



WTO Clears \$21M in Sanctions Vs. US

By BRADLEY S. KLAPPER – 5 days ago

GENEVA (AP) — The United States faces a token \$21 million in annual trade sanctions as a result of its online betting ban, the World Trade Organization said Friday in awarding Antigua and Barbuda the right to target U.S. services, copyrights and trademarks.

The decision is a setback for the Caribbean island nation, which sought the right to impose \$3.4 billion in retaliatory measures against U.S. commercial services and intellectual property.

Washington acknowledged its Internet gambling restrictions were ruled illegal by the WTO, but argued that Antigua should only be compensated for about \$500,000 for lost annual revenue.

The case has drawn the attention of a number of U.S. industries, partly because of the ways Antigua has proposed retaliating against the much larger U.S. economy. Washington's attempt to escape its legal loss by proposing a revision of the WTO's key treaty on trade in services has also fueled interest.

The office of the U.S. Trade Representative noted that Antigua was seeking sanctions worth more than three times the size of its entire economy.

"Antigua's claim was patently excessive," it said in a statement. "The United States is pleased that the figure arrived at by the arbitrator is over 100 times lower than Antigua's claim."

However, the U.S. said it was concerned that Antigua could now violate some American intellectual property rights — which could range from CDs and DVDs to computer software, industrial designs and designer clothing.

The ruling could "establish a harmful precedent for a WTO member to affirmatively authorize what would otherwise be considered acts of piracy, counterfeiting or other forms of ... infringement," the U.S. said.

The U.S. and Antigua cannot appeal Friday's decision.

Realistically, it would have been very difficult for a country the size of Antigua's to implement hundreds of millions of dollars worth of trade sanctions on the U.S. without harming its own economy and the welfare of its citizens. Ecuador was awarded similar retaliation rights in a bananas dispute with the European Union in 2000, but failed to come up with an effective way to introduce countermeasures.

The WTO arbitration panel said it had to adopt its own approach to come up with a fair retaliation figure in view of the wide difference in how the U.S. and Antigua estimated the economic effect of the gambling ban.

"In doing so, we feel we are on shaky grounds," the panel said in an 88-page decision.

Washington stopped U.S. banks and credit card companies last year from processing payments to online gambling businesses outside the country. The decision closed off the most lucrative region in a growing market worth about \$15.5 billion last year. About half of the world's online gamblers are based in the U.S.

The arrest in 2006 of two British Internet gambling executives while traveling through the United States also highlighted the U.S. government's escalation of its battle against the industry.

The WTO, however, upheld in March previous rulings striking down the U.S. ban.

The trade body found that the U.S. had the right to prevent offshore betting as a means of protecting public order and public morals. But it said Washington was violating trade law by targeting online gambling without equal application of the rules to American operators offering remote betting on horse and dog racing.

Antigua, the smallest country to successfully litigate a case in the WTO's 12-year-history, had hoped the ruling would lead the U.S. to revoke the restrictions.

The former British colony of about 80,000 people had been promoting electronic commerce as a way to end the country's reliance on tourism, which was hurt by a series of hurricanes in the late 1990s. There are 32 licensed online casinos in Antigua, employing 1,000 people and generating a yearly revenue of around \$130 million. Seven years ago, its casinos had an annual income closer to \$1 billion.

But Washington responded to its legal defeat by announcing it would take the unprecedented step of revising the conditions under which it signed the WTO's 1994 General Agreement on Trade in Services, or GATS. That allowed a number of countries to seek compensation under a separate process.

The U.S. has since agreed on deals with the 27-nation European Union, Canada and Japan to change the treaty — but has failed to do so with Antigua, Costa Rica, India and Macau.

Until it gains the approval of all 151 members of the WTO, the U.S. online betting ban is illegal under international trade rules. As a result, Antigua will have the right to penalize U.S. services and intellectual property until the U.S. government either permits Americans to gamble over foreign-based sites or eliminates exceptions for off-track betting on horses, including over the Internet.

British gambling companies — which bankrolled Antigua's efforts and heavily lobbied Brussels for tough action — were disappointed earlier this week when the EU announced that it had received some minor U.S. trade concessions in exchange for accepting the U.S.-proposed revision to the GATS.

The deal fell far short of the \$100 billion in new commercial opportunities the Internet gaming sites claimed the United States owed.

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