

Internet Gambling: Antigua seeks \$3.4 Billion trade sanctions against United States

Contributed by Thomas Jensen
Wednesday, 20 June 2007
Last Updated Wednesday, 20 June 2007

The government of Antigua and Barbuda today announced that it has moved under Article 22 of the Dispute Settlement Understanding of the World Trade Organisation to seek the imposition of trade sanctions against the United States for having failed to comply with a WTO ruling in favour of Antigua on the subject of cross-border gambling and betting services. In the filing made today, Antigua has informed the WTO of its intention to seek concessions with an annual value of US \$3.443 billion, primarily through the suspension of Antigua's obligations in respect of copyrights, trademarks, industrial designs and patents under the WTO's intellectual property rights or "TRIPS" agreement. This action, once approved by the WTO, could have significant implications for American intellectual property rights and represents a material escalation in the stakes at play in the gambling case.

Dr L. Errol Cort, Antigua's Minister of Finance and the Economy, expressed his government's resolve, stating "While we realise this is a significant step for Antigua and Barbuda to take, we feel we have no other choice in the matter. We have fought long and hard for fair access to the United States market and have won at every stage of the WTO process. Until such time as the United States is willing to work with us on achieving a reasonable solution to this trade dispute, we will continue to use every legitimate remedy available to protect the interests of our citizens."

Antigua has expressed its frustration on many occasions over the failure of the United States to engage with Antigua over a mutually agreeable bilateral resolution of the dispute, and instead maintaining an uncompromising posture despite repeated success by Antigua in the WTO dispute resolution system. In the most recent, 30 March 2007 WTO report on the case, the reviewing panel observed that the United States maintains an extensive domestic remote gaming industry while prohibiting foreign service providers access to the markets. The report also clarified that United States laws as written and applied sanction many domestic remote gambling opportunities, none of which are available to Antiguan service providers.

"Despite having been dressed up by the United States as a moral issue," said Dr Cort, "All along this has simply been a trade issue. This industry has been and can be regulated. We are willing to work with the United States government to ensure that its legitimate interests are protected. But unfortunately, there appear to be powerful interests in the United States that want to protect the domestic industry from competition. That is not only unfair and wrong, but contrary to the letter and spirit of the WTO agreements."

The sanctions requested by Antigua will come into effect shortly, unless the United States refers the issue to arbitration, in which event a panel of WTO arbitrators will decide on the final level and scope of the sanctions that may be imposed by Antigua. The recent, unprecedented announcement by the United States that it was acting to withdraw its commitments in respect of gambling and betting services has not altered Antigua's strategy. "We remain entitled to the benefits of our victory in the WTO," said Mark Mendel, Antigua's lead counsel in the case. "Whether the United States is able to withdraw its commitment with respect to other countries is one thing, but Antigua has its victory and the United States is obligated to comply with it. With Antigua poised to impose massive sanctions against substantial United States business interests with absolutely no connection to gambling, it certainly seems time for the United States to come to grips with this case and work out a settlement. But if we can't convince the United States to sit at the bargaining table with Antigua, maybe some of the adversely affected American business interests will be able to do so."