



FTA Compliance

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The U.S. Government vigorously monitors compliance with and enforces U.S. trade agreements. This ensures that American consumers, workers, businesses, investors, and farmers can take full advantage of the agreements. This process begins before a free trade agreement (FTA) goes into effect, and is part of the day-to-day operation of the agreement.

Pre-Entry Into Force

Before an FTA enters into force, U.S. legislation approving the Agreement requires that the President determine that the FTA partner has taken measures to bring it into compliance with its FTA obligations as of day one of the agreement.

As part of the process for determining when an FTA can enter into effect:

- The Office of the U.S. Trade Representative (USTR) and other agencies, including State, Commerce, Agriculture, and Treasury, reviews the relevant laws, regulations, and administrative practices (measures) of the FTA partner.
- The FTA partner is advised of any shortcomings in its laws and other measures, and the Administration consults with the FTA partner on the issue. If requested, assistance is provided to help a trading partner implement its commitments.
- Only when the President determines that the FTA partner has taken measures necessary to comply with the provisions of the Agreement, will he authorize the FTA to enter into force.

Post-Entry Into Force

Once an FTA has entered into force, the Administration continuously reviews the FTA partner's laws, and other measures to ensure it continues to meet its commitments.

Monitoring is done through:

- An implementation-monitoring plan for phased-in commitments that is reviewed by country specialists at USTR, and the Departments of State, Commerce, Agriculture, and Treasury, as each transition period comes to a close.
- Routine review of the FTA partner's proposed legislation and regulations to verify consistency with the agreement.
- Ongoing work with the private sector when they report problems or potential violations through public comment for annual processes such as the National Trade Estimates Report, or through advisory committees, the Trade Compliance Center, USTR, the U.S. Embassy, Department of Labor, the Environmental Protection Agency, Congressional Compliance Liaisons or the more than 200 industry and trade association Compliance Liaisons.
- Regular meetings of the FTA administrative oversight body.

When the monitoring identifies a potential problem, the Administration consults with the FTA partner and, where appropriate, assistance is provided to the U.S. companies that are affected. The Trade Compliance Program, and/or other U.S. Government agencies, will investigate the problem and work with the FTA partner to resolve the situation. In some cases, recourse to the dispute settlement procedures of the FTA may be recommended.

The Trade Compliance Program provides assistance to U.S. companies by:

- Actively seeking out exporters who may be encountering problems with foreign trade barriers, and actively responding to reported problems;
- Vigorously addressing market access complaints or trade agreement non-compliance by leveraging the full resources of the Commerce Department and other agencies from staff to the Secretary, as appropriate;
- Providing timely and useful information and guidance to help businesses develop strategies to overcome foreign government barriers to trade or investment in overseas markets; and
- Striving to help U.S. companies gain access to foreign markets without resorting to formal FTA or WTO dispute settlement proceedings, saving time and resources whenever possible.

The Program seeks practical solutions that will achieve timely and meaningful results for American companies and workers, while avoiding costly, drawn-out litigation.

Enforcement

When compliance with U.S. trade agreements is not achievable through government-to-government engagement and U.S. industry wishes to press an issue further, any unresolved matters will be referred to USTR to consider potential FTA or WTO dispute settlement.

Each FTA incorporates a formal dispute settlement mechanism, through which the U.S. Government can seek to resolve disputes that arise regarding the provisions of the FTA by presenting the case to a tribunal. The decisions of the tribunal are final. Generally, if a tribunal finds that a trading partner's measure is not in compliance with the FTA and the trading partner does not bring the measure into compliance, the trading partner will be required face suspension of equivalent concessions that benefit the FTA partner, or in some cases provide monetary compensation as set out in the FTA.