

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