

CHINA AND INTERNATIONAL ECONOMIC LAW SERIES

THE EU, THE WTO AND CHINA

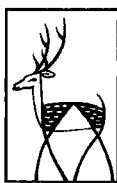
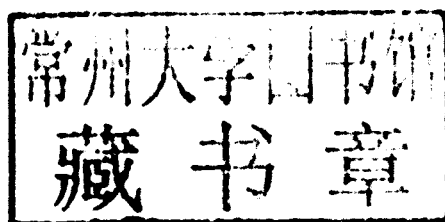
LEGAL PLURALISM AND INTERNATIONAL
TRADE REGULATION

FRANCIS SNYDER

The EU, the WTO and China

Legal Pluralism and
International Trade Regulation

Francis Snyder



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For Anne-Lise

Note to the Reader

This book was written and prepared for publication before the entry into force of the Treaty of Lisbon on 11 December 2009. For the sake of clarity, it uses the Treaty article numbering and the legislative nomenclature which applied at the time of the Treaty articles, legislation and judicial decisions analysed in the book. The Treaty of Lisbon amended the Treaty on European Union (TEU) and the Treaty establishing the European Community (TEC). These amendments resulted in a new Treaty on European Union (TEU) and a new Treaty on the Functioning of the European Union (TFEU). It also renumbered Treaty articles. It requires references to the *European Community* to be read as the *European Union*, references to the *European Court of Justice* to be read as the *Court of Justice* and references to the *Court of First Instance* to be read as the *General Court*. These changes do not affect in any material way the analysis in this book.

For convenience, the following table provides equivalences of numbering in relevant articles in the 1957 Treaty establishing the European Economic Community (TEEC) and successive Treaties up to and including the TEU and the TFEU following the entry into force of the Treaty of Lisbon.

European Treaty Article Numbering: Table of Equivalences

Original numbering of the Treaty establishing the European Economic Community (1957)	Numbering introduced by the Treaty establishing the European Community (1992) [Maastricht Treaty], used until 2/10/1997	Numbering of the Treaty of Amsterdam and the Treaty of Nice, used from 2/10/1997 to 1/12/2009	Current numbering in the TEU and TFEU (2009) following adoption of the Lisbon Treaty
2	2	2	repealed
---	4	4	119 TFEU
---	14	14	26 TFEU
	28	26	31 TFEU
85	81	81	101 TFEU
86	82	82	102 TFEU
92	87	87	107 TFEU
93	88	88	108 TFEU
---	100a	95	114 TFEU
110	131	131	206 TFEU
112	repealed	---	---
113	133	133	207 TFEU
114	repealed	---	---
115	134	134	repealed
190	190	253	296 TFEU
169	169	226	258 TFEU
173	173	230	263 TFEU
175	175	232	266 TFEU
177	177	234	267 TFEU
	228	300	218 TFEU
	238	310	217 TFEU

Preface and Acknowledgments

This book presents a new theoretical framework for understanding the regulation of international trade. It focuses on relations between the EU, the WTO and China. It consists of three main parts. Part I introduces the basic concepts and the theoretical framework. It surveys the literature on law and globalisation, introduces the concept of sites of governance and the theory of global legal pluralism and sketches the foundations of global legal pluralism. It shows that each site of governance has both a structural dimension, consisting of institutions, norms and dispute resolution processes, and a relational dimension, comprising its relations with other sites of governance. The totality of sites of governance constitutes a new form of global legal pluralism. Using this theoretical framework, Part II analyses global legal pluralism in action in relations between the EU, the WTO and China. It examines the construction of relations between sites, ways in which relations between sites give rise to new legal concepts or transform the character of rules, the tension between regionalism and international integration and the governance of international production networks. It emphasises the reciprocal interaction between the structural features and the relational features of sites. Looking toward the future, Part III explores new directions in global legal pluralism. It first analyses regional trade agreements as a way of creating new sites of governance, focusing on agreements involving China. Then it considers how to enhance ethical issues in international trade regulation. Based on an institutional analysis of relations between the WTO and other sites of governance, it proposes ways in which global legal pluralism can be used to reform the WTO, today the predominant institution in the regulation of international trade, including trade between the EU and China.

Nourished by teaching and research in Europe, North America, Africa and Asia, in particular China, this book has taken shape over a number of years. I am grateful to many people, institutions and organisations for their help and support. Without their generous help, the book would never have been completed. It is a pleasure to thank them here. I hope that anyone whom I have neglected to mention, or government officials who wished not to be identified specifically, will find in the book itself an expression of my gratitude.

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As the book gradually took shape as a sustained argument, preliminary versions of various chapters have been published individually. For this book, however, all chapters have been updated as necessary, revised and sometimes completely rewritten.

- Chapter 2 is an updated, completely revised and rewritten version of an article originally published as ‘Economic Globalization and the Law in the 21st Century’, in Austin Sarat (ed), *The Blackwell Companion to Law and Society* (New York and Oxford, Blackwell Publishers, 2004) 624–40.
- Chapter 3 is a revised, expanded version of an article originally published as ‘Governing Economic Globalization: Global Legal Pluralism and European Law’, (1999) (5) 4 *European Law Journal* 334–74.
- A very preliminary, shorter version of part of what is now Chapter 4 was published as ‘The European Union, Globalisation and China: EC Anti-dumping Law, Legal Strategies and Unintended Consequences’, in Wolfgang Graf Vitzthum, Catherine Prieto and Rostane Mehdi (eds), *Europe et Mondialisation / Europa und die Globalisierung* (Actes du Colloque de la Faculté de Droit et de Science Politique d’Aix-Marseille et de la Faculté de Droit de Tübingen, Aix-en-Provence, 21–22 octobre 2004) (Aix-en-Provence, Presses Universitaires d’Aix-Marseille, 2006) 362–81. A preliminary version of other parts of this chapter was published as ‘Antidumping Law and Cross-Cultural Encounters: Toward a Legal Anthropology of International Economic Relations’, in Christoph Eberhard and Geneviève Vernicos (eds), *La quête anthropologique du droit: Autour de la démarche d’Etienne Le Roy* (Paris, Karthala, 2006) 59–76.
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- Chapter 8 is an updated, completely revised and rewritten version of an article originally published as ‘Europeanisation and Globalisation as Friends and Rivals: European Union Law and Global Economic Networks’, in Francis Snyder (ed), *The Europeanisation of Law: Legal Effects of European Integration* (Oxford, Hart Publishing, 2000) 293–320.
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Francis Snyder
Sils im Engadin
Peking University Law School
20 September 2009

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European Union

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Amministrazione delle Finanze dello Stato v Societe Petrolifera Italiana SpA (SPI) and SpA Michelin Italiana (SAMI), Joined Cases 267/81-269/81, [1983] ECR 801	157, 166, 238
Anheuser-Busch Inc v Budejovick? Budvar národní podnik, Case C-245/02, [2004] ECR I-10989	197
Anton Dürbeck v Commission, Case T-252/97, [2000] ECR II-3031	175
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Commission v Italy, Case 10/61, [1962] ECR (Eng Sp Ed) 1	157
Commission v Netherlands, Case 49/82, [1983] ECR 1195	301, 304
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