Index

Abbott, Kenneth 49–50, 100, 209
Abi-Saab, Georges 35
accountability 8, 38–9, 235–6, 238, 243, 254, 256, 266, 272–3
Ad Hoc Working Group on further commitments for Annex I Parties under the Kyoto Protocol (AWG-KP) see under climate change regime
Ad Hoc Working Group on Long-term, Cooperative Action (AWG-LCA) see under climate change regime
Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) see under climate change regime
adaptation to climate change see under climate change
Agenda 21 119, 186
Agreement establishing the World Trade Organization (WTO) see under trade regime
Agreement on Technical Barriers to Trade (TBT Agreement) see under trade regime
Agreement on the Application of Sanitary and Phytosanitary Measures see under trade regime
Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) see under trade regime
Agreement on Trade-Related Investment Measures (TRIMS Agreement) see under trade regime
Aichi targets see under biodiversity regime
Alliance of Small Island States 139
Annex B Parties to the Kyoto Protocol see under climate change regime
Annex I Parties to the United Nations Framework Convention on Climate Change see under climate change regime
Asian Development Bank 96–7
autonomous interaction management  
12, 60–61, 77–8, 80, 114–16, 152–6, 201–202, 239–40, 243, 254, 258
effectiveness of 239–40
limitations of 239–40
by non-state actors 12, 154–6
by states 114–16, 152–4, 201–202
aviation emissions
in the EU emissions trading system 177, 197, 260–61
Bali Action Plan see under climate change regime
bandwagoning 266
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal 74
Biermann, Frank 267
Biodiversity Liaison Group 76
biodiversity loss 3, 6, 120–21, 126
biodiversity regime
Aichi Targets 129, 209
and climate change 126–7
Conference of the Parties (COP) see Conference of the Parties (COP) to the Convention on Biological Diversity
conflict clause see under conflict clauses
decisions on biodiversity and climate change 23, 143–5
ecosystem approach 127, 143–4, 156
ex situ conservation 128
and forests 127–9, 143–5
holistic approach 126–7
and intellectual property rights 41
in situ conservation 128
objectives 126
and REDD 144–5
secretariat 76, 128, 144–9, 220, 231–2, 234–5, 249
as soft law 209–10
Strategic Plan for Biodiversity 2011–2020 129
Subsidiary Body on Scientific, Technical and Technological Advice 143
work programme for forest biodiversity 128–30, 209
biodiversity safeguards 131–3, 135–7, 144–5, 152–5, 213, 235, 247
biodiversity standards 147, 153–5, 259
Bodansky, Dan 108, 165
border adjustment measures (BAMs) 166, 172, 174–81, 184–85, 190–93, 197–204, 214–15, 239, 253, 260
calculation of adjustment 176, 179, 198
and carbon leakage 174–5, 177–8, 191, 198–9, 201–202, 260
and competitiveness 174–5, 177–8, 191, 202, 260
design 176–80, 198, 201–202
and developing countries 26–61, 177, 198, 200–201, 203–204
and the free rider problem 174–5, 177, 191–2
in the European Union see under European Union (EU)
institutional coordination of 197–201, 203, 253
and international trade law 177–81, 183, 203
reimbursement mechanism 198–9
in the United States see under United States (US)
border tax adjustments 170, 176
Brazil 195
Broude, Tomer 190
Brunnée, Jutta 73
Buck, Matthias 169, 193
bureaucracies 74–7, 157, 194, 231–2, 234–5, 238, 251–2, 254, 273
cognitive influence 74, 143, 148, 195, 231–2
executive influence 75
legal personality 75–6
normative influence 74–5, 145, 231
Index

Bush, George W. 24, 92, 95
California 25
Canada 97–8, 103
Cancún Agreements see under climate change regime
Carbon Disclosure Project 25
carbon markets see emissions trading systems
Carbon Sequestration Leadership Forum 24, 93
Cartagena Dialogue 24
Cartagena Protocol on Biosafety 187, 191, 265
Chambers, Bradnee 75–6
Charnovitz, Steve 196
Chile 35–6, 40
chilling effect see under trade and environment
China 20, 87, 93, 95, 97, 98, 103–104, 106, 115, 151, 169, 178, 195
Christoff, Peter 103
Churchill, Robin 75
Cities for Climate Protection 26
Clean Development Mechanism (CDM) 19–20, 54, 90–1, 123–4, 126, 131–3, 137, 153, 155, 169–70, 211, 216, 227
and biodiversity safeguards see biodiversity safeguards
criticisms 20
and forests 123–4, 126, 131–3, 153, 211, 227
international trade law issues 169–70
and the Montreal Protocol 54
sustainable development criteria 137
and technology transfer 90–91
Climate, Community and Biodiversity Alliance 147, 154–5
climate change adaptation to 11, 15, 104, 146, 211, 218, 250
and biodiversity loss 120–21
as a collective action problem 4
dangerous climate change 16, 26, 104, 118, 121, 261
historical responsibility 17
impacts 15, 104, 211, 218
science of 15–17 see also Intergovernmental Panel on Climate Change (IPCC)
and technology 83–8 see also technology development and transfer
and trade see trade and climate change
vulnerability 15
as a wicked problem see wicked problems
climate change regime
2015 agreement 22–3, 176, 184, 196, 210
Ad Hoc Working Group on further commitments for Annex I Parties under the Kyoto Protocol (AWG-KP) 21
Ad Hoc Working Group on Long-term, Cooperative Action (AWG-LCA) 21
Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) 22, 262
Annex I parties to the United Nations Framework Convention on Climate Change (UNFCCC) 17–19, 22, 106, 170
Bali Action Plan 21, 91, 107, 124, 182
and biodiversity 121–2, 130–37
Cancún Agreements 22, 92, 107–10, 112–13, 125, 135, 145, 210,
CDM see Clean Development Mechanism (CDM)
Climate Technology Centre and Network 92, 113, 258
commitments 18–19, 21, 23, 95
common but differentiated responsibilities 17, 26, 56, 104, 181–2, 199, 216, 270
Conference of the Parties (COP) see Conference of the Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC)
Copenhagen Accord 21–2, 92, 107–108, 125, 210
developed country leadership 17–18
emission reduction pledges 22–3, 210
equity 17
Expert Group on Technology Transfer 90, 92, 109–11
finance 17–19, 21–2, 90, 250, 258
and forests 122–6, 130–137, 156, 213, 215, 247
Green Climate Fund 22, 111–12, 114, 126, 262
history of 17–23
international cooperative initiatives 262
Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC) see Kyoto Protocol
land use, land-use change, and forestry (LULUCF) see land use, land-use change, and forestry (LULUCF)
Marrakech Accords 20, 110, 123, 126, 131–3
monitoring, reporting and verification see monitoring and reporting
National Communications 90, 106, 111, 136
nationally appropriate mitigation actions 21
Pożnan strategic programme on technology transfer 90
principles of 17
REDD see reducing emissions from deforestation and forest degradation (REDD)
response measures 182, 200, 260
and technology see technology development and transfer
secretariat 74, 76, 91, 109–11, 145–6, 149, 194, 231, 234–5, 252
Subsidiary Body for Scientific and Technological Advice 142
Technology Executive Committee, 92, 109–10, 258
Technology Mechanism 22, 92
TT:CLEAR 90
ultimate objective 17–18, 23, 26, 85, 104, 114, 121, 261
Warsaw Framework for REDD+ 126
climate finance see under climate change regime
Climate Technology Initiative 109–10
clubs see minilateral approaches
clustering multilateral environmental agreements (MEAs) 72, 148–9, 157
chemicals conventions 74
limitations 149
types 149
Collaborative Partnership on Forests 76
Conference of the Parties (COP) to the Convention on Biological Diversity
in Hyderabad 145
in Nagoya 129, 144
Conference of the Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC)
in Bali 90
in Cancún 22, 24, 125–6, 182
COP6 20, 123
COP6bis 20
in Copenhagen 21, 135, 210
in Doha 22
in Durban 22, 126, 136, 147
in Warsaw 126
Conference of the Parties (COP) decisions see treaty body decisions
conflict
actual conflict 6, 54–5, 58–9, 133, 167, 214, 216–18, 241–2, 245, 247
definition of 52–3, 214, 226–7, 245
indicators for 53–4, 218, 245
Index

presumption against 54, 214
test of impossible joint compliance 52, 226
conflict clauses 66–9, 139–40, 191–2, 224–5, 230, 249, 253
in the Convention on Biological Diversity (CBD) 140, 224
in the Convention on the Non-Navigational Use of Watercourses 66
in human rights law 67
and interaction clauses 224–5, 253
in the Kyoto Protocol 139–40, 224
limitations 67, 224
in the United Nations Charter 66, 68
in the World Trade Organization (WTO) agreements 192
constitutionalization 256, 272
Convention on Biological Diversity (CBD) see biodiversity regime
Convention on International Trade in Endangered Species of Fauna and Flora 188, 211
Convention on Migratory Species 186–7
Convention on the Non-Navigational Use of Watercourses 66
Convention to Combat Desertification 76, 139, 146, 148, 151
Copenhagen Accord see under climate change regime
Cossy, Mireille 195
Costa Rica 124
customary international law 50
de Coninck, Heleen 94
deforestation see under forests
deformalization of international law 8
Denmark 87
Depledge, Joanna 18, 89
differentiation 23, 103–105, 107, 116, 169, 180–81, 211, 217–18
Dunoff, Jeffrey 79, 270
Earth Summit see United Nations Conference on Environment and Development
earth system governance 273
Eckersley, Robyn 103, 166
ecosystem approach see under biodiversity regime
Eliason, Antonia 172
emission allowances 167
as goods 167
as services 167
emissions trading systems 25–6, 134, 153–4, 167–9, 172, 175–7, 179, 197, 199, 202, 250, 260–62
allowance allocation 167–9, 175
European Union (EU) emissions trading system 25, 134, 153, 167–8, 177, 197, 199, 260
and forestry 134, 153–4
international trade law issues 167–9
Regional Greenhouse Gas Initiative 26
regulatory carbon markets 25, 154
voluntary carbon markets 25, 154–5
environmental impact assessment 122, 132, 153, 259
and border adjustment measures 176, 197–9, 212
emissions trading system see under emissions trading systems
European Commission 95
and the Kyoto Protocol 20
swordfish dispute with Chile see swordfish dispute
equity see under climate change regime
exercise of international public authority 38, 273
The fragmentation of global climate governance

Fischer, Carolyn 178
Fischer-Lescano, Andreas 33
Food and Agriculture Organization of the United Nations 41
Forest Principles 119
forests
 afforestation 119, 122–4, 128, 130–2, 153
 as carbon sinks or sources 11, 119, 122, 126–7, 247
 and the Clean Development Mechanism (CDM) see under Clean Development Mechanism (CDM)
 deforestation 15, 119, 128, 133–7
 functions of 127
 genetically modified trees 130, 133
 invasive species 130, 133
 plantations 130, 132
 REDD see reducing emissions from deforestation and forest degradation (REDD)
 reforestation 119, 121–2, 128, 132–3, 153
 see also land use, land-use change, and forestry (LULUCF)
 forum shopping 40–41, 51, 213, 257, 263, 266
 Fox, Alan 178
 fragmentation
 advantages of 41–2
 concept of 14, 31–43
 consequences of 5, 31, 40, 42–3, 244
 definition of 31–5, 42
 drivers of 33
 institutional 35–6
 of primary and secondary norms 37
 risks of 39–41
 substantive 35–6
 types of 35–9
 fragmentation of international law 6, 8, 14, 32–6, 39–42, 45, 48, 245, 248, 252, 256, 270–71, 273
 and the International Law Commission (ILC) see under International Law Commission (ILC)
 and the unity of international law 33–4
 France 87
 free rider problem see under border adjustment measures (BAMs)
 Friends of the Earth 95
 functional linkages 46–7
 Gehring, Thomas 46–8, 55–6, 210, 213, 241
 Article III 171, 179, 184
 Article XX 162–3, 177–80, 183–7
 environmental exceptions 162–3, 177–80, 183–7
 General Agreement on Trade in Services (GATS) see under trade regime
 Germany 87
 global administrative law 8, 38, 273
 global constitutionalism 79
 Global Environment Facility 57, 90, 110, 148
 global environmental governance 6–7, 44, 74, 76, 213
 global forest convention 119
 global legal pluralism see legal pluralism
 Global Methane Initiative 24, 94
 Global Superior Energy Performance Partnership 99
 globalization 3
 Gold Standard 25, 155
 government procurement 170, 173
 Green Climate Fund see under climate change regime
 Group of 8 (G8) 24, 95
 Group of 8+5 (G8+5) 201
 Group of 20 (G20) 24, 201
 Group of 77 (G77) 95, 182
 Grubb, Michael 199
 Hafner, Gerhard 31–2, 42
 hard law see under soft law
 Harrop, Stuart 209
Hart, H.L.A. 37
Helfer, Laurence 40
Houser, Trevor 178
Howard, John 95
Howse, Robert 172, 22
Hufbauer, Gary 200
human rights 6, 10, 41, 67, 79, 208, 264
India 20, 87, 95, 97, 103–104, 106, 115, 169, 182, 195, 197, 200
Indonesia 154
informal international lawmaking see also soft law 38–9, 50, 101, 208, 253
institution 46–8
concept of 8, 47–8
definition of 47–8
clustered institutions 46
embedded institutions 46
nested institutions 46
institutional complex 44–5, 258, 267–9
definition of 44–5
institutional coordination
actors in 73–7
ad hoc 72, 110, 249–50, 254
on border adjustment measures (BAMs) 197–201
between the climate change regime and minilateral clean technology agreements 109–14
between the climate change regime and the biodiversity regime 142–52, 231–2, 235
between the climate change regime and the trade regime 193–7, 232, 234
joint 71, 238, 249
legal basis 72, 238–9, 249, 254
limitations 234–6
opportunities 231–4
role of bureaucracies 74–7, 145–9, 194–5, 231–2, 234–5, 243, 249, 251–2, 254 see also bureaucracies
role of decision-making bodies 73–4, 142–5, 148, 194, 233–4, 243, 249, 254 see also treaty body decisions
role of dispute settlement bodies 77, 249
structural 72, 238–9, 249, 251, 254
types of 71–2
unilateral 71, 249, 253
insurance 25
intellectual property rights 41, 87–9, 173, 265
and technology transfer 87–8
and the trade regime 173
inter se agreements see under Vienna Convention on the Law of Treaties (VCLT)
inter-institutional learning see learning interaction clauses see under conflict clauses
interaction management
autonomous see autonomous interaction management
collective forms of 77, 80, 151, 157, 236–9, 249, 258–9
effectiveness of 78–80, 236–40
ex ante 61, 224
ex post 61
through institutional coordination see institutional coordination
joint 60–61, 151
through legal techniques see legal techniques
levels of 60–61
modes of 61, 231
through overarching institutional frameworks 46, 60–61, 80, 157, 252
types of 60–61, 80
unilateral 60
interactions
causal mechanisms of 9–10, 46, 59, 210–12, 241–2
consequences of 10, 14, 47, 52–9, 101–108, 129–37, 166–81, 214–20, 241–2, 245 see also conflict; synergy
The fragmentation of global climate governance

intentionality of 10, 46–8, 59, 212–14, 239, 241–2, 246, 263, 268
object of 10, 47–52, 207–10, 241–2 politics of 263–6, 271–2 between soft and hard law see under soft law
Conference of the Parties serving as Meeting of the Parties to the Kyoto Protocol (COP/MOP) 123, 142, 149, 227
emission reduction targets 16, 18–19, 21, 26, 37, 103, 115, 122–3
first commitment period 21
flexibility mechanisms 19–20, 24–5, 166–7, 202, 216, 218, 227
and forests 122–4, 130–3, 227
international emissions trading 19, 167
joint implementation 19
policies and measures 19, 170

Lamy, Pascal 165
land use, land-use change, and forestry (LULUCF) 122–4, 131–3, 138, 153
and additionality 124
definitions of afforestation, reforestation and deforestation 123, 132–3
and leakage 124
and non-permanence 123
Lang, Andrew 264

law of the sea see United Nations Convention on the Law of the Sea (UNCLOS)
law of treaties see Vienna Convention on the Law of Treaties (VCLT)
learning 54, 57, 61, 107, 218–20, 242, 256
least-developed countries 24, 169, 180, 260
legal approaches see legal techniques
legal pluralism 33–4, 39, 256
legal techniques
conflict avoidance techniques 62–5, 137–9, 182–90
conflict resolution techniques 66–71, 137–9, 190–3, 227, 237, 254
conflict clauses see conflict clauses
limitations 226–31
opportunities 221–5
priority rules see priority rules

Leino, Päivi 32
lex posterior see under priority rules
lex specialis see under priority rules
lex superior see under priority rules
living treaties 141, 156, 193
Long, Andrew 155
Lowe, Vaughan 229

Major Economies Forum 24, 201
Major Economies Process on Energy Security and Climate Change 24, 108
managerialism 236, 244, 265, 272
Marceau, Gabrielle 186, 195
Marrakech Accords see under climate change regime
Matz, Nele 75, 140, 216, 229
McGee, Jeffrey 99, 108
McLachlan, Campbell 183
Mehling, Michael 56
Memoranda of Cooperation (MOCs) see Memoranda of Understanding (MOUs)
Memoranda of Understanding (MOUs) 72, 75–6, 110, 148, 196, 232
Mexico 102, 195
Michaels, Ralf 228
minilateral approaches 24, 25, 42, 83–4, 92, 107, 117, 219, 257–8
minilateral clean technology agreements and clean technologies 92–94
and the climate change regime 83–118, 208, 212–14, 217–20, 232, 245, 250, 257–8, 262
legal nature 94
participation 93
strengths 112–13, 250, 258
monitoring and reporting of biodiversity impacts 135, 137, 219–20, 259
in the climate change regime 102, 106, 111
of mitigation actions 22–23
Montreal Protocol on Substances that
Deplete the Ozone Layer 23–4, 54, 70, 94, 165, 190–91, 207, 211, 224, 233
and the climate change regime 207, 224, 233
decision on
hydrochlorofluorocarbons 233
Multilateral Fund 94
role in reducing greenhouse gas
emissions 23–4
trade measures 70, 165, 190–91, 211
MOX plant dispute 40
multilateral environmental agreements
(MEAs) 41, 52, 54, 65, 74–5, 127, 141, 149–50, 162, 164, 184, 190–92, 194, 196
mutual supportiveness 7, 77, 184, 190, 224–5, 230, 234, 255
 Neuhoff, Karsten 179
New Zealand 102
non-state actors 8, 12–13, 23–6, 38–9, 51, 56, 60–61, 74, 77–8, 97, 100, 113, 152, 154–5, 157, 208, 211, 223, 239, 249, 254, 258–9, 266–8, 272
normative hierarchy 34–5, 53, 68, 70, 227–31
Norway 154
Obama, Barack 24
Oberthür, Sebastian 44, 46–8, 55–6, 60–61, 71, 77, 210, 213, 216, 231, 239–41, 244, 256, 267
obligations erga omnes 79, 255
orchestration 261–3, 266
Organisation for Economic
Co-operation and Development
(OECD) 95, 109, 201
ozone depletion 3, 6
Pacala, Stephen 85
pacta sunt servanda 67, 77, 240
Pacta tertii 67
Papua New Guinea 124
Pauwelyn, Joost 49, 52–3, 185–6, 188–9, 191–2, 223, 228
Pavoni, Riccardo 184
peremptory norms see jus cogens
Permanent Court of Arbitration 230
Permanent Court of International
Justice 36
Peters, Glen 178
policy diffusion 42
political approaches see institutional
coordination
political linkages 46–7, 212
Pollack, Mark 49, 51, 270
polycentricity 34, 269
Pontecorvo, Concetta Maria 138, 214, 216, 229
precautionary approach or principle 17, 54, 57, 264–5
principle of systemic integration 65, 138, 183–4, 186–90, 203, 221–3, 252
priority rules 67–71, 140–41, 249
lex posterior 69–70, 141, 192–3, 227–9, 249, 255
lex specialis 70–71, 108, 140–41, 193, 203, 228–9, 249, 255
lex superior 68–9, 249, 255
processes or production methods
(PPMs) 171–2
public–private partnerships 77–8, 240
Ramsar Convention on the Protection of
Wetlands of International
Importance 207
Raustiala, Kal 44, 267
reducing emissions from deforestation
and forest degradation (REDD) 22, 124–6, 129, 133–8, 144–5, 147, 153–6, 198, 211, 213, 217–20, 225, 247, 249–50, 258–9, 267
and biodiversity safeguards see
biodiversity safeguards
in the climate change regime 22, 124–6, 129, 133–8, 247, 258–9

330
The fragmentation of global climate governance
Index

in the Convention on Biological Diversity (CBD) see *under*
  biodiversity regime
co-benefits 135, 137, 154
decisions by the UNFCCC COP 124–6, 135–6, 217
financing 125–6, 134, 153, 218–19
leakage 125, 134
and market-based mechanisms 125, 134, 153
non-permanence 125
and REDD+ 124
reference levels 126, 147
scope 124, 134
Warsaw Framework for REDD+ see *under* climate change regime
regime 8, 47–9, 100
concept of 8, 47–9
definition of 48, 100
regime complex 26, 44, 267
for climate change 26
definition of 44
regime effectiveness 9, 55–6, 78–9, 245
criticism of 56
impact-outcome-output distinction 56
and interaction management 78
methods of determining 55–6
and regime interactions 9, 245
regime interactions see *interactions*
regime shifting 41, 266
Reinaud, Julia 178
Renewable Energy and Energy Efficiency Partnership 25, 93
Rio Conventions 76, 119, 128, 142, 144, 151–2, 232, 235
Rio Declaration on Environment and Development 50, 186
Rio+20 see United Nations Conference on Sustainable Development
Rosendal, Kristin 55
Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade 74
Russia 20, 102
savings clauses see conflict clauses
science of climate change see *under*
  climate change
scientific uncertainty 4, 16, 54, 85, 244
sea level rise 15, 160
secretariats see bureaucracies
sectoral differentiation 33
self-contained regimes 36–7
Shaffer, Gregory 49, 51
shift from government to governance 38
short-lived climate pollutants 250
small island states 24, 139
Snidal, Duncan 50, 100, 209
socio-ecological complexity 3
Socolow, Rob 85
soft law
definition of 49–50
legal effects 49, 99–101
obligation, precision and delegation 50, 100–101, 209
Rio Declaration as 50
schools of thought 49
Stockholm Declaration as 50
see also informal international lawmaking
South Africa 195
South Korea 95, 97, 115
sovereignty 46, 151, 173, 235
stabilization wedges 85
state consent 63, 70, 73, 193, 223, 235–6, 243, 254
state responsibility 36–7
state sovereignty see sovereignty
Stern Review 85, 159–60
Stiglitz, Joseph 171
Stockholm Convention on Persistent Organic Pollutants 74
Stokke, Olav Schram 44, 46, 193, 239, 241, 244, 256, 267
strategic environmental assessment 137, 153–4
structural bias of regimes 41, 228, 236
subsidies 165, 168–71, 220, 247
actionable subsidies 168–9
Agreement on Subsidies and Countervailing Measures (SCM Agreement) see under trade regime
and allowance allocation 168–9
fossil fuel subsidies 165, 220, 247
prohibited subsidies 168
sub-national climate change action 25–6
super wicked problems see wicked problems
sustainable development 7, 17, 79, 137, 142, 155, 169, 188, 229, 255
in the climate change regime 17
as a conflict resolution tool 79, 229
as a general principle of international law 229
as an interstitial norm 229
in the World Trade Organization (WTO) 160, 163, 166, 188
swordfish dispute 35–6, 40
synergy
actual synergy 58–9, 117, 219, 241–2
definition of 55
indicators for 56–7, 220, 245
normative reinforcement 57
potential synergy 58–9, 117, 136, 173–4, 231, 241–2, 247, 253
systemic integration see principle of systemic integration
S.S. Wimbledon case 36

Tadić case 36
Taplin, Ros 99, 108
technology development and transfer
challenges to technology transfer 87
in the climate change regime 17, 88–92, 106, 111–14, 250
funding 85, 112, 114
modes of technology transfer 87
role of private sector 86–7
technology transfer 57, 86–92, 104, 107, 118, 146, 150, 173, 262

Tehran-Hostages case 36–7
territorial differentiation 33
Teubner, Gunther 33, 256
Trachtman, Joel 186

climate impacts on trade 159–60
composition effect 159
flexibility mechanisms 166–70, 202
impact of climate policies on trade 160
preferential trade measures 166, 174
scale effect 159
technique effect 159
trade impacts on climate change 158–9
trade-related policies and measures 166, 170–73
transfer of climate-friendly goods and technologies 166, 173, 220, 247
transport emissions 159
unilateral climate-related trade measures 12, 158, 165, 176–7, 203, 230, 247, 260–61
trade and environment 36, 41, 46, 52, 54, 70–71, 161–4, 184, 190, 194, 196
chilling effect 163, 165, 211, 214, 217–18
extraterritorial protection of the environment 162
liberalization of environmental goods and services 164, 220
see also processes or production methods (PPMs)

trade regime
Agreement establishing the World Trade Organization (WTO) 62, 160, 188, 192, 194
Agreement on Government Procurement 173
Agreement on the Application of Sanitary and Phytosanitary Measures 161
Agreement on Subsidies and Countervailing Measures (SCM Agreement) 168–71
Agreement on Technical Barriers to Trade (TBT Agreement) 161, 173
Index

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) 41, 51, 160, 173
Agreement on Trade-Related Investment Measures (TRIMS Agreement) 169–70
EC-Biotech case 187–8, 222–3 and border adjustment measures see border adjustment measures (BAMs)
Committee on Trade and Environment (CTE) 163–4, 192, 201, 260
Decision on Trade and Environment 163
dispute settlement mechanism 35–6, 73, 78, 161, 177, 181, 183, 186–9, 193, 215, 237, 249, 260
Doha Ministerial Declaration 164
Doha Round 164, 200
Enabling Clause 174
and entry into force of Kyoto Protocol 20
and the environment see trade and environment
General Agreement on Tariffs and Trade (GATT) see General Agreement on Tariffs and Trade (GATT)
General Agreement on Trade in Services (GATS) 160, 167–8
General Council 161, 194, Generalized System of Preferences 174
intellectual property rights see intellectual property rights
Korea-Government Procurement case 186
most-favoured nation rule 161, 180–81, 185
national treatment rule 161, 171–2, 179
objectives 160, 188
principle of non-discrimination 161, 172
principles of 161
shrimp-turtle dispute 37, 162–3, 180, 186, 188
special and differential treatment 181
Special Sessions of the Committee on Trade and Environment (CTE) 164, 194, 196
and sustainable development 160, 163, 166, 188
swordfish dispute see swordfish dispute
tuna-dolphin case 162
Uruguay Round 160
World Trade Organization (WTO) secretariat 161, 165, 194–6, 231–2, 234, 252
treaty amendment of the Agreement establishing the World Trade Organization (WTO) 62, 183
rules on see under Vienna Convention on the Law of Treaties (VCLT)
of the United Nations Framework Convention on Climate Change (UNFCCC) 63, 137–8
treaty body decisions as a cause of regime interactions 226
as international lawmakers 73–4, 226–7, 251
legal nature 73–4, 226–7
role in interaction management 71, 73
treaty congestion 44
treaty interpretation 62, 64–5, 71, 73, 108–109, 138–9, 156, 183–90, 221–3, 237, 249, 251–3
any subsequent practice 65, 73
authentic interpretation 65, 138
context 64, 188
by courts 64
evolutionary approach to 65, 139, 188
and genuine conflicts 64
by government officials 64, 222, 237, 240, 249
harmonious treaty interpretation 221–3, 237
object and purpose 64, 188, 222, 230
ordinary meaning 64, 187, 189, 222
teleological interpretation 64, 138, 188
textual interpretation 64
in WTO dispute settlement 183–90
see also principle of systemic integration
types of interaction 5, 14, 44–59
behavioural interaction 46–7, 56, 105, 116–17, 156, 211–12, 242
ideational interaction 46
impact-level interaction 46, 56, 59, 210
interaction through commitment 46–7, 56, 59, 211, 242
normative interaction 46
policy model 47, 107, 210, 217
request for assistance 47
utilitarian interaction 46

Ulfstein, Geir 75–6
United Kingdom 40
United Nations Charter see under conflict clauses
United Nations Chief Executives Board for Coordination 76
United Nations Conference on Environment and Development 17, 119
United Nations Conference on Sustainable Development 148, 150, 251
United Nations Environment Programme (UNEP) 72, 76, 149–50, 195, 234
United Nations Framework Convention on Climate Change (UNFCCC)
see climate change regime

and the Asia-Pacific Partnership on Clean Development and Climate (APP) 92–3, 95, 97–9, 102–105, 116, 208, 212, 239, 246
and border adjustment measures 176, 178–80
Climate Security Act 180
and the Kyoto Protocol 20, 23, 92–3, 102–105, 115–16, 151, 196, 212
Waxman-Markey bill 153–4
UN-REDD 147
Uruguay 195

Verheugen, Roda 169, 193
Victor, David 44, 267
Article 31.3(c) see principle of systemic integration
inter se agreements 63
termination of a treaty 63–4
treaty amendment rules 63
treaty interpretation rules 64–5, 108
Visseren-Hamakers, Ingrid 240
Voigt, Christina 191–2, 229
Voluntary Carbon Standard 25
Von Moltke, Konrad 149
Vranes, Erich 53, 70, 191, 214, 216, 227

Weber, Christopher 178
Weiss, Edith Brown 44
Werkman, Jacob 67
Wessel, Ramses 50, 101
wicked problems 3–4, 13, 244
Wiersema, Anneckos 73
Wolfrum, Rüdiger 75, 140, 216, 229
World Bank 23, 112, 147, 154
Climate Investment Funds 112
Clean Technology Fund 112
Forest Carbon Partnership Facility 147, 154
World Environment Organization 72, 150–51, 157
World Health Organization 41
World Heritage Convention 207
Index

World Trade Organization (WTO) see trade regime

Yamin, Farhana 18, 89

Yearwood, Ronnie 141
Young, Margaret 48–9, 223, 236–7, 266
Young, Oran 46, 212, 239