

THE APPLICATION OF THE PRECAUTIONARY PRINCIPLE IN PRACTICE

This overview of the role played by the precautionary principle in international trade law, European law and national law compares how precautionary considerations have been applied in the fields of pesticide regulation and the regulation of base stations for mobile telephones in Sweden, the UK and the USA. A number of problems in the current application of the precautionary principle are identified and discussed. For example, it is shown that a firm reliance on a wide and open-ended precautionary principle may lead to problems with the consistency, foreseeability, effectiveness and efficiency of measures intended to reduce environmental or health risks. It is suggested that the precautionary principle indeed may be an important tool but in order to be acceptable it must be coupled with strong requirements on the performance of risk assessments, cost–benefit analyses and risk trade-off analyses.

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THE APPLICATION OF THE PRECAUTIONARY PRINCIPLE IN PRACTICE

Comparative Dimensions

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For Liisa and Milla

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December 2009. Although it did not bring about any substantive changes with regard to the subject matter of this book, it did introduce that greatest of joys for any European lawyer: a change in the numbering of the treaty articles. Throughout this book I have thus sought to refer to the current numbering of the articles as they appear in the Treaty on the Functioning of the European Union. Where I have considered it relevant for the understanding of the text, I have kept the old numbering in brackets following the current reference.

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ABBREVIATIONS

AB	Appellate Body
ACP	Advisory Committee on Pesticides
AGNIR	Advisory Group on Non-Ionising Radiation
AIDS	Acquired Immune Deficiency Syndrome
ALARA	as low as reasonably possible
ANSI	American National Standards Institute
AOEL	acceptable operator exposure level
APA	Administrative Procedure Act in the USA
BSE	Bovine spongiform encephalopathy
BST	Bovine Somatotrophin
CAP	Common Agrigultural Policy
CBA	cost–benefit analysis
CEA	cost-effectiveness analysis
CFC	chlorofluorocarbons
CFI	Court of First Instance
CITES	Convention on International Trade in Endangered Species
COM	Committee on Mutagenicity of Chemicals in Food, Consumer Products and the Environment (UK)
COPR	Control of Pesticides Regulations
CRA	comparative risk analysis
CVMP	Committee for Veterinary Medicinal Products
DDT	dichloro-diphenyl-trichloroethane
DecaBDE	decabromodiphenyl ether
DEFRA	Department of Environment, Food and Rural Affairs in the UK
DNA	deoxyribonucleic acid
DSB	Dispute Settlement Body of the WTO
DSU	Dispute Settlement Understanding (WTO)
EAP	Environmental Action Programme
EBCD	ethylenebisdithiocarbamate
EC	European Community
ECJ	European Court of Justice
EEC	European Economic Community
EFTA	European Free Trade Association

ABBREVIATIONS

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EOP	Executive Office of the President of the USA
EPA	United States Environmental Protection Agency
EU	European Union
FACA	Federal Advisory Committee Act in the USA
FAQ	frequently asked questions
FCC	Federal Communications Commission
FDA	Food and Drug Administration in the USA
FDCA	Food, Drug, and Cosmetic Act in the USA
FEPA	Food and Environment Protection Act
FIFRA	Federal Insecticide, Fungicide and Rodenticide Act in the USA
FQPA	Food Quality Protection Act in the USA
GAO	United States Government Accountability Office
GATT	General Agreement on Tariffs and Trade
GM	genetically modified
GMO	genetically modified organisms
HCFCs	hydrochlorofluorocarbons
HEW	United States Department of Health, Education, and Welfare
HPA	Health Protection Agency
HSE	Health and Safety Executive in the UK
ICJ	International Court of Justice
ICNIRP	International Commission for Non-Ionising Radiation Protection
IEEE	Institute of Electrical and Electronics Engineers in the USA
IEGMP	Independent Expert Group on Mobile Phones in the UK
ILGRA	Interdepartmental Liaison Group on Risk Assessment
ITLOS	International Tribunal for the Law of the Sea
KemI	Kemikalieinspektionen (Swedish Chemicals Agency)
LPAs	Local Planning Authorities in the UK
Miljöbalken	The Swedish Environmental Code
MOX	metal oxide
MRL	maximum residue level
NCRP	National Council on Radiation Protection and Measurement
NEPA	National Environmental Policy Act in the USA
NIOSH	National Institute for Occupational Safety and Health in the USA
nimby	not in my back yard
NJA	Nytt Juridiskt Arkiv (Publication containing judgments from the Swedish Supreme Court)
NRPB	National Radiation Protection Board in the UK
OET	Office of Engineering and Technology in the USA
OIRA	Office of Information and Regulatory Affairs in the USA
OMB	Office of Management and Budget in the USA
OSHA	Occupational Safety and Health Administration in the USA
PAN	Pesticide Action Network

xiv	ABBREVIATIONS
PBDE	polybrominated diphenyl ethers
PBL	Plan- och bygglagen (Swedish Planning and Building Act)
PIC	Rotterdam Convention for Prior Informed Consent
PPPR	Plant Protection Products Regulation
PSD	United States Pesticide Safety Directorate
PVC	polyvinyl chloride
QUALYs	Quality Adjusted Life Years
RCHSA	Radiation Control for Health and Safety Act in the USA
REACH	Registration, Evaluation, Authorisation and Restriction of Chemicals
Regeringsformen	The Swedish Constitution
Regeringsrätten	Swedish Supreme Administrative Court
RIA	Regulatory Impact Assessments
RoHS	Restriction of Hazardous Substances Directive
SAP	Scientific Advisory Panel in the USA
SAR	specific absorption rate
SCAN	Scientific Committee on Animal Nutrition
SEA	The Single European Act
SPS	WTO Agreement on the Application of Sanitary and Phytosanitary Measures
SSI	Statens Strålskyddsinstitut (formerly named Swedish National Radiation Protection Authority)
SSL	Strålskyddslagen (Swedish Radiation Protection Act)
SSM	Statens Strålsäkerhetsmyndighet (Swedish Radiation Safety Authority)
statliga myndigheter	Swedish system of independent governmental authorities
TBT	Agreement on Technical Barriers to Trade
TETRA	terrestrial trunked radio
TFEU	Treaty on the Functioning of the European Union
UK	United Kingdom
UNCLOS	United Nations Convention on the Law of the Sea
US	United States (of America)
USA	United States of America
WTA	willingness to accept
WTO	World Trade Organisation
WTP	willingness to pay

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