

Contents

<i>Acknowledgements</i>	<i>page</i> ix
<i>List of Abbreviations</i>	xii
<i>Table of Treaties</i>	xv
<i>Table of Cases</i>	xxix
Introduction	1
Prevention as the Cornerstone of International Environmental Law	1
The Trajectory of Prevention	5
The Conceptualization of Prevention	8
Terminological Clarifications	11
Structure of This Study	11
PART I FROM REPARATION TO PREVENTION: INTERNATIONAL ENVIRONMENTAL LAW THROUGH THE LENSES OF PREVENTION	13
1 The Foundations of Prevention: Reparation and Resource Management	15
1.1 The Curative Approach: State Responsibility for Transboundary Damage as the Classical Regime	15
1.2 The Proactive Approach: Resource Management as a Growing Concern	21
1.3 Conclusion	25
2 The Paradigm Shift: Prevention as the Cornerstone of International Environmental Law	27
2.1 Prevention as the Core Norm of International Environmental Law	27

2.2	The Curative Approach as a Secondary Regime	54
2.3	Conclusion	59
	Conclusion to Part I: Emergence of the Principle of Prevention and Existing Tensions	61
	PART II THE NORMATIVE IMPACTS OF THE PREVENTION PRINCIPLE IN INTERNATIONAL ENVIRONMENTAL LAW	63
3	Prevention in Treaty Law	65
3.1	Manifestations of Prevention: A Typology	66
3.2	Defining the Boundaries of a Multifaceted Norm	77
3.3	In the Absence of Prevention	88
3.4	Conclusion	90
4	Prevention in International Customary Law	91
4.1	On the Customary Status of Prevention	91
4.2	Custom Codification Works of Intergovernmental Forums	97
4.3	Custom Codification Works of Non-Governmental Institutions	123
4.4	Conclusion	136
5	Prevention in the Jurisprudence	137
5.1	International Jurisprudence	137
5.2	Domestic Jurisprudence	166
5.3	Conclusion	173
	Conclusion to Part II: On the Sources of Prevention	174
	PART III THE THREE DEFINITIONAL DIMENSIONS OF PREVENTION	177
6	Prevention and Risk Anticipation: The Rationale	179
6.1	Material Scope	179
6.2	Temporal Scope	189
6.3	Conclusion	198
7	Prevention and Proactivity: Content	199
7.1	Prevention as an Obligation to Exercise Due Diligence: An Enquiry	200
7.2	The Due-Diligence Content of Prevention	207
7.3	Conclusion	232
8	Prevention and Protection of the Environment: Spatial Scope	234
8.1	Prevention of Transboundary Harm	234

8.2	Prevention in Areas beyond the Limits of National Jurisdiction	239
8.3	Prevention in a Domestic Context	242
8.4	Prevention Irrespective of the Location of Harm	254
8.5	Conclusion	258
9	Prevention and Its Relationship with Other Environmental Norms	260
9.1	Norms with a Preventive Rationale	261
9.2	Norms with a Distributive Rationale	275
	Conclusion to Part III: The Contours of Prevention	296
	PART IV PREVENTION AS A CONSOLIDATED NORM: CURRENT TRENDS AND FUTURE PROSPECTS	299
10	Role and Place of Prevention in the International Legal Order	301
10.1	Prevention as a Multifaceted Norm to Anticipate Harm	302
10.2	Prevention and the Proactivity of Multiple Subjects of International Law	314
10.3	Prevention as an Obligation to Protect the Environment Owed to the International Community	321
10.4	Conclusion	324
11	The Frontiers of Prevention? Reparation and Compliance Control	325
11.1	Apparent Rapprochement between Prevention and Reparation	325
11.2	Remaining Divergences: The Relative Misfit between Prevention and State Responsibility	331
11.3	Frontiers of Prevention: Compliance Control	343
11.4	Conclusion	354
	Conclusion to Part IV: Revisiting the Curative Rationale	355
	Conclusion	357
	Future Challenges for Prevention	357
	Prevention beyond International Environmental Law	359
	<i>Select Bibliography</i>	361
	<i>Index</i>	384