

---

## TABLE OF CONTENTS

<b>Acknowledgements</b>	ix
<b>List of Abbreviations</b>	xi
<b>Table of Cases</b>	xvii
<b>Introduction</b>	1
1 Background and problem	1
2 Framework for analysis and structure	6
3 Methodology and sources	8
 <b>Chapter I – Organisational and institutional aspects</b>	 11
1 Introduction	11
2 Antecedents: from ITO to WTO	12
3 Organisational and institutional bases	18
3.1 Objectives and functions	22
3.2 WTO bodies and their powers	35
a) Ministerial Conference	42
b) General Council	48
c) Specialised Councils	53
d) 'Horizontal' committees, working parties and working groups	62
e) Miscellaneous bodies: committees, working parties and working groups	64
f) Secretariat and Director General	68
3.3 Membership issues	71
4 Conclusions	74

<b>Chapter II – The dynamics of a regime</b>	<b>79</b>
1 Introduction	79
2 Regime theory and international legal scholarship	80
3 The WTO as a regime	88
3.1 The practice of regime analysis	90
3.2 Regime theory and the WTO	93
3.3 Application of regime theory: some observations	106
3.4 Prospects for institutional and normative developments	115
4 Conclusions	124
 <b>Chapter III – Decision-making</b>	 <b>129</b>
1 Introduction	129
2 Decision-making rules	132
2.1 Right of initiative and proposals	133
2.2 Consensus	135
a) Consensus as a primary rule	137
b) Mandated consensus	142
c) Consensus <i>in lieu</i> of voting	148
2.3 Voting	149
a) Simple majority	151
b) Qualified majority	152
c) Unanimity	156
3 Practice of decision-making	157
3.1 Equality of voting power <i>versus</i> parity of interest	157
3.2 Informal practices	163
a) Caucuses and alliance building	165
b) Small group and ‘green room’ meetings	167
c) Chairpersons, facilitators and ‘friends’	170
4 Internal and external transparency issues	173
5 Form, legal bases and validity of decisions	176
6 Conclusions	178

---

<b>Chapter IV – Principal rule-making</b>	<b>181</b>
1 Introduction	181
2 Principal rule-making: primary treaty rules	184
2.1 The normative framework and primary treaty rules	186
2.2 The development of primary treaty rules through the treaty-making process	193
3 Principal rule making and the application of secondary treaty rules	203
3.1 Amendment	204
a) Amendment law of the WTO	206
b) Practice of WTO amendment	211
c) Protocols supplementing Schedules	221
d) Modification, rectification and certification of Schedules	233
e) Rectification in the event of error	239
3.2 Accession	241
3.3 Waivers	252
a) General waiver power	254
b) ‘Mini’ waivers	259
3.4 Authoritative interpretation	264
4 Conclusions	267
 <b>Chapter V – Subsidiary rule-making</b>	 <b>271</b>
1 Introduction	271
2 WTO bodies and subsidiary rule-making	279
2.1 Delegated rule-making	282
2.2 Subsidiary rule-making and the internal legal order	291
a) Rules establishing subsidiary bodies	292
b) Rules of procedure of WTO bodies	295
c) Operational rules: budget, finance and administration	302
d) Staff rules and regulations	304
e) Rules giving effect to assigned functions in the <i>WTO Agreement</i>	308
2.3 Adjudicative rule-making	310
a) Procedural rules, including evidence and proof	312
b) Substantive rules, mostly standard of review	315
3 Rule referencing	320
4 Conclusions	324

<b>Conclusions</b>	327
1 Institutional developments	328
2 Normative developments	335
<b>Bibliography</b>	339
<b>Index</b>	359