



Trade Facts

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State Sovereignty and Trade Agreements: The Facts

Trade supports one-quarter of U.S. GDP and over 12 million jobs in the United States, including 1 in 5 manufacturing jobs. Trade agreements level the playing field and encourage foreign governments to adopt the sorts of open and transparent rulemaking procedures, and non-discriminatory laws and regulations, that are the hallmark of due process in the United States and are in place at all levels of government in the United States. At the same time, in every agreement we negotiate the United States remains very sensitive to, and protective of, our federal system of shared power. These are the facts:

Trade agreements fully preserve a state's right to regulate.

- Nothing in the World Trade Organization (WTO) agreements, North American Free Trade Agreement (NAFTA), or other Free Trade Agreements (FTAs) 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 agreements ensure that state and local agencies continue to have an absolute right to set environmental, health, and safety standards at the levels they consider appropriate.
- The agreements simply provide that the legitimate standards that governments impose must be non-discriminatory and transparent, and not be used as disguised barriers to trade.

Trade agreements do not automatically preempt or invalidate state and local laws.

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

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

- WTO, NAFTA (including NAFTA Chapter 11 investor-state) and FTA 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, 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.