

The Supremacy and Commerce Clauses of the United States Constitution: How they Relate to Tribal Nations Within the Boundaries of the United States

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The framers, or writers, of the United States Constitution, realized that it was important deal with tribes as *sovereign nations*, and they made rules about the relationship they wanted to have. Those rules are in two places in the United States Constitution: the *Supremacy Clause* and the *Commerce Clause*.

The Commerce Clause says, "*The Congress shall have power...to regulate commerce with foreign nations, and among the several states, and with the Indian Tribes.*" (Article I, Section 8, Clause 3). What this means is that the United States buys, sells, and trade goods and services with Indian nations much like they do with any other foreign nation.

But there is a difference. Because Indian Nations reside within the borders of the United States—and must obey federal laws and pay federal taxes—they have unique status that other countries like Canada and Mexico do not. In exchange for permission to live on tribal land, the United States made promises to provide certain things for Indians, such as education and healthcare. These promises, in the form of treaties, are still in force today.

The United States takes those promises very, very seriously. Our Constitution says, "*...the laws of the United States...and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land...*" U.S. Article VI, Clause 2 This "Supremacy Clause" is a fancy way of saying that treaties agreements are some of the most important laws in our country. In fact, treaties can override—or cancel out—local, state, and federal laws that ignore treaty agreements.