

Table of Contents

PART I. COMMENTARIES ON TRADE IN SERVICES

CHAPTER 1. INTRODUCTION

- § 1:1 Definition of trade in services
- § 1:2 Mode of supplying services on the international market
- § 1:3 —Cross-border supply
- § 1:4 —Consumption abroad
- § 1:5 —Commercial presence
- § 1:6 —Presence of natural persons
- § 1:7 Services sectoral classification list
- § 1:8 World trade in services
- § 1:9 Legal issues relating to international trade in services
- § 1:10 International legal instruments liberalizing trade in services

CHAPTER 2. GENERAL REGULATION OF INTERNATIONAL TRADE IN SERVICES

I. INTRODUCTION

- § 2:1 Terminology—Nationals and nationality
- § 2:2 —Market access
- § 2:3 —National treatment
- § 2:4 —Domestic regulation
- § 2:5 —Most-favored-nation treatment
- § 2:6 Modes of market entry
- § 2:7 Market access—The barriers to market access
- § 2:8 —Nature of the barriers
- § 2:9 —Categorizing national measures
- § 2:10 —The barriers and market entry modes
- § 2:11 Discrimination in law
- § 2:12 Discrimination in fact and domestic regulation
- § 2:13 Market access and national treatment

II. GENERAL AGREEMENT ON TRADE IN SERVICES (GATS)

- § 2:14 Introduction—The agreement
- § 2:15 —Application of GATS
- § 2:16 —The GATS approach
- § 2:17 —The national schedules
- § 2:18 Market access—Market access under GATS
- § 2:19 —The GATS approach to market access
- § 2:20 —Assessment of the national schedules of major trading partners of the United States
- § 2:21 National treatment—National treatment under GATS
- § 2:22 —The GATS approach to national treatment
- § 2:23 Domestic regulation
- § 2:24 Most-favored-nation treatment
- § 2:25 General exceptions to the GATS rules—Safeguard exception
- § 2:26 —Balance-of-payments exception
- § 2:27 —Economic integration exception

- § 2:28 —General exception
- § 2:29 —Security exception
- § 2:30 —Denial of benefits
- § 2:31 —Confidential information
- § 2:32 Dispute settlement
- § 2:33 Further negotiations on liberalization of trade in services

III. GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT)

- § 2:34 Introduction—The agreement
- § 2:35 —Application of GATT
- § 2:36 —The GATT approach
- § 2:37 Market access
- § 2:38 National treatment
- § 2:39 Domestic regulation
- § 2:40 Most-favored-nation treatment
- § 2:41 General exceptions to the rules—Safeguard exception
- § 2:42 —Balance-of-payments exception
- § 2:43 —Economic integration exception
- § 2:44 —General exceptions
- § 2:45 —Security exception
- § 2:46 —Non-application of agreement
- § 2:47 Dispute settlement
- § 2:48 Further negotiations on liberalization of trade in goods

IV. ARTICLES OF AGREEMENT OF THE INTERNATIONAL MONETARY FUND (IMF)

- § 2:49 Introduction—The articles
- § 2:50 —Application of the IMF articles
- § 2:51 —The IMF approach
- § 2:52 Market access
- § 2:53 Most-favored-nation treatment
- § 2:54 General exceptions to the rules
- § 2:55 Enforcement of the rules

V. THE OECD INSTRUMENTS

- § 2:56 Introduction—The OECD
- § 2:57 —The instruments
- § 2:58 —The codes
- § 2:59 —The declaration
- § 2:60 —The OECD arrangement
- § 2:61 Market access
- § 2:62 National treatment—The Codes
- § 2:63 —The Declaration
- § 2:64 Domestic regulation
- § 2:65 Most-favored-nation treatment
- § 2:66 General exceptions to the rules of the Codes
- § 2:67 Enforcement of OECD obligations
- § 2:68 Further liberalization

VI. NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) (AND THE CHILE AGREEMENTS)

- § 2:69 Introduction—The agreements

TABLE OF CONTENTS

§ 2:70	—Application of NAFTA
§ 2:71	—The NAFTA approach
§ 2:72	Market access—Cross-border services
§ 2:73	—Services supplied from a commercial presence
§ 2:74	—The NAFTA approach to market access
§ 2:75	National treatment—Introduction
§ 2:76	—Cross-border services
§ 2:77	—Services supplied from a commercial presence
§ 2:78	—The NAFTA approach to national treatment
§ 2:79	Domestic regulation
§ 2:80	Most-favored-nation treatment
§ 2:81	General exceptions to the rules—Safeguard exception
§ 2:82	—Balance-of-payments exception
§ 2:83	—General exceptions
§ 2:84	—Security exception
§ 2:85	—Denial of benefits
§ 2:86	—Taxation
§ 2:87	—Confidentiality exception
§ 2:88	Dispute settlement—Dispute settlement between the parties
§ 2:89	—Submission by providers of claims to arbitration
§ 2:90	Further negotiations on liberalization of trade in services under NAFTA

VII. THE EUROPEAN UNION (EU) (AND THE EUROPEAN AGREEMENTS)

A. INTRODUCTION

§ 2:91	Terminology—Market access
§ 2:92	—National treatment
§ 2:93	—Domestic regulation
§ 2:94	—Most-favored-nation treatment
§ 2:95	Modes of market entry
§ 2:96	Market access—The barriers to market access
§ 2:97	—Nature of the barriers
§ 2:98	—Categorizing national measures
§ 2:99	—The barriers and market entry modes
§ 2:100	Discrimination in law
§ 2:101	Discrimination in fact and domestic regulation
§ 2:102	Market access and national treatment

B. THE LIBERALIZATION OF SERVICES IN THE EUROPEAN UNION (AND UNDER THE EUROPEAN AGREEMENTS)

§ 2:103	Introduction—The source of European Union law on services
§ 2:104	—The European agreements
§ 2:105	—Nature and application of EU law
§ 2:106	—The scope of EU law on services—Services covered
§ 2:107	— —Persons covered
§ 2:108	— —Modes of supply covered
§ 2:109	—The approach of the EU to the liberalization of services—A uniform approach
§ 2:110	— —Market access and national treatment
§ 2:111	— —Method of liberalization
§ 2:112	—Relationship between EU law and GATS
§ 2:113	Market access—Market access under the ECT
§ 2:114	—Market access under the secondary legislation
§ 2:115	—The EU approach to market access

- § 2:116 National treatment—Introduction
- § 2:117 —The prohibition of discrimination
- § 2:118 —The extended scope of national treatment under EU law
- § 2:119 —The EU approach to national treatment
- § 2:120 Domestic regulation—The general approach
- § 2:121 —The specific issues of domestic regulation
- § 2:122 — —Host-state qualifications and mutual recognition (measure (k))
- § 2:123 — —Authorization schemes (measure (h))
- § 2:124 — —Membership in professional or trade organizations/access to national health service (measures (i) and (j))
- § 2:125 — —Restrictions on home-state nationals (measures (d) and (e))
- § 2:126 — —Host-state technical standards (measure (l))
- § 2:127 — —Host-state professional rules and other host-state rules (measure (n))
- § 2:128 — —Requirement of a specific legal form (measure (a))
- § 2:129 — —Use of titles (measure (b))
- § 2:130 — —Quantitative restrictions (measure (g))
- § 2:131 — —Requirement of competence in the host-state language (measure (o))
- § 2:132 — —General administration of domestic rules (measure (p))
- § 2:133 Most-favored-nation treatment
- § 2:134 The general exceptions to the rules—Introduction
- § 2:135 —Balance-of-payments exception
- § 2:136 —General exception
- § 2:137 —Security exception
- § 2:138 Enforcement of EU law—Introduction
- § 2:139 —Enforcement by the national courts and the role of the Court of Justice
- § 2:140 —Enforcement by the Court of Justice
- § 2:141 Further development of EU law

VIII. MONTEVIDEO PROTOCOL ON TRADE IN SERVICES

- § 2:142 Introduction—The Agreement and Protocol
- § 2:143 —Application of the Protocol
- § 2:144 —Approach of the Protocol
- § 2:145 Market access—Market access under the Protocol
- § 2:146 —Approach of the Protocol to market access
- § 2:147 National treatment—National treatment under the Protocol
- § 2:148 —Approach of the Protocol to national treatment
- § 2:149 Domestic regulation
- § 2:150 Most-favored-nation treatment
- § 2:151 General exceptions to the rules
- § 2:152 Dispute settlement—Introduction
- § 2:153 —Dispute between member states
- § 2:154 —Claims of natural and legal persons
- § 2:155 Further negotiations on liberalization of trade in services

IX. ASEAN FRAMEWORK AGREEMENT ON SERVICES

- § 2:156 Introduction—The Agreement
- § 2:157 —Application of the Agreement
- § 2:158 —Approach of the Agreement
- § 2:159 Market access—Market access under the Agreement
- § 2:160 —The approach of the Agreement to market access
- § 2:161 National treatment—National treatment under the Agreement
- § 2:162 The approach of the agreement to national treatment

TABLE OF CONTENTS

- § 2:163 Domestic regulation
- § 2:164 Most-favored-nation treatment
- § 2:165 General exceptions to the rules
- § 2:166 Dispute settlement
- § 2:167 Further negotiations on liberalization on trade in services

CHAPTER 3. ANCILLARY REGULATION OF TRADE IN SERVICES: AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS)

I. INTRODUCTION

- § 3:1 The international agreements prior to TRIPS
- § 3:2 Overview of TRIPS
- § 3:3 Application of TRIPS

II. PROTECTION OF INTELLECTUAL PROPERTY RIGHTS UNDER TRIPS

- § 3:4 Scope of protection—What is protected
- § 3:5 —Who is protected
- § 3:6 The general level of protection under TRIPS—National treatment
- § 3:7 —Most favored nation treatment
- § 3:8 —Other agreements
- § 3:9 —Exceptions
- § 3:10 Copyright and related rights—Introduction
- § 3:11 —Scope of protection—What is protected
- § 3:12 — —How it is protected—Copyright
- § 3:13 — — —Related rights
- § 3:14 — —Who is protected—Copyright
- § 3:15 — — —Related rights
- § 3:16 —General level of protection—National treatment—Copyright
- § 3:17 — — —Related rights
- § 3:18 — —Most-favored nation treatment—Copyright
- § 3:19 — — —Related rights
- § 3:20 — —Term—Copyright
- § 3:21 — — —Related rights
- § 3:22 —Specific rights—Copyright—Moral rights
- § 3:23 — — —Rental rights
- § 3:24 — — —Translation rights
- § 3:25 — — —Reproduction rights
- § 3:26 — — —Public rights
- § 3:27 — — —Adaptation rights
- § 3:28 — — —Films
- § 3:29 — — —Sale rights
- § 3:30 — — —Related rights
- § 3:31 —General exceptions to protection—Copyright
- § 3:32 — —Related rights
- § 3:33 —Dispute settlement
- § 3:34 —Enforcement
- § 3:35 Trademarks—Introduction
- § 3:36 —Scope of protection—What is protected
- § 3:37 — —How it is protected
- § 3:38 — —Who is protected
- § 3:39 —General level of protection—National treatment

- § 3:40 — —Most-favored nation treatment
- § 3:41 — —Term of protection
- § 3:42 — —Specific rights
- § 3:43 — —General exceptions to protection
- § 3:44 — —Dispute settlement
- § 3:45 — —Enforcement
- § 3:46 Geographical indications—Introduction
- § 3:47 — —Scope of protection—What is protected
- § 3:48 — —How it is protected
- § 3:49 — —Who is protected
- § 3:50 — —General level of protection—National treatment
- § 3:51 — —Most-favored nation treatment
- § 3:52 — —Term of protection
- § 3:53 — —Specific rights
- § 3:54 — —General exceptions to protection
- § 3:55 — —Dispute settlement
- § 3:56 — —Enforcement
- § 3:57 Industrial designs—Introduction
- § 3:58 — —Scope of protection—What is protected
- § 3:59 — —How it is protected
- § 3:60 — —Who is protected
- § 3:61 — —General level of protection—National treatment
- § 3:62 — —Most-favored nation treatment
- § 3:63 — —Term of protection
- § 3:64 — —Specific rights
- § 3:65 — —General exception to protection
- § 3:66 — —Dispute settlement
- § 3:67 — —Enforcement
- § 3:68 Patents—Introduction
- § 3:69 — —Scope of protection—What is protected
- § 3:70 — —How it is protected
- § 3:71 — —Who is protected
- § 3:72 — —General level of protection—National treatment
- § 3:73 — —Most-favored nation treatment
- § 3:74 — —Term of protection
- § 3:75 — —Specific rights
- § 3:76 — —General exceptions to protection
- § 3:77 — —Dispute settlement
- § 3:78 — —Enforcement
- § 3:79 Layout-designs (topographies) of integrated circuits—Introduction
- § 3:80 — —Scope of protection—What is protected
- § 3:81 — —How it is protected
- § 3:82 — —Who is protected
- § 3:83 — —General level of protection—National treatment
- § 3:84 — —Most-favored-nation treatment
- § 3:85 — —Term of protection
- § 3:86 — —Specific rights
- § 3:87 — —Importing, selling, distributing
- § 3:88 — —Reproducing
- § 3:89 — —Other rights
- § 3:90 — —General exceptions to protection
- § 3:91 — —Dispute settlement
- § 3:92 — —Enforcement

TABLE OF CONTENTS

- § 3:93 Undisclosed information—Introduction
- § 3:94 —Scope of protection—What is protected
- § 3:95 —How it is protected
- § 3:96 —Who is protected
- § 3:97 —General level of protection—National treatment
- § 3:98 —Most-favored-national treatment
- § 3:99 —Term of protection
- § 3:100 —Specific rights
- § 3:101 —General exceptions to protection
- § 3:102 —Dispute settlement
- § 3:103 —Enforcement

III. ANTI-COMPETITIVE PRACTICES

- § 3:104 Paris Convention
- § 3:105 TRIPS

IV. ENFORCEMENT

- § 3:106 Introduction
- § 3:107 Civil and administrative procedures—Fair and equitable procedures
- § 3:108 —Evidence
- § 3:109 —Injunctions
- § 3:110 —Damages
- § 3:111 —Other remedies
- § 3:112 —Right of information
- § 3:113 —Indemnification of the defendant
- § 3:114 —Administrative procedures
- § 3:115 Provisional measures
- § 3:116 Border measures—Suspension of release by customs authorities
- § 3:117 —Application
- § 3:118 —Security or equivalent assurance
- § 3:119 —Duration of suspension
- § 3:120 —Indemnification of the importer and the owner of the goods
- § 3:121 —Right of inspection and information
- § 3:122 —Ex officio action
- § 3:123 —Remedies
- § 3:124 —De minimis imports (or exports)
- § 3:125 Criminal procedures

V. ACQUISITION AND MAINTENANCE OF INTELLECTUAL PROPERTY RIGHTS

- § 3:126 General provisions
- § 3:127 The right of priority under the Paris Convention
- § 3:128 Copyright and related rights
- § 3:129 Marks (trademarks and service marks)
- § 3:130 Geographical indications
- § 3:131 Industrial designs
- § 3:132 Patents
- § 3:133 Layout-designs of integrated circuits
- § 3:134 Undisclosed information

VI. DISPUTE SETTLEMENT

- § 3:135 General

CHAPTER 4. SECTORAL INTERNATIONAL REGULATION OF TRADE IN SERVICES

I. GOVERNMENT PROCUREMENT UNDER NAFTA (AND THE US-CHILE AGREEMENT)

- § 4:1 Scope of the agreement
- § 4:2 Non-discrimination
- § 4:3 Tendering procedures—Introduction
- § 4:4 —Selective tendering
- § 4:5 —Limited tendering
- § 4:6 —Deadlines
- § 4:7 —Tender documentation
- § 4:8 —Award of contracts
- § 4:9 Other provisions for open procurement—Offsets
- § 4:10 —Technical specifications
- § 4:11 —Transparency—Prior information
- § 4:12 — —Post-award information and publication
- § 4:13 — —Publication
- § 4:14 Enforcement
- § 4:15 Further negotiations

II. REGULATION OF TRADE IN FINANCIAL SERVICES UNDER GATS

- § 4:16 The instruments
- § 4:17 Second Annex, the Decision and the Fifth Protocol
- § 4:18 Annex on financial services
- § 4:19 Understanding on commitments in financial services—General comments
- § 4:20 —The commitments

III. REGULATION OF TRADE IN FINANCIAL SERVICES UNDER NAFTA (AND THE US-CHILE AGREEMENT)

- § 4:21 Introduction—Chapter 14
- § 4:22 —Application of Chapter 14
- § 4:23 —Approach of Chapter 14
- § 4:24 Market access—Services supplied from a commercial presence
- § 4:25 —Cross-border services
- § 4:26 —Provisions applicable to all modes of providing services
- § 4:27 National treatment
- § 4:28 Domestic regulation
- § 4:29 Most-favored nation treatment
- § 4:30 General exceptions to the rules—Safeguard exception
- § 4:31 —Balance-of-payments exception
- § 4:32 —General exceptions
- § 4:33 —Security exception
- § 4:34 —Denial of benefits
- § 4:35 —Taxation
- § 4:36 —Confidentiality information
- § 4:37 Dispute settlement—Dispute settlement between the parties
- § 4:38 —Submission by providers of claims to arbitration
- § 4:39 Further negotiations

IV. SUMMARY OF THE FINAL SPECIFIC COMMITMENTS AND MFN EXEMPTIONS IN THE TELECOMMUNICATIONS AREA

- § 4:40 Antigua & Barbuda

TABLE OF CONTENTS

§ 4:41	Argentina
§ 4:42	Australia
§ 4:43	Bangladesh
§ 4:44	Barbados
§ 4:45	Belize
§ 4:46	Bolivia
§ 4:47	Brazil
§ 4:48	Brunei Darussalam
§ 4:49	Bulgaria
§ 4:50	Canada
§ 4:51	Chile
§ 4:52	Colombia
§ 4:53	Cote d'Ivoire
§ 4:54	Cyprus
§ 4:55	Czech Republic
§ 4:56	Dominica, Commonwealth of
§ 4:57	Dominican Republic
§ 4:58	Ecuador
§ 4:59	El Salvador
§ 4:60	European communities
§ 4:61	Ghana
§ 4:62	Grenada
§ 4:63	Guatemala
§ 4:64	Hong Kong
§ 4:65	Hungary
§ 4:66	Iceland
§ 4:67	India
§ 4:68	Indonesia
§ 4:69	Israel
§ 4:70	Jamaica
§ 4:71	Japan
§ 4:72	Korea
§ 4:73	Malaysia
§ 4:74	Mauritius
§ 4:75	Mexico
§ 4:76	Morocco
§ 4:77	New Zealand
§ 4:78	Norway
§ 4:79	Pakistan
§ 4:80	Papua New Guinea
§ 4:81	Peru
§ 4:82	Philippines
§ 4:83	Poland
§ 4:84	Romania
§ 4:85	Senegal
§ 4:86	Singapore
§ 4:87	Slovak Republic
§ 4:88	South Africa
§ 4:89	Sri Lanka
§ 4:90	Suriname
§ 4:91	Switzerland
§ 4:92	Thailand
§ 4:93	Trinidad & Tobago

- § 4:94 Tunisia
- § 4:95 Turkey
- § 4:96 United States
- § 4:97 Venezuela

V. INTRODUCTION TO THE LIBERALIZATION OF TRADE IN TELECOMMUNICATIONS

- § 4:98 In general

VI. LIBERALIZATION OF TRADE IN TELECOMMUNICATIONS UNDER GATS

- § 4:99 Instruments
- § 4:100 Annex on telecommunications—Scope
- § 4:101 —Access
- § 4:102 —Transparency
- § 4:103 —Standards
- § 4:104 Decision and annex on negotiations on basic telecommunications
- § 4:105 The Fourth Protocol
- § 4:106 The reference paper—Introduction
- § 4:107 —Competitive safeguards
- § 4:108 —Interconnection
- § 4:109 —Universal service
- § 4:110 —Public availability of licensing criteria
- § 4:111 —Independent regulators
- § 4:112 —Allocation and use of scarce resources

VII. LIBERALIZATION OF TRADE IN TELECOMMUNICATIONS UNDER NAFTA (AND THE CHILE AGREEMENTS)

- § 4:113 Introduction
- § 4:114 Scope
- § 4:115 Access
- § 4:116 Provision of value-added telecommunications services
- § 4:117 Monopolies
- § 4:118 Standards
- § 4:119 Transparency
- § 4:120 Further liberalization

CHAPTER 5. DISPUTE SETTLEMENT PROCEDURE UNDER THE GENERAL AGREEMENT ON TRADE IN SERVICES

- § 5:1 Text of Commentary

CHAPTER 6. WTO AGREEMENT ON GOVERNMENT PROCUREMENT (1994 GPA)

- § 6:1 Text of Commentary

CHAPTER 7. TREATY OF LISBON

- § 7:1 Introduction
- § 7:2 Historical development
- § 7:3 Competences
- § 7:4 Policy areas—New areas
- § 7:5 —Internal areas

TABLE OF CONTENTS

- § 7:6 —The Union's external action
- § 7:7 The institutions
- § 7:8 —The European Parliament
- § 7:9 —The European Council
- § 7:10 —The Council
- § 7:11 —The Commission
- § 7:12 —The Court of Justice of the European Union
- § 7:13 —The European Central Bank (ECB)
- § 7:14 —The Court of Auditors
- § 7:15 —The advisory bodies
- § 7:16 The exercise of State power in the European Union under the Treaty of Lisbon—Prior to the Treaty of Lisbon
- § 7:17 —The changes made by the Treaty of Lisbon
- § 7:18 —Adoption of legislative acts
- § 7:19 —Adoption of executive acts
- § 7:20 —The budgetary procedure
- § 7:21 —International agreements
- § 7:22 —Revision of the treaties
- § 7:23 Enhanced cooperation—Introduction
- § 7:24 —Conditions for authorizing enhanced cooperation
- § 7:25 —Procedures for authorizing enhanced cooperation
- § 7:26 —Permanent structured cooperation
- § 7:27 The democratic deficit—Introduction
- § 7:28 —The increased powers of the European Parliament
- § 7:29 —The increased role of national parliaments
- § 7:30 —The involvement of civil society
- § 7:31 —Other provisions on Union acts

CHAPTER 8. GOVERNMENT PROCUREMENT IN THE EUROPEAN UNION (AND THE EEA)

- § 8:1 The development of the EU government procurement regime
- § 8:2 The EC Treaty
- § 8:3 Secondary legislation—Government procurement contracts award procedure: the works and services directives—Scope of the public sector procurement directives
- § 8:4 — —Contracts covered
- § 8:5 — —Concession contracts
- § 8:6 — —Design contests
- § 8:7 — —Thresholds
- § 8:8 — —Excluded contracts
- § 8:9 — —Non-discrimination and equality of treatment
- § 8:10 — —Types of procedures
- § 8:11 — —Notices
- § 8:12 — —Prior information on procurement programs
- § 8:13 — —Publication of tender notices
- § 8:14 — —Time limits
- § 8:15 — —Qualification of tenderers
- § 8:16 — —Financial and economic standing
- § 8:17 — —Technical capacity and capability
- § 8:18 — —Other grounds for exclusion
- § 8:19 — —Technical specifications
- § 8:20 — —Terms and conditions by authority and tenderer
- § 8:21 — —Evaluation of bids and award of the contract
- § 8:22 — —Post-award notices

- § 8:23 —Utilities public contracts award procedure: the utilities directive—Entities operating in the utilities sector
- § 8:24 — —Scope of the utilities directive
- § 8:25 — —Contracts covered
- § 8:26 — —Thresholds
- § 8:27 — —Excluded contracts
- § 8:28 — —Non-discrimination and equality of treatment
- § 8:29 — —The three award procedures
- § 8:30 — —Notices
- § 8:31 — —Time limits
- § 8:32 — —Qualification of tenderers
- § 8:33 — —Technical specifications
- § 8:34 — —Evaluation of bids and award of the contract
- § 8:35 — —Post-award notices
- § 8:36 Remedies—Introduction
- § 8:37 —Enforcement by the commission—General
- § 8:38 — —The corrective mechanism
- § 8:39 —Remedies in the national courts—General principles
- § 8:40 — —The remedies directives
- § 8:41 — —Utilities sector alternative system of financial penalties
- § 8:42 — —Conciliation procedure in the utilities sector
- § 8:43 — —Attestation mechanism in the utilities sector

CHAPTER 9. EUROPEAN UNION TRADEMARK LAW

- § 9:1 Introduction—In general
- § 9:2 —National trade mark protection
- § 9:3 —The Madrid Arrangements
- § 9:4 Community trade mark and harmonization—In general
- § 9:5 —The harmonization directive
- § 9:6 The Community Trade Mark—Nature
- § 9:7 —Scope
- § 9:8 —Applications
- § 9:9 —Oppositions
- § 9:10 —Conversion procedure
- § 9:11 —Priority
- § 9:12 —Seniority
- § 9:13 —Infringement actions
- § 9:14 —Remedies
- § 9:15 The Madrid Protocol—In general
- § 9:16 —Applications
- § 9:17 National rights and the Community Trade Mark
- § 9:18 Recent developments—Piracy and counterfeiting
- § 9:19 —Enlargement

CHAPTER 10. SURVEY OF THE EU DIRECTIVES ON COPYRIGHT AND RELATED RIGHTS

I. INTRODUCTION

- § 10:1 Sources
- § 10:2 Relations between the sources

II. COPYRIGHT

- § 10:3 Council Directive 91/250 on the legal protection of computer programs, OJ L122/91—What is protected

TABLE OF CONTENTS

§ 10:4	—Who is protected
§ 10:5	—Protected rights
§ 10:6	—Term of protection
§ 10:7	Council Directive 93/83 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission, OJ 1248/93—What is protected
§ 10:8	—Who is protected
§ 10:9	—Protected rights
§ 10:10	—Term of protection
§ 10:11	Council Directive 96/9 on the legal protection of databases, OJ 177/96—What is protected
§ 10:12	—Who is protected
§ 10:13	—Protected rights
§ 10:14	—Term of protection
§ 10:15	EP/Council Directive 01/29 on the harmonization of certain aspects of copyright and related rights in the information society, OJ 1167/01—Introduction
§ 10:16	—What is protected
§ 10:17	—Who is protected
§ 10:18	—Protected rights
§ 10:19	—Term of protection
§ 10:20	EP/Council Directive 06/115 on rental right and lending right and on certain rights related to copyright in the field of intellectual property, OJ 1376/06—Introduction
§ 10:21	—What is protected
§ 10:22	—Who is covered
§ 10:23	—Protected rights
§ 10:24	—Term of protection
§ 10:25	EP/Council Directive 06/116 on the term of protection of copyright and certain related rights, OJ 1372/06

III. RELATED RIGHTS

§ 10:26	Council Directive 93/83 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission, OJ 1248/93—What is protected
§ 10:27	—Who is protected
§ 10:28	—Protected rights
§ 10:29	—Term of protection
§ 10:30	EP/Council Directive 98/84 on the legal protection of services based on, or consisting of, conditional access, OJ 1320/08—Introduction
§ 10:31	—What is protected
§ 10:32	—Nature of the protection
§ 10:33	EP/Council Directive 01/29 on the harmonization of certain aspects of copyright and related rights in the information society, OJ 1167/01—Introduction
§ 10:34	—What is protected
§ 10:35	—Who is protected
§ 10:36	—Protected rights
§ 10:37	—Term of protection
§ 10:38	EP/Council Directive 06/115 on rental right and lending right and on certain rights related to copyright in the field of intellectual property, OJ 1376/06—Introduction
§ 10:39	—What is protected
§ 10:40	—Who is protected
§ 10:41	—Protected rights—Rental and lending rights
§ 10:42	— —Fixation right
§ 10:43	— —Broadcasting and communication to the public, including by satellite
§ 10:44	— —Distribution right
§ 10:45	— —National discretion

- § 10:46 —Term of protection
- § 10:47 EP/Council Directive 06/116 on the term of protection of copyright and certain related rights, OJ L372/06

IV. THE ENFORCEMENT OF COPYRIGHT AND RELATED RIGHTS IN THE EUROPEAN UNION

- § 10:48 Introduction
- § 10:49 Scope (articles 1, 2, 4 and 5)
- § 10:50 General obligation (article 3)
- § 10:51 Provisional and precautionary measures (article 9)
- § 10:52 Final measures once infringement established (articles 10 to 13)

CHAPTER 11. THE BANKING REGIME OF THE EUROPEAN UNION

I. INTRODUCTION

- § 11:1 Overview
- § 11:2 Scope
- § 11:3 National law

II. AUTHORIZATION

- § 11:4 General provisions
- § 11:5 National requirements
- § 11:6 Requirements under the directive
- § 11:7 Withdrawal of an authorization

III. LIBERALIZATION

- § 11:8 General provisions
- § 11:9 Freedom of establishment
- § 11:10 Freedom to provide services

IV. PRUDENTIAL SUPERVISION: INTRODUCTION

- § 11:11 Home and host Member States
- § 11:12 —Branches
- § 11:13 —Services
- § 11:14 Significant branches
- § 11:15 Exchange of information and professional secrecy
- § 11:16 Auditors
- § 11:17 Governance and risk
- § 11:18 Enforcement
- § 11:19 Consolidated supervision

V. PRUDENTIAL SUPERVISION: QUALIFYING HOLDINGS

- § 11:20 Qualifying holdings in a credit institution
- § 11:21 Qualifying holdings by credit institutions outside the financial sector

VI. PRUDENTIAL SUPERVISION: OWN FUNDS

- § 11:22 Composition of own funds
- § 11:23 Common Equity Tier 1 items
- § 11:24 Additional Tier 1 capital
- § 11:25 Tier 2 capital

TABLE OF CONTENTS

- § 11:26 Reduction of own funds
- § 11:27 General required level of own funds
- § 11:28 Reporting requirements

VII. PRUDENTIAL SUPERVISION: CAPITAL REQUIREMENTS FOR CREDIT RISK

- § 11:29 General provisions
- § 11:30 Standardized approach
- § 11:31 Internal Ratings Based approach (IRB)
- § 11:32 —Calculation of risk-weighted exposure amounts
- § 11:33 —Expected loss amounts
- § 11:34 —PD and LGD
- § 11:35 —Exposure values
- § 11:36 Credit risk mitigation
- § 11:37 —Eligibility
- § 11:38 Securitization—Definition
- § 11:39 —Calculation of risk-weighted exposure amounts
- § 11:40 —Recognition of credit risk mitigation for securitization positions
- § 11:41 —External credit assessments
- § 11:42 Counterparty Credit Risk (CCR)—Definition
- § 11:43 —Exposure values
- § 11:44 —Methods for calculating the exposure value

VIII. PRUDENTIAL SUPERVISION: OWN FUNDS REQUIREMENTS FOR OPERATIONAL RISK

- § 11:45 General principles
- § 11:46 Basic Indicator Approach
- § 11:47 Standardized Approach
- § 11:48 Advanced Measurement Approaches

IX. PRUDENTIAL SUPERVISION: OWN FUNDS REQUIREMENTS FOR MARKET RISK

- § 11:49 Own funds requirements for position risk—General rule
- § 11:50 —Debt instruments
- § 11:51 —Equities
- § 11:52 —Underwriting
- § 11:53 Own funds requirements for Collective Investment Undertakings (CIUs)
- § 11:54 Own funds requirements for foreign-exchange risk
- § 11:55 Own funds requirements for commodities risk
- § 11:56 —Mature Ladder Approach
- § 11:57 —Simplified Approach
- § 11:58 —Extended Maturity Ladder Approach
- § 11:59 Use of internal models to calculate own funds requirements

X. PRUDENTIAL SUPERVISION: OWN FUNDS REQUIREMENTS FOR SETTLEMENT RISK

- § 11:60 In general

XI. PRUDENTIAL SUPERVISION: OWN FUNDS REQUIREMENTS FOR CREDIT VALUATION ADJUSTMENT RISK

- § 11:61 In general

- § 11:62 Advanced Method
- § 11:63 Standardized Method

XII. PRUDENTIAL SUPERVISION: CAPITAL BUFFERS

- § 11:64 Capital conservation buffer
- § 11:65 Institution-specific countercyclical capital buffer
- § 11:66 Global and other systemically important institutions
- § 11:67 Systemic risk buffer
- § 11:68 Capital conservation measures

XIII. PRUDENTIAL SUPERVISION: LARGE EXPOSURES

- § 11:69 General provisions
- § 11:70 Definition of exposures
- § 11:71 Definition of large exposures
- § 11:72 Calculation of the exposure value
- § 11:73 Internal procedural requirements
- § 11:74 Reporting requirements
- § 11:75 Limits on large exposures

XIV. PRUDENTIAL SUPERVISION: EXPOSURES TO TRANSFERRED CREDIT RISK

- § 11:76 Scope
- § 11:77 Requirements for investor institutions
- § 11:78 Requirements for sponsor and originator institutions

XV. PRUDENTIAL SUPERVISION: LIQUIDITY

- § 11:79 General provisions
- § 11:80 The liquidity coverage requirement
- § 11:81 The liquidity buffer
- § 11:82 Stable funding
- § 11:83 Format and frequency of reporting on liquidity coverage requirement
- § 11:84 Format and frequency of reporting on stable funding
- § 11:85 Derogation from the application of liquidity requirements on an individual basis

XVI. PRUDENTIAL SUPERVISION: LEVERAGE

- § 11:86 Definition
- § 11:87 Calculation of the leverage ratio
- § 11:88 Reporting requirements

XVII. PRUDENTIAL SUPERVISION: DISCLOSURE

- § 11:89 Disclosure by credit institutions
- § 11:90 Disclosure by competent authorities

XVIII. PRUDENTIAL SUPERVISION: DEROGATIONS FROM THE PRUDENTIAL RULES

- § 11:91 Derogation from the application of prudential requirements on an individual basis
- § 11:92 Derogation for credit institutions permanently affiliated to a central body

XIX. PRUDENTIAL SUPERVISION: TRANSITIONAL ARRANGEMENTS

- § 11:93 In general

XX. RELATIONS WITH THIRD COUNTRIES

§ 11:94 In general

CHAPTER 12. THE BASEL CONCORDAT

- § 12:1 Bank for international settlements
- § 12:2 Basel Committee—In general
- § 12:3 —Basel Concordat—In general
- § 12:4 — —Supplement to the Basel Concordat
- § 12:5 — —Minimum standards
- § 12:6 — —Acceptance
- § 12:7 —Basel Capital Accord—In general
- § 12:8 — —Structure

CHAPTER 13. THE INSURANCE REGIME OF THE EUROPEAN UNION, INCLUDING REINSURANCE

I. INTRODUCTION

- § 13:1 Overview
- § 13:2 Scope
- § 13:3 National law
- § 13:4 Applicable law

II. AUTHORIZATION OF INSURANCE UNDERTAKINGS

- § 13:5 General provisions
- § 13:6 Scope of authorization
- § 13:7 National requirements
- § 13:8 Requirements under the directives
- § 13:9 Withdrawal of an authorization

III. LIBERALIZATION

- § 13:10 General provisions
- § 13:11 Establishment of a branch
- § 13:12 Provision of services

IV. PRUDENTIAL SUPERVISION

- § 13:13 General provisions
- § 13:14 Technical provisions
- § 13:15 Solvency margin
- § 13:16 Guarantee fund
- § 13:17 Qualifying holdings
- § 13:18 Transfers of portfolios
- § 13:19 Consumer protection
- § 13:20 Auditors
- § 13:21 Professional secrecy
- § 13:22 Simultaneous insurance activities

V. UNDERTAKINGS IN DIFFICULTY OR IN AN IRREGULAR SITUATION

- § 13:23 Non-compliance with technical provisions
- § 13:24 Failure to maintain the required solvency margin
- § 13:25 Failure to maintain the minimum guarantee fund

- § 13:26 Other measures
- § 13:27 Financial recovery plan

VI. INTERNATIONAL ASPECTS

- § 13:28 Specific rules applicable to agencies or branches established within the European Union and belonging to insurance undertakings whose head offices are outside the union
- § 13:29 Reinsurance undertakings whose head offices are outside the European Union and who conduct reinsurance activities in the union
- § 13:30 Rules applicable to subsidiaries of parent undertakings governed by the laws of a third country and acquisitions by such parent undertakings

VII. TRANSITIONAL PROVISIONS

- § 13:31 General

CHAPTER 14. THE INVESTMENT SERVICES REGIME OF THE EUROPEAN UNION

I. INTRODUCTION

- § 14:1 Overview
- § 14:2 Home and host member states—General provisions
- § 14:3 —Investment firms
- § 14:4 —UCITS, management companies and investment companies
- § 14:5 National law—Investment firms—Directive 14/65
- § 14:6 — —Regulation 575/13
- § 14:7 — —Regulation 600/14
- § 14:8 —UCITS, management companies and investment companies
- § 14:9 — —UCITS
- § 14:10 — —Management and investment companies
- § 14:11 —Coverage of national rules

II. SCOPE

- § 14:12 Directive 14/65 (investment firms)—Coverage
- § 14:13 —Exclusions
- § 14:14 —Subject Matter of Coverage
- § 14:15 Regulation 600/14 (investment firms)
- § 14:16 Directive 13/36 (investment firms)
- § 14:17 Regulation 537/15 (investment firms)
- § 14:18 Directive 09/65 (UCITS, management companies and investment companies)—Coverage
- § 14:19 —Exclusions
- § 14:20 —Subject matter of coverage

III. GRANT OF AUTHORIZATION

- § 14:21 Legal basis
- § 14:22 General provisions—Investment firms
- § 14:23 —UCITS, management companies and investment companies—UCITS
- § 14:24 — —Management companies
- § 14:25 — —Investment companies
- § 14:26 —Procedure
- § 14:27 Requirements under EU law—Investment firms
- § 14:28 —UCITS
- § 14:29 —Management companies

§ 14:30 —Investment companies

IV. WITHDRAWAL OF THE AUTHORIZATION

§ 14:31 Legal basis

§ 14:32 Investment firms

§ 14:33 UCITS, management companies and investment companies—UCITS

§ 14:34 —Management companies

§ 14:35 —Investment companies

§ 14:36 Procedure

V. LIBERALIZATION

§ 14:37 Legal basis

§ 14:38 General provisions

§ 14:39 Freedom of establishment—Investment firms

§ 14:40 —Management companies

§ 14:41 Freedom to provide services—Investment firms

§ 14:42 —Management companies

§ 14:43 Freedom to market UCITS units

VI. PRUDENTIAL SUPERVISION: INTRODUCTION

§ 14:44 Legal basis and scope

§ 14:45 Competent authorities—Designation and definition

§ 14:46 —Competence and duties of home and host Member States—Investment firms

§ 14:47 — —Management companies

§ 14:48 — —UCITS

§ 14:49 —Enforcement powers of the Member States

§ 14:50 —Collaboration, cooperation and consultation—Collaboration

§ 14:51 — —Consultation

§ 14:52 — —Consultation

§ 14:53 —On-the-spot verifications and investigations

§ 14:54 —Exchange of information

§ 14:55 Professional secrecy

§ 14:56 Auditors

§ 14:57 Significant branches

§ 14:58 Consolidated supervision

VII. PRUDENTIAL SUPERVISION: OPERATING CONDITIONS

§ 14:59 Investment firms—Legal basis

§ 14:60 —Governance and organizational requirements—General principle

§ 14:61 — —Management body

§ 14:62 — —Organizational requirements

§ 14:63 —Risk and remuneration—Risk

§ 14:64 — —Remuneration

§ 14:65 —Conflicts of interest

§ 14:66 —Investor protection—General principles and information to clients

§ 14:67 — —Assessment of suitability and appropriateness and reporting to clients

§ 14:68 — —Execution of orders

§ 14:69 — —Client order handling

§ 14:70 — —Transactions with eligible counterparties

§ 14:71 — —Enforcement

§ 14:72 —Market transparency—Systematic internalizers

- § 14:73 — —Post-trade disclosure
- § 14:74 — —Transaction reporting
- § 14:75 — —Enforcement
- § 14:76 UCITS—Legal basis
- § 14:77 —Investment rules
- § 14:78 —Information
- § 14:79 —General obligations of UCITS
- § 14:80 —Marketing UCITS units in a host Member State
- § 14:81 —National law
- § 14:82 Management and investment companies—Legal basis
- § 14:83 —Rules of conduct
- § 14:84 —Organizational requirements
- § 14:85 —Risk and remuneration—Risk
- § 14:86 — —Remuneration
- § 14:87 —Investor protection
- § 14:88 —Investment rules
- § 14:89 —Information
- § 14:90 —General obligations
- § 14:91 —Enforcement

VIII. PRUDENTIAL SUPERVISION: QUALIFYING HOLDINGS

- § 14:92 Qualifying holdings in an investment firm or a management company
- § 14:93 Qualifying holdings by investment firms outside the financial sector

IX. PRUDENTIAL SUPERVISION: OWN FUNDS

- § 14:94 Management companies
- § 14:95 Investment companies—Legal basis
- § 14:96 —Composition of own funds
- § 14:97 —Common equity Tier 1 items
- § 14:98 —Additional Tier 1 capital
- § 14:99 —Tier 2 capital
- § 14:100 —Reduction of own funds
- § 14:101 —General required level of own funds
- § 14:102 —Reporting requirements

X. PRUDENTIAL SUPERVISION: CAPITAL REQUIREMENTS FOR CREDIT RISK

- § 14:103 Legal basis and scope
- § 14:104 General provisions
- § 14:105 Standardized approach
- § 14:106 Internal Ratings Based (IRB) approach—General provisions
- § 14:107 —Calculation of risk-weighted exposure amounts
- § 14:108 —Expected loss amounts
- § 14:109 —PD and LGD
- § 14:110 —Exposure values
- § 14:111 Credit risk mitigation—General principles
- § 14:112 —Eligibility
- § 14:113 Securitization—Definition
- § 14:114 —Calculation of risk-weighted exposure amounts
- § 14:115 —Recognition of credit risk mitigation for securitization positions
- § 14:116 —External credit assessments
- § 14:117 Counterparty Credit Risk (CCR)—Definition

TABLE OF CONTENTS

- § 14:118 —Exposure values
- § 14:119 —Methods for calculating the exposure value

XI. PRUDENTIAL SUPERVISION: OWN FUNDS REQUIREMENTS FOR OPERATIONAL RISK

- § 14:120 Legal basis and scope
- § 14:121 General principles
- § 14:122 Basic indicator approach
- § 14:123 Standardized approach
- § 14:124 Advanced measurement approaches

XII. PRUDENTIAL SUPERVISION: OWN FUNDS REQUIREMENTS FOR MARKET RISK

- § 14:125 Legal basis and scope
- § 14:126 Own funds requirements for position risk—General rule
- § 14:127 —Debt instruments
- § 14:128 —Equities
- § 14:129 —Underwriting
- § 14:130 Own funds requirements for Collective Investment Undertakings (CIUs)
- § 14:131 Own funds requirements for foreign-exchange risk
- § 14:132 Own funds requirements for commodities risk
- § 14:133 —Mature ladder approach
- § 14:134 —Simplified approach
- § 14:135 —Extended maturity ladder approach
- § 14:136 Use of internal models to calculate own funds requirements

XIII. PRUDENTIAL SUPERVISION: OWN FUNDS REQUIREMENTS FOR SETTLEMENT RISK

- § 14:137 Legal basis and scope
- § 14:138 In general

XIV. PRUDENTIAL SUPERVISION: OWN FUNDS REQUIREMENTS FOR CREDIT VALUATION ADJUSTMENT RISK

- § 14:139 Legal basis and scope
- § 14:140 In general
- § 14:141 Advanced method
- § 14:142 Standardized method

XV. PRUDENTIAL SUPERVISION: CAPITAL BUFFERS

- § 14:143 Legal basis and scope
- § 14:144 Capital conservation buffer
- § 14:145 Institution-specific countercyclical capital buffer
- § 14:146 Global and other systemically important institutions
- § 14:147 Systemic risk buffer
- § 14:148 Capital conservation measures

XVI. PRUDENTIAL SUPERVISION: LARGE EXPOSURES

- § 14:149 Legal basis and scope
- § 14:150 General provisions
- § 14:151 Definition of exposures

- § 14:152 Definition of large exposures
- § 14:153 Calculation of the exposure value
- § 14:154 Internal procedural requirements
- § 14:155 Reporting requirements
- § 14:156 Limits on large exposures

XVII. PRUDENTIAL SUPERVISION: EXPOSURES TO TRANSFERRED CREDIT RISK

- § 14:157 Scope and legal basis
- § 14:158 Requirements for investor investment firms
- § 14:159 Requirements for sponsor and originator investment firms

XVIII. PRUDENTIAL SUPERVISION: LIQUIDITY

- § 14:160 Legal basis and scope
- § 14:161 The liquidity coverage requirement
- § 14:162 Liquidity reporting—Liquid assets
- § 14:163 —Valuation of liquid assets
- § 14:164 —Liquidity outflows
- § 14:165 — —Outflows on retail deposits
- § 14:166 — —Outflows on other liabilities
- § 14:167 — —Additional outflows
- § 14:168 — —Outflows from credit and liquidity facilities
- § 14:169 —Liquidity inflows
- § 14:170 Stable funding—General provisions
- § 14:171 —Reporting on stable funding—Items providing stable funding
- § 14:172 — —Items requiring stable funding
- § 14:173 Reporting obligation and reporting format
- § 14:174 Derogation from the application of liquidity requirements on an individual basis

XIX. PRUDENTIAL SUPERVISION: LEVERAGE

- § 14:175 Legal basis and scope
- § 14:176 Definition
- § 14:177 Calculation of the leverage ratio
- § 14:178 Reporting requirements

XX. PRUDENTIAL SUPERVISION: DISCLOSURE

- § 14:179 Disclosure by investment firms
- § 14:180 Disclosure by competent authorities

XXI. PRUDENTIAL SUPERVISION: DEROGATION FROM THE APPLICATION OF PRUDENTIAL REQUIREMENTS ON AN INDIVIDUAL BASIS

- § 14:181 In general

XXII. PRUDENTIAL SUPERVISION: TRANSITIONAL ARRANGEMENTS

- § 14:182 In general

XXIII. THIRD COUNTRIES

- § 14:183 Investment firms—Legal basis
- § 14:184 —General rule

TABLE OF CONTENTS

- § 14:185 —Eligible counterparties and professional clients within the meaning of Section I of Annex II of Directive 14/65
- § 14:186 —Retail clients and professional clients within the meaning of Section II of Annex II of Directive 14/65
- § 14:187 Management companies—Legal basis and scope
- § 14:188 —The provisions

CHAPTER 15. THE LAW ON MONEY LAUNDERING IN THE EUROPEAN UNION

- § 15:1 Introduction
- § 15:2 Institutions and persons subject to the directive
- § 15:3 Definition and punishment of money laundering
- § 15:4 Predicate offences
- § 15:5 Obligations under the Directive—Identification
- § 15:6 —Record-keeping
- § 15:7 —Reporting requirements
- § 15:8 —Internal procedures
- § 15:9 Additional obligations on Member States under the Strasbourg Convention and Decision 01/500

CHAPTER 16. LIBERALIZATION OF TRADE IN TRANSPORT SERVICES IN THE EUROPEAN UNION (AND THE EEA)

I. INTRODUCTION

- § 16:1 General

II. MARITIME TRANSPORT SERVICES

- § 16:2 Liberalization of international maritime transport services
- § 16:3 Liberalization of maritime cabotage

III. AIR TRANSPORT SERVICES

- § 16:4 The licensing of air carriers
- § 16:5 Access to intra-eu air routes
- § 16:6 Allocation of slots at EU airports

IV. ROAD PASSENGER TRANSPORT SERVICES

- § 16:7 Liberalization of international road passenger transport services
- § 16:8 Liberalization of cabotage road passenger transport operations

V. CARRIAGE OF GOODS BY ROAD

- § 16:9 Liberalization of international carriage of goods by road
- § 16:10 Liberalization of cabotage carriage of goods by road

VI. INLAND WATERWAY TRANSPORT SERVICES

- § 16:11 Liberalization of international inland waterway transport services
- § 16:12 Liberalization of cabotage inland waterway transport services

VII. RAILWAY TRANSPORT SERVICES

- § 16:13 General

CHAPTER 17. LIBERALIZATION OF TRADE IN TELECOMMUNICATIONS IN THE EUROPEAN UNION (AND THE EEA)

I. INTRODUCTION

§ 17:1 General

II. THE FRAMEWORK DIRECTIVE

- § 17:2 The new concept of “electronic communications networks and services”
- § 17:3 What are included in “electronic communications networks and services?”
- § 17:4 What is excluded from the framework
- § 17:5 Mission statement for the new framework
- § 17:6 Coordination between national regulatory authorities and the commission
- § 17:7 New definition of significant market power
- § 17:8 The new role of the national regulatory authorities
- § 17:9 Right to appeal
- § 17:10 Scarce resources
- § 17:11 Technical standards and interoperability
- § 17:12 Accounting separation and financial reports
- § 17:13 Exchanges of information
- § 17:14 Communications committee
- § 17:15 European regulators group
- § 17:16 Commission’s power to issue recommendations
- § 17:17 Dispute resolution
- § 17:18 Application of the directive; three-year review

III. THE AUTHORIZATION DIRECTIVE

- § 17:19 Introduction
- § 17:20 Networks and services subject to general authorizations
- § 17:21 Conditions attached to general authorizations
- § 17:22 Administrative charges
- § 17:23 Rights to use frequencies
- § 17:24 Rights to use numbering resources
- § 17:25 Rights of way
- § 17:26 Enforcement
- § 17:27 Existing authorizations
- § 17:28 Three-year review

IV. THE ACCESS DIRECTIVE

- § 17:29 Introduction
- § 17:30 Definition of “access”
- § 17:31 What entities are subject to access obligations?
- § 17:32 What is a network?
- § 17:33 General framework for access
- § 17:34 Choice of tools
- § 17:35 Specific “hard-core” access obligations
- § 17:36 Specific access obligations
- § 17:37 Choosing the right tool
- § 17:38 Price controls
- § 17:39 Publication of, and access to, information
- § 17:40 Review procedures

CHAPTER 18. INCOTERMS 2010

§ 18:1 Incoterms 2010: understanding them

CHAPTER 19. BREXIT

§ 19:1 Brexit: The End Game

CHAPTER 20. THE GENERAL ANTITRUST LAW OF THE EUROPEAN UNION

I. INTRODUCTION

§ 20:1 Raison d'être

§ 20:2 National v. Union Law

II. OVERVIEW OF THE UNION ANTITRUST REGIME

§ 20:3 Overview

III. ANTI-COMPETITIVE PRACTICES AND ABUSE OF DOMINANT POSITION

A. ANTI-COMPETITIVE PRACTICES

§ 20:4 The Prohibition on anti-competitive practices—Article 101(1) and (2)

§ 20:5 The individual exemptions from Article 101(1) to Article 101(3)

§ 20:6 Block exemptions

§ 20:7 —Technology transfer agreements

B. ABUSE OF DOMINANT POSITION

§ 20:8 General provisions

§ 20:9 Examples of subjective abuse—Unfair prices

§ 20:10 —Unfair terms

§ 20:11 —Discriminatory pricing

§ 20:12 —Predatory pricing

§ 20:13 —Discounts

§ 20:14 —Refusal to supply

§ 20:15 —Export bans

§ 20:16 Examples of objective abuse

§ 20:17 Trade between Member States

C. RELATIONSHIP OF ARTICLE 102 TO ARTICLE 101

§ 20:18 Overview

D. ENFORCEMENT OF ARTICLES 101 AND 102

§ 20:19 Introduction

§ 20:20 Object and effect under Article 101(1)

§ 20:21 Enforcement by the Union

§ 20:22 Enforcement by Member States—Structure and powers of National Competition Authorities (NCAs)

§ 20:23 —Role of national courts

§ 20:24 —Parallel enforcement

§ 20:25 —Procedural matters

§ 20:26 —Damages

§ 20:27 Cooperation between the Member States and the Union

IV. MERGERS AND OTHER CONCENTRATIONS

- § 20:28 Introduction
- § 20:29 Definition of a concentration
- § 20:30 Union dimension
- § 20:31 Incompatibility with the internal market
- § 20:32 Applicable law
- § 20:33 The enforcement of the Union rules
- § 20:34 Formalities

PART II. PRIMARY MATERIALS: GLOBAL INSTRUMENTS

A. WTO INSTRUMENTS AND DOCUMENTS

CHAPTER 21. CHECKLIST OF WTO INSTRUMENTS

- § 21:1 List of instruments

CHAPTER 22. GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT) (EXCERPTS) (1947, REVISED 1994)

- § 22:1 Text of agreement

CHAPTER 23. MARRAKESH AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION (WTO) (1994)

- § 23:1 Text of agreement

Appendix 23A. Organizational Chart of the World Trade Organization

Appendix 23B. Protocol Amending the Marrakesh Agreement (“Trade Facilitation Agreement”) (*Annexes omitted*), OJ L284/15

Appendix 23C. List of members of the WTO and accession dates and list of observers (as of August 28, 2018)

Appendix 23D. Contracting Parties to the Trade Facilitation Agreement and Dates of Acceptance (*as at August 28, 2018*)

CHAPTER 24. GENERAL AGREEMENT ON TRADE IN SERVICES (GATS) (1994)

- § 24:1 Text of agreement

Appendix 24A. Annual Report of the Council for Trade in Services to the General Council (2024)

Appendix 24B. Annual Report of the Committee on Trade in Financial Services (2023)

Appendix 24C. Annual Report of the Working Party on GATS Rules to the Council for Trade in Services (2024)

CHAPTER 25. AGREEMENT ON PRESHPMENT INSPECTION (1994)

- § 25:1 Text of agreement

Appendix 25A-A. Summary of the Agreement on Preshipment Inspection (1994)

Appendix 25A-B. Report of the Working Party of Pre-Shipments Inspection (1999)

CHAPTER 26. AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS) (1994)

- § 26:1 Text of agreement

TABLE OF CONTENTS

- Appendix 26A. Dispute Settlement Cases under the Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPS)
- Appendix 26B. Annual Report (2024) of the Council for TRIPS
- Appendix 26C. Summary of the TRIPS Agreement (with respect to services)
- Appendix 26D. Annual Report on Notifications and Other Information Flows: Note by the Secretariat (2022)

CHAPTER 27. DISPUTE SETTLEMENT UNDER GATS

§ 27:1 Text of understanding

- Appendix 27A. Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes
- Appendix 27B. Dispute settlement cases involving GATS (consolidation as at Mar. 27, 2025)
- Appendix 27C. Excerpts from the 2019-2020 Annual Report of the Appellate Body
- Appendix 27D. Dispute Settlement Body: Annual Report (2024)

CHAPTER 28. AGREEMENT ON GOVERNMENT PROCUREMENT (GPA) (1994)

§ 28:1 Text of agreement

- Appendix 28A. Parties to the Agreements on Government Procurement (as at June 10, 2021)
- Appendix 28B. Revised Agreement on Government Procurement (2012)
- Appendix 28C. Agreement on Government Procurement: European Union: Annexes 4 and 5: General Notes
- Appendix 28D. Agreement on Government Procurement: United States of America: Annexes 4 and 5: General Notes
- Appendix 28E. Agreement on Government Procurement: Japan: Annexes 4 and 5: General Notes
- Appendix 28F. Side-By-Side Text of the Agreement and Revised Agreement on Government Procurement
- Appendix 28G. Dispute Settlement Cases under the Agreement on Government Procurement (as at February 7, 2023)
- Appendix 28H. Annual Report of the Committee on government procurement (2024)
- Appendix 28I. Summary of Secretariat (2024) on Tenth Anniversary

CHAPTER 29. DECISIONS RELATING TO THE GENERAL AGREEMENT ON TRADE IN SERVICES (1994)

§ 29:1 Text of decisions

CHAPTER 30. UNDERSTANDING ON COMMITMENTS IN FINANCIAL SERVICES (1994)

§ 30:1 Text of understanding

CHAPTER 31. WTO GUIDELINES FOR MUTUAL RECOGNITION AGREEMENTS OR ARRANGEMENTS IN THE ACCOUNTANCY SECTOR (1997)

§ 31:1 Text of guidelines

CHAPTER 32. WTO DISCIPLINES ON DOMESTIC REGULATION IN THE ACCOUNTANCY SECTOR (1998)

§ 32:1 Text of disciplines

CHAPTER 33. DECISION ON DOMESTIC REGULATION (1999)

§ 33:1 Text of decision

CHAPTER 34. THE DOHA DECLARATION (2001)

§ 34:1 Text of declaration

**CHAPTER 35. GUIDELINES AND PROCEDURES FOR THE
NEGOTIATIONS ON TRADE IN SERVICES (2001)**

§ 35:1 Text of guidelines

CHAPTER 36. IN DEFENSE OF GATS (2002)

§ 36:1 Text of paper

**CHAPTER 37. THE REQUEST AND OFFER APPROACH IN
SERVICES NEGOTIATIONS**

§ 37:1 Text of presentation

**CHAPTER 38. MODALITIES FOR THE TREATMENT OF
AUTONOMOUS LIBERALIZATION (2003)**

§ 38:1 Text of modalities

**CHAPTER 39. FIFTH DECISION ON NEGOTIATIONS ON
EMERGENCY SAFEGUARD MEASURES (2004)**

§ 39:1 Text of decision