CAFTA-DR Facts

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Dispute Settlement: Equivalent Procedures & Remedies for Commercial and Labor Disputes

Under the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR), the basic procedures and timing for resolving commercial and labor disputes – consultations followed by independent panel review – are equivalent. For both kinds of disputes, the "toolbox" of enforcement remedies includes fines and suspension of trade benefits. The CAFTA-DR makes fines the remedy of first recourse in labor disputes, recognizing that a trade remedy could harm the very workers the CAFTA-DR is designed to protect.

PROCEDURES	COMMERCIAL DISPUTES	LABOR DISPUTES
Begins with government-to-Government consultations	Yes	Yes
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Maximum required period	60 days	60 days
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Ministerial-level consultations	Yes	Yes
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Maximum required period	30 days	30 days
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Arbitral panel formed	Drawn from independent experts	Drawn from independent experts, including labor specialists
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Panel proceedings	120 to 180 days	120 to 180 days
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If panel finds violation, Disputing countries attempt to agree on resolution	Yes – within 45 days	Yes – within 45 days
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If no agreement on resolution, violating country can avoid penalties by offering "compensation" in another area	Yes	No. The labor problem **must** be corrected or penalties will apply
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Penalty if no resolution	Complaining country may Impose trade sanctions	Panel sets a fine of up to $15 million annually
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Alternative penalty	Violating country may choose to pay fine equivalent to 50% of trade injury	If fine is not paid, complaining country may impose trade sanctions
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How fine is used	*Complaining country retains funds*	Funds used for labor initiative to resolve problem; complaining country has veto over how funds are used

***How Labor Fines are Set and Used*:** Since a labor violation may not result in significant trade injury, a dispute panel can consider additional criteria – such as the duration or pervasiveness of the violation – in setting a fine of up to $15 million annually. Labor fines are paid into a special escrow account. Funds are used for labor initiatives, including enhanced labor law enforcement in the defending country. After considering views from interested persons, the disputing countries must jointly agree – and the complaining country thus has a veto – on how best to spend the funds. The funds are not automatically returned to the defending country. They may be used, for example, to fund an appropriate International Labor Organization or U.S. Labor Department project.