U.S. Limits on Internet Gambling Are Backed

By FOX BUTTERFIELD

An appeals panel of the World Trade Organization ruled yesterday that the United States can maintain many of its restrictions on Internet gambling, largely reversing an earlier ruling that the country was violating its international obligations.

But the appeals panel, ruling in a dispute involving the island nation of Antigua, also found that a 2000 American law on horse racing discriminates against foreign operators.

Both Washington and Antigua claimed victory after the appeals panel issued its decision in Geneva.

"This win confirms what we knew from the start — W.T.O. members are entitled to maintain restriction on Internet gambling," said Peter F. Allgeier, the acting United States trade representative. "This report essentially says that if we clarify U.S. Internet gambling restrictions in a certain way, we'll be fine."

But Mark Mendel, the lead lawyer for Antigua, a Caribbean nation of 67,000 people, said, "This is a big victory for Antigua."

"The United States will have to bring its gambling laws into conformity with the decision," Mr. Mendel said in a telephone interview from Geneva.

Given the conflicting interpretations of the 138-page decision by the World Trade Organization Appellate Body, Nelson Rose, a professor at Whittier Law School in Costa Mesa, Calif., who is an expert on gambling law, said: "Of course, both sides can say they won. But the reality is, it's a pretty big win for the United States."

The crucial part of the victory for Washington, he said, was that the panel found that international trade law allowed an exception to W.T.O. rules in cases in which countries can prove that special laws are needed to protect "public morals." In the original decision last year, the W.T.O. did not agree that the United States was entitled to this exception.

On the other hand, Professor Rose said, Antigua could claim victory because the panel found that the 2000 Interstate Horse Racing Act expressly allowed Americans to bet on horse races from their homes by computer or telephone, but only by placing the bets with United States-based off-track companies. "The panel quite rightly found that the U.S. has not shown this is not discriminatory," Professor Rose said.

Professor Rose said he now expected that there would be some further discussions and negotiations between Antigua and the United States and that Washington would amend the horse racing act to allow international bets on horse races placed through casinos in places like Antigua. The panel's decision is final, with no further appeal allowed.

The decision removes a major threat to United States gambling law, several specialists said, but Internet gambling is already rapidly developing and there are questions about how long the United States can hold out.

Under the 1961 Interstate Wire Act, which outlaws betting over interstate phone lines, Internet gambling has been illegal under federal law.

Nevertheless, "the average Joe doesn't see eye to eye with Washington on this, and the United States is the largest market for Internet gambling," said Sebastian Sinclair, president of Christiansen Capital Advisers, a New York-based gambling consulting and market research firm. In 2004, by his estimate, bettors in the United States accounted for half the world total of $7.4 billion wagered in Internet gambling, with many people betting through their home computers.

"We estimate that by 2010 this total will grow to $18.4 billion," Mr. Sinclair said.

Antigua has been trying to diversify its tourist-based economy by attracting Internet gambling companies that take bets from American gamblers, but Washington has blocked that effort.

Mr. Sinclair said one clear thing to emerge from the dispute was that "the United States and the rest of the world have a fundamentally different view about the whole concept of Internet gambling."

Led by Britain, virtually all the countries in Western Europe now have companies that take bets from Internet gamblers, he said, ranging from horse racing to lotteries.

TECHN