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Antigua & Barbuda advocate accuses US of blatant untruths

By Alicia Simon- Observer Media - Saturday, February 2nd, 2013.

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St. John's Antigua- Antigua & Barbuda's attorney in the online gaming dispute said a high-level US trade representative's remarks are "blatantly false" and the US is attempting to manipulate trade laws to it benefit.

Attorney Mark Mendel has taken exception to comments made to OBSERVER Media by General Counsel for the office of the United States Trade Representative Timothy Reif that the US has been resolutely attempting to negotiate a settlement, are less than authentic.

Mendel also said he was "surprised" by the United States government's "behaviour" in the escalating cross-border trading dispute.

Mendel recounted a meeting with US officials, one of a few he said, "They bothered to give us."

"They told us to our faces that we have looked at your schedule, we've looked at ours, we've looked at your economy and there really isn't anything we can do for you," he narrated.

The Ireland-based attorney said this is just one example of the US's resolve not to negotiate fairly with Antigua & Barbuda.

He also expressed his consternation with that country's dealings in the matter.

"I continue to be surprised by their attitude. Most of what he said is absolutely, blatantly false," Mendel declared.

He added, "It is really amazing that the world's largest economy feels they have to engage in that type of false, unruly behaviour."

In a recent interview with Reif, he, too, said he was "surprised" at the recent developments in the WTO debacle. He deemed Antigua & Barbuda seeking and being granted the ability to sanction US intellectual property rights as "radical".

However, Mendel went a step further, saying "pretty much everything" that Reif said in the interview with OBSERVER Media was a distortion of the truth.

The attorney said what the Antiguan & Barbuda government took most exception to was what he called the United States' attempt to "rewrite" the high controversial and liberally interpreted Article XXI (21) of the General Agreement on Trade Services (GATS), which is an article of the WTO.

Antigua & Barbuda brought a complaint to the dispute settlement panel (DSP) of the WTO in 2003, arguing that gambling and betting services were a part of the "recreational services" segment under GATS.

The nation furthered that the US was in contravention of the agreement as the superpower disallowed its residents from placing online gaming bets with local companies.

The US contended that it did not understand the GATS agreement to include online gambling and betting services.

In 2007, the WTO ruled in favour of Antigua & Barbuda, awarding US\$21 million in damages annually until the US falls in line with the agreement or changed the offending laws.

Unwilling to change laws or regulations, the US exercised Article 21, a move Reif called an "equal exchange" by adding new commitment to its schedule.

"We made a commitment on "A" to the WTO and what the rules expressly contemplate us to do is to say we don't want to give that commitment anymore. We are allowed to take it away. No WTO member, not Antigua, not Russian or Ghana has that right anymore," Reif declared.

The US chose to offer, in the place of gambling, commitments for warehousing services (excluding maritime and airport services), private technical testing services, private research and development services, and delivery services relating to outbound international letters.

Mendel scoffed at the agreement, that he admitted all of the 153 WTO members accepted, except Antigua & Barbuda.

"How many of those things do we have? How can we compete in those fields especially when what they have done has taken away the only industry we had on the island capable, at the time, of generating that type of money?" the lawyer queried.

Mendel said the offer catered towards more developed member countries.

"We go through a whole litigation and we prevail after 10 years of work and they think they can go in and just change the treaty to accommodate the EU and offer us nothing and go sailing away after destroying our industry?" he declared

"I don't think it is going to work that way," he asserted.

Government's attorney said he believes Reif is "overrating Article 21 of the GATS".

"That they are allowed to switch is a hope and dream of theirs. It has never been litigated, so nobody really knows," he said.

To the warning from the USTR general counsel that Antigua & Barbuda should tread lightly in the continuing matter, he said the US, too, should be cautious.

"I think if we did go to arbitration things would not come out how they want them to. They know that too. Nobody has gone through this, so nobody knows how it is going to turn out. They have as much to fear as we do," the attorney, who specialises in international trade, added.



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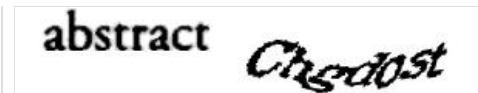
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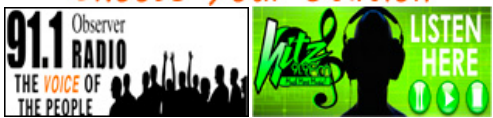
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