



# Trade Facts

Office of the United States Trade Representative  
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## FTA Compliance: Job One, From Day One

With each free trade agreement (FTA) the United States negotiates, Congress requires the Office of the U.S. Trade Representative (USTR) to ensure that each FTA partner has implemented all necessary changes to its domestic laws and regulations required to comply with its FTA obligations as of day one of the agreement. Only then does USTR agree that the FTA with that country will enter into effect.

Both before and during negotiations, USTR gathers information on each FTA partner's laws and regulations and discusses them in detail with U.S. trading partners throughout the negotiations. Once an agreement is signed, USTR, in consultation with other agencies and the Congress, does a comprehensive assessment of legislative and regulatory actions that it believes our FTA partners must take to implement their obligations under the agreement.

This process takes months, as USTR reviews and comments on the partner country's implementing legislation and regulations. In some cases, USTR provides technical assistance, either directly or through advisors to the FTA partners. In several cases, USTR has required that countries take further steps in order to have the FTA enter into effect.

Only when satisfied that an FTA partner has done everything necessary will USTR take the final steps to have the agreement enter into force and give effect to the changes to U.S. law and tariff cuts that Congress authorized when it enacted the U.S. implementing legislation.

### **Specific Examples of USTR's Implementation Reviews:**

- **United States-Australia Free Trade Agreement**

The United States-Australia FTA was signed on May 18, 2004, and Congress approved the agreement in July 2004. Australia originally passed implementing legislation in August of that year, but USTR was concerned that the legislation did not fully implement Australia's FTA commitments on copyright protection, e.g., on issues such as protection of temporary copies; copyright term extension; ISP (Internet Service Provider) liability; criminal liability for end-user copyright piracy; and satellite signal piracy. Following extensive discussions, in November 2004, Australia agreed to make legislative and regulatory changes to address those concerns. After confirming that these changes were made, the United States took the steps necessary for the agreement to enter into force on January 1, 2005.

- **Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR)**

The CAFTA-DR Agreement Implementation Act was signed on August 2, 2005. During the implementation review process, USTR identified those provisions that appeared to require government action to implement. USTR developed a 25-page "implementation checklist" which was provided to the CAFTA-DR countries and asked them to demonstrate that each obligation was either already reflected in their laws or regulations or, if not already reflected, to develop appropriate implementing legislation or regulations. USTR then reviewed and commented on their draft implementing legislation and regulations until satisfied that the legislation or regulation implemented the obligation in question.

Areas where USTR required implementing legislation or regulations included: customs, rules of origin, procedures for accepting, reviewing and responding to communications and submissions from the public on matters related to implementation of the labor and environment chapters, TRQ administration, safeguards procedures, government procurement, franchise ("dealer") regimes, telecommunications, intellectual property rights, anti-corruption, and SPS (recognition of U.S. meat and poultry inspection system as equivalent to their domestic system).

USTR held multiple rounds of meetings, often lasting days or weeks, with government officials of each country to work through these issues. Intensive discussions on implementation were begun in September 2005 and the agreement has entered into force as follows:

- o El Salvador - March 1, 2006 (6 months of work on implementation)
- o Honduras - April 1, 2006 (7 months of work on implementation)
- o Nicaragua - April 1, 2006 (7 months of work on implementation)
- o Guatemala - July 1, 2006 (10 months of work on implementation)
- o Dominican Republic - March 1, 2007 (11 months of work on implementation).

In no case, has USTR signed off on entry into force of the agreement until satisfied that the FTA partner had implemented its obligations.

- **United States-Morocco Free Trade Agreement**

The United States-Morocco Free Trade Agreement was signed on June 15, 2004, and Congress enacted legislation approving the agreement in August 2004. The Agreement entered into force on January 1, 2006. During the 16 months between Congressional action on the Agreement and its entry into force, USTR worked continually with the Government of Morocco to ensure full implementation of Morocco's obligations under the agreement in areas such as agriculture, protection of intellectual property rights, and tariff issues. USTR did not agree to have the Agreement enter into force until it was clear that Morocco had completed all of the legislative steps necessary to ensure implementation of its obligations.

- **United States-Oman Free Trade Agreement**

The United States-Oman Free Trade Agreement was signed on January 19, 2006, and Congress enacted legislation on implementing the FTA in September 2006. USTR has been working intensively with Omani officials on implementation of Oman's FTA commitments. In December 2006, a U.S. team of experts traveled to Oman to work on labor and environment issues. Since then, technical experts on both sides have had intensive discussions on labor, environment, telecommunications, IPR, customs, and government procurement issues. While Oman has taken some steps to implement its obligations, further action is required. USTR has been clear that the FTA will not enter into force until all outstanding issues are resolved. Although it has been nearly 10 months since Congress enacted the implementing bill, entry into force of the agreement is pending until Oman makes the remaining legislative and regulatory changes necessary to implement the Agreement.