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The Precautionary Principle,
Multilateral Treaties and the
Formation of Customary
International Law

Els Reynaers Kini

Edis

ISBN 2-940341-10-9
Lugano / Bruxelles / New Delhi 2008,
200 pages

The status of the precautionary principle as a rule of customary international law (CIL) is still disputed. Surprisingly, not much attention has been paid to the underlying CIL theory pertaining to the formation of CIL.

This Booklet seeks to address this lacuna by offering a detailed CIL analysis, with a special focus on the relationship between CIL and multilateral (environmental) treaties in the CIL formation process. This Booklet also unravels the weaknesses of the existing CIL theory, and offers an overview of some other CIL approaches. This is relevant since the selection and interpretation of a CIL theory necessarily affects the debate on the precautionary principle as a rule of CIL. It is argued in this Booklet that the 'classic' CIL theory does not warrant a conclusion that the precautionary principle has acquired a CIL status, and that, conversely, only a revised approach towards the CIL formation process could support the view that it has.

The ambition of this Booklet is not to be comprehensive on all aspects relating to the precautionary principle on the one hand and CIL on the other, but rather to function as a 'pocket-book' for the readers on the subject which finds itself at the crossroad of these two themes.

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