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WTO Final Ruling: European Ban on Products from Inhumane Seal Harvest Violates WTO Rules

Statement of Lori Wallach, Director of Public Citizen's Global Trade Watch

The WTO today adding fuzzy white baby seals clubbed to death on bloody ice flows to dolphins and sea turtles as animals that the WTO has declared cannot be protected by domestic laws because they violate “trade” rules will just fuel public and policymaker skepticism about these so-called trade deals.

As a technical matter, today’s ruling confirms the uselessness of the WTO exceptions allegedly designed to protect countries’ domestic public interest laws that are provisions also now being touted as the way to safeguard environmental, health and safety policies in proposed pacts such as the TPP. This is the 39th time out of 40 attempted uses that the exception has been rejected by WTO tribunals when raised to safeguard a domestic public interest law.

BACKGROUND: In this final ruling, the WTO Appellate Body acknowledged that that the European Union’s ban on the importation and sale of seal products resulted from concerns about “inhumane” hunts with “inherent animal welfare risks,” but concluded the EU failed to satisfy the litany of conditions required to defend public interest policies under the WTO’s “general exception” provisions. Specifically, the Appellate Body ruled against use of the WTO exception for policies “necessary” to protect public morals. [Only one out of 40 government attempts](#) to use the WTO General Exceptions, found in Article XX of the WTO’s General Agreement on Tariffs and Trade (GATT) and Article XIV of the General Agreement on Trade in Services (GATS), has ever succeeded.

In its ruling today, the Appellate Body also rebuffed arguments made by the U.S. government as a third party observer to the case demanding that the WTO evaluate whether policies that appear to have a discriminatory effect stem from a “legitimate regulatory distinction.” The AB ruled against this U.S. government position, concluding that WTO panels do not need to consider under GATT whether a challenged domestic policy stems from a legitimate policy objective.

Today’s ruling follows a string of WTO rulings against popular U.S. environmental and consumer policies. In May 2012, for example, [the WTO ruled against voluntary “dolphin-safe”](#)

[tuna labels](#) that, by allowing consumers to choose to buy tuna caught without dolphin-killing fishing practices, have helped to dramatically reduce dolphin deaths. Today's decision will again spur public ire over WTO rules that extend beyond "trade" to target domestic environmental and consumer safeguards.

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