

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the Clinton Presidential Library Staff.

Folder Title:

Latin America- Santiago - Summit of Americas - Trade [2]

Staff Office-Individual:

National Economic Council-Brainard, Lael

Original OA/ID Number:

CF 1188

Row:	Section:	Shelf:	Position:	Stack:
23	4	10	1	V

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. paper	U.S. Position for the Third Free Trade Area of the Americas (FTAA) Preparatory Committee Meeting (4 pages)	02/03/1998	P1/b(1)
002. letter	Attachment F: Illustrative List of Concrete Progress Measures (3 pages)	02/10/1998	P1/b(1)
003. paper	Attachment H: Instructions regarding Costa Rican Chair's Draft Declaration (21 pages)	ca. 02/1998	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Economic Council
Brainard, Lael
OA/Box Number: CF 1188

FOLDER TITLE:

Latin America - Santiago - Summit of Americas - Trade [2]

2009-1155-F
ke2433

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. paper	U.S. Position for the Third Free Trade Area of the Americas (FTAA) Preparatory Committee Meeting (4 pages)	02/03/1998	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Economic Council
Brainard, Lael
OA/Box Number: CF 1188

FOLDER TITLE:

Latin America - Santiago - Summit of Americas - Trade [2]

2009-1155-F
ke2433

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

ATTACHMENT A

Organization and Issues of the FTAA negotiations

(Draft U.S. Proposal, February 10, 1998)

Management of the negotiations (Functions).

- ***Ministerials: Establishment of dates and the future role***

The San Jose Declaration should recommend that at least two dates for future Ministerials be set: October 1999 for the next Ministerial after San Jose, and a Ministerial "mid-term review" in June 2001. Setting October 1999 for the next Ministerial would give impetus to the Negotiating Groups to work apace for a year (in light of October 1998 date by which all the Negotiating Groups should have held their first meeting) and allow for any immediate "corrections" to the work program established in each Negotiating Group. This also would help ensure that those Negotiating Groups negotiating interim agreements reach closure on those negotiations by the October 1999 Ministerial allowing for "concrete progress" by the end of the century.

- ***Trade Negotiation Committee (TNC)***

The Trade Negotiation Committee (TNC) should consist of the 34 Vice Ministers or Chief FTAA negotiators. The TNC should meet twice a year and serve as a forum to which political questions should be taken by any of the Negotiating Groups. The TNC would provide the supervision of the negotiations between Ministerials and provide an additional element of transparency to the negotiating process, which is especially important for the smaller economies. The TNC would be chaired by selection among the 34 Vice Ministers on individual merit. The Chair of the TNC will rotate at Ministerial meetings. Meetings of the TNC will take place at the site where the negotiations and temporary administrative secretariat are located, or at another agreed site

The TNC should hold its first organizational meeting before the end of June 1998.

- ***Negotiating Groups: Overall mandate and initial timetable***

Each Negotiating Group will develop the text of the FTAA chapter (and negotiate implementation schedules where appropriate), with the aim of producing a bracketed text of the entire FTAA for Ministers by the time of the Ministers' "mid-term review" in June 2001. Texts should reflect the FTAA overall objective of a comprehensive, state-of-the-art, hemisphere-wide free trade agreement as well as assume full adherence to the obligations of the WTO Agreement, if one exists in its respective discipline. The Negotiating Groups should be guided by the objectives and general principles for the

negotiations.

For those Negotiating Groups addressing areas in which the Ministers mandate concrete progress measures be implemented, the negotiations on these concrete measures should be concluded by the October 1999 Ministerial.

Each Negotiating Group also should continue efforts begun in the Working Group stage toward ensuring timely and full implementation of countries' WTO obligations.

Negotiating Groups should take into account the findings of the Study Group on Environment and Trade and the Study Group on Labor and Trade.

Negotiating Groups should hold their first organizational meeting before the end of October 1998.

- ***Chairmanship of the negotiating groups***

Negotiating Groups would be chaired by officials put forward in advance of the San Jose Ministerial by individual countries (e.g., the way countries indicated in advance whom they were putting forward as candidates for chairing the 12 Working Groups). Chairs would serve until the next Trade Ministerial, at which point there would be fresh decisions to appoint new chairs or to extend certain existing chairs. Each Negotiating Group would elect a Vice Chair to assist the Chair, with a presumption that the Vice Chair would be from a different country than the Chair. The Vice Chair would assume Chairmanship if the original Chair no longer could serve (e.g., because of changes in national government or retirement from government service).

The selection of Negotiating Group Chairs should be based on a "clean slate," i.e., there should be a presumption that current Chairs of the Working Groups would not automatically become the Chairs of the Negotiating Groups established in the same issue areas.

- ***List of Initial Negotiating Groups to be established:***

Negotiating Group on Market Access.

Negotiating Group on Investment.

Negotiating Group on Services.

Negotiating Group on Government Procurement.

Negotiating Group on Subsidies and Export-Related Practices.

Negotiating Group on Competition Policy.

Negotiating Group on Intellectual Property Rights.

Negotiating Group on Antidumping and Countervailing Duties.

Negotiating Group on Dispute Settlement

- ***Description of area of responsibility and specific mandates for each Negotiating Group***

Negotiating Group on Market Access (NGMA). The NGMA will address tariffs in both the agricultural and industrial sectors, covering substantially all trade as required by GATT Article XXIV. In addition, the NGMA will address non-tariff measures, safeguards, and other measures affecting imports.

Given that the areas of technical barriers to trade, customs valuation and procedures, including rules of origin and their implementation, and sanitary and phytosanitary measures will have a direct influence on the effectiveness of most measures under the FTAA related to market access, the NGMA will call upon experts in these areas to address these issues as they require attention.

These experts also will meet, as necessary, as "break-out" groups or ad hoc groups and be accountable under the umbrella of the NGMA. The TBT and SPS experts would consider practical mechanisms for strengthening regional adherence to the relevant WTO (TBT/SPS) Agreement obligations, including mechanisms to facilitate and enhance broader regional participation and cooperation in the development of international standards; would address regional barriers to trade; and, would address identified areas that need further strengthening. The customs procedures and rules of origin experts would address fundamental issues, both with regard to developing rules of origin and proceeding with hemisphere-wide customs simplification, with a view to developing both general principles and fundamental obligations, and would consider practical mechanisms for strengthening regional adherence to the relevant WTO (Customs Valuation/PSI) Agreement obligations.

The NGMA will continue to maintain the hemispheric databases on tariff and non-tariff measures to assist in the conduct of the negotiations in this area.

Negotiating Group on Investment (NGI). The NGI initially will develop provisions for an Investment Chapter in the FTAA Agreement which will provide a set of general obligations applicable to investment in both goods and services. Country-specific lists of limited exceptions and reservations to those obligations will be detailed in an annex to the Investment Chapter. The NGI also will identify an investor-to-state dispute

mechanism and assist in the development of a mechanism for state-to-state investment disputes.

Negotiating Group on Services (NGS). The NGS initially will develop provisions for a Services Chapter for the FTAA Agreement to establish rules affecting three of the four modes of delivery of services, i.e. excluding commercial presence which would be dealt with in the NGI. The obligations in the FTAA Chapter on services will apply in principle to all sectors. A list of negotiated, limited, specific exceptions and reservations will be detailed in an annex to the Services Chapter.

Negotiating Group on Government Procurement (NGGP). The NGGP initially will develop provisions for a Government Procurement (GP) Chapter in the FTAA Agreement to address transparency in government procurement. The NGGP then will develop provisions for the GP Chapter to address non-discrimination and list in an annex entities to be covered. Both the transparency provisions as well as the non-discrimination provisions and annex on coverage will form the final GP Chapter of the FTAA Agreement.

Negotiating Group on Subsidies and Export-Related Practices (NGSERP). The NGSERP will address subsidies, export practices with effects similar to export subsidies and other forms of export-related practices which may distort or restrict trade in or with the hemisphere. Beyond the issue of subsidies as it is defined and/or addressed in WTO Agreements, the scope of this work would potentially encompass such practices as differential export taxes; export rebates; export restrictions and prohibitions; and price pooling and other export practices of state trading enterprises.

In those areas where comprehensive and meaningful reform and disciplines can only be obtained in a multilateral setting, the NGSERP would strive to develop consensus on the best ways to advance progress in reform efforts in WTO bodies, seeking to maximize the Western Hemisphere's leverage in the multilateral process.

Negotiating Group on Competition Policy (NGCP). The NGCP initially will develop provisions for a Competition Policy (CP) Chapter in the FTAA Agreement to address the enactment and enforcement of competition policy laws which proscribe anticompetitive business conduct as well as address consultation, cooperation, and coordination of efforts between and among countries in the hemisphere with respect to antitrust investigations. The NGCP then will develop provisions for the CP Chapter on designated monopolies and state enterprises to ensure that trade liberalization achievements in the FTAA are not undermined by anticompetitive conduct or discrimination by these entities.

Negotiating Group on Intellectual Property Rights (NGIPR). The NGIPR will develop provisions for an IPR Chapter for the FTAA Agreement to establish both substantive

standards in all areas of intellectual property as well as enforcement obligations. The provisions in the FTAA Chapter will build upon existing international agreements; create additional standards concerning the availability, scope, use, and enjoyment of IPR with respect to copyright and neighboring rights, encrypted program-carrying satellite signals, trademarks, patents, layout designs of integrated circuits, trade secrets, protection of test data and industrial designs, including provisions as necessary to address changes in technology (i.e. copyright and biotechnology); and, provide for enforcement of IPR, including civil and administrative remedies, provisional measures, criminal procedures and penalties, and requirements related to border measures.

Negotiating Group on Antidumping and Countervailing Duties (NGAC). The NGAC will negotiate procedural transparency and due process provisions, and also will center its efforts generally on improving understanding of and compliance with WTO rules. After analyzing case studies and exchanging views on the various procedural and administrative means by which investigating authorities are conducting proceedings and allowing involved parties to defend their interests, the NGAC will seek to identify a set of minimum common standards or preferred methods of implementation which could improve the transparency of and procedures regarding the process by which AD/CVD laws are applied, lessen costs to authorities and the parties, and avoid unjustified impediments to intra-Hemispheric trade.

Negotiating Group on Dispute Settlement (NGDS). The NGDS will continue with its terms of reference as mandated at the Belo Horizonte Ministerial until bracketed texts are produced, i.e., by the time of the Ministers' "mid-term review" in June 2001, at which time an additional specific mandate will be provided.

- ***Study Groups to be established***

Study Group on Environment. At the Belo Horizonte Ministerial the Ministers agreed to keep the issue of environment and its relation to trade under consideration, in light of further developments in the work of the WTO Committee on Trade and Environment (CTE). At this stage in the FTAA process, the establishment of a Study Groups on the linkage between environment and trade is appropriate. At a minimum, this Study Group should respond to the Miami Summit mandate that "[f]ree trade and increased economic integration are key factors for sustainable development. This will be furthered as we strive to make our trade liberalization and environmental policies mutually supportive, taking into account efforts undertaken by the GATT/WTO and other international organizations."

Study Group on Labor. At this stage in the FTAA process, the establishment of a Study Group on the linkage between labor and trade is appropriate. At a minimum, this Study Group should respond to the Miami Summit mandate that "[a]s economic integration in the Hemisphere proceeds, we will further secure the observance and promotion of

worker rights, as defined by appropriate international conventions."

ATTACHMENT B

Terms of Reference for FTAA Study Group on Environment

(Draft U.S. Proposal, February 10, 1998)

Bearing in mind the following commitments made by the Leaders and the Ministers of Trade:

- ◆ In Miami: “Free trade and increased economic integration are key factors for ...better protecting the environment” and “Free trade and increased economic integration are key factors for sustainable development. This will be furthered as we strive to make our trade liberalization and environmental policies mutually supportive, taking into account efforts undertaken by the GATT/WTO and other international organizations” and “Develop environmental policies and laws with the goal of ensuring that economic integration of the region occurs in an environmentally sustainable manner.
- ◆ In Denver: “We are committed to transparency in the FTAA process. As economic integration in the Hemisphere proceeds, we welcome the contribution of the private sector and appropriate processes to address the protection of the environment [...], through our respective governments.”
- ◆ In Cartagena: “We reaffirm our commitment to transparency in the FTAA process. We direct our Vice Ministers to consider appropriate processes to address the protection of the environment. After having received the report of the committee that will be presented at the WTO Ministerial Meeting in Singapore, we will consider creating a study group on this issue based upon recommendations from our Vice Ministers. To this end, we and our Vice Ministers will consider how to proceed in the construction of the FTAA in this area.”
- ◆ In Belo Horizonte: “The issue of the environment and its relation to trade has been considered by our Vice Ministers since the Cartagena meeting and is the subject of ongoing discussions within the WTO and within the FTAA process. We will keep this issue under consideration, in light of further developments in the work of the WTO Committee on Trade and Environment.” and “We reiterate our commitment to transparency in the FTAA process. In this sense, we consider the inputs from stakeholders of our civil societies to be important to our deliberations including those from the labor sectors, and we encourage all countries to take them into account through mechanisms of dialogue and consultation.”

The Ministers establish a Study Group on Environment with the following terms of reference:

1. Examine the work of the WTO Committee on Trade and Environment (CTE) and identify any points of relevance to the construction of the FTAA. In particular, the Study Group should review CTE's work on the environmental benefits of removing trade restrictions and distortions.
2. Discuss how to better inform and foster a dialogue with members of civil society/general public on issues related to economic integration and the environment, and provide recommendations to the Trade Negotiations Committee (TNC).
3. Compile information on environment-related provisions in the existing sub-regional and bilateral arrangements in the hemisphere, and identify the various methods of addressing environmental issues in existing trade agreements and arrangements: MERCOSUR, NAFTA, Andean Community, Central American Common Market, CARICOM, with the goal of identifying relevant relationships between economic integration and environmental issues.
4. Exchange views on the extent to which other trade-related activities stemming from the 1996 Santa Cruz Summit on Sustainable Development, the trade-related elements of the Declaration and Agenda 21 resulting from the 1992 Rio Summit on Sustainable Development, and sustainable development-related activities stemming from the 1994 Miami Summit might provide guidance on making our trade liberalization and environmental policies mutually supportive in the hemispheric integration process.
5. Provide recommendations to the TNC on appropriate processes to address the protection of the environment during the construction of the FTAA.

The Study Group should encourage the participation of representatives from the Hemisphere's environmental ministries. It should be open to receiving contributions from outside interested parties concerning the subjects under examination by the Study Group.

The Study Group will hold its first meeting before the end of October 1998, and provide its initial findings at the October 1999 Ministerial.

ATTACHMENT C

Terms of Reference for FTAA Study Group on Labor

(Draft U.S. Proposal, February 10, 1998)

Bearing in mind the following commitments made by the Leaders and the Ministers of Trade:

- ◆ In Miami to "further secure the observance and promotion of worker rights, as defined by appropriate international conventions. We will avoid disguised restrictions on trade, in accordance with the GATT/WTO and other international obligations."
- ◆ In Denver to welcome "appropriate processes to address the protection of the environment and the further observance and promotion of worker rights, through our respective governments."
- ◆ In Cartagena, to "recognize the importance of further observance and promotion of worker rights and the need to consider appropriate processes in this area, through our respective governments."
- ◆ In Belo Horizonte, to "transparency in the FTAA process," and to "consider the inputs from stakeholders of our civil societies to be important to our deliberations including those from the labor sectors, and we encourage all countries to take them into account through mechanisms of dialogue and consultation."

The Ministers establish a Study Group on Labor with the following terms of reference:

1. Discuss how to better inform and foster a dialogue with members of civil society/the general public on issues related to economic integration and its benefits for and effects on workers, and provide recommendations to the Trade Negotiations Committee (TNC).
2. Exchange views on the statements and recommendations provided in the "Declaration of the Tenth Inter-American Conference of Ministers of Labor" resulting from the Labor Ministerial meeting in Buenos Aires in 1995, the "Declaration of the Tenth Inter-American Conference of Ministers of Labor, Presented at the Meeting of Ministers of Trade, Belo Horizonte (Brazil), May 1997," and develop appropriate responses to them for the TNC's review and for transmittal to the Ministers of Labor for their consideration at their subsequent meeting.
3. Compile information on labor-related provisions in the existing sub-regional and

bilateral arrangements in the hemisphere, and identify the various methods of addressing labor issues in existing trade agreements and arrangements: MERCOSUR, NAFTA, Andean Community, Central American Common Market, CARICOM, with the goal of identifying relevant relationships between economic integration and labor issues.

4. Exchange views on the extent to which other labor-related activities in the hemisphere, such as those stemming from the 1995 Inter-American Conference of Ministers of Labor and the Santiago Summit of the Americas, might provide guidance on promoting worker rights in the hemispheric integration process.
5. Provide recommendations to the TNC on appropriate processes to further secure the observance and promotion of working rights as hemispheric integration proceeds.

The Study Group should encourage the participation of representatives from the hemisphere's labor ministries. It should be open to receiving contributions from outside interested parties concerning the subjects under examination by the Study Group.

The Study Group will hold its initial meeting before the end of October 1998, and provide its initial findings to the October 1999 Ministerial.

ATTACHMENT D

Proposal for FTAA Negotiating Site (Draft U.S. Proposal, February 10, 1998)

- All negotiating groups should meet at a single site to minimize cost to delegations and facilitate participation by countries in which one official may have responsibility for several negotiating groups.
 - Also, a single site greatly reduces the burden on the Administrative Secretariat to arrange consistently high-caliber clerical and logistical support.
- The host city should be responsible for funding conference rooms and office equipment (e.g., computers, telephones, fax machines, photocopiers, etc.).
- Ministerials would continue to be funded by the host country.
- The Trade Negotiating Committee ordinarily would meet at the site of the negotiating groups but could meet in other locations if invited to do so and if the host country paid for the incremental costs of holding the Trade Negotiating Committee meeting at that location. (Incremental costs would include per diem and airfare of the Administrative Secretariat to host site and provision of clerical/logistical support, any increase in fees for interpretation/translation, etc.)

ATTACHMENT E

Proposal for FTAA Temporary Administrative Secretariat

(Draft U.S. Proposal, February 10, 1998)

Background

At the conclusion of the III Trade Ministerial Meeting, the Trade Ministers asked the Tripartite Committee to undertake a feasibility study on alternatives for establishing a temporary Administrative Secretariat to support the FTAA negotiations. The Ministers agreed the temporary Administrative Secretariat should undertake the following tasks:

- provide logistical and administrative support for the negotiating groups;
- arrange for translation of documents and interpretation during deliberations;
- maintain official negotiation documents; and
- arrange for document distribution and publication.

Assumptions

- Administrative Secretariat should be organized in a way to minimize cost and bureaucracy.
- Administrative Secretariat will be accountable to an appropriate body of the FTAA (see below).
- Administrative Secretariat will prepare transcriptions of bracketed text from negotiating sessions. (The Tripartite Committee will compile inventory-like documents if requested by the negotiating groups. The Negotiating Group Chairs will prepare minutes, if any.)

Proposal

- Administrative Secretariat staff should consist of an office manager and 3 administrative employees (i.e., one for logistics, one to catalog and maintain documents, one to oversee translation of documents).
- Staff for the temporary Administrative Secretariat would consist of 4 officials funded by a contract or technical cooperation agreement with the individual Tripartite Committee institutions; this obviates the need for legal chartering of new institution or new grants of privileges and immunities.
- Staff would be located at the same site as the negotiating groups' meetings.

- Office Director would take his/her direction from an appropriate FTAA body (either a "secretariat board of directors" composed of a geographically-representative group of FTAA officials or the full Trade Negotiating Committee) -- not from any of the Tripartite Committee institutions.
- Administrative Secretariat would contract translation and interpretation support at the negotiating site.
- Logistical/Clerical support for negotiation sessions would either be provided by the host city or be contracted by the Administrative Secretariat. The Administrative Secretariat would supervise the clerical support staff.
- Costs of the Administrative Secretariat (e.g., telephone expenses, publication and distribution costs, photocopying, office supplies, and costs of contracts (e.g., the interpretation/translation services and clerical/logistical services, if not provided by host city)) would be borne by the Tripartite Committee institutions within existing financial resources of the three institutions by reprogramming funds (e.g., existing OAS voluntary funds) or through a technical cooperation agreement (in the case of the IDB).
- The Tripartite Committee would continue to be the resource for non-administrative technical support, similar to that provided to FTAA Working Groups. Tripartite Committee would be asked to designate one staff member as the liaison officer between a given FTAA negotiating group and the Tripartite Committee. Requests for technical support from the negotiating group would be directed to that official, who would be responsible for assembling the appropriate Tripartite Committee expertise.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. letter	Attachment F: Illustrative List of Concrete Progress Measures (3 pages)	02/10/1998	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Economic Council
Brainard, Lael
OA/Box Number: CF 1188

FOLDER TITLE:

Latin America - Santiago - Summit of Americas - Trade [2]

2009-1155-F
ke2433

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

UNCLASSIFIED

ATTACHMENT G



DOCUMENT No. 6

CHAIR'S PROPOSAL OF A DRAFT MINISTERIAL DECLARATION OF SAN JOSÉ

Document prepared by the Pro-Tempore Presidency of the FTAA
for the III Meeting of the Preparatory Committee
San José, Costa Rica
February 10-12, 1998

UNCLASSIFIED

UNCLASSIFIED

1

CHAIR'S PROPOSAL OF A DRAFT MINISTERIAL DECLARATION OF SAN JOSÉ

The present document is a Chair's proposal for the Ministerial Declaration of San José, that will be adopted in the Meeting that will be held in San José, Costa Rica, next March 19, 1998. It has been prepared for the III Meeting of the Preparatory Committee to be held in San José, next February 10-12, 1998. It has four sections that will be discussed in the III Meeting of the Preparatory Committee, in the order that is suggested in the proposed agenda, with the support of the documents mentioned in parenthesis :

Part I : Objectives and Principles of the Negotiations

1. General Objectives (Document No. 3)
2. General Principles (Document No. 3)
3. Objectives and Principles by each issue area (Document No. 4)

Part II : Organization of the Negotiations

1. Structure of the negotiations (Document No. 1)
2. Functions (Document No. 1)
3. Venues for negotiations (Document (No. 2)
4. Administrative Secretariat (Document No. 2)
5. Tripartite Committee (Document No. 2)

Part III : Other issues

1. Trade and Environment (Document No. 6)
2. Trade and labor rights (Document No. 6)
3. Civil Society (Document No. 6)

Part IV : Business Facilitation

UNCLASSIFIED

UNCLASSIFIED

2

CHAIR'S PROPOSAL OF A DRAFT MINISTERIAL DECLARATION OF SAN JOSÉ

The Ministers Responsible for Trade of the 34 countries that participated in the I Summit of the Americas, held in Miami on December 1994, held in the IV Ministerial Meeting on Trade, according to the mandate received in the Declaration of the Americas and its accompanying Plan of Action and according to the work program agreed to in previous Ministerial Meetings, hereby recommend to our Heads of State and Government the launching of the negotiations to build the Free Trade Area of the Americas (FTAA), in conformity with the present Declaration.

PART I

OBJECTIVES AND PRINCIPLES OF THE NEGOTIATIONS

We have agreed that the negotiations for the establishment of the FTAA will be guided by the following General Objectives and Principles :

1. General Objectives

- a) To promote prosperity through economic integration and free trade among the countries of our hemisphere, as key factors for raising standards of living improving the working conditions of people in the Americas and better protecting the environment.
- b) To establish a Free Trade Area, in which barriers to trade and investment will be progressively eliminated, concluding negotiations no later than 2005 and achieving concrete progress toward the attainment of this objective by the end of this century.
- c) Encourage investment, aware that it is the main engine growth in the Hemisphere, by cooperating to build more open, transparent and integrated markets, creating strengthened mechanisms that promote and protect the flow of productive investment and promote progressive integration of capital markets.
- d) Maximize market openness through high levels of disciplines through balanced and comprehensive agreements, including among others: Market access; customs procedures and rules of origin; investment; norms and technical barriers to trade; sanitary and phytosanitary measures; subsidies, antidumping and countervailing duties; government procurement; intellectual property rights; services; competition policy and dispute settlement.
- e) To provide opportunities to facilitate the integration of the smaller economies in the FTAA process, to maximize their opportunities and to improve their level of development.

UNCLASSIFIED

UNCLASSIFIED

3

2. General Principles

- a) Negotiations will be held in a transparent manner, based on the consensus of participating countries for decision-making in the FTAA process, in order to preserve and promote the essential interests of all parties.
- b) The FTAA Agreement will be consistent with the rules and disciplines of the World Trade Organization, WTO. With this purpose, the participating countries reiterate their commitment with multilateral rules and disciplines, in particular with Article XXIV of GATT-1994 and its Understanding of the Uruguay Round, and Article V of General Agreement of Trade in Services, GATS. As well, we endorse rapid and full implementation of the Uruguay Round, as well as active multilateral negotiations in the World Trade Organization.
- c) The agreements reached will be balanced and comprehensive in scope, considering the interests of all countries and covering the areas specified in Objective 1. d)
- d) Negotiations will develop according to the dynamics of each issue area.
- e) Negotiations in all issue areas will be held simultaneously, under the agreement that all the agreements reached constitute a single undertaking which embodies the rights and obligations mutually agreed upon.
- f) The FTAA will coexist with bilateral and subregional agreements.
- g) Countries may negotiate and subscribe the FTAA individually or as members of a sub-regional integration group negotiating as a unit.
- h) The agreements reached shall not result in the imposition of barriers to trade and investment with countries outside the hemisphere
- i) Starting on the beginning of the negotiations, countries will avoid the adoption of policies that adversely affect trade in the hemisphere
- j) Special attention will be given to the special needs, economic conditions (including transition costs and possible internal imbalances) and opportunities of smaller economies, actively looking for ways to facilitate the integration of smaller economies, as a key factor for increasing their level of development.
- k) The rights and obligations of the FTAA will be shared by all countries. In the negotiation of the various thematic areas measures such as technical assistance in specific areas and longer periods for implementing the obligations could be included on a case by case basis, in order to facilitate the adjustment of smaller economies.

UNCLASSIFIED

UNCLASSIFIED

4

- l) The measures that may be accorded or negotiated to facilitate the integration of smaller economies in the FTAA process should be transparent, simple and easily applicable, yet should recognize the degree of heterogeneity among them.

3. Objectives and Principles by issue area

We have agreed that the negotiations of the FTAA, in each issue area, will be guided by the following Objectives and Principles :

MARKET ACCESS

The objectives of the negotiations are :

- To progressively eliminate, *[starting in the year 2005]*, tariffs, and non tariff barriers , *[for the substantial trade] [for all trade]* as well as other measures with equivalent effects, which restrict trade between participating countries, Consistently with the provisions of the WTO, including article XXIV of GATT 94 and its understanding,
- All tariffs will be subject to negotiation.
- [Different trade liberalization time tables can be drawn up which could include special treatment for countries, sectors and products].*
- To facilitate the integration of smaller economies and their full participation in the FTAA negotiations.

The principles of the negotiations are :

- Consistency with WTO disciplines, in particular, with Article XXIV of the General Agreement on Tariffs and Trade (GATT 1994), and with the Understanding pertinent to the Interpretation of Article XXIV of GATT 1994.

RULES OF ORIGIN

The objectives of the negotiations are :

- To develop an efficient and transparent system of rules of origin, including nomenclature and certificates of origin, in order to facilitate the exchange of goods, without creating unnecessary obstacles to trade.

The principles that will govern the negotiation are :

- Rules of origin should be elaborated and administered in an objective, transparent, coherent and predictable manner, *[with the aim that its implementation would give equal opportunities to all FTAA members].*
- Technical assistance and cooperation may be requested and provided by the countries on rules of origin in accordance with the modalities to be defined.
- The regime of rules of origin should provide for mechanisms to update the system on the basis of technological changes and other requirements.
- [Rules of origin shall take into account the specific commercial interests of all countries of the Hemisphere, including those of the smaller economies].*

UNCLASSIFIED

UNCLASSIFIED

5

-For the elaboration of this system, the nomenclature of the Harmonized Commodity Description and Coding System will be adopted (HS).

CUSTOMS PROCEDURES

The objectives of the negotiations are :

- To simplify customs procedures, in order to facilitate trade and reduce administrative costs.
- To create and implement mechanisms to exchange information in customs issues among FTAA countries.
- To design effective systems to detect and combat fraud and other illicit customs activities, without creating unnecessary obstacles to foreign trade.

The principles that will govern the negotiations are :

- Customs Procedures should be elaborated and administered in an objective, transparent, coherent and predictable manner, *[with the aim that its implementation would give equal opportunities to all FTAA members]*.
- Technical assistance and cooperation may be requested and provided by the countries customs procedures in accordance with the modalities to be defined.
- With the purpose of attaining the proposed objectives in this matter, the customs procedures should be clear and precise and only require the necessary information for the efficient performance of customs functions.
- Develop mechanisms for the exchange of the information regarding progress toward the agreed upon simplification, and toward the adoption of mechanisms to detect and combat fraud and other illicit customs activities.
- The modalities of the implementation of the simplified customs procedures, by Customs Administrations, should be determined during the negotiations.

INVESTMENT

The objectives of the negotiations are :

- To establish a fair and transparent legal framework that leads to a stable and predictable environment that protects investors, their investment and related flows ; and stimulate the development of investment opportunities, without creating improper obstacles to extra-hemispheric investments, in accordance with paragraph 2 of the Cartagena Declaration and paragraph 2 of the Belo Horizonte Declaration.

The principles that will govern the negotiations are :

- The negotiation shall provide for transparency and the protection of investors and their investments. This negotiation shall be based, at least, on the following principles : Non-discrimination, National Treatment, Most-favored-nation treatment, Fair and equitable treatment.

STANDARDS AND TECHNICAL BARRIERS TO TRADE

The objectives of the negotiations are :

- To strive for the elimination and prevention of technical barriers to trade in the Western Hemisphere ;
- To ensure consistency with the provisions of the WTO.

UNCLASSIFIED

UNCLASSIFIED

6

An elaboration of objectives and principles is contained in the Common Objectives Paper attached.

The principles that will govern the negotiations are :

-Standards, technical regulations and conformity assessment procedures should not create unnecessary barriers to trade.

Other principles are set out in greater detail in the Common Objectives Paper attached.

SUBSIDIES ANTIDUMPING AND COUNTERVAILING DUTIES

The objectives of the negotiation are :

-Eliminate agricultural export subsidies affecting trade in the Hemisphere.

-Identify other trade distorting practices for agriculture products including those that have an effect equivalent to agricultural export subsidies and bring them under greater discipline.

-Examine ways to deepen, if appropriate, existing disciplines provided for in the WTO Agreement on Subsidies and Countervailing Measures and enhance compliance with the terms of the WTO agreement on subsidies and countervailing measures.

-Achieve a common understanding with a view to improving, where possible, the rules and procedures regarding the operation and application of trade remedy laws in order to ensure transparency and *[due process] [fairness]* in the use of those instruments and in order not to create unjustified barriers to trade in the Hemisphere.

[-Members of the Working Group disagree on the appropriate scope of the above objective. One view is that, given the existence and nature of multilateral rules, negotiations should focus exclusively on identifying potential improvements in the ways in which greater transparency and due process are assured in the process of applying such rules. Another view is that negotiations should fully examine the use of trade remedies in the hemisphere and engage in substantive negotiation aimed at improving the operation and application of these laws consistent with the objectives of a free trade area.]

-Some countries consider that the following should also be objectives.

-Establish and improve existing trade rules that would be conducive to the attainment of fair trade in agricultural products.

-Assess the feasibility of eliminating the use of antidumping measures within the Hemisphere once free trade has been achieved.

-Provide for special and differential treatment for the smaller economies].

The principles that will govern the negotiations are :

-Negotiations shall improve upon WTO rules and disciplines wherever possible and appropriate.

-To the extent applicable, negotiations shall build upon existing regional and sub-regional trade and integration arrangements in the Hemisphere.

-Negotiations shall take into account the role of on non-FTAA trading partners

-Negotiations shall require that countries avoid adopting, to the greatest extent possible, policies that adversely affect trade in the Hemisphere

UNCLASSIFIED

UNCLASSIFIED

7

GOVERNMENT PROCUREMENT

The objectives of the negotiations are :

- The broad objective of negotiations in government procurement is to expand access to the government procurement markets of the FTAA countries.
- To achieve a normative framework that ensures openness and transparency of government procurement processes, without necessarily implying the establishment of identical government procurement systems in all countries ;
- To ensure non-discrimination in government procurement within a scope to be negotiated ;
- To ensure impartial and fair review for the resolution of procurement complaints and appeals by suppliers and the effective implementation of such resolutions.
- [Negotiations shall not exclude trade in goods and services, investment and government procurement at any levels of the political-administrative structure of the countries negotiating the Agreement].**
- [Negotiations shall include trade in goods and services, investment and government procurement at all levels of the political-administrative structure of the countries negotiating the Agreement].**
- [The scope of government procurement shall be subject to negotiation].**

The principles that will govern the negotiations are :

- Non-discrimination within the negotiated scope of the agreement

INTELLECTUAL PROPERTY RIGHTS

The objectives of the negotiations are :

- In the framework of the general objective of the FTAA to construct a free trade area, the objective of the negotiations in the area of intellectual property shall be to achieve an agreement or common understanding that reduces distortions in trade in the Hemisphere and promotes and ensures adequate and effective protection to intellectual property rights.
- [The agreement shall take into account changes in technology.]**

The principles that will govern the negotiations are :

- Consistent with the framework of the general principles of the Belo Horizonte Declaration and the "Agreement on Trade Related Aspects of Intellectual Property Rights" of the WTO, the following specific principles were identified:

a)National treatment

b)Most favored nation

c)*[Principles of intellectual property applicable by thematic area]*

d)*[Not diminishing the level of protection to the countries during negotiations in accordance with [their] [existing] international obligations].*

e)*[To cover all areas of intellectual property rights, including enforcement].*

-**[The provisions of paragraph b shall not prevent some countries being granted specific privileges or facilities within the framework of bilateral or sub-regional agreements beyond FTAA].**

- Canada accepts the national treatment and MFN principles with exceptions.

UNCLASSIFIED

UNCLASSIFIED

8

The objectives and principles of the Working Group on Smaller Economies were included in the General Objectives and Principles of the Declaration.

SERVICES

The objectives of the negotiations are :

- Establishment of an agreement containing disciplines for trade in services, to permit the achievement of a hemispheric free trade area under conditions of certainty and transparency ;
- Ensure the integration of smaller economies into the FTAA process.

The principles that will govern the negotiations are :

- Taking into consideration the provisions set forth by WTO and, in particular full consistency with article V of GATS, to deepen in the FTAA the level of commitments undertaken by the countries in the GATS.
- Disciplines established in the hemispheric agreement on services will apply to all service sectors and to all modes of supply, under conditions of non-discrimination

COMPETITION POLICY

The objectives of the negotiations are :

- To guarantee that the benefits of the FTAA liberalization process not be undermined by anti-competitive business practices.
- To advance towards the establishment of juridical and institutional coverage at the national, sub-regional or regional level, that proscribes the carrying out of anti-competitive business practices;
- To develop mechanisms that facilitate and promote the development of competition policy and guarantee the enforcement of regulations on free competition among and within countries of the Hemisphere.

The principles that will govern the negotiations are :

- To consider the differences between existing legal systems and traditions in countries of the Hemisphere
- To consider the distinct degrees of development and enforcement of competition policies

UNCLASSIFIED

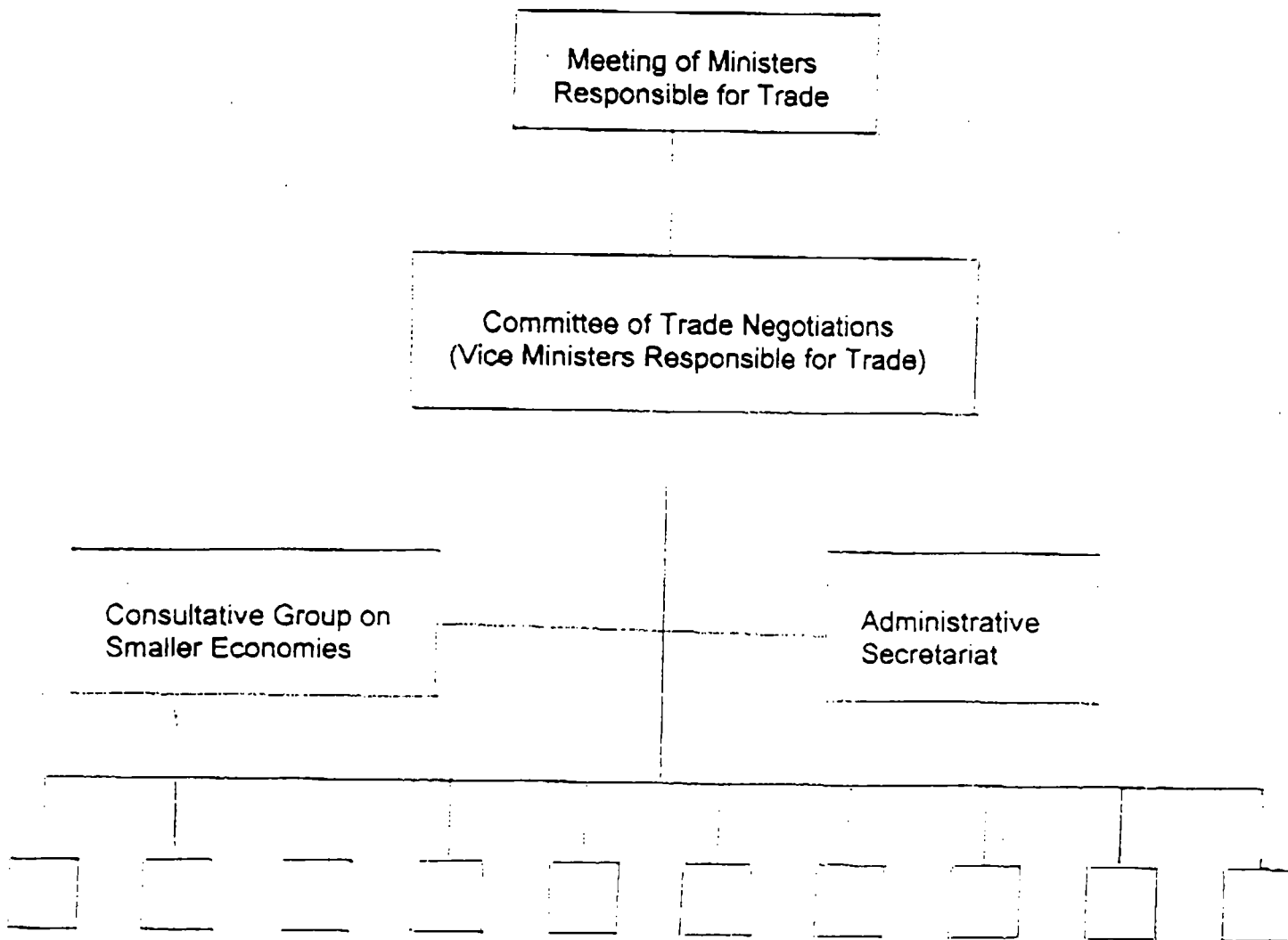
PART II

UNCLASSIFIED

Structure of the Negotiations

1. Structure of the negotiations

We agree on the following structure for the negotiations :



Number and issues for Negotiating Groups to be defined.

UNCLASSIFIED

UNCLASSIFIED

10

2. Functions :

The functions of each of the previous instances of the negotiation process are the following :

Ministers Responsible for Trade :

The Meeting of Ministers is the instance of higher level in the conduct of the process of negotiations. Its functions will be :

- a) To assess the advance of the negotiations in the Ministerial Meetings and approve negotiated matters submitted for their consideration by the Trade Negotiations Committee.
- b) Select the country that will hold the Presidency of the FTAA process.
- c) Select the Presidents and Vice Presidents of the Negotiation Groups.

They will meet every 18 months, on the following dates : late 1999, mid 2001, early 2003 and mid 2005.

Committee of Trade Negotiations :

The Committee of Trade Negotiations (CTN) is formed by the Vice-Ministers Responsible for Trade of the countries of the Hemisphere. It will be in charge of carrying the negotiations process. Its functions will be :

- a) To coordinate the tasks of the Negotiation Groups, receive the reports submitted by the Presidents of the negotiation groups and define the substantive negotiation issues in the periods between ministerial meetings.
- b) To create, dissolve or merge negotiation groups according to the necessities of the process
- c) To report to the Meeting of Ministers Responsible for Trade.
- d) To name the Presidents and Vice Presidents of the negotiation groups provisionally, in the periods between ministerial meetings.
- e) To meet at least twice a year.

Negotiation Groups :

The negotiation groups are responsible for holding negotiations in each one of the technical issues. They will meet the times they consider necessary, or by mandate of the Committee of Trade Negotiations.

Presidents of the Negotiation Groups :

Each negotiation groups has a President, whose responsibility is to steer the work of the Group, according to the instructions received from the Committee of Trade Negotiations. The presidents of the negotiation groups are named by the Ministers Responsible for Trade, considering the need for a geographical balance, as well as the personal and professional qualities of the candidates. They can be confirmed for their positions for subsequent periods.

UNCLASSIFIED

UNCLASSIFIED

11

Vice Presidents of the Negotiation Groups :

They assume the presidency of the Group in case the President cannot continue exercising its charge. They will not be selected from the same country of origin than the President of the Negotiation Groups.

Consultative Group on Smaller Economies :

It is integrated to give special attention to the needs, economic condition and opportunities of the smaller economies, actively seeking the means to facilitate their integration to the FTAA process.

3. Venues of Negotiation :

Options :

- a) To establish a unique site for the Negotiation Groups and the Administrative Secretariat
- b) To establish two sites for the negotiations groups, in one of which the Administrative Secretariat will be established.
- c) To establish two sites for the negotiations groups, with the Administrative Secretariat established in a third place.
- d) To establish three or more venues for the negotiation groups.

Elements to be considered :

- Easy access (Cost, time, frequency of flights)
- General conditions of local infrastructure, security and managerial capacity.
- Political and geographical balance.
- Offers of countries that are proposing candidacy (physical space, logistical support, personal support)

4. Administrative Secretariat

We have agreed on creating a Administrative Secretariat of the process of negotiations of the FTAA, to give logistical and administrative support to the negotiations process, to facilitate the translation services during the meetings and of official documents, to keep the official documents of the FTAA process and to be in charge of the distribution and publication of the documents (Belo Horizonte Declaration).

5. Tri-partite Committee :

We request to the Tri-partite Committee to continue providing analytical support, technical assistance and related studies, as required by the negotiation groups. Also to provide technical support to member countries individually, at their request, according to the procedures of the institutions (Ministerial Declaration of Belo Horizonte)

UNCLASSIFIED

UNCLASSIFIED

12

PART III**Other Issues****Trade and Environment**

Free trade and increased economic integration are key factors for sustainable development. This will be furthered as we strive to make our trade liberalization and environmental policies mutually supportive, taking into account efforts undertaken by the GATT/WTO and other international organizations (Plan of Action of the Summit of the Americas). We will keep this issue under consideration, in light of further developments in the work of the WTO Committee on Trade and Environment (Belo Horizonte Ministerial Declaration)

Trade and Labor Rights

We renew our commitment to endorse the fundamental labor norms internationally accepted. The International Trade Organization (ITO) is the instance competent to establish these norms and their observance, and we reaffirm our support to its role in promoting them. We consider that economic growth and development, fostered by trade growth and further trade liberalization, will contribute to the promotion of these norms. We reject the use of these norms for protectionist purposes, and agree that comparative advantage of the countries should not be questioned, in particular that of low wages developing countries. As we advance in economic integration, we support a higher level of observance and promotion of worker rights, such as defined in pertinent international treaties. (WTO Ministerial Declaration of Singapore, Plan of Action of the Declaration of the Americas, Belo Horizonte Ministerial Declaration).

Civil Society

In order to guarantee the participation and commitment of individuals, we invite the private sector, labor, political parties, academics, and other non-governmental actors and organizations to cooperate and participate in our national and regional efforts, thus strengthening liasions among governments and Societies. (Plan of Action of the Summit of the Americas)

UNCLASSIFIED

PART IV**UNCLASSIFIED****Business Facilitation**

We have agreed to instruct the Trade Negotiations Committee to define a group of business facilitation measures, based on the documents raised by the FTAA process, for the countries to adopt before the year 2000.

Ministerial Resolutions :

We have agreed the following :

- To name _____ as the country that will hold the Presidency of the FTAA negotiations process from now and until the next Ministerial Meeting, that will be celebrated in 1999 in _____.
- To name the following persons as Presidents and Vice-Presidents of the Negotiation Groups : _____
- To name _____ as Secretary of the Administrative Secretariat of the FTAA.
- To instruct the Trade Negotiations Committee to approve a detailed program of trade negotiations before June 19, 1998, in which the terms of reference for the negotiation groups and the date for ending their mandates will be defined.
- To instruct the Trade Negotiations Committee to advance in their first meeting in the mechanisms of business facilitation to be adopted in the short term.

UNCLASSIFIED

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. paper	Attachment H: Instructions regarding Costa Rican Chair's Draft Declaration (21 pages)	ca. 02/1998	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Economic Council
Brainard, Lael
OA/Box Number: CF 1188

FOLDER TITLE:

Latin America - Santiago - Summit of Americas - Trade [2]

2009-1155-F
ke2433

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]