

UNDERSTANDING REGARDING THE ESTABLISHMENT  
OF A SECRETARIAT FOR ENVIRONMENTAL MATTERS UNDER  
THE DOMINICAN REPUBLIC – CENTRAL AMERICA – UNITED STATES  
FREE TRADE AGREEMENT

February 18, 2005

The Governments of the Republic of Costa Rica, the Dominican Republic, the Republic of El Salvador, the Republic of Guatemala, the Republic of Honduras, the Republic of Nicaragua, and the United States of America (“FTA Governments”) have reached the following understandings regarding the implementation of Articles 17.7 (Submissions on Enforcement Matters) and 17.8 (Factual Records and Related Cooperation) of Chapter Seventeen (Environment) of the Dominican Republic – Central America – United States Free Trade Agreement signed on August 5, 2004 (“the Agreement”):

1. The FTA Governments shall request the Secretariat for Central American Economic Integration (“SIECA”) to establish a new unit within SIECA to serve as the “secretariat or other appropriate body” referred to in Article 17.7.1 of the Agreement and to undertake the functions set out in Articles 17.7 and 17.8 of the Agreement.<sup>1</sup>
  
2. On consent of SIECA to such a request, the FTA Governments, through an appropriate arrangement or agreement with SIECA, shall establish working arrangements, including, as appropriate, procedures and guidelines, under which the unit shall operate,<sup>2</sup> which shall provide, among other things, that:
  - (a) The Environmental Affairs Council (“the Council”) established under Article 17.5 of the Agreement shall appoint a General Coordinator and permanent professional staff of the unit. The unit shall be of appropriate size and comprise persons with relevant expertise in environmental law and its enforcement, including regional expertise, and having a demonstrated record of good judgment and objectivity;
  
  - (b) The unit shall function as an independent entity within SIECA and shall have appropriate environmental and regional expertise;

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<sup>1</sup> The FTA Governments shall also ensure that any recommendations by the Council under Article 17.8.8 of the Agreement shall be limited to matters in the context of potential environmental cooperation.

<sup>2</sup> Through a decision of the Council, based upon a specific request, governments and/or relevant organizations may share relevant experiences and expertise concerning the administration of procedures as set forth in Articles 17.7 and 17.8 of the Agreement.

- (c) The unit shall be under the sole direction and supervision of the Council, and shall perform only those functions set out in Articles 17.7 and 17.8 of the Agreement;
- (d) The Council shall establish a roster of environmental experts, comprising persons with a demonstrated record of good judgment, objectivity, and environmental expertise, including regional expertise, from which the unit shall select, as appropriate, according to procedures established by the Council, individuals to assist the unit, under its direction, with the preparation of factual records pursuant to Article 17.8 of the Agreement;
- (e) The General Coordinator and unit staff members shall not receive instructions from any government, or from any authority other than the Council, and will report solely to the Council; and
- (f) The Council shall establish appropriate provisions for the protection and non-disclosure of confidential information received from submitters and governments.

3. Each FTA Government shall make every reasonable effort to provide information in a timely manner to the unit sufficient to enable it to perform its functions under Articles 17.7 and 17.8 of the Agreement, subject to the provisions established pursuant to paragraph 2(f) above.

This understanding shall enter into force on the date of entry into force of the Agreement.

FOR THE GOVERNMENT OF COSTA RICA:

FOR THE GOVERNMENT OF THE DOMINICAN REPUBLIC:

FOR THE GOVERNMENT OF EL SALVADOR:

FOR THE GOVERNMENT OF GUATEMALA:

FOR THE GOVERNMENT OF HONDURAS:

FOR THE GOVERNMENT OF NICARAGUA:

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA: