

Labor Protections and the Dominican Republic- Central America Free Trade Agreement (DR-CAFTA)

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What is CAFTA?

A free trade agreement between the Dominican Republic, Central America and the United States that eliminated tariffs on 80% of U.S. manufactured goods and is scheduled to phase out the remaining 20% by 2021, in addition to expanding investor privileges. Modeled after NAFTA (the North American Free Trade Agreement), CAFTA is about removing restrictions on foreign investment as much as liberalizing trade.

When did the U.S. Congress approve CAFTA?

The U.S. Senate approved CAFTA, as it is commonly known, on June 30, 2005 by a vote of 54 to 45. On July 28, 2005, the House of Representatives approved CAFTA by a vote of 217-215. When the vote officially came to a close, there were 180-175 votes against CAFTA. The Republican leadership kept the vote open for another hour to collect the necessary signatories, closing it at 12:03 am.

When did CAFTA go into effect?

El Salvador, March 1, 2006; Guatemala, June 1, 2006; Honduras, April 1, 2006; Nicaragua, April 1, 2006; Dominican Republic, March 1, 2007; Costa Rica, Oct. 7, 2007

Weak Labor Standards: [Chapter 16, CAFTA](#)¹

- CAFTA does not require participating countries to abide by or even take steps toward respecting internationally-recognized labor standards, i.e. those established by International Labor Organization (ILO) conventions. Rather, it says that states should “strive to ensure” compliance with their domestic labor laws, even though they fall short of international standards.²
- Anti-discrimination statutes and regulations are not included under the five categories of labor laws outlined under CAFTA.³
- CAFTA’s “sanctions” if the country does not uphold its own labor laws are a marked step back from those that governed U.S. trade policy towards Central America in the years preceding CAFTA, primarily under the Generalized System of Preference (GSP) trade program.

Generalized System of Preferences (GSP) Labor Complaint Procedure

- The Generalized System of Preferences (GSP) allows limited exports of certain commodities to enter the U.S. duty-free from most countries in the Global South. The complaint process under GSP, although flawed, provides higher standards for worker rights and swifter, more targeted sanctions for violating them compared to CAFTA.
- Free Trade Agreements like CAFTA replace GSP and other U.S. trade programs, as well as the GSP labor complaint procedure.

¹ Critics of CAFTA report that additional negative effects include: an increasing number of mega projects that exploit natural resources and indigenous communities, increased migration from rural areas to cities, increased immigration abroad, increased violence against trade unionists, and higher medical costs due to patent protections for pharmaceutical companies that block generic drug production.

² U.S.-Central America Free Trade Agreement, arts. 16.1, 16.2(2). The Honduran government is currently attempting to weaken its labor laws, which is not penalized under CAFTA.

³ Ibid. art. 16.8. The five categories of labor law include: the right of association, the right to organize or bargain collectively, a prohibition on forced or compulsory labor, a minimum age for employment and elimination of child labor, and acceptable conditions of work regarding minimum wage, hours, and health and safety.

- GSP trade benefits are conditional on the government of the exporting country taking steps towards meeting internationally-recognized standards for worker rights. The GSP program includes a process under which any organization could "petition" the U.S. government to investigate a country's treatment of workers. [USLEAP used the GSP petition](#) process with Guatemalan unions to win an increase in the minimum wage, new labor courts, increased sanctions, and labor law reform in the 1990s.
- After a review period, the U.S. Trade Representative (USTR) could end the country's review, suspend duty-free treatment on one or more products, or suspend the country from the program in its entirety.

CAFTA Labor Complaint Procedure with the U.S. Government

- If a Central American country does not abide by its domestic labor laws, concerned parties can submit a CAFTA complaint to the U.S. Department of Labor's Office of Trade and Labor Affairs (OTLA).
- The U.S. can dismiss the complaint or request formal ministerial consultations with the offending government.
- If consultations fail to address the labor issues adequately, the U.S. government can initiate a dispute settlement process that may result in an annual fine of up to \$15 million that is paid by the non-compliant government to use for "appropriate programs".
- There are no safeguards to ensure that the fine will be used to increase labor rights enforcement rather than move funds from one part of the government's budget to another.
- The U. S. can suspend tariff benefits up to the amount of the fine if the fine goes unpaid.

Guatemala CAFTA Labor Complaint

- On April 23, 2008, the AFL-CIO and six Guatemalan unions filed the [first CAFTA labor complaint](#) with the Department of Labor. The complaint highlights five case studies that document illegal firings, failure of the employer to bargain in good faith, health and safety violations, and violence against trade unionists, including the murders of two leaders from the port workers union STEPQ and the Del Monte banana workers union SITRABI.
- Before leaving office, the Bush Administration extended the period to review the complaint by six months, stating that Guatemala had taken "crucial initial steps".
- On July 30, 2010, after over two years of informal discussions, the [Obama Administration announced](#) that it would enter formal ministerial consultations with the Guatemalan government. Significantly, the Administration's letter to the Guatemalan government said that in addition to moving on the CAFTA complaint, it was "also" concerned about labor-related violence, indicating that violence would be handled separately from the complaint procedure.
- The Guatemala complaint offers the first real test of the effectiveness of the CAFTA labor complaint process. As of November 2010, the complaint has achieved very little in Guatemala and has so far been a lengthy, cumbersome, ineffective process.

Costa Rica CAFTA Labor Complaint

- On July 20, 2010, two Costa Rican unions and the International Longshore and Warehouse Union (ILWU) [filed a complaint](#) against the Costa Rican government, citing the government's removal of democratic leadership of an important portworkers union, illegal raids, a media campaign to discredit the union, and willingness to support and negotiate with company-backed, undemocratic unions. Action on the complaint is pending.

For more information, please contact the U.S. Labor Education in the Americas Project (USLEAP)
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