

TABLE OF CONTENTS

Foreword	V
Preface	VII
Acknowledgements	IX
Contributors	XIX
Abbreviations	XXIII
Introduction	XXXI

PART I ENLARGING THE EU: THE LEGAL, POLITICAL AND HISTORICAL BACKGROUND

CHAPTER 1

THE STRUCTURE OF THE EUROPEAN UNION/EUROPEAN COMMUNITIES

1.1 A constant revision of the treaties, <i>K. Inglis/A. Ott</i>	3
1.2 The question of legal personality, <i>M. Cremona</i>	7
1.3 Fundamental and basic principles, <i>A. Ott</i>	13
1.4 The three pillars of the European Union	29
1.4.1 The European Communities, <i>E. De Smijter</i>	31
1.4.2 Common Foreign and Security Policy, <i>J. Liponska-Labérou</i>	37
1.4.3 From Justice and Home Affairs to Police and Judicial Co-operation in Criminal Matters, <i>R. Cholewinski</i>	49

CHAPTER 2

THE EC AND MEMBER STATES IN INTERNATIONAL ORGANISATIONS

2.1 The Council of Europe, <i>M. Rantala</i>	55
2.2 GATT and WTO, <i>A. ter Heegde</i>	61

CHAPTER 3

THE CANDIDATE COUNTRIES IN INTERNATIONAL ORGANISATIONS

3.1 The Council of Europe, <i>M. Rantala</i>	67
3.2 GATT and WTO, <i>A. ter Heegde</i>	75
3.3 Candidate countries in other international organisations, <i>A. Łabędzka</i>	81

CHAPTER 4

ENLARGEMENT

4.1 Earlier enlargements, <i>F. Hoffmeister</i>	87
4.2 Changing requirements for membership, <i>F. Hoffmeister</i>	90
4.3 The current enlargements	103
4.3.1 The Pre-Accession Strategy and the Accession Partnerships, <i>K. Inglis</i>	103
4.3.2 Negotiations in progress, <i>L. Maurer</i>	113
4.3.3 Progress of the negotiations, <i>L. Maurer</i>	123
4.3.4 The accession negotiations on free movement of workers, <i>G. Ziegler</i>	131
4.4 Financing enlargement, <i>H. Isak</i>	143
4.5 The current enlargement process and third countries,	155

4.5.1	European Economic Area and Switzerland, <i>E. Evtimov</i>	155
4.5.2	The Balkans and the Newly Independent States	165
4.5.2.1	Stabilisation and Association Agreements, <i>J. Marko/J. Wilhelm</i>	165
4.5.2.2	The Partnership and Co-operation Agreement with the Newly Independent States, <i>R. Petrov</i>	175

PART II

INTERNATIONAL AGREEMENTS IN DIFFERENT LEGAL ORDERS

CHAPTER 1

INTERNATIONAL AGREEMENTS IN THE EUROPEAN COMMUNITY LEGAL ORDER AND IN THE LEGAL ORDERS OF THE MEMBER STATES

1.1	Competence to conclude international agreements, <i>S. Peers</i>	197
1.2	Procedure for negotiation and conclusion of agreements, <i>S. Peers</i>	198
1.3	Jurisdiction of the European Court of Justice, <i>S. Peers</i>	198
1.4	Legal effect of international agreements, <i>S. Peers</i>	199
1.5	EC agreements in the Member States, <i>W. Weiß</i>	201
1.6	Different forms of EC agreements, <i>A. Ott</i>	205

CHAPTER 2

INTERNATIONAL AGREEMENTS IN THE LEGAL ORDERS OF THE CANDIDATE COUNTRIES

1	Introduction, <i>F. Hoffmeister</i>	209
1.1	Integration of the Europe Agreements/Association Agreements into national law	209
1.2	Application of the Europe Agreements/Association Agreements in the candidate countries	214
1.3	Accession to the EU	218
2	Bulgaria, <i>E. Evtimov</i>	221
3	Czech Republic, <i>V. Týč</i>	229
4	Cyprus, <i>N. Emiliou</i>	239
5	Estonia, <i>E. Pärn</i>	251
6	Hungary, <i>O. Várhelyi</i>	257
7	Latvia, <i>D. Luters-Thümmel</i>	267
8	Lithuania, <i>V. Vadapalas/I. Jarukaitis</i>	281
9	Malta, <i>M. Frendo/R. Piscopo</i>	291
10	Poland, <i>A. Łazowski</i>	299
11	Romania, <i>I. Grozavescu</i>	309
12	Slovak Republic, <i>B. Boháčik</i>	323
13	Slovenia, <i>P. Vehar/T. Ilešič</i>	331
14	Turkey, <i>M. Sen</i>	341

PART III**THE EUROPE AGREEMENTS AND THE OTHER ASSOCIATION AGREEMENTS WITH CANDIDATE COUNTRIES****CHAPTER 1****GENERAL PRINCIPLES OF THE EUROPE AGREEMENTS AND THE ASSOCIATION AGREEMENTS WITH CYPRUS, MALTA AND TURKEY,
*F. Hoffmeister***

1.1	Nature and objectives of the Europe Agreements	349
1.2	Political dialogue	354
1.3	The various stages of association	356
1.4	The human rights and democracy clause	357
1.5	General principles of the Association Agreements with Cyprus, Malta and Turkey	363
1.6	The Osimo Agreements in the Europe Agreement Slovenia, <i>P. Vehar/T. Ilešič</i>	367

CHAPTER 2**FREE MOVEMENT OF GOODS UNDER THE EUROPE AGREEMENTS,*****P. Koutrakos***

2.1	The EC Framework	369
2.2	The Europe Agreement framework	375
2.3	Comment	381

CHAPTER 3**AGRICULTURE, *J. McMahon***

3.1	Introduction	391
3.2	A framework for co-operation	392
3.3	Identifying the problems	395
3.4	Towards resolution of the problems	399
3.5	The Integration Strategy	405
3.6	Problems on the horizon – the Agreement on Agriculture?	409
3.7	Hope for the future?	413

CHAPTER 4**FISHERIES, *N. Wolff***

4.1	The EC Common Fisheries Policy	415
4.2	Candidate countries and fisheries	422
4.3	Conclusions	425

CHAPTER 5**PERSONS, SERVICES AND CAPITAL**

5.1	WORKERS, <i>E. Guild</i>	427
5.1.1	Introduction	427
5.1.2	Movement of workers in the context of Community Law	428
5.1.3	Movement of workers in the Europe Agreements	433
5.1.4	Conclusions	446
5.2	ESTABLISHMENT, <i>W. Weiß</i>	449
5.2.1	Introduction	449
5.2.2	Freedom of establishment in the context of EC law	451

5.2.3	The scope of the provisions on establishment in the Europe Agreements	453
5.2.4	Beneficiaries of the establishment provisions	467
5.2.5	Guarantees regarding entry and residence for nationals	472
5.2.6	Additional rights regarding key personnel	477
5.2.7	Remaining national competences of the contracting parties	482
5.2.8	Mutual recognition of qualifications	483
5.2.9	Competences of the Association Council	483
5.2.10	Justifications	484
5.2.11	Direct application and direct effect	488
5.2.12	Implementation of the <i>acquis communautaire</i> in CEECs	490
5.2.13	Conclusions	493
5.3	MOVEMENT OF PERSONS (<i>Association Agreement with Turkey</i>), <i>N. Rogers</i>	
5.3.1	Introduction	495
5.3.2	Workers in the Ankara Agreement and the Additional Protocol	496
5.3.3	Family members	503
5.3.4	Establishment of persons	507
5.3.5	Conclusions	508
5.4	SERVICES , <i>M. Cremona</i>	
5.4.1	Movement of services in the context of Community Law	509
5.4.2	Services in the Europe Agreement: Comparative analysis	515
5.4.3	The Europe Agreements provisions on services: comment	520
5.5	FREE MOVEMENT OF CAPITAL , <i>S. Peers</i>	
5.5.1	Introduction	535
5.5.2	Free movement of capital and payments in the EC Treaty	535
5.5.3	Obligation under the Europe Agreement	540
5.5.4	General rules	540
5.5.5	Variations from the normal rules	542
5.5.6	Interpreting the Europe Agreements' provisions	545
5.5.7	Accession and free movement	547
5.5.8	Conclusions	548
5.6	ANNEX XIII, EA Slovenia, <i>P. Vehar/T. Illešiè</i>	549
 CHAPTER 6		
COMPETITION AND OTHER ECONOMIC PROVISIONS , <i>A. Evans</i>		
6.1	Restrictive Practices of Undertakings	552
6.2	State aid	569
6.3	Safeguard measures	586
6.4	Balance-of-payments difficulties	590
6.5	Public undertakings	591
6.6	Intellectual property	600
6.7	Public procurement	604
6.8	Implementation of the competition <i>acquis</i> in the candidate countries	606
 CHAPTER 7		
PUBLIC PROCUREMENT , <i>A. Łazowski</i>		
7.1	Community Law on public procurement	619
7.2	Candidate countries and public procurement	624
7.3	Conclusions	630

CHAPTER 8	
APPROXIMATION OF LAWS, A. Łazowski	
8.1 Introduction	631
8.2 Obligation to approximate the legal system to the <i>acquis communautaire</i>	633
8.3 Scope of the approximation works	637
8.4 Technical assistance to associated countries	638
CHAPTER 9	
ENVIRONMENT	
9.1 European Environment Law: policy, principles and objectives, R. Arnold/K. Inglis	641
9.2 The <i>acquis</i> on environment, R. Arnold/K. Inglis	646
9.3 Candidate countries and the environment, K. Inglis	661
9.4 Environment: country report Czech Republic, J. Linda	679
CHAPTER 10	
ECONOMIC AND MONETARY POLICY (IN THE FRAMEWORK OF EMU), F. Amtenbrink/B. Dziechciarz	
10.1 Economic and Monetary Policy in the context of Community Law,	693
10.2 Candidate countries and Economic and Monetary Union,	707
CHAPTER 11	
BANKING AND OTHER FINANCIAL SERVICES, B. Dziechciarz	
11.1 Banking and other financial services in the context of Community Law	727
11.2 Candidate countries and banking and other financial services	735
CHAPTER 12	
TAXATION, T. Reith/Z. Wizner	
12.1 Taxation in the context of Community Law	749
12.2 Candidate countries and taxation	757
12.3 Implementation of the <i>acquis</i> in Poland	759
12.4 Conclusions	768
CHAPTER 13	
THE JUSTICE AND HOME AFFAIRS ACQUIS: ASYLUM AND MIGRATION, R. Cholewinski	
13.1 Asylum and migration in the context of Community Law	769
13.2 The <i>acquis</i> on asylum and migration in the context of the accession process	770
13.3. Implementation of the <i>acquis</i> on asylum and migration in candidate countries	772
13.4 Participation in Community programmes and agencies	797
13.5 Conclusions	798
13.6 Country report: Czech Republic, N. Rozeňhalová	801
CHAPTER 14	
MONEY LAUNDERING, CORRUPTION AND DRUGS, A. Fijalkowski	
14.1 Money laundering, fraud and drugs in the context of Community Law	813
14.2 EU and EC <i>acquis</i> on money laundering and drugs	816
14.3 International measures and different definitions both in the EU and internationally	822
14.4. Money laundering and drugs and the candidate countries	827

14.5 Implementation of the <i>acquis</i>	832
14.6 Conclusions	835
14.7 Country report: Poland	836
 CHAPTER 15	
SOCIAL POLICY AND SOCIAL CO-OPERATION, A. ter Heegde	
15.1 Social co-operation in the context of Community Law	845
15.2 The <i>acquis communautaire</i> on social and employment policy	848
15.3 Candidate countries and social and employment policy	859
15.4 Conclusions	865
 CHAPTER 16	
CONSUMER PROTECTION AND PUBLIC HEALTH, G. Sander	
16.1 Consumer protection in the context of Community Law	867
16.2 Public health in the context of Community Law	872
16.3 Candidate countries and consumer protection/public health	875
16.4 Conclusions	880
 CHAPTER 17	
INDUSTRIAL POLICY, ENTREPRENEURSHIP POLICY AND SMALL AND MEDIUM-SIZED ENTERPRISES, A. Łazowski	
17.1 The European Communities' powers and industrial policy	881
17.2 EC Entrepreneurship policy and actions for SMEs	884
17.3 Candidate countries: industrial co-operation and SMEs	887
17.4 Conclusions	894
 CHAPTER 18	
SCIENCE AND TECHNOLOGY, A. Ott	
18.1 Science and technology in Community Law	895
18.2 Candidate countries and science and technology	898
18.3 Conclusions	899
 CHAPTER 19	
EDUCATION AND TRAINING, A. Ott	
19.1 Education and training in the context of Community Law	901
19.2 Candidate countries and education and training	904
19.3 Conclusions	910
 CHAPTER 20	
INFORMATION, COMMUNICATION AND CULTURE, D. Buschle	
20.1 Audio-visual media and culture in the context of Community Law	913
20.2 The <i>acquis communautaire</i> on culture	914
20.3 The <i>acquis communautaire</i> on information and communication	915
20.4 Cultural policy and candidate countries	923
20.5 Audio-visual media and the candidate countries	924
20.6 Conclusions	927

CHAPTER 21	
TELECOMMUNICATIONS, POSTAL SERVICES AND BROADCASTING,	
<i>V. Kronenberger</i>	
21.1 Telecommunications, postal services and broadcasting in the context of Community Law	929
21.2 Candidate countries and telecommunications, postal services and broadcasting	932
21.3 Conclusions	939
CHAPTER 22	
STATISTICS, A. Ott	
22.1 Statistics in the context of Community Law	941
22.2 Candidate countries and statistics	942
22.3 Conclusions	944
CHAPTER 23	
ENERGY, M. Hattig	
23.1 Energy and nuclear safety in the context of Community Law	945
23.2 Candidate countries and energy and nuclear safety	955
CHAPTER 24	
TRANSPORT, V. Kronenberger	
24.1 Introduction	965
24.2 Overview of the EC's Common Transport Policy	966
24.3 Co-operation between the EC and Associate States in the field of transport	983
24.4 The relationship between the provisions on transport co-operation and other provisions in the Europe Agreements	985
24.5 Beyond the Europe Agreements and the Association Agreements in the transport sector	987
24.6 Conclusions	995
CHAPTER 25	
TOURISM, K. Inglis	
25.1 Tourism in the context of Community Law	997
25.2 Candidate countries and tourism	1000
25.3 Conclusions	1001
CHAPTER 26	
PUBLIC ADMINISTRATION, G. Sander	
26.1 Public administration in the context of Community Law	1003
26.2 Candidate countries and public administration	1006
26.3 Implementation of the <i>acquis</i>	1008
26.4 The EU's administrative preparations for enlargement	1011
26.5 Conclusions	1011
CHAPTER 27	
REGIONAL DEVELOPMENT AND CO-ORDINATION OF STRUCTURAL INSTRUMENTS, A. Evans	
27.1 Cohesion	1013
27.2 Other Policies	1017

27.3 Cohesion partnership	1018
27.4 Maastricht reforms	1023
27.5 Regional development in the CEECs	1027
27.6 Internal reforms in the CEECs	1038
CHAPTER 28	
INSTITUTIONS, <i>A. Evans</i>	
28.1 Institutional, general and final provisions	1043
28.2 Institutions in the enlargement process	1072
INDEX	1079