Trade Facts

Office of the United States Trade Representative [*www.ustr.gov*](http://www.ustr.gov)
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CAFTA and U.S. Sovereignty

The United States has a more than $32 billion trade relationship with Central America and the Dominican Republic. CAFTA creates a level playing field for trade between the U.S. and our neighbors and encourages the governments of Costa Rica, the Dominican Republic, El Salvador, Honduras, Guatemala and Nicaragua to fight corruption, adopt open and transparent rulemaking procedures and install non-discriminatory laws and regulations. These elements are the hallmark of due process and are in place at all levels of government in the United States. CAFTA, like every agreement negotiated by the United States, remains very sensitive to, and protective of, our federal system of shared power. These are the facts:

CAFTA fully preserves the United States' right to regulate.

- Nothing in CAFTA prevents the United States or any state and local government from enacting, modifying, or fully enforcing domestic laws protecting consumers, health, safety, or the environment.
- The agreement ensures that federal, state and local agencies continue to have an absolute right to set environmental, health, and safety standards at the levels they consider appropriate.
- The agreement simply provides that the legitimate standards that governments impose must be non-discriminatory and transparent, and not be used as disguised barriers to trade.

CAFTA does not automatically preempt or invalidate laws in the United States.

- CAFTA does not in any way preempt or invalidate federal, state, or local laws that may be inconsistent with the agreement. This is because, while the United States has committed itself to adhere to the rules set out in CAFTA, those rules do not automatically override any domestic laws.

CAFTA dispute panels cannot overturn or change U.S federal, state or local laws.

- CAFTA dispute settlement panels have no authority to change U.S. law or to require the United States or any state or local government to change its laws or decisions.
- Only the federal or state governments can change a federal or state law.
- If, ultimately, the United States cannot reach an agreed settlement with the country that brings a dispute settlement claim under CAFTA, that country may withdraw trade benefits of equivalent effect. However, under trade agreement rules, the United States retains complete sovereignty in its decision of how to respond to any panel decision against it.

CAFTA's Chapter 10 on Investment does not harm state and local sovereignty

- State and local governments will not be required to make any changes to existing laws or regulations which may be inconsistent with obligations established in the investment section (Chapter 10) of CAFTA such as local presence, market access, national treatment, and most-favored-nation treatment.

- CAFTA contains an exception for existing state and local laws that would not comply with the agreement (a “grandfather” clause).
- Nothing in Chapter 10 or any other provision of the Agreement requires the privatization or deregulation of any government services, including water supply or distribution services, education services, or health services.
- The implementation of Chapter 10 should not require an additional commitment of resources by state and local governments.