REQUEST FOR THE ESTABLISHMENT OF A PANEL BY ANTIGUA AND BARBUDA

UNITED STATES – MEASURES AFFECTING THE CROSS-BORDER SUPPLY OF GAMBLING AND BETTING SERVICES

The following communication, dated 12 June 2003, from the Permanent Delegation of Antigua and Barbuda to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

The Government of Antigua and Barbuda considers that certain measures of central, regional or local governments and authorities of the United States are inconsistent with the United States’ commitments and obligations under the General Agreement on Trade in Services (GATS) with respect to the cross-border supply of gambling and betting services.

The rules applying to the cross-border supply of gambling and betting services in the United States are complex and comprise a mixture of state and federal law. The relevant laws are listed in Sections I and II of the Annex attached to this request. Although this is not always clear on the face of the text of these laws, relevant United States authorities take the view that these laws (separately or in combination) have the effect of prohibiting all supply of gambling and betting services from outside the United States to consumers in the United States. Section III of the Annex lists examples of measures by non-legislative authorities of the United States applying these laws to the cross-border supply of gambling and betting services. The measures listed in the Annex only come within the scope of this dispute to the extent that these measures prevent or can prevent operators from Antigua and Barbuda from lawfully offering gambling and betting services in the United States under conditions of competition compatible with the United States’ obligations.

The total prohibition of gambling and betting services offered from outside the United States appears to conflict with the United States’ obligations under GATS and its Schedule of Specific Commitments annexed to the GATS (and in particular Sector 10.D thereof) for the following reasons:

(a) The central, regional or local authorities of the United States allow numerous operators of United States origin to offer all types of gambling and betting services in the United States (sometimes via exclusive rights or monopolistic structures). There
appears to be no possibility for foreign operators, however, to obtain an authorization to supply gambling and betting services from outside the United States. This appears to conflict with the United States' commitments and obligations under GATS, including Articles VI:1, VI:3, VIII:1, VIII:5, XVI:1, XVI:2, XVII:1, XVII:2 and XVII:3 and its Schedule of Specific Commitments.

(b) The United States authorities also restrict international transfers and payments relating to gambling and betting services offered from outside the United States. Some of the non-legislative measures listed in Section III of the Annex are examples thereof: the measures described in the documents released by the Florida Attorney General and the New York Attorney General. These restrictions appear to violate Articles VI:1, XI:1, XVI:1, XVII:1, XVII:2 and XVII:3 of GATS and the United States' Schedule of Specific Commitments.

On 13 March 2003, the Government of Antigua and Barbuda requested consultations with the Government of the United States pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and Article XXIII of the GATS regarding measures affecting the cross-border supply of gambling and betting services. The United States, and Antigua and Barbuda held such consultations in Geneva on 30 April 2003 but these consultations did not resolve the dispute.

Accordingly, Antigua and Barbuda respectfully requests the Dispute Settlement Body to establish a panel pursuant to Article 6 of the DSU to examine this matter with the standard terms of reference as set out in Article 7.1 of the DSU.
ANNEX

I. UNITED STATES FEDERAL LEGISLATION

The measures taken by the United States Congress which infringe on the obligations of the United States under the GATS include, without limitation, the following:

15 U.S.C. §§ 3001 to 3007
18 U.S.C. § 2
18 U.S.C. §§ 1081, 1084
18 U.S.C. §§ 1301 to 1307
18 U.S.C. § 1952
18 U.S.C. § 1953
28 U.S.C. §§ 3701 to 3704
39 U.S.C. § 3005

II. STATE AND TERRITORIAL LEGISLATION

The measures taken by the various States and Territories of the United States which infringe on the obligations of the United States under the GATS include, without limitation, the following:

Alabama

Alaska
ALASKA STAT. § 05.15.180 (1997).

Arizona

Arkansas

California

Colorado
COLO. CONST. art. XVIII, § 2.

Connecticut
CONN. GEN. STAT. §§ 53-278a to 53-278g (2001).
Delaware
DEL. CONST. art. 2, §17.

District of Columbia

Florida
FLA. STAT. §§ 849.01 to 849.46 (2000).

Georgia
GA. CONST. art. 1, § 2.
GA. CODE ANN. §§16-12-20 to 16-12-62 (2003).

Hawaii

Idaho
IDAHO CONST. art. III, § 20.

Illinois

Indiana

Iowa
IOWA CODE §§ 725.5 to 725.16 (1993).

Kansas

Kentucky
KY. REV. STAT. ANN. §§ 528.010 to 528.120 (Baldwin’s 1974).

Louisiana
LA. CONST. art. XII, § 6.
Maine

Maryland

Massachusetts
MASS. GEN. LAWS ANN. ch. 271, §§ 1-50 (West 2000).

Michigan
MICH. COMP. LAWS ANN. §§ 750.301-750.315a (West 1990).

Minnesota

Mississippi

Missouri

Montana
MONT. CONST. art. III, §9.

Nebraska

Nevada

New Hampshire

New Jersey
N.J. CONST. art. IV, § 7.
New Mexico

New York
N.Y. PENAL LAW §§ 225.00-225.40 (McKinney 1999).
N.Y. GENERAL OBLIGATION LAW §§ 5-401 to 5-423 (McKinney 2001).

North Carolina

North Dakota
N.D. CONST. art. 11, § 25.

Ohio
OHIO CONST. art. XV, § 6.
OHIO REV. CODE ANN. §§ 2915.01-2915.06 (1996).

Oklahoma
OKLA. STAT. ANN. tit. 3A, § 205.6 (West 1993).
OKLA. STAT. ANN. tit. 21, §§ 941-993 (West 2002).

Oregon

Pennsylvania
PA. STAT. ANN. tit. 18, § 911 (Purdon 1998).
PA. STAT. ANN. tit. 18, § 5513 (Purdon 2000).
PA. STAT. ANN. tit. 66, § 2902 (Purdon 2000).

Rhode Island
R.I. CONST. art. VI, § 22.

South Carolina

South Dakota

**Tennessee**

TENN. CONST. art. XI, § V.

**Texas**

TEX. PENAL CODE ANN. §§ 47.01 to 47.10 (West 2003).

**Utah**

UTAH CODE ANN. §§ 76-10-1101 to 76-10-1109 (1998).

**Vermont**


**Virginia**


**Washington**


**West Virginia**


**Wisconsin**

WIS. CONST. art. IV, § 24.
WIS. STAT. ANN. §§ 945.01-945.13 (West 2001).

**Wyoming**

WYO. STAT. §§ 6-7-101 to 6-7-104 (1996).

**Guam**

9 GUAM CODE ANN. §§ 64.10 to 64.22A (2003).

**Puerto Rico**

P.R. LAWS ANN. tit. 33, §§ 1241 to 1259 (1949).

**U.S. Virgin Islands**

III. OTHER UNITED STATES FEDERAL AND STATE ACTIONS OR MEASURES

Other actions or measures taken by United States Federal and State administrative agencies, officials and judiciary which infringe on the obligations of the United States under the GATS include, without limitation, the following:

United States


Florida


Kansas


Michigan


Minnesota


New York


