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April-01-2007,  
**WTO Ruling: The U.S. Lost Again. Now What...By**  
 Hartley Henderson

On Friday, the WTO issued its ruling against the United States in the dispute with Antigua over remote gambling. The United States government hinted in January that the WTO was going to rule in Antigua's favour, but there really was never a question which way the ruling would go. In 2005 the WTO ordered the United States to either ban all remote gambling in the country or open its doors to remote gambling from Antiguan based companies. The United States did absolutely nothing to stop domestic remote gambling, but thumbed its nose at the WTO by passing the UIGEA and then announcing it was in compliance with the WTO ruling. Clearly the U.S. government knew that this ploy would not work, but was just trying to buy time.

So what's next? The U.S. can appeal one more time, as they will almost certainly do, but by June or July they will be out of appeals and will be forced to make a decision. Their options are to ban all remote gambling in the United States, open their doors to Antiguan sportsbooks and casinos or continue to ignore the ruling and suffer the consequences. Clearly stopping all remote gambling in the U.S. will not happen. The horse racing industry, which lobbied so hard for the provisions given it under the Interstate Horse Racing Act, will not just relinquish those rights in an effort to appease the government. It is also highly unlikely that the U.S. will simply open its doors to Antiguan gambling companies given all the rhetoric it spouted in the past about morals. One thing the United States clearly has a problem doing is admitting defeat, particularly against countries it considers its inferiors. Thus, the likely option the U.S. will choose is to ignore the ruling, announce the WTO is wrong and essentially say "do to us as you will." It wouldn't be the first time the U.S. has chosen this route, as it ignored several rulings by the WTO in favour of Canada with regards to the softwood lumber dispute. And in the end Canada gave the U.S. many concessions to simply end the ongoing fight.

Unlike with Canada, however, the U.S. has a big problem in just ignoring the WTO ruling with regards to Antigua. Japan, Chinese Taipei, the European Union, Canada and Mexico all reserved the right to participate in the panel as an interested third party and the reason seems obvious. Each of those countries (The EU representing several European countries) had disputes with the United States at one time or another, in which the WTO ruled in favour of the United States to the chagrin of those other countries. With Japan this related to carbon steel and apples; with Chinese Taipei it related to steel; with Canada it related to beef among other areas and very recently the U.S. won a WTO dispute against Mexico over beverage taxes. And with regards to the European Union, the United States won several disputes with European countries. Each of those other countries abided by the WTO decision and complied with the ruling. In fact the United States has by far and away been the biggest benefactor of WTO rulings, and Antigua could be a test case to see what the United States will do if the

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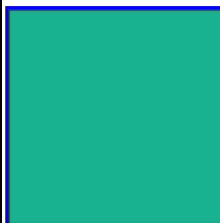
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roles are reversed. If the U.S. chooses to just ignore the WTO ruling favouring Antigua, then the other countries may decide from the U.S.'s actions that WTO rulings are not applicable and as a result may just decide to stop abiding by the previous findings.

Furthermore, countries may also be interested to see what can be done against the United States in a case where the U.S. ignores rulings. There has been much talk that under the rules of the WTO, Antigua may be able to override U.S. copyright laws and intellectual property rights in an effort to enforce compliance. Clearly Antigua would prefer this as a last resort, but should they do so it may give fodder to other small countries to do the same. Without doubt this should have American companies quaking in their boots. After all, why would companies bother to spend time and money developing products in the United States if they get no copyright protection to ensure a profit? It would also make the WTO appear as a toothless tiger, which in the end would hurt the United States the most.

It is uncertain how the U.S. will proceed, but one thing is for sure: Simply disregarding the WTO ruling would be a big mistake by America.

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