden of proof .....	107
§3.16.	Specific rules for the determination of the permissible adjustments ..	108
(1)	Physical characteristics .....	109
(2)	Import charges and indirect taxes .....	111
(3)	Discounts, rebates and quantities .....	113
(4)	Level of trade .....	114
(5)	Transport, insurance, handling, loading and ancillary costs .....	117
(6)	Packing .....	117
(7)	Credit .....	118
(8)	After-sales costs .....	119
(9)	Commissions .....	120
(10)	Currency conversions .....	122
(11)	Other factors .....	125
DUMPING MARGIN .....		128
§3.17.	Introduction .....	128
§3.18.	Weighted average or individual normal value/export prices .....	128
(1)	The Union Institutions' past practice .....	128
(2)	The rules introduced in the Regulation .....	130
(3)	Individual or general dumping margin .....	139
NON-MARKET ECONOMY COUNTRIES .....		140
§3.19.	Introduction .....	140
(1)	Background .....	140
(2)	Specific Union rules applicable to non-market economy countries	141
§3.20.	The notion of non-market economy countries .....	144
§3.21.	Normal value determinations for imports from traditional non-market economy countries .....	145
(1)	The selection of the 'analogue country' .....	145
(2)	Methods to determine normal value .....	156
(3)	Adjustments .....	159
§3.22.	Normal value determinations for imports from 'special non-market economy' countries .....	163

(1) First criterion: there must be freedom to take decisions without significant State interference .....	166
(2) Second criterion: accounting records must be in line with international accounting standards .....	176
(3) Third criterion: production costs and financial situation must not be affected by significant distortions.....	182
(4) Fourth criterion: bankruptcy and property laws must be applicable	186
(5) Fifth criterion: exchange rate conversions must be carried out at the market rate .....	187
§3.23. Individual treatment .....	188
(1) Individual treatment under Article 9(5) of the Regulation .....	188
(2) Inconsistency of Article 9(5) with WTO rules .....	188
(3) Individual treatment: the Commission's practice so far .....	190
§3.24. The procedure in cases involving non-market economy countries.....	196
§3.25. Sampling in cases involving non-market economy countries .....	201
<b>4. SUBSTANTIVE ELEMENTS II: INJURY .....</b>	<b>207</b>
§4.1. Introduction.....	207
<b>LIKE PRODUCT .....</b>	<b>208</b>
§4.2. The 'product concerned' determination .....	209
(1) Factors taken into account in the 'product concerned' determination.....	211
(2) Overview of cases discussing the 'product concerned' determination.....	221
(3) Market segmentation .....	229
(4) Intermediate products .....	232
(5) Modifications of the scope of the investigation .....	236
(6) The product determination and the passing of time .....	237
§4.3. Like product definition .....	238
(1) Basic physical, chemical and/or technical characteristics and basic use .....	239
(2) Quality differences .....	242
(3) Other criteria .....	243
(4) Intermediate products .....	244
(5) No production by the Union industry .....	244
<b>UNION INDUSTRY .....</b>	<b>244</b>
§4.4. Notion of Union industry .....	244
§4.5. The determination of the Union production .....	246
§4.6. The products .....	246
§4.7. The producers .....	247
(1) Exception 1: producers related to exporters or importers .....	249
(2) Exception 2: producers importing products under investigation ..	254
(3) Exception 3: regional industry .....	263

(4) No separate identification of the Union production of the like product.....	266
§4.8. The determination of the Union industry .....	267
(1) The requirements to be included in the Union industry .....	268
(2) Standing.....	270
MATERIAL INJURY .....	273
§4.9. Notion of ‘material injury’ .....	273
§4.10. Actual material injury .....	273
§4.11. Volume of dumped imports.....	277
(1) Statistics on imports .....	277
(2) Volume of imports in absolute terms.....	279
(3) Volume of imports in market share .....	281
§4.12. Price of dumped imports.....	288
(1) Price undercutting .....	289
(2) Price depression and price suppression.....	295
(3) Absence of detrimental effects .....	297
§4.13. Impact on the Union industry .....	297
(1) Production and utilization of capacity.....	301
(2) Stocks .....	304
(3) Sales, market share and growth.....	306
(4) Prices .....	309
(5) Profits, return on investment, cash flow, investments and ability to raise capital .....	311
(6) Employment and wages .....	317
(7) Magnitude of the dumping margin .....	318
(8) Other factors .....	319
§4.14. Threat of material injury .....	320
§4.15. Material retardation of the establishment of a Union industry .....	323
INJURY IN REVIEW INVESTIGATIONS .....	323
§4.16. Injury assessment in expiry review investigations .....	324
§4.17. Injury assessment in interim review investigations .....	329
CAUSALITY .....	331
§4.18. Basic principles.....	331
§4.19. Cumulation .....	332
(1) General .....	332
(2) Scope .....	333
§4.20. The Union Institutions’ practice regarding the positive test .....	335
§4.21. The main issues tackled in connection with the positive test .....	338
(1) Characteristics of the products .....	338
(2) Price sensitive markets .....	339
(3) Structural characteristics of the Union industry .....	339
(4) Role of market leader by the exporting producer(s) .....	340
(5) Relevance of previous anti-dumping actions .....	340

(6) Similar customers and sales channels in the Union market . . . . .	341
§4.22. The Union Institutions' practice regarding the negative test . . . . .	342
(1) Imports from third countries . . . . .	343
(2) Imports by the Union industry . . . . .	347
(3) Performance by the Union industry . . . . .	349
(4) Relocation of Union production . . . . .	362
(5) Market conditions . . . . .	363
§4.23. Other factors behind findings of no-injury . . . . .	374
<b>5. SUBSTANTIVE ELEMENTS III: UNION INTEREST . . . . .</b>	377
§5.1. Introduction . . . . .	377
§5.2. Assessment of Union interest: the existing rules . . . . .	377
§5.3. The assessment of the Union interest requirement . . . . .	379
(1) General considerations . . . . .	379
(2) Interests of the Union industry (and its upstream industries) . . . . .	380
(3) Interests of consumers . . . . .	384
(4) Interests of users/processors . . . . .	386
(5) Interests of importers/distributors/traders . . . . .	389
(6) Competition within the Union . . . . .	391
§5.4. An enhanced role for the Union interest requirement . . . . .	395
(1) The rise and fall of the Commission's Green Paper . . . . .	395
(2) The future of Union interest . . . . .	395
§5.5. 'Public interest' in the WTO Anti-Dumping Agreement . . . . .	396
<b>6. RELIEF . . . . .</b>	399
§6.1. Introduction . . . . .	399
<b>ANTI-DUMPING DUTIES . . . . .</b>	399
§6.2. Rules and practice governing the imposition of duties . . . . .	399
§6.3. Legal form of the imposition of duties . . . . .	400
§6.4. Amount of duty . . . . .	401
(1) Injury margin . . . . .	402
(2) <i>De minimis</i> dumping margins . . . . .	406
(3) Principle of non-discrimination . . . . .	406
(4) Imposition of the anti-dumping duty in the appropriate amounts . . . . .	408
§6.5. Application of duty . . . . .	408
(1) Geographic scope . . . . .	408
(2) Entry into force . . . . .	409
(3) Retroactivity . . . . .	409
(4) Residual duty . . . . .	410
(5) Special monitoring measures . . . . .	411
(6) Combination of anti-dumping and other protective measures . . . . .	412
(7) Collection of duty . . . . .	413
(8) Suspension of duty . . . . .	413

§6.6.	Definition of product .....	415
§6.7.	Indication of origin .....	415
§6.8.	Form of duty .....	416
§6.9.	Individual or general duties .....	419
	<b>UNDERTAKINGS .....</b>	420
§6.10.	Introduction .....	420
§6.11.	Conditions for accepting an undertaking .....	422
§6.12.	Typical contents of undertakings .....	428
§6.13.	Special Enlargement undertakings .....	432
§6.14.	Advantages and drawbacks of undertakings .....	433
§6.15.	Antitrust aspects of undertakings .....	433
§6.16.	Expiry, withdrawal or violation of undertakings .....	434
	(1) Automatic lapse .....	435
	(2) Withdrawal or violation of undertakings .....	435
	<b>7. PROCEDURE .....</b>	441
§7.1.	Introduction .....	441
	<b>THE LODGING OF COMPLAINTS .....</b>	441
§7.2.	Requirements regarding the complainant .....	441
§7.3.	Requirements regarding the contents of the complaint .....	443
§7.4.	Requirements regarding the form of the complaint .....	446
§7.5.	Examination prior to the formal submission of the complaint .....	446
§7.6.	Formal submission of the complaint .....	449
§7.7.	Rejection or withdrawal of the complaint .....	450
§7.8.	Initiation in the absence of a complaint by the Union industry .....	451
§7.9.	Consequences of an initiation on the basis of an invalid complaint or one which infringes procedural requirements .....	452
	<b>INITIATION OF PROCEEDINGS .....</b>	454
§7.10.	Publication and information requirements .....	454
§7.11.	Difference between proceedings and investigations .....	457
	<b>INVESTIGATION .....</b>	459
§7.12.	In general .....	459
§7.13.	Duration of the investigation .....	462
§7.14.	Requests for information .....	463
§7.15.	Time-limits for responding .....	467
§7.16.	Advantages of cooperation .....	472
	(1) Complete absence of cooperation .....	472
	(2) Non-cooperation in the form of submission of false and/or misleading information .....	480
	(3) Partial non-cooperation .....	482
	(4) Requirements regarding deficient responses and the use of facts available .....	482
§7.17.	On-the-spot verifications .....	485

(1) Supporting evidence usually requested by Commission officials ..	488
§7.18. Sampling .....	490
RIGHTS OF INTERESTED PARTIES .....	496
§7.19. Green paper .....	496
§7.20. Access to the file and confidentiality .....	497
§7.21. Hearing .....	503
§7.22. The hearing officer .....	504
§7.23. Disclosure .....	506
IMPOSITION OF PROTECTIVE MEASURES DURING THE INVESTIGATION .....	510
§7.24. Provisional duties .....	510
§7.25. Registration of imports .....	513
OUTCOME OF THE INVESTIGATION .....	515
§7.26. Termination of the investigation without the adoption of protective measures .....	515
§7.27. Definitive anti-dumping duties and retroactive collection of provisional duties .....	520
§7.28. Retroactive imposition of definitive duties .....	523
§7.29. Acceptance of undertakings .....	524
§7.30. Imposition of duties in case of withdrawal or violation of undertakings .....	526
CONSULTATION AND PUBLICATION REQUIREMENTS .....	530
§7.31. Consultation .....	530
(1) Committee .....	530
(2) Agreements with third countries .....	531
§7.32. Publication .....	534
PERIOD OF APPLICATION OF DEFINITIVE MEASURES .....	537
§7.33. Expiry of definitive measures .....	537
§7.34. Repeal or annulment of definitive measures .....	538
§7.35. Suspension of definitive anti-dumping measures .....	542
AMENDMENTS TO ANTI-DUMPING MEASURES .....	543
REVIEWS .....	546
§7.36. Introduction .....	546
(1) In general .....	546
(2) Dumping margin determination .....	548
(3) Injury determination in expiry reviews and general interim reviews .....	549
(4) Recurrence of dumping and injury in expiry reviews and interim reviews (including partial interim reviews limited to dumping) .....	549
§7.37. Expiry reviews .....	550
(1) In general .....	550
(2) Lodging of a request for an expiry review .....	552
(3) Contents of the request .....	552

(4) Initiation .....	553
(5) Outcome of the expiry review.....	554
§7.38. Interim reviews .....	562
(1) In general.....	562
(2) Lodging a request for a review .....	564
(3) Contents of the request .....	565
(4) Initiation .....	566
(5) Outcome of an interim review.....	566
§7.39 Combined interim and expiry review investigations .....	570
§7.40. New exporter reviews .....	572
(1) In general.....	572
(2) Contents of the request .....	572
(3) Initiation .....	573
(4) Outcome of a new exporter review.....	575
§7.41. Reviews pursuant to a WTO dispute settlement proceeding .....	576
(1) In general.....	576
(2) The ‘WTO Enabling Regulation’ .....	577
(3) The EC – <i>Bed Linen Case</i> .....	578
§7.42. Anti-absorption reviews .....	581
(1) In general.....	581
(2) Contents of the requests .....	581
(3) Initiation .....	582
(4) Outcome of an anti-absorption investigation .....	584
REFUND INVESTIGATIONS.....	585
§7.43. In general .....	585
(1) Purpose of refund investigations .....	585
(2) Relationship between refund and review investigations .....	586
§7.44. Submission of a refund application .....	587
§7.45. Contents of a refund application.....	588
§7.46. Investigation .....	589
(1) Evidence .....	589
(2) Methodology .....	591
(3) Treatment of related importers .....	592
(4) Duration.....	594
§7.47. Outcome of a refund application .....	595
JUDICIAL REVIEW .....	597
§7.48. Introduction.....	597
§7.49. The Court of Justice and the General Court .....	597
§7.50. Actions before the General Court and the Court of Justice .....	598
(1) Direct actions.....	598
(2) Preliminary rulings .....	602
(3) Appeals .....	603
§7.51. Acts reviewable under Article 263 TFEU.....	604

§7.52.	Standing under Article 263 TFEU . . . . .	606
(1)	Introduction . . . . .	606
(2)	Complainants . . . . .	607
(3)	Exporters and related importers . . . . .	608
(4)	Unrelated importers and traders . . . . .	608
(5)	OEM customers . . . . .	612
(6)	Consumer organizations . . . . .	612
(7)	Member States and Union Institutions . . . . .	612
(8)	Intervention . . . . .	613
§7.53.	Grounds for review under Article 263 TFEU . . . . .	613
§7.54.	Standard applied by the European Courts . . . . .	615
§7.55.	Time-limits . . . . .	619
(1)	Action for annulment . . . . .	619
(2)	Action for failure to act . . . . .	620
(3)	Action for damages . . . . .	620
§7.56.	Procedure . . . . .	620
(1)	Direct actions and appeals before the Court of Justice . . . . .	620
(2)	Preliminary rulings . . . . .	622
§7.57.	Interim measures . . . . .	622
§7.58	Recoverable Costs . . . . .	624
<b>8. CIRCUMVENTION</b>	. . . . .	629
§8.1.	Introduction . . . . .	629
GENERAL RULE 2(A)	. . . . .	630
§8.2.	‘Complete or finished articles’ . . . . .	630
THE ANTI-CIRCUMVENTION PROVISIONS OF THE ANTI-DUMPING REGULATION	. . . . .	633
§8.3.	Article 13(1): circumvention defined . . . . .	633
(1)	Change in the pattern of trade . . . . .	633
(2)	Insufficient due cause or economic justification . . . . .	635
(3)	Evidence of undermining the remedial effects of the anti-dumping duty . . . . .	638
(4)	Evidence of dumping . . . . .	638
(5)	Scope of Article 13(1) . . . . .	639
§8.4.	Article 13(2): circumvention in the form of assembly operations in the importing country or a third country . . . . .	640
(1)	Article 13(2)(a): start or substantial increase of operations . . . . .	641
(2)	Article 13(2)(b): criteria of 60 per cent and 25 per cent . . . . .	641
(3)	Article 13(2)(c): undermining the remedial effects of the duty and evidence of dumping . . . . .	645
§8.5.	Article 13: procedural aspects . . . . .	645
(1)	Registration – exemption certificate . . . . .	646
(2)	Extension of measures – review . . . . .	649

CIRCUMVENTION UNDER WTO RULES.....	650
§8.6.    Circumvention under WTO rules .....	650
RULES OF ORIGIN.....	652
§8.7.    Introduction.....	652
§8.8.    Substantive rules.....	652
(1)    The basic origin rules under Regulation 2913/92 .....	652
(2)    The anti-circumvention provision of the Union Customs Code ..	656
(3)    Product-specific origin rules .....	657
§8.9.    Procedure .....	657
(1)    Administrative procedure .....	658
(2)    Informal settlement of origin rules .....	658
(3)    Formal settlement of origin rules .....	659
(4)    Judicial procedure .....	659
(5)    The European Anti-Fraud Office.....	660
§8.10.    WTO Agreement on Rules of Origin .....	661
(1)    Scope of non-preferential origin rules.....	661
(2)    Requirements.....	661
(3)    Harmonization of origin rules .....	662

## **PART II**

### **SUBSIDIES AND COUNTERVAILING MEASURES**

<b>9. INTRODUCTION.....</b>	667
§9.1.    In general .....	667
<b>10. SUBSTANTIVE ELEMENTS .....</b>	669
§10.1.    Introduction.....	669
§10.2.    Country of export .....	669
<b>COUNTERVAILABLE SUBSIDY.....</b>	670
§10.3.    In general .....	670
§10.4.    Subsidy .....	670
(1)    Financial contribution by the government .....	670
(2)    Income or price support.....	673
(3)    Benefit .....	673
§10.5.    Countervailable subsidies – the notion of specificity .....	676
(1)    The notion of specificity .....	676
(2)    The practice of the Union Institutions.....	680
§10.6.    Valuation of the amount of the subsidy .....	682
(1)    General principle .....	682
(2)    The investigation period .....	684
(3)    Calculation of the benefit to the recipient .....	684
(4)    The calculation of the subsidy amount .....	694
(5)    WTO case-law on the determination of the subsidy amount .....	698

<b>INJURY</b>	700
§10.7. Determination of injury	700
(1) Past subsidization or dumping	700
(2) Extent of countervailable subsidization	701
(3) Duty of care in imposing countervailing measures in the case of threat of injury	701
(4) <i>De minimis</i> subsidies	701
(5) Injury under WTO law	702
<b>UNION INTEREST</b>	702
§10.8. Union interest identified	702
<b>11. RELIEF</b>	703
§11.1. Introduction	703
<b>COUNTERVAILING DUTIES</b>	703
§11.2. In general	703
(1) Domestic production subsidies	705
(2) Export subsidies	705
§11.3. Relationship between countervailing duties and multilateral remedies	705
<b>UNDERTAKINGS</b>	706
§11.4. In general	706
§11.5. Union practice	707
<b>12. PROCEDURE</b>	709
§12.1. Procedure	709
§12.2. Complaint	709
§12.3. Initiation of proceedings	710
§12.4. Investigations	711
§12.5. Subsidy schemes within the scope of the investigation	711
§12.6. Provisional measures	712
§12.7. Reviews and refunds	712
(1) Interim reviews	713
(2) New exporter reviews	713
(3) Refunds	714
§12.8. Circumvention	714
<b>PART III</b>	
<b>SAFEGUARD MEASURES</b>	
<b>13. SUBSTANTIVE ELEMENTS</b>	717
§13.1. Introduction	717
§13.2. Substantive rules concerning safeguard measures	718
§13.3. Prerequisites for the adoption of safeguard measures	719

<b>INJURY</b> .....	720
§13.4. The injury test .....	720
§13.5. Like or directly competing products.....	722
§13.6. Serious injury .....	724
§13.7. Actual serious injury .....	724
(1) Volume of imports .....	725
(2) Price of imports .....	727
(3) Impact upon Union producers .....	728
§13.8. Threat of serious injury.....	731
§13.9. Causality .....	731
<b>UNION INTERESTS</b> .....	735
§13.10. Concept of ‘Union interests’ .....	735
§13.11. Commission’s approach.....	735
 <b>14. RELIEF</b> .....	737
§14.1. Introduction.....	737
§14.2. Special rule for developing countries .....	738
<b>QUOTAS</b> .....	739
§14.3. Principles underlying the establishment of quotas .....	739
§14.4. Level of a quota .....	741
§14.5. Allocation of a quantitative quota among supplier countries .....	741
§14.6. Territorial coverage of a quota .....	742
§14.7. Products on their way to the Union .....	743
§14.8. General procedure for administering quantitative quotas.....	743
(1) Method based on traditional trade flows .....	743
(2) Method based on the order in which the applications are submitted .....	744
(3) Method allocating quotas in proportion to the quantities requested	744
§14.9. Administration of quantitative quotas: application for licences .....	745
§14.10. Administration of quantitative quotas: issuance of licences for import..	746
§14.11. General procedure for administering tariff quotas.....	747
<b>TRANSITIONAL PRODUCT-SPECIFIC SAFEGUARD MECHANISM</b> .....	748
<b>SURVEILLANCE MEASURES</b> .....	751
§14.12. Basis for surveillance measures .....	751
§14.13. The power to adopt surveillance measures .....	753
§14.14. Import documents .....	753
§14.15. Information on products subject to surveillance measures .....	754
§14.16. Duration of surveillance measures.....	754
 <b>15. PROCEDURE</b> .....	755
§15.1. In general .....	755
<b>UNION INFORMATION AND CONSULTATION PROCEDURE</b> .....	755
§15.2. The Committee .....	755

§15.3. Information obligation .....	755
§15.4. Consultations .....	755
UNION INVESTIGATION PROCEDURE .....	756
§15.5. Introduction.....	756
§15.6. Initiation of a proceeding .....	757
§15.7. Investigation .....	757
(1) Powers of investigation .....	757
(2) Hearing of interested parties .....	758
(3) Investigation report .....	759
(4) Confidentiality .....	759
§15.8. Termination of a proceeding .....	759
IMPOSITION OF SAFEGUARD MEASURES .....	760
§15.9. In general .....	760
§15.10. Provisional safeguard measures.....	761
§15.11. Duration of safeguard measures .....	761
§15.12. Review of safeguard measures .....	762
§15.13. Re-imposition of safeguard measures .....	762
REVIEWS.....	763
§15.14. Administrative review .....	763
§15.15. Judicial review .....	763
ADDITIONAL NOTIFICATION REQUIREMENTS IMPOSED BY THE WTO	764
§15.16. Notifications to the WTO Committee on Safeguards .....	764

## PART IV THE TRADE BARRIER REGULATION

<b>16. INTRODUCTION.....</b>	<b>767</b>
§16.1. In general .....	767
§16.2. Scope and purpose .....	767
§16.3. Practice .....	768
<b>17. SUBSTANTIVE ELEMENTS .....</b>	<b>771</b>
§17.1. Introduction.....	771
OBSTACLES TO TRADE .....	771
§17.2. Definition .....	771
§17.3. International trade rules .....	772
§17.4. Third country .....	774
§17.5. Trade practices likely to constitute obstacles to trade.....	774
(1) Breaches of the GATT 1994 .....	775
(2) Breaches of WTO Agreements which further develop the legal principles embodied in the GATT 1994 .....	780
(3) Breaches of other WTO Agreements relating to specific sectors ..	784

<b>INJURY.....</b>	<b>787</b>
§17.6. Introduction.....	787
§17.7. Material injury .....	787
§17.8. Threat of injury.....	789
§17.9. Union industry .....	789
(1) Union industry defined .....	789
(2) Special cases: related producers or providers and regional industry	790
§17.10. Causality .....	791
<b>ADVERSE TRADE EFFECTS .....</b>	<b>791</b>
§17.11. Substantive concept.....	791
§17.12. Adverse trade effects .....	792
§17.13. Threat of adverse trade effects.....	796
§17.14. Material impact .....	797
§17.15. Causal link .....	798
§17.16. Union enterprise.....	798
<b>UNION INTERESTS .....</b>	<b>798</b>
§17.17. Concept of ‘Union interests’ .....	798
§17.18. Forms of ‘Union interests’ .....	799
(1) Compliance with international trade rules .....	799
(2) Extent of the impact on the concerned Union industry.....	800
(3) Importance of the sector affected by the alleged obstacles to trade	801
(4) State of the affected industry.....	802
(5) Policy consideration .....	802
(6) Adverse impact of the measures on other Union industries .....	802
<b>18. RELIEF .....</b>	<b>805</b>
§18.1. Introduction.....	805
§18.2. Initiation of international consultation or dispute settlement procedures	805
§18.3. Unilateral undertakings by third countries .....	808
§18.4. Conclusion of an agreement with third countries .....	810
§18.5. Commercial policy measures .....	811
<b>19. PROCEDURE .....</b>	<b>813</b>
§19.1. Introduction.....	813
§19.2. Consultation procedure.....	813
<b>RIGHT OF PETITION .....</b>	<b>814</b>
§19.3. In general .....	814
§19.4. Complaint by a Union industry.....	814
§19.5. Complaint by Union enterprises .....	815
§19.6. Referral by a Member State .....	817
§19.7. Time-limits .....	817
<b>EXAMINATION PROCEDURE .....</b>	<b>818</b>
§19.8. Initiation of procedure .....	818

§19.9. Investigation .....	818
§19.10. Rights of interested parties .....	820
(1) Hearing .....	820
(2) Confrontation meeting.....	820
(3) Inspection of the file .....	820
(4) Disclosure .....	821
(5) Confidentiality.....	821
§19.11. Examination report .....	821
<b>OUTCOME OF THE PROCEDURE.....</b>	<b>822</b>
§19.12. In general .....	822
§19.13. Decision-making procedure .....	822
(1) Procedure under which the decision is made by the Commission subject to a right of appeal to the Council .....	822
(2) Procedure under for the adoption of measures of commercial policy.....	823
§19.14. Conclusion of the proceeding .....	823
(1) The proceeding is terminated because it is found, as a result of the examination procedure, that the interests of the Union do not require any action to be taken .....	823
(2) The proceeding is suspended because, after the examination procedure, the third country/countries concerned take measures which are considered satisfactory .....	824
(3) The proceeding is suspended because it appears that the most appropriate means to resolve the dispute is the conclusion of an agreement with the third country concerned.....	825
(4) Other course of action .....	825
<b>JUDICIAL REVIEW .....</b>	<b>825</b>
§19.15. Judicial review .....	825

## PART V

### APPENDICES

Annex 1. Council Regulation (EC) No 1225/2009 .....	833
Annex 2. Council Regulation (EC) No 597/2009 .....	877
Annex 3. Council Regulation (EC) No 260/2009 .....	935
Annex 4. Council Regulation (EC) No 625/2009 .....	961
Annex 5. Council Regulation (EC) No 3286/94 .....	983
Annex 6. Excerpts from the General Agreement on Tariffs and Trade 1994..	997
Annex 7. Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 .....	1005
Annex 8. Agreement on Subsidies and Countervailing Measures.....	1033
Annex 9. Agreement on Safeguards .....	1081
Annex 10. Agreement on Rules of Origin .....	1091

Annex 11. Understanding on Rules and Procedures Governing the Settlement of Disputes .....	1103
Table I. Anti-Dumping Investigations in the Union from January 1995 until 1 January 2011 .....	1133
Table IIa. WTO Anti-Dumping Dispute Settlement Decisions until 1 January 2011.....	1273
Table IIb. GATT Anti-Dumping Dispute Settlement Decisions .....	1282
Table III. Anti-Circumvention Investigations in the Union from 1 January 2000 until 1 January 2011 .....	1285
Table IV. Anti-Subsidy Investigations in the Union from January 1995 until 1 January 2011 .....	1291
Table Va. WTO Subsidies Dispute Settlement Decisions until 1 January 2011 .....	1315
Table Vb. GATT Dispute Settlement Decisions .....	1324
Table VI. Safeguard Proceedings in the Union from 1 January 1982 until 1 January 2011 .....	1329
Table VIIa. WTO Safeguard Dispute Settlement Decisions until 1 January 2011 .....	1337
Table VIIb. GATT Safeguard Dispute Settlement Decisions .....	1340
TABLE OF CASES .....	1341
INDEX .....	1357