

**UNIVERSITY OF OXFORD**  
**FACULTY OF LAW**  
**THE EU AS AN ACTOR IN INTERNATIONAL LAW**  
**SEMINAR V:**  
**TREATY RELATIONS OF THE EUROPEAN COMMUNITY/  
EUROPEAN UNION AND THE MEMBER STATES II**

**Questions for Discussion:**

- How are mixed agreements concluded?
- Who is bound by mixed agreements and to what extent?
- Can mixed agreements create valid EC law?
- What role do ‘declarations of competence’ play in the international treaty-making of the EC?
- Does the European Community succeed to treaties concluded by its Member States?
- How are conflicts solved between European law and treaty obligations of the Member States?
- How can treaties be challenged before the ECJ?
- In what areas does the EC have exclusive treaty-making competence?
- Are there any problems with regard to reservations to mixed agreements and, if so, how may they be overcome?

**Basic Reading:**

- Eeckhout, P., *External Relations of the European Union. Legal and Constitutional Foundations*, 2004, 190-225
- Gaja, G., The European Community’s Rights and Obligations under Mixed Agreements, in: D.O. Keefe/H. Schermers (eds.), *Mixed Agreements*, 1983, 133 [Euro Comm 510 O41b – at Law Reserve]

**Cases:**

- \*Case C-476/98, *Commission v. Germany* [‘Open Sky Case’], Judgment of 5 November 2002, available at <http://curia.europa.eu/en/transitpage.htm>

**Basic Reading:**

- Åkermark, A.S., Reservations Issues in the Mixed Agreements of the European Community, *Finnish Yearbook of International Law* 10 (1999), 351 [Internat 300 F15]
- Churchill, R. & Foster, N., European Community Law and Prior Treaty Obligations of Member States: The Spanish Fisherman’s Cases, *International and Comparative Law Quarterly* 36 (1987), 504 [available online at <http://journals.cambridge.org/action/displayJournal?jid=ILQ>]
- Gaja, G., Trends in Judicial Activism and judicial Self-Restraint Relating to Community Agreements, in: E. Cannizzaro (ed.), *The European Union as an Actor in International Relations*, 2002, 117 [Euro Comm 510 C225a]
- Groux, J., Mixed Negotiations, in: D.O. Keefe/H.G. Schermers (eds.), *Mixed Agreements*, 1995, 87 [Euro Comm 510 O41b – at Law Reserve]
- Heliskoski, J., The Jurisdiction of the European Court of Justice to Give Preliminary Rulings on

the Interpretation of Mixed Agreements, *Nordic Journal of International Law* 69 (2000), 395  
Klabbers, J., Moribund on the Fourth of July? The Court of Justice on Prior Agreements of the  
Member States, *European Law Review* 26 (2001), 187 [available on Oxford e-journals]  
Kuyper, P.J., The Community and State Succession in Respect of Treaties, in: D. Curtin/T.  
Heukels (eds.), *Institutional Dynamics of European Integration. Essays in Honour of Henry  
G. Schermers*, 1994, vol. II, 619 [Bod: Internat 500 S326a (v. 2)]