

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

Agreement between Antigua and Barbuda and the United States Regarding Procedures  
under Articles 21 and 22 of the DSU

The following communication, dated 24 May 2006, from the delegations of Antigua and Barbuda and the United States to the Chairman of the Dispute Settlement Body, is circulated at the request of these delegations.

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The Dispute Settlement Body (the "DSB") of the World Trade Organisation (the "WTO") adopted its recommendations and rulings in this dispute on 20 April 2005.

On 19 August 2005 the Arbitrator appointed pursuant to Article 21.3(c) of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (the "DSU") issued its award, granting the United States a reasonable period of time of 11 months and two weeks to implement the recommendations and rulings adopted by the DSB (WT/DS285/13). The reasonable period of time for implementation elapsed on 3 April 2006. On 10 April 2006, the United States informed the DSB that it had implemented the DSB's recommendations and rulings. Antigua and Barbuda then informed the DSB that, in its view, the United States had not implemented the recommendations and rulings of the DSB and the United States remained out of compliance with the United States' WTO obligations.

Given the disagreement between Antigua and Barbuda and the United States (collectively, the "Parties") within the meaning of Article 21.5 of the DSU, as to the existence or consistency of measures taken by the United States to comply with the recommendations and rulings of the DSB, the Parties have agreed on the following procedures for purposes of this dispute:

1. If Antigua and Barbuda deems it appropriate to invoke Article 21.5 of the DSU, Antigua and Barbuda will request consultations, which the Parties agree to hold within 15 days from the date of circulation of the request.
2. After the 15-day period referenced in paragraph 1 has elapsed, Antigua and Barbuda may request the establishment of a panel pursuant to Article 21.5 of the DSU (the "compliance panel").
3. At the first DSB meeting for which Antigua and Barbuda's request for the establishment of a compliance panel appears on the agenda, the United States will accept the establishment of the compliance panel.

4. The Parties will cooperate to enable the compliance panel to circulate its report within 90 days of the panel's establishment, excluding such time as the compliance panel's work may be suspended pursuant to Article 12.12 of the DSU.

5. In case of an appeal of the compliance panel report, the Parties will cooperate to enable the Appellate Body to circulate its report within 90 days from the date of notification of the appeal to the DSB.

6. With respect to the adoption of the panel and Appellate Body reports in the Article 21.5 proceedings, the parties recognize that the time-frames of Articles 16.4 and 17.14 of the DSU apply.

7. In the event that the DSB finds that the United States has failed to comply with the recommendations and rulings of the DSB or that a measure taken by the United States to comply with the recommendations and rulings of the DSB is inconsistent with a covered agreement, Antigua and Barbuda may request authorization to suspend concessions or other obligations under Article 22.2 of the DSU. Antigua and Barbuda will not request authorization to suspend concessions or other obligations under Article 22.2 of the DSU until the adoption by the DSB of its recommendations and rulings in the DSU Article 21.5 proceeding. If, in the light of these recommendations and rulings, Antigua and Barbuda decides to seek authorization from the DSB for the suspension of concessions or other obligations under Article 22.2 of the DSU, the United States will not assert that Antigua and Barbuda is precluded from obtaining such authorization because its request was made outside the time-period specified in Article 22.6 of the DSU. This is without prejudice to the United States' right to have the matter referred to arbitration in accordance with Article 22.6 of the DSU.

8. If Antigua and Barbuda requests authorization to suspend concessions or other obligations pursuant to Article 22.2 of the DSU, and if the United States objects under Article 22.6 of the DSU to the level of suspension of concessions or other obligations and/or claims that the principles and procedures set forth in Article 22.3 of the DSU have not been followed, the matter will be referred to arbitration pursuant to Article 22.6 of the DSU.

9. The Parties will cooperate to facilitate the participation of the original panelists in the dispute in the compliance panel and the DSU Article 22.6 arbitration.

10. If any of the original panelists is not available either for the compliance panel or for the DSU Article 22.6 arbitration, or both, the Parties will promptly consult on a replacement and either Party may request the Director-General of the WTO to appoint, within 10 days of the request, a replacement for the proceeding or proceedings in which such a replacement is required. If an original panelist is unavailable to serve in either of the proceedings, the Parties will further request that the Director General seek a person who will also be available to act in both proceedings.

11. The Parties agree to continue to cooperate in all matters referred to in these agreed procedures and not to raise any procedural objection to any of the steps set out herein. If, during the application of these procedures, the Parties consider that a procedural aspect has not been properly addressed they will endeavour to find a solution within the shortest time possible that will not affect the other agreed procedures.

12. These agreed procedures in no way prejudice other rights of either party to take any action or procedural step to protect its rights and interests, including the activation of any of the provisions of the DSU.

Agreed in Geneva on 23<sup>rd</sup> May 2006.

For Antigua and Barbuda

(signed)  
Dr. John W. Ashe  
Ambassador  
Permanent Delegation of Antigua and Barbuda  
to the World Trade Organisation

For the United States

(signed)  
Steven F. Fabry  
Chargé d'Affaires, a.i.  
Permanent Mission of the United States  
to the WTO

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