

1. United States' Schedule of Specific Commitments

1. Antigua requests the Appellate Body to uphold the Panel's findings that the term "sporting" does not include gambling and that, consequently, the United States undertook a specific market access commitment in its Schedule with respect to gambling and betting services.

2. Antigua argues that when examining the words of a treaty, a treaty interpreter must seek to determine the "common intention" of the parties. Although this should be done in accordance with Article 31 of the *Vienna Convention*, Antigua submits that this provision should be regarded as *one* "general rule of interpretation" rather than a hierarchical *sequence* of tests.¹

3. In Antigua's submission, the ordinary meaning of the word "sporting" does not include gambling and betting services. Because a Schedule is a classification of mutually exclusive services categories, an entry in such a classification can have only one meaning.² Thus, it is inappropriate to interpret an entry in the United States' Schedule on the basis of the entry's divergent dictionary definitions. In order to determine the ordinary meaning of the term "sporting" in the United States' Schedule, it is more appropriate to examine the term in the light of other classifications, such as W/120, the CPC, other classification systems, and other WTO Members' GATS Schedules. Antigua submits that the Panel properly analyzed these classifications and found that they do not support the conclusion that "sporting" includes gambling, a result confirmed by the fact that the United States could not point to *any* classification that uses the word "sporting" to refer to gambling.

4. Given that, as the Panel itself observed, GATS Schedules simply cannot be understood without reference to the 1993 Scheduling Guidelines, Antigua urges the Appellate Body to uphold the Panel's findings that W/120 and the 1993 Scheduling Guidelines are "context" for the interpretation of the United States' Schedule and Article XVI of the GATS. In addition, the revised Scheduling Guidelines of 2001 should be considered a "subsequent agreement" and/or "subsequent practice", as provided for in Article 31(3)(a) and 31(3)(b) of the *Vienna Convention*. According to Antigua, the 2001 Scheduling Guidelines confirm that the existing GATS Schedules were prepared in accordance with the 1993 Scheduling Guidelines and W/120.

¹Antigua's appellee's submission, para. 44 (quoting Article 31 of the *Vienna Convention*).

²*Ibid.*, para. 50.

5. Antigua emphasizes that the United States' attempt to distinguish the structure of the W/120 from the meaning of its categories is without merit. When a Member uses the structure of the W/120, Antigua argues, it "inevitably" uses the content of its categories, unless this Member indicates explicitly that it is diverging from that content with respect to a sector or subsector.³ Antigua notes, in this respect, that the United States' Schedule includes no such indication with respect to "sporting" or "other recreational services".

³Antigua's appellee's submission, para. 52.