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PROTOCOL TO AMEND THE 1949 CONVENTION ON THE  
ESTABLISHMENT OF AN INTER-AMERICAN TROPICAL  
TUNA COMMISSION

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AUGUST 1, 2002.—Ordered to be printed

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Mr. BIDEN, from the Committee on Foreign Relations,  
submitted the following

REPORT

[To accompany Treaty Doc. 107-2]

The Committee on Foreign Relations, to which was referred the Protocol to Amend the 1949 Convention on the Establishment of an Inter-American Tropical Tuna Commission (“Convention”), done at Guayaquil, Ecuador on June 11, 1999 and signed by the United States on the same date, reports favorably thereon, and recommends that the Senate give its advice and consent to the ratification thereof as set forth in this report and the accompanying resolution of advice and consent to ratification.

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I. PURPOSE

The purpose of the Protocol is to allow regional economic integration organizations such as the European Union to become a party to the Convention and thereby a member of the Inter-American Tropical Tuna Commission (hereafter “IATTC” or “Commission”).

II. BACKGROUND

The Protocol amends the Convention establishing the Inter-American Tropical Tuna Commission, which initially entered into force as an agreement between the United States and Costa Rica

in 1950. The IATTC created by the Convention currently has thirteen member states: Costa Rica, Ecuador, El Salvador, France, Guatemala, Japan, Mexico, Nicaragua, Panama, Peru, United States, Vanuatu, and Venezuela.

The Commission's mandate is to investigate the abundance, biology and ecology of yellow fin and skipjack tuna and of fish used as bait in the tuna fisheries; to collect and analyze information; and to publish such information and make recommendations for joint action by the Parties, in order to maintain tuna stocks to permit maximum sustained catches year after year in the eastern Pacific Ocean. It also implements the 1999 Agreement on the International Dolphin Conservation Program.

### III. SUMMARY OF PROTOCOL

At present, the Convention is only open to governments of states. The Protocol amends the treaty to allow regional economic integration organizations to become members, in order that the European Union (EU) may join. The EU has exclusive competency over the fishing fleets of its member states; therefore, member states of the EU are no longer permitted to become members of such treaties as individual states. France will maintain membership on the Commission due to certain territories in the Pacific over which the EU does not assert competency. Currently, Spain is the only EU member state that conducts fishing in the area covered by the Convention.

Specifically, the Protocol allows governments and regional economic integration organizations with jurisdiction over nationals who participate in the fisheries covered by the Convention to join the Convention with the unanimous approval of Parties to the Convention. Such an organization is defined as an organization "constituted by states that have transferred to such organizations competence over matter within the purview of [the] Convention, including the competence to enter into agreements in respect of those matters." Member states of such organizations are not eligible to participate, unless they have a separate basis for membership (as in the case of France), in which case, that state would be limited to representing the interests of the separate territories.

### IV. ENTRY INTO FORCE

Under Article 2(4), the Protocol will enter into force on the thirtieth day after all parties to the Convention have indicated their consent to be bound.

### V. COMMITTEE ACTION

The Committee held a hearing to review the Protocol on May 7, 2002.<sup>1</sup> On July 30, 2002, the Committee considered the Protocol and ordered it favorably reported by voice vote, with the recommendation that the Senate give its advice and consent to the ratification of the Protocol.

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<sup>1</sup>S. Hrg. 107-594, "Hearing to Consider 6 Treaties."

## VI. COMMITTEE COMMENTS

The Committee shares the view of the Executive Branch that the admission of the European Union (EU) to the IATTC is desirable. It will bring Spanish fishermen within the conservation management regime of the Commission, and it should result in a reduction in U.S. dues for the Commission's budget.

The Committee also shares the view of the Executive Branch that accession of the EU to the Commission should not create a situation where the EU and its member states together receive greater rights than other states party to the Convention. The Protocol clearly provides, in Article I(7), that a member state of regional economic integration organizations which join the Commission is "barred from becoming a party (or continuing to be a party) to the Convention" unless the member state represents an overseas territory, and provided that such member state's participation is "limited to representing only the interests of its territories." This means that once the EU becomes a party to the Convention, France shall be permitted to participate in the Commission only to the extent that the matters under deliberation pertain to French territories not within the jurisdiction of the EU. The Committee expects that the Executive Branch will strongly oppose any efforts by the EU or its member states to breach this provision in the councils of the Commission.

## VII. TEXT OF RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION

*Resolved (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Protocol to Amend the 1949 Convention on the Establishment of an Inter-American Tropical Tuna Commission, done at Guayaquil, June 11, 1999, and signed by the United States, subject to ratification, in Guayaquil, Ecuador, on the same date (Treaty Doc. 107-2).

