



CAFTA Facts

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An “Un-Stacked Deck” CAFTA Dispute Panels Will Be Transparent, Fair

Some critics of the Central America – Dominican Republic Free Trade Agreement (CAFTA) have alleged that the agreement will create dispute panels that are “stacked” against the United States.

This is simply wrong.

- CAFTA contains ground-breaking provisions designed to increase the transparency of dispute settlement procedures. The agreement requires open public hearings, public access to documents, and the opportunity for third parties to submit views. These standards of openness far exceed current procedures under the WTO or NAFTA.
- Under the agreement, disputes will be heard by impartial panels of three independent experts.
- Each disputing government will select one panelist and then the two governments will seek to agree on the panel chair.
- If they cannot agree, the chair will be selected from a roster of experts that the United States and the other CAFTA signatory countries will jointly establish. That roster of experts will include persons from outside the region, and well as experts from the United States or other CAFTA parties.
- The United States has a veto over the inclusion of any individual on this roster.
- The chair of the panel cannot be a national of either of the disputing countries, unless they both agree.
- All panelists must have relevant expertise and must be independent of, and not be affiliated with or take instructions from, any CAFTA signatory government.
- As a practical matter, experience to-date under our FTAs demonstrates that the disputing governments work collaboratively in selecting all three panelists to ensure that both governments are satisfied that the panel is impartial before the case proceeds.