Antigua and Barbuda fights back against Majority Leader Reid's online poker bill

By Kevin Bogardus • 10/28/12 06:00 AM ET

The tiny Caribbean island nation of Antigua and Barbuda is pushing back against legislation by Senate Majority Leader Harry Reid (D-Nev.) that would legalize online poker.

Antigua's government is saying the bill, drafted by Reid and Sen. Jon Kyl (R-Ariz.), mischaracterizes a long-running trade dispute between Antigua and the United States. They argue the legislation takes specific aim at offshore online gambling operators to favor U.S. companies, hurting Antigua's Internet gaming industry in the process.

Mark Mendel, a legal adviser to Antigua, said passage of the online poker bill would worsen trade relations with the United States.

"If they pass this legislation, we can go back to the [World Trade Organization (WTO)] and embarrass them even further," Mendel said. "Work with us before this thing becomes law and figure this out and reach a settlement. ... We want to work with you, we want to have a fair and reasonable settlement, and this is the perfect time to get it done."

In 2003, Antigua filed a complaint with the WTO against the United States for not allowing Antiguans to provide Internet gaming services to U.S. citizens. Antigua alleged that the U.S. was not abiding by its commitments under the WTO's General Agreement on Trade in Services, or GATS.

The WTO later ruled in Antigua's favor but the trade dispute still rages to this day as Antigua pushes for a settlement.

Antigua has estimated that they are owed $3.4 billion per year in damages for being denied access to the U.S. market for Internet gaming services. The WTO has authorized Antigua to violate $21 million per year in U.S. intellectual property to retaliate, but both sides have agreed to seek a fair settlement.

The United States says it disagrees with the WTO ruling. In a draft copy of the online poker bill obtained by The Hill, the WTO decision is called "erroneous" in a finding. Another one of the bill's findings states that the United States might
Antigua and Barbuda fights back against Majority Leader Reid's online poker bill - The Hill - covering Co...

never allow WTO members to provide online gambling services.

“The United States never intended to include Internet gaming of any kind within the scope of its commitments under the General Agreement for Trade in Services, and therefore, no World Trade Organization Member had any competitive expectation of access to the United States Internet gaming market,” the draft legislation says.

Antigua disagrees with that conclusion.

“The wording of Sen. Kyl’s legislation misrepresents the facts,” Harold Lovell, Antigua’s Minister of Finance and the Economy, said in a statement on Thursday. “Given that the U.S. has been immersed in a trade dispute for the last decade with Antigua and Barbuda, the evidence is there for all to see that remote gaming was always at issue. This is nothing short of legislating historical fiction.”

A spokeswoman for Reid said the legislation is still being worked on, and cautioned that draft of the bill that has circulated in Washington isn’t finalized.

“The bill that has been leaked is just a draft and is a premature version of the online poker legislation. We continue to work with all stakeholders, including states, to address concerns,” said Kristen Orthman, the Reid spokeswoman.

Mendel said the online poker bill would further squeeze Antigua out of the lucrative market in the U.S. for online gambling.

“The way that they designed the bill is to get a license, you have to be a land-based casino operator already. There’s no way the Antiguans would be able to get a license under this bill,” Mendel said. “What the bill says is that your servers and whatever else you need to physically run the business, it has to be located in the United States.”

Reid and Kyl’s bill would legalize online poker, but ban playing other games of chances over the Internet. Supporters say the bill is needed to protect consumers from fraud by offshore operators and to keep minors from gambling.

Lawmakers may need to act quickly since a 2011 Justice Department finding that the Wire Act doesn’t ban online gambling except for on sports has sent several states to move forward on legalizing some forms of Internet gaming.

Antigua jumped into online gaming as the Internet began to take off in the 1990s. Mendel said the Caribbean island wanted to diversify its economy and not be dependent on tourism.

“They wanted to diversify. They were smart enough to know that and the government really pushed it and set up a regulatory framework for it,” Mendel said. “By basically being the first entrant, they were able to get a leg up on others.”

Another provision in the Reid-Kyl bill would require the Office of the U.S. Trade Representative to find a settlement with Antigua within 180 days after the bill passes. Otherwise the U.S. would move into arbitration with the WTO under the provision, according to Mendel.

In his statement, Lovell said a timeframe is encouraging, but a settlement should be reached before the bill passes.

Antigua is serious about its rights under the trade dispute. The Caribbean nation has hired a public relations firm, Levick Strategic Communications, to a six-month, $240,000 contract to help with its campaign against the bill, according to Justice Department records.

Reid’s bill has other critics as well. State legislators and governors oppose the draft version and are worried about its impact on state rights.
In a letter to congressional leaders on Thursday, the National Governors Association said the bill’s draft “would preempt emerging state regulatory authority recently established by the U.S. Justice Department under a reinterpretation of the federal Wire Act, which could restrict state revenues derived from gaming. We oppose the draft Senate legislation in its current form as an unnecessary preemption of state authority.”

Reid is expected to try to move the online poker bill this coming lame-duck session after the election.

**Relevant Links:**
- [The Hill: Antigua and Barbuda Fights Back Against Majority Leader Reid’s Online Poker Bill](https://thehill.com/homenews/senate/264389-antigua-and-barbuda-fights-back-against-reids-online-poker-bill)

**Related Stories:**
- [The Hill: Antigua and Barbuda Fights Back Against Majority Leader Reid’s Online Poker Bill](https://thehill.com/homenews/senate/264389-antigua-and-barbuda-fights-back-against-reids-online-poker-bill)
I want my online poker back. Was stupid to take it away in a free country in the first place.

A crooked industry that preys on those with an addiction. Ban it instead.

You are asleep remember when the U.S. did the ban it thing on booz? All it did was make organized crime bigger.

I could care less one way or the other about gambling on-line or otherwise. I hope those of you who enjoy it are pleased with whatever the outcome. I would however enjoy Harry and/or Jon choking on a few on-line poker chips before they are able to enjoy their personal financial gain from sponsorship of the new law. I don't think this effort, as usual, is out of the goodness of their hearts.

Who cares what Antigua has to say! Do they pay the US tax's and or bills, NO. So enjoy your sunshine, casinos, and off shore banking...

u need to awaken from your slumber