## Contents

CHAPTER	I	Introduction	
	I	Research question	3
	2	Structure	10
	3	Definitions	11
CHAPTER	2	The Domestic Legal Status of International Treaties	
	I	International treaties within domestic law	17
	I.I	Germany	17
	1.2	The Netherlands	19
	1.3	France	21
	I.4	Summary	22
	2	International treaties within the European legal order	23
	2.I	Various types of international treaties	23
	2.I.I	Treaties concluded by the EC alone	23
	2.I.2	Treaties concluded by the EU alone	24
	2.1.3	Treaties concluded by the EC together with its Member	
		States (mixed agreements)	27
	2.1.4	Treaties concluded by the EU together with its Member	
		States (mixed EU agreements)	28
	2.1.5	Treaties concluded by the Member States alone	28
	2.2	The jurisdiction of the ECJ over international treaties	31
~	2.2.I	Treaties concluded by the EC alone	32
	2.2.2	Treaties concluded by the EU alone and mixed EU	
		agreements	32
	2.2.3	Treaties concluded by the EC together with its Member	
		States (mixed agreements)	32
	2.2.4	Treaties concluded by the EU Member States alone	33
	2.3	The case-law of the ECJ on the direct effect of international	
		treaties	35
	2.3.I	Clear, precise and unconditional	35
	2.3.2	'Supplemental' criteria	35
	2.3.3	Direct effect of GATT/WTO law	36
		Direct effect of FTAs, Co-operation and Association	
		Agreements	41
	3	Summary	44
CHAPTER	3	The Domestic Legal Status of Decisions of International	
		Organizations	
	I	The general position of decisions of IOs within domestic law	49
	I.I	Germany	49
	I.2	The Netherlands	50

1.3	France	51
1.4	Summary	52
2	The general position of decisions of IOs within the	
	European legal order	53
3	Decisions of Regional Fisheries Organizations	53
3.I	International law level	54
3.2	European law level	55
3.3	National law level	57
3.3.I	Germany	57
3.3.2	The Netherlands	58
3.3.3	France	59
3.4	Summary	60
4	EC-Turkey Association Council Decisions	61
4.I	International law level	61
4.2	European law level	62
4.3	National law level	65
4.3.I	Germany	65
	The Netherlands	70
4.3.3	France	73
4.4	Summary	75
5	Decisions adopted by COPs/MOPs	76
5.I	International law level	77
5.I.I	General legal structure of most MEAs	77
5.I.2	COPs/MOPs: organs of IOs?	79
5.2	European law level	81
	National law level	84
5.3.I	Germany	84
, ,	The Netherlands	87
5.3.3	France	89
5.4	Summary	92
6	Security Council Resolutions	94
6.1	International law level	94
6.2	European law level	94
6.3	National law level	100
6.3.1	Germany	100
	The Netherlands	104
_	France	107
, ,	Summary	110
7	Decisions of the ICAO Council	111
7.I	International law level	111
7.2	European law level	114
7.3	National law level	117
7.3.I	Germany	118

## CONTENTS

	7.3.2	The Netherlands	120
	7.3.3	France	124
	7.4	Summary	127
	8	Concluding remarks	127
CHAPTER	4	Judicial and Quasi-judicial Binding Decisions	
	I	WTO dispute settlement reports	134
	I.I	International law level	134
	I.2	European law level	135
	I.2.I	The legal status of WTO dispute settlement reports in the EC legal order	139
	I.2.2	The bindingness of WTO dispute settlement reports on	
		European Courts	142
	I.2.3	Direct effect of WTO dispute settlement reports	143
	I.3	National law level	148
	I.3.I	Germany	148
	I.3.I.I	The legal status and effect of WTO dispute settlement	
		reports in the German legal order	148
	1.3.1.2	The effects of the ECJ case-law on the legal status and	
		effect of WTO dispute settlement reports in the German	
		legal order	148
	1.3.2	The Netherlands	155
	1.3.2.1	The legal status of WTO dispute settlement reports in the	
		Dutch legal order	155
	1.3.2.2	The effects of the ECJ case-law on the legal status and	
		effect of WTO dispute settlement reports in the Dutch	
		legal order	157
	1.3.2.3	Mixed agreement situation	158
	1.3.3	France	162
	I.3.3.I	The legal status and effect of WTO dispute settlement	
		reports within the French legal order	162
	1.3.3.2	The effect of the ECJ on the legal status and effect of WTO	
		dispute settlement reports within the French legal order	163
	I.3.3.3	Mixed agreement situation	164
	I.4	Summary	164
	2	ECHR judgments	165
	2.I	International law level	167
		The ECrtHR as an organ of an IO	167
	2.I.2	The binding effect of ECrtHR judgments	168
	2.2	European law level	169
		Interaction between the ECJ and the ECrtHR	171
	2.2.2	Divergent interpretations of the ECHR	174
	2.3	National law level	177

	2.3.I	Germany	177
	2.3.2	The Netherlands	180
	2.3.3	France	182
	2.4	Summary	185
	3	Concluding remarks	186
CHAPTER	5	Decisions Adopted by the EU within the II. and III. Pill	ars
	I	The EU as an IO when acting within the II. and III. pillars	192
	2	The legal effect of II. and III. pillar decisions	194
	2.I	The II. pillar decisions	194
	2.I.I	Common Positions	194
	2.1.2	Joint Actions	198
	2.1.3	The choice between Common Position and Joint Action	202
	2.2	The III. pillar decisions	203
	2.2.I	Common Positions	204
	2.2.2	Framework Decisions	205
	2.2.3	Decisions	209
	2.3	Summary	210
	3	The application of Community law principles (supremacy	
		and direct effect) to II. and III. pillar decisions	211
	3.I	Reasons for developing supremacy and direct effect of	
		Community law	211
	3.I.I	Direct effect	211
	3.1.2	Supremacy	212
	3.2	Supremacy and direct effect applicable to II. pillar	
		decisions?	214
	3.3	Supremacy and direct effect applicable to III. pillar	
		decisions?	218
	3.3.I	Institutional aspects	218
	3.3.2	Substantive aspects	222
	3.4	Summary	226
	4	The 'EC law influenced' legal status and effect of II. and III.	
		pillars decisions	227
	4.I	The II. pillar decisions	227
	4.2	The III. pillar decisions	228
	5	Concluding remarks	229
CHAPTER	6	General Conclusions	
	Ι	International law level	233
	I.I	The definition of an organ of an IO	234
	I.2	Binding decisions of IOs	234
	I.3	Non-consensual decision-making process within	
		organs of IOs	235
	2	European law level	236

## CONTENTS

2.I	EC legal order	237
2.I.I	Legal status and effect of decisions of IOs in the	
	EC legal order	237
2.I.2	Communitarization of decisions of IOs through	
	EC legislation	238
2.I.3	Communitarization of decisions of IOs through the	
	jurisprudence of ECJ and CFI	240
2.2	EU legal order	242
3	National law level	244
3.I	Implementation of communitarized decisions of IOs	
	through national legislation	245
3.2	Application of communitarized decisions of IOs by	
	national courts	245
4	Conclusion and outlook	247
	Bibliography	251
	Table of Cases	281
	Abbreviations	291
	Index	295
	Samenvatting	299
	Curriculum Vitae	307