



CAFTA Facts

Office of the United States Trade Representative
CAFTA Policy Brief – February 2005

www.ustr.gov

CAFTA's Environment Provisions: "Jordan-PLUS"

- CAFTA adopts a comprehensive approach that goes beyond the Jordan FTA for ensuring that the Parties carry out their environmental obligations and make progress in enhancing environmental protection.
- CAFTA's Environment Chapter includes strong commitments in important areas that the environment article in the Jordan FTA does not address:
 - **A robust public submissions process**, including provisions for an independent secretariat to review allegations by members of the public that a Party is not effectively enforcing its environmental laws, preparation of a factual record in appropriate cases, and follow-through recommendations on capacity-building needs;
 - **Significant public participation obligations**, including obligations to receive and consider public views and to consult with advisory committees concerning implementation of the Environment Chapter;
 - **Establishment of a high-level Environment Affairs Council** to meet annually to discuss implementation of the Chapter;
 - **Strong procedural guarantees** to provide remedies for violations of environmental laws and public access to fair, transparent proceedings that provide for due process;
 - **Encouragement of innovative approaches to environmental protection** through voluntary mechanisms and incentives.
- Both CAFTA and the Jordan FTA make the obligation to effectively enforce environmental laws subject to FTA dispute settlement mechanisms, but CAFTA contains additional innovations that help make dispute settlement more targeted and effective:
 - CAFTA contains express provisions for including environmental expertise in the resolution of disputes;
 - If a Party does not comply with a dispute panel's findings that it is failing to effectively enforce its environmental laws, CAFTA allows for monetary assessments that can be used to address the underlying enforcement problem;
 - The Jordan FTA's obligations (other than effective enforcement) only obligate the Parties to "strive to" achieve their goals—a standard that is not justiciable.
- The **Environmental Cooperation Agreement** linked to the CAFTA-DR is a comprehensive framework for long-term cooperation in the region, containing first-time provisions for **benchmarks** to establish short-, medium- and long-term goals for improving environmental protection and for **outside monitoring** of progress toward achieving the benchmarks.