

IS THE PRINCIPLE OF *LEX SPECIALIS* USEFUL TO RESOLVE THE CONFLICT BETWEEN GATT AND GATS? EXAMINING THE INCLUSIVE RELATIONSHIP OF SUBJECT MATTER

*Ruibo Yan**

ABSTRACT

Although one scholarly approach has suggested that the principle of lex specialis can be used to identify which of the different standards of the GATT or the GATS applies, it nevertheless is arguable that the principle is not useful for reconciling the two agreements. When the relationship between specialis and generalis is being examined, there must initially be an inclusive relationship between them. Moreover, the subject matter of the lex specialis must be included in that of the lex generalis. As the subject matter of the GATT and the GATS cannot constitute an inclusive relationship, one cannot apply the principle of lex specialis to address the subject matter covered by the GATT and the GATS. Therefore, there is no place for the principle of lex specialis to resolve the conflict between the GATT and the GATS.

KEYWORDS: *lex specialis, GATT, GATS, norm conflict, inclusive relationship,*

* Lecturer of Jiangsu Normal University, China. Email: ruiboyan@gmail.com. I am grateful to Timothy Webster, Peter Gerhart, Denise Prevost, and the anonymous reviewers of this journal for their valuable comments. I also wish to thank the editors for their excellent job. I acknowledge Bonnie Hami for her effort to improve the English. All errors and omissions are attributable to the author. This article is one of the achievements of the research project "Subsidies for cultural products" [No. 2012SJB820008], sponsored by the Jiangsu Provincial Department of Education.

subject matter