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Latest WTO Lunacy: Poker and Piracy Together at Last

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On Monday the World Trade Organization (WTO) officially [authorized](#) Caribbean nation Antigua to sell \$21 million in "pirated" U.S.-copyrighted music, films and computer programs in retaliation for the United States failing to comply with a [2005 WTO order](#) to allow online gambling here.

Say what? (And, no, this news was not sourced from a parody in *The Onion*.)

The case is an illustrated guide to much of [what is wrong with the WTO](#). And, it should spotlight the lunacy of Obama administration plans to expand this dangerous "trade" agreement model via the [Trans-Pacific Partnership \(TPP\) "free trade"](#) agreement. More on that later. Let's tour what is now a full coop of WTO chickens that have come home to roost on this WTO case.

First, the backstory: in 2003, Antigua filed a case at the WTO claiming that U.S. laws banning Internet gambling violated WTO rules. The case, which some say was in fact the brainchild of an American attorney, Mark Mandel, who is handling the WTO litigation for Antigua, was joined by the European Union and other countries with major gambling industries. Antigua won a final ruling in 2005 and yesterday's "sanctions" announcement was retaliation for the United States failing to change its domestic laws to comply with the WTO.

Why does the WTO have *anything* to say as to whether or not the U.S. Congress can ban Internet gambling, especially when the ban applies to domestic and foreign firms alike? Unlike past trade agreements, which focused on cutting tariffs, the WTO imposes expansive constraints on signatory governments' non-trade policies and establishes new corporate rights. The WTO's General Agreement on Trade in Services (GATS) limits how the U.S. government may regulate foreign service firms operating here and cross-border "trade" in services too. The WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement requires countries to provide expanded monopoly patent and copyright terms. (That's how U.S. drug patent monopolies got expanded from 17 to 20 years in 1994 when Congress OK'd U.S. WTO accession, overruling decades of congressional opposition to such patent extensions and costing us billions in higher drug prices, pocketed by WTO booster Big PhRMA.)

Yup, the appealing "free trade" brand was used to sell worldwide a Trojan horse delivery mechanism for a comprehensive set of policies that deeply invade domestic non-trade policymaking space. And, this horse has a kick. Unlike other international agreements, the WTO is strongly enforced.

Countries are required to conform their domestic policies to its rules and can be challenged in WTO tribunals if they don't. WTO tribunals rule against domestic laws [92 percent](#) of the time. And if a country does not change its laws as ordered by the WTO, sanctions are authorized.

But wait, didn't WTO just authorize Antigua to *violate* U.S. copyrights? Welcome to the world of WTO "cross-retaliation." That is a WTO feature that the United States demanded. It wanted to be able to slap tariffs on developing countries' commodity exports (i.e. real trade) if these countries did not comply with the WTO's invasive drug patent, financial service deregulation and other one-size-fits-all dictates.

The delicious and tsunami-scale irony is that now Antigua (population 88,000 and GDP \$1 billion) is being "borrowed" by gambling interests to cross-retaliate against the United States - by removing intellectual property rights from U.S. products in the first use of such a sanction. Except, wait, didn't Ralph Nader warn against just this scenario of some commercial interest finding a tiny country to attack U.S. public interest policies back when the WTO was being debated?

And, if you are looking for a silver lining, it is not that the WTO is that rare international organization where small, developing countries get a fair shake. Indeed, this case is Exhibit #1 that they do not. Rather, Antigua's move comes after seven years of the United States ignoring its initial WTO win. And, now that Antigua is trying to enforce, using a mechanism created by the United States itself, the comments from the U.S. Trade Representative's Office are ominous: "To be clear, the United States will not tolerate theft of intellectual property and will take whatever steps are most efficient and effective to prevent this from [happening](#)."

U.S. trade negotiators have threatened that Antigua will be harming its own interests if it follows through with enforcement. Hum...wonder if we'll soon hear about the threats to the students at Antigua's offshore American [medical school](#) of access to super-cheap on-line music and more... In all seriousness, Antigua will certainly face liabilities for enforcement actions, no matter how totally legal they are under WTO rules.

Which brings us back to the core point - the damaging WTO rules. By now you might be wondering about these vaunted benefits of the WTO that were promised by politicians and corporations alike back when the WTO was being considered by Congress.

Would those benefits include the [5 million U.S. manufacturing jobs](#) that we have lost since the WTO went into effect? The exploding U.S. trade deficit that has slowed U.S. growth? Would the benefit be that the United States could face more trade sanctions unless it guts the [country-of-origin meat labels](#) we all rely on in the grocery store, the highly popular dolphin protections that we all know from the dolphin-safe labels on our tuna cans or our ban on the U.S. sale of sweet-flavored cigarettes used to hook kids on smoking? Yup, the WTO has ruled against all three popular policies and ordered the United States to gut them by this summer.

The vast gulf between promised WTO benefits and reality is especially worth considering now, as the Obama administration and the same exact corporate interests are trotting out the very same myths to try to sell Americans on the [TPP negotiations](#).

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