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Antigua and Barbuda today expressed its mixed reaction to the ruling of the arbitrators issued today in its long running dispute with the United States over Internet gambling. The panel agreed with Antigua that it had no effective trade sanctions against the United States in the area of services and authorised Antigua to suspend its obligations to the United States in respect of copyrights, trademarks and other forms of intellectual property rights. However, it went on to set Antigua's level of annual trade loss at US \$21.0 million, much less than the US \$3.4 billion Antigua had requested, although considerably more than the US \$500,000 the United States had proposed.

In an unprecedented approach that is sure to arouse controversy, the arbitrators assessed Antigua's level of damages based upon a hypothetical form of compliance proposed by the United States rather than through the withdrawal of the overall prohibition on the provision of remote gaming services. This decision resulted in a rare, perhaps unprecedented disagreement among the arbitrators, with one of the three panellists dissenting from the approach adopted by the other two members.

Mark Mendel, the lawyer who has been spearheading this case for the Antiguan government since it began back in 2003 observed "I am pleased that the panel approved our ability to cross-retaliate by suspension of intellectual property rights of United States business interests. That has only been done once before and is, I believe, a very potent weapon." Mr Mendel expressed less satisfaction with the amount of damages assessed. "I find it astonishing that two of the three panellists would in essence grant the United States the benefit of a hypothetical method of compliance most favourable to the American side in assessing Antigua's level of trade impairment. What appears to have been done here is assuming a form of compliance that has not happened and probably will not happen without giving Antigua the ability to contest the method under the WTO's normal procedures," he added. Unlike other WTO rulings, awards of arbitrators are not subject to review by the Appellate Body of the WTO.

While questioning the low number, Mr Mendel remains positive about the dispute going forward. "US \$21 million a year in intellectual property rights suspension going forward indefinitely is not such a bad asset to have. I hope that the United States government will now see the wisdom in reaching some accommodation with Antigua over this dispute and look forward to seeing efforts in this regard."

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Notes to editors:

Interviews are available with Mark Mendel, lead legal counsel in the WTO trade dispute with the US.

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