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Headline: US Admits Defeat in Antigua Gambling Case at the WTO

While Americans Eagerly Expand Domestic Gambling at home, the Normally Free-Trading United States Trade Representative Announces a Bizarre Move at the WTO to try to Cutoff the Foreign Competition

Washington D.C. (4 May 2007) - Today the Antigua Gambling case before the World Trade Organization (WTO) took a stunning turn of events. After suffering defeat after defeat, and with one appeal remaining, the United States has announced it is withdrawing its commitments in the gaming sector from its GATS schedule. This move by the United States is unprecedented in the WTO.

Antigua and Barbuda, one of the smallest members of the WTO, had successfully challenged the United States' protectionist trade policy against remote wagering. Just when the United States was facing with having to comply with the ruling, the US is trying to walk away from the process.

This has international trade implications and could lead to the break up of the WTO. What is the point of having an international trading system enforced by a neutral court in Geneva when a developing member like Antigua successfully challenges the largest trading member in the world, and the large trading member simply quits after a losing verdict in one case? What is the developing world supposed to think after a small country with virtually no resources invests three years and millions of dollars challenging a large member who simply "takes his ball and goes home" after losing a case? How can an international trade dispute process work when a large country can change the playing field whenever there is an adverse decision against them?

This will forever mark the United States as a country not committed to free and fair trade, but as a sore loser on the global stage. The rest of the world is watching this move and it will be at the forefront of their minds as the United States tries to press for more concessions from smaller nations at the present DOHA round of negotiations.

The USTR claims today that it made its GATS commitment by mistake and that no WTO member could have anticipated remote gambling back in 1993 when the United States and other countries were drafting their international commitments to open their markets to recreational services. These claims are absurd and disingenuous.

By 1993, the concept of cross-border remote gambling was not new to anyone. At the time the GATS schedules were being drafted, the “remote” gambling industry was a thriving business in America, and had been in existence for more than 100 years! In the early 1990s there were state-owned and operated betting enterprises that had been openly offering telephone wagering to residents of New York and certain other states for years. Is the USTR claiming today it didn’t know in the early 1990s about the Interstate Horseracing Act (IHA), a federal law passed in 1978 for the specific purpose of regulating interstate bets on horse races?

The existence of cross-border gambling in America was an old concept by the early 1990s. There were mail order lotteries and race wires before the 20th century began. How could the USTR have not known in the early 1990s that gambling could occur via electronic means?

The USTR’s claim that it mistakenly committed to gambling in the early 1990s is simply untrue. Of the 150 countries who participate in the GATS, more than 100 excluded gambling in their schedules. Most WTO members excluded gambling by simply not including the applicable sector, Sector 10 (Recreational, Cultural and Sporting Services), in their GATS schedules. But a number of countries, even in the early to mid 1990s, had the foresight to “opt out” making a commitment to allow foreign countries to provide cross-border gambling services. For instance, the European Community, Austria, Finland,

Croatia, Slovenia and Sweden excluded cross-border gambling services from their GATS schedules under Sector 10. So did Egypt, Iceland, and Peru. Even Senegal had the foresight to exclude foreign gambling operators when it submitted its GATS schedule.

It is difficult to comprehend why the USTR is saying the gambling commitment was made by mistake. As part of the lengthy process to negotiate the GATS schedules, the US had longstanding access to its trading partners' draft GATS schedules. These draft schedules had clear and unambiguous exclusions of remote cross-border gambling services. There was extensive debate, proposal and counterproposal from all WTO members in determining what commitments would be made. The US knew full and well what it was committing to back in 1993, and is only trying to back out now to avoid having to comply with the Antigua WTO ruling.

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