

CONTENTS

	<i>page</i>
<i>List of abbreviations</i>	IX
<i>Preface</i>	XIII
<i>Acknowledgments</i>	XV

Introduction. Identity

1

From a “Moral Idea” to an “Economic” Issue

The Quest for Identity – A “Judicial secession”: the Case of the German Constitutional Court – The Case for “reserved constitutional domains” – The Quest for an Overarching Polity – Sectorial Constitutionalism – Towards Distinct Legal Orders – The *EU (Withdrawal Agreement) Act* (EUWA 2020): the Applicable Law – EUWA 2020: the Interpretation of the “*acquis communautaire*” – EUWA 2020: the Applicable Jurisdiction – EUWA 2020: the “retained” EU Law – The *Withdrawal Agreement*: Private/Public Reading – Separate Markets: the EU-UK Trade and Cooperation Agreement – The Parliamentary Role: the Condition Precedent – Perspectives on the New Partnership

Part 1

LEGACY

1. Origins

31

Intellectual Legacy

The age of “accession” – The economic legal order – “Archaeological Diggings” – The constitutional terms – From the *Withdrawal Agreement* and the *Political Declaration* to the current negotiations on the “new partnership”

2. Visions 41

Shared Legacy and Ordre Économique

The Economic Constitution – L’Ordre Économique – Plural visions – “*The best of both worlds*” – Values and Interests – An “English invention”: Accountability

3. Foundations 53

Internal Market Legacy and Level Playing Field

Neutral Ownership and Golden Power – The Contemporary Foundations of Public Reason – Competition as a Dominant Value – Centralized and Shared Administration – An Institutional Network – Perspectives on UK-EU Cross-border M&A Operations – A Franco-German Manifesto – Emergency “*Temporary Framework*” for “State Aid”: Measures in the Pandemic Crisis – “*Towards open competition*”: the EU’s Position and the UK’s Approach – The Relevant Competition Authority – Regulatory Freedom: Competition Law and State Aid in the *Trade and Cooperation Agreement*

PART 2

REGULATION

An Overview of the Scenario from 2021

4. Connecting 81

A Joint Regulatory Framework

Regulating Networks – The Original Framework – Disentangling Networks – Market Governance – Public Goods – a) Liberalised Market: the *Electronic Communication Framework* – b) Conformed Markets: the IEM (*Internal Energy Market*) and the Energy Trading under TCA rules – c) The Civil Nuclear Sector and the *Nuclear Cooperation Agreement* – d) Reserved Markets: the *European Common Aviation Area*

5. Contracting 103

Procurement Market and Private Litigation Framework

Public Procurement – Policies and Procedures – Contracting Authorities – Effects of the Withdrawal – The Procurement Regime in the *Trade and Cooperation Agreement* – Private Contract Litigation – Jurisdiction and Enforcement

6. Equivalence 117*Building Leadership in Financial Market Regulation*

Building a Unified Financial Market – EU Supervisory Institutions – UK Supervisory Institutions – The UK “Light touch” Regulatory Approach – Interconnections in Financial Markets – An Off-shore Perspective – Potential Regulatory Divergences – The Positions of the Parties – Equivalence Decision-Making Process – The Perspective: Selective Equivalence Policy

PART 3

POLICY

Competing in Global Economies

7. Sovereignty 139*Monetary Policy and Plural Institutional Systems*

Currency and Sovereignty – A Stateless Supranational Currency – Precedents in History – The Institutions of the Euro – “*Constitution économique*” and “*constitution monétaire*” – Leadership in the Monetary System – The Currency Choice: the “Five tests” – The Basic Eurozone Norm – Dominant Eurosystem Institutions – The Pandemic Emergency and Unconventional Monetary Policy – The ECB under German Constitutional Court Scrutiny – Currency Power and Institutional Architecture

8. Governance 161*Fiscal Policy and Common Debt Instruments*

Solidarity and Asymmetries – Economic Stabilisation Policy – Budgetary Coordination Procedure – The Fear of Debt – The EU’s New Common Debt: the “*Recovery (Next Generation) Fund*” – EU-UK Fiscal Capacity in the Pandemic Crisis – The *Escape Clause* from the Stability and Growth Pact – “*L’Avenir: Franco-Allemande*” – EU-UK Governance: the *Partnership Council*

9. Global

177

Competing in Trade Policy

Customs Union and Trade Policy – The EU as a “Global Regulatory Power” – “*Set in a silver sea*” – The Building of the *EU-UK Trade and Cooperation Agreement* – Level Playing Field and Right to Regulate – The Parties’ Negotiating Documents – The WTO and GPA Regime – Future Imbalance and Rebalancing

References

193

A) Literature

193

B) Documents

199

Index

205