

# Different Roles of “Public Moral” in WTO regime--Reflections from the WTO EU Seal Products Case

<b>Panel No.</b>	: D1
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## Abstract of Paper

The European Union's ban on certain inhumane-captured seal products from Canada and Norway triggers trade complaints about the violation of most-favored-nation treatment and TBT agreement. However, should the measure taken by the EU, based on considerations of animal welfare, be a technical regulation in sense of TBT? Especially some kind of process and production methods? Even, the promotion of animal welfare, shouldn't it trump trade interest? Before the final decision of the Appellate Body in May 2014, scholars quarreled with these crucial points. However, the AB just ruled that “this question had not been sufficiently explored by the Panel and the participants” and the question that whether moral consideration should be considered as an element of PPM is still unanswered.

Besides, even the AB accepted that animal welfare is definitely a kind of public moral, it still declared that the EU “had not demonstrated that the EU Seal Regime meets the requirements of the chapeau of Article XX”. It's quite interesting that both in the US-Gambling case and China-audiovisual case, the moral considerations, either refraining people from gambling or guaranteeing Member's own national public policy for audiovisual products, could certainly be a kind of public morals, but the respondents also both failed in the justification of necessity test prescribed in the chapeau. So, does it mean that eventually any argumentation of public moral for justification of some trade-restrictive measures is possible, yet its implementation appears impossible to pass the examination according to the chapeau?

Even, should we accept that public moral is a possible element for distinguishing “like products” in sense of “consumers' preference”, would we make clear to the future of morals, environmental protection and animal welfare in WTO regime?

In sum, the above-mentioned three different roles of “public moral” in WTO would be investigated in this article.

## Brief Biography of Author

College of Law, National Cheng-Chi University is the second best Law School in Taiwan.

Diploma

2004.9. DEA (Master Degree) of European Law, Université d'Aix-Marseille III, France/ DEA (Master Degree) of Legal Theory, Université d'Aix-Marseille III, France

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Yao-Ming HSU, Conflits et Résolutions possibles entre le droit de l'OMC et le Protocole de Kyoto: perspectives sur le rôle de l'ORD de l'OMC, in S. Maljean-Dubois and L. Rajamani (eds.), IMPLEMENTATION OF INTERNATIONAL ENVIRONMENTAL LAW / La mise en œuvre du droit de l'environnement, 2011, Martinus Nijhoff Pub. 2011, p.515 - 536