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## A Web Gambling Fight Could Harm Free Trade

America's stern approach to Internet gaming may lead to broader problems with the WTO

Few paid heed in 2003 when the tiny island nation of Antigua & Barbuda started griping about tough U.S. gambling laws. The complaint: Antigua's Internet gambling operations, a major source of jobs for the country, had been hurt because Americans weren't allowed to place bets online.

Four years later, this narrow and almost comical spat has boiled over into a broader dispute involving many of America's top trading partners. What turned up the heat? In May the U.S. unilaterally decided to exclude Web gambling from its list of services covered by the World Trade Organization. To do so, it invoked an escape clause in the WTO treaty that allows a country to "modify or withdraw any commitment" to provide open access. This move—almost unprecedented—came after the WTO ruled that the U.S. violated trade rules when it blocked "imports" of gambling services from other countries.

But the dispute could be a lose-lose proposition for free trade since the U.S. may have legitimized use of a big loophole in the WTO. Meanwhile an already intense populist American backlash against globalism could be exacerbated by steep sanctions.

The escape clause invoked by the U.S. requires reparations to any WTO members that claim to be hurt by the modified agreement. The diplomats who negotiated the treaty wrote the escape clause in a way that intentionally discouraged its use. The country imposing the trade restriction had to provide "compensatory adjustment" to other countries affected by the change—a vague term that includes the possibility of enormous claims.

Antigua wants the U.S. to pony up \$3.4 billion a year in concessions to cover lost gambling revenues. Seven other WTO members—Japan, India, the European Union, Canada, Australia, Costa Rica, and Macao—are also seeking unspecified but potentially big amends, saying that their Web gambling operations, either existing or to be started in the future, have been harmed.

Despite the furor, the U.S. has been unwilling to back away from its aggressive stance on Internet gambling. One reason: It's a rare area where many Republicans and Democrats agree, on both moral and law enforcement grounds. The argument is that it's too easy for minors to gamble online and for criminals and terrorists to use Web gambling to launder money. That's why the U.S. beefed up enforcement in recent years and banned the use of credit cards to place online bets.

Moreover, the U.S. says it owes nothing because it never envisioned online betting—or the World Wide Web for that matter—when the trade agreement was signed in 1994. "It never occurred to us that our schedule could be interpreted as including gambling until Antigua-Barbuda brought this case," Deputy U.S. Trade Representative John K. Veroneau told reporters in May.

Ultimately it could fall to the WTO to decide what, if any, economic sanctions the U.S. would incur. Major trading partners such as Europe and Japan could use the case to win concessions in other disputes. Smaller nations, such as Antigua, Costa Rica, and Macau, are more likely to ask the WTO to let them ignore copyright protections on software and entertainment. "You could have them be authorized by the WTO to essentially pirate stuff," says Chad P. Bown, an economics professor at Brandeis University.

On a broader level, the U.S. move, if successful, could invite other member nations to buy their way out of their trade commitments. "The last thing we want is for China or India or Russia to feel like they can withdraw some concession on intellectual property or aircraft," says Gary C. Hufbauer, a fellow at the nonprofit Peterson Institute for International Economics in Washington.

Reason could still prevail. The U.S. and Antigua launched formal arbitration proceedings on July 24, and other trading partners have begun bilateral talks. Meanwhile, offshore betting operations are trying to gin up congressional support for legalizing Web gambling. If the U.S. doesn't change its laws, "it's going to send a signal to the rest of the world that the WTO is really kind of a one-way street for the benefit of the big economies," says Antigua's lawyer Mark E. Mendel, a partner in the Cork (Ireland) office of Mendel-Blumenfeld. "We're gambling that the U.S. will do the right thing."

By Lorraine Woellert

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