



# CAFTA Facts

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## **The FACTS on CAFTA and Government Procurement**

- Some critics claim that CAFTA would overturn all existing federal and state "Buy America" laws. **This is flatly wrong.** In procurement like other areas, CAFTA is a good deal for the United States.
- CAFTA makes **NO CHANGES in our procurement laws on either the state or federal level.** It simply extends to six new countries the non-discriminatory treatment we already give to more than 40 other countries.
- CAFTA's rules on non-discrimination in government purchases are **not new.** We have been living under these rules for over 25 years. In fact, the very language that critics quote from CAFTA Article 9.2 has been in U.S. free trade agreements since 1992.
- In 1979, under U.S. leadership, the U.S. and virtually all other industrialized countries agreed to open their procurement markets to each other.
- Under CAFTA, our six new free trade partners must open their government markets to American products, services, and companies for the first time -- and begin using fair and transparent purchasing rules that ensure a level playing field, like we already do.
- Contrary to the critics, CAFTA and other U.S. trade agreements do not cover all federal and state purchases. CAFTA does not apply to such federal purchases as **defense products covered by the Berry Amendment or to agricultural goods purchased for food assistance** and farm support programs.
- The agreement also **specifically exempts preference programs** for small businesses, distressed areas, minorities, and women.
- Nor does CAFTA affect sensitive procurements by individual states. The **ONLY state commitments in the CAFTA are those our states volunteered to make,** and only to the extent those states specified.
  - Each state designated the agencies it wanted to the agreement's procurement rules to cover, and **excluded those goods or services (including "outsourced" services) it did not want to include.**
  - For example, many states excluded products and services like motor vehicles, construction-grade steel, fuel, and construction services.
  - CAFTA also **explicitly permits states to make purchases in accordance with their environmental policies.**
- CAFTA does not apply to **any** to local, county or municipal procurements.
- Contrary to the critics, losing bidders from Central American and the Dominican Republic will have **no right** to bring claims against the United States before CAFTA dispute settlement panels. CAFTA provides for losing firms to follow normal bid protest procedures that are already in place in the United States.