# Table of Contents

Preface and Acknowledgements .............................................. v
List of Contributors .......................................................... xi
Abbreviations ........................................................................ xvii
Introduction and Overview ...................................................... xxi

Section I: International Trade Law: Constitutionalisation and Judicialisation in the WTO and Beyond ............... 1

Section 1.1 Constitutionalisation and the WTO: Two Competing Visions from Two Different Disciplines ................. 3

1 Multilevel Trade Governance in the WTO Requires Multilevel Constitutionalism ............................................. 5
   Ernst-Ulrich Petersmann

2 Democratic Legitimacy of Transnational Trade Governance: A View from Political Theory .............................. 59
   Patrizia Nanz

Section 1.2 Judicialisation: Empirical Inquiries and Constitutional Concerns ......................................................... 83

3 Dispute Settlement under GATT and WTO: An Empirical Enquiry into a Regime Change ................................. 85
   Achim Helmedach and Bernhard Zangl

4 The Appellate Body’s ‘Response’ to the Tensions and Interdependencies Between Transnational Trade Governance and Social Regulation ............................................. 111
   Christiane Gerstetter

Section 1.3 Participatory Governance: Emerging Patterns and their Juridification ............................................. 133

5 Why Co-operate? Civil Society Participation at the WTO .................................................................................. 135
   Jens Steffek and Claudia Kissling

6 Participatory Transnational Governance ........................................ 157
   Rainer Nickel
# Table of Contents

**Section 1.4 Legalisation Patterns outside the WTO** .................................. 197

7 **Non-Traditional Patterns of Global Regulation:**
   *Is the WTO 'Missing the Boat'?* .......................................................... 199
   Joost Pauwelyn

8 **Conflicts and Comity in Transnational Governance:**
   *Private International Law as Mechanism and Metaphor for Transnational Social Regulation through Plural Legal Regimes* ........................................ 229
   Robert Wai

**Section II: Transnational Governance Arrangements for Product Safety** ......................................................... 263

**Section II.1 Food Safety Regulation: the SPS Agreement and the Codex Alimentarius** ........................................ 265

9 **Fixing the Codex? Global Food-Safety Governance Under Review** .......................................................... 267
   Thorsten Hüller and Matthias Leonhard Maier

10 **The Precautionary Principle in Support of Practical Reason:**
    *an Argument Against Formalistic Interpretations of the Precautionary Principle* ........................................ 301
    Alexia Herwig

11 **Beyond the Science/Democracy Dichotomy: The World Trade Organisation Sanitary and Phytosanitary Agreement and Administrative Constitutionalism** ........................................ 327
   Elizabeth Fisher

12 **Administrative Globalisation and Curbing the Excesses of the State** .................................................. 351
   Damian Chalmers

**Section II.2 The TBT Agreement and International Standardisation** ..................................................... 381

13 **A New Device for creating International Legal Normativity:**
   *The WTO Technical Barriers to Trade Agreement and 'International Standards'* ........................................ 383
   Robert Howse

14 **The Empire's Drains: Sources of Legal Recognition of Private Standardisation under the TBT Agreement** ........ 397
   Harm Schepel
Section III  The WTO and Transnational Environmental Governance ............................................. 411

15 Global Environmental Governance and the WTO: Emerging Rules through Evolving Practice: The CBD-Bonn Guidelines ......................................................... 413
Christine Godt

16 Environmental Policies and the WTO Committee on Trade and Environment: A Record of Failure? ................................................................. 437
Ulrike Ehling

17 Facing the Global Hydra: Ecological Transformation at the Global Financial Frontier: The Ambitious Case of the Global Reporting Initiative ..................................................... 459
Oren Perez

Section IV  Epilogue ................................................................. 489

18 Constitutionalism in Postnational Constellations: Contrasting Social Regulation in the EU and in the WTO ................................. 491
Christian Joerges

Index ................................................................. 529