

PROTOCOL AMENDING 1949 CONVENTION OF INTER-
AMERICAN TROPICAL TUNA COMMISSION

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

PROTOCOL TO AMEND THE 1949 CONVENTION ON THE ESTAB-
LISHMENT OF AN INTER-AMERICAN TROPICAL TUNA COMMI-
SSION, DONE AT GUAYAQUIL, JUNE 11, 1999, AND SIGNED BY
THE UNITED STATES, SUBJECT TO RATIFICATION, IN
GUAYAQUIL, ECUADOR, ON THE SAME DATE



JANUARY 8, 2001.—The Protocol was read the first time, and together
with the accompanying papers, referred to the Committee on Foreign
Relations and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PRINTING OFFICE

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *January 8, 2001.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith 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. In addition, I transmit, for the information of the Senate, the report of the Department of State with respect to the Protocol. The Protocol will not require implementing legislation.

The Protocol amends the Convention for the Establishment of an Inter-American Tropical Commission, done at Washington May 31, 1949, and entered into force March 3, 1950 (the "Convention"), to allow the European Union to become a member of the Inter-American Tropical Tuna Commission (IATTC) created under the Convention. Presently, the Convention is only open to governments of states. The Protocol will, upon entry into force, allow regional economic integration organizations like the European Union to become a party to the Convention and a full member of the IATTC provided all parties to the Convention give their consent to such adherence. The Protocol also provides that the Member States of any regional economic integration organization that is allowed to adhere to the Protocol are barred from joining or continuing as a party to the Convention except with respect to the Member States' territories that are outside the territorial scope of the treaty establishing the regional economic integration organization.

Allowing the European Union to accede to the Convention is important to the United States because it would mean that the vessels operating under the jurisdiction of the European Union and its Member States would be bound by the conservation and management measures adopted by the IATTC for the fishery resources of the eastern Pacific Ocean.

I recommend that the Senate give early and favorable consideration to the Protocol and give its advice and consent to ratification.

WILLIAM J. CLINTON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, July 25, 2000.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the Protocol to Amend the 1949 convention on the Establishment of an Inter-American Tropical Tuna Commission (“the Protocol”), done at Guayaquil, June 11, 1999. The United States signed the protocol, subject to ratification, in Guayaquil, Ecuador, on the same date. I recommend that the Protocol be transmitted to the Senate for its advice and consent to ratification.

The Protocol amends the Convention for the Establishment of an Inter-American Tropical Tuna Commission, done at Washington May 31, 1949 and entered into force March 3, 1950 (“the Convention”) to allow the European Union to become a member of the Inter-American Tropical Tuna Commission (IATTC) created under the Convention. Over the last 50 years, the IATTC has grown in importance and membership. Today it is the principal international organization addressing the conservation and management of highly migratory fish stocks in the eastern Pacific Ocean. The IATTC currently has 11 members: Costa Rica, Ecuador, El Salvador, France, Japan, Mexico, Nicaragua, Panama, the United States, Vanuatu and Venezuela.

Spain, a member of the European Union (EU), has vessels fishing in the eastern Pacific Ocean (currently the only EU member with vessels fishing in the region). Like all members of the EU, Spain has transferred competence for fisheries matters to the European Commission pursuant to the Common Fisheries Policy adopted by the EU in 1983, including the authority to enter into international agreements with respect to those matters.

The European Union (through the European Community, the juridical entity with the capacity to enter into international agreements) now wishes to adhere to the 1949 Convention and become a full member of the IATTC on behalf of its Member States fishing in the region. However, Article V(3) of the Convention currently limits membership in the IATTC to governments whose nationals participate in the fisheries covered by the Convention. It does not provide for membership by regional economic integration organizations such as the European Union. Thus, for the European Union to become a party to the Convention (and a member of the IATTC) the Convention must be amended. The United States generally supports regional economic integration organizations (“REIOs”) such as the European Union becoming party to treaties in which

they have exclusive or shared competence in the treaties' subject matter, provided the rights and obligations of the REIO and its Member States under the treaty do not give rise to conflicting obligations or create a situation where the REIO and its Member States together receive greater rights than other states party to the treaty that are not members of a REIO.

In this case, the European Union has exclusive competency over the fishing fleets of its Member States. Thus, the Department supports the desire of the European Union to participate as a member of the IATTC so that the vessels operating under the jurisdiction of the European Union will be bound by the conservation and management measures adopted by the Commission for the fishery resources of the eastern Pacific Ocean. (Despite the transfer of competence on fisheries matters to the EU, France has remained a member of the IATTC, primarily due to the fact that France participates in the IATTC in respect of certain Pacific territories over which the EU does not exercise competence.)

Last year, the members of the IATTC negotiated a Protocol to amend the Convention so as to allow REIOs such as the European Union to become a party to the Convention and a full member of the IATTC. The Protocol consists of two articles, which are discussed in detail below.

Article I of the Protocol contains the proposed changes to the text of the Convention. Paragraphs 1 through 6 and paragraph 8 of Article 1 contain conforming changes to the Convention to modify references to "governments," "national sections," "nationals" and "legislation" to accommodate participation by REIOs such as the European Union.

Article I paragraph 7 is the operative section of the Protocol, amending the membership clause (Article V(3)) of the Convention. Paragraph 7 provides that governments and REIOs (defined as an organization constituted by states that have transferred to such organization both competence over matters within the purview of the Convention and the capacity to enter into international agreements with respect to such matters) which have jurisdiction over nationals engaged in fishing covered by the Convention, may express a desire to adhere to the Convention. The paragraph requires the unanimous consent of all parties to the Convention in order for such government or REIO to adhere to the Convention. Furthermore, this paragraph also specifies that when a REIO adheres to the Convention, each of its Member States is barred from becoming a party, or continuing to be a party, to the Convention except in respect of territories not covered by the treaty establishing the REIO, in which case such Member State's participation under the Convention is limited to representing the interests of those territories. Thus, should the EU eventually join the IATTC, France would continue to be a party to the Convention in respect of its Pacific territories of Clipperton Island and French Polynesia, which do not fall with the geographic scope of the treaty establishing the European Union.

Article II to the Protocol contains provisions relating to the signature, ratification, entry into force, and other technical matters relating to the operation of the Protocol. In particular, it specifies that the Protocol will enter into force thirty days after all of the

parties to the Convention have indicated their consent to be bound by the Protocol.

The Protocol contains no provisions that require new legislation or other authority before it can be implemented by the United States.

Accordingly, I recommend that the Protocol be transmitted to the Senate as soon as possible for its early and favorable advice and consent to ratification.

Respectfully submitted.

THOMAS R. PICKERING.

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

The Contracting Parties to the 1949 Convention on the Establishment of an Inter-American Tropical Tuna Commission have agreed as follows:

Article I

1. In Article I, paragraphs 1, 6, 7, 8, 12 and 15, the references to “national section” and “national sections” shall be changed to read “section” and “sections”.
2. In Article I, paragraph 1, the phrase “Governments of the respective High Contracting Parties” shall be changed to read “the respective High Contracting Parties”.
3. In Article I, paragraph 2, the phrase “the Government of each High Contracting Party” shall be changed to read “each High Contracting Party”, and the phrase “such Governments” shall be changed to read “such High Contracting Parties”.
4. Article I, paragraph 12, shall be changed to read as follows:

“12. The Commission may hold public hearings. Each section also may hold public hearings within its own territory.”
5. In Article II, paragraphs 1 and 7, the phrase “nationals of the High Contracting Parties” shall be changed to read “nationals under the jurisdiction of each High Contracting Party”.
6. Article III shall be changed to read as follows:

“The High Contracting Parties agree to take such internal measures as may be necessary to carry out the purposes of this Convention.”

7. Article V, paragraph 3, shall be changed in its entirety to read as follows:

“Any government or regional economic integration organization (constituted by states that have transferred to such organizations competence over matters within the purview of this Convention, including the competence to enter into agreements in respect of those matters,) which have jurisdiction over nationals who participate in the fisheries covered by this Convention, desiring to adhere to the present Convention, shall address a communication to that effect to each of the High Contracting Parties. Upon receiving the unanimous consent of the High Contracting Parties to adherence, such government or regional economic integration organization shall deposit with the Government of the United States of America an instrument of adherence which shall stipulate the effective date thereof. In the case that a regional economic integration organization adheres to this Convention, each of its member states is barred from becoming a party (or continuing to be a party) to the Convention unless the member state represents a territory which lies outside the territorial scope of the treaty establishing the regional economic integration organization and provided that such member state’s participation be limited to representing only the interests of its territories. The Government of the United States of America shall furnish a certified copy of the Convention to each government and regional economic integration organization desiring to adhere thereto. Each adhering government and regional economic integration organization shall have all the rights and obligations under the Convention as if it had been an original signatory thereof.”

8. In Article V, paragraph 4, the phrase “notifying government” shall be changed to read “notifying government or regional economic integration organization”.

Article II

1. This Protocol shall be open for signature, at Guayaquil, Ecuador, on June 11, 1999 by all States that are High Contracting Parties to the Convention and thereafter shall remain open for signature at Washington.

2. This Protocol shall be subject to ratification, acceptance, approval or accession, in accordance with the domestic laws and procedures of each Party.

3. The original of this Protocol shall be deposited with the Government of the United States of America, which shall communicate certified copies thereof to all High Contracting Parties to the Convention.

4. This Protocol shall enter into force on the thirtieth day following the date upon which all High Contracting Parties to the Convention have indicated their consent to be bound, as provided in paragraph 2.

5. The Government of the United States of America shall inform all High Contracting Parties to the Convention of all signatures, all instruments of ratification, acceptance, approval, or accession received and of the date upon which this Protocol enters into force.

6. Following entry into force of this Protocol, any States or regional economic integration organizations, adhering to the Convention shall adhere to the Convention as amended by this Protocol.

**PROTOCOLO PARA ENMENDAR
LA CONVENCIÓN DE 1949 PARA EL ESTABLECIMIENTO DE
UNA COMISIÓN INTERAMERICANA DEL ATÚN TROPICAL**

Las Partes Contratantes en la Convención de 1949 para el establecimiento de una Comisión Interamericana del Atún Tropical han acordado lo siguiente:

Artículo I

1. En el Artículo I, párrafos 1, 6, 7, 8, 12 y 15, las referencias a “sección nacional” y “secciones nacionales” serán cambiadas a “sección” y “secciones”.

2. En el Artículo I, párrafo 1, la frase “gobiernos de las respectivas Altas Partes Contratantes” será cambiada a “las respectivas Altas Partes Contratantes”.

3. En el Artículo I, párrafo 2, la frase “gobierno de cada una de las Altas Partes Contratantes” será cambiada a “cada una de las Altas Partes Contratantes”, y la frase “los gobiernos” será cambiada a “las Altas Partes Contratantes”.

4. El Artículo I, párrafo 12, será cambiado como sigue:

“12. La Comisión podrá celebrar audiencias públicas. Cada sección podrá también celebrar audiencias públicas en su propio territorio.”

5. En el Artículo II, párrafos 1 y 7, la frase “nacionales de las Altas Partes Contratantes” será cambiada a “nacionales bajo la jurisdicción de cada Alta Parte Contratante”.

6. El Artículo III será cambiado como sigue:

“Las Altas Partes Contratantes convienen en promulgar las medidas internas que sean necesarias para lograr las finalidades de esta Convención.”

7. El Artículo V, párrafo 3, será cambiado en su totalidad, como sigue:

“Todo gobierno u organización regional de integración económica (constituido por estados que hayan transferido a esas organizaciones la competencia en materias que ampare esta Convención, incluyendo la competencia para establecer acuerdos en lo que respecta a esas materias) con jurisdicción sobre nacionales que participen en las pesquerías que abarca esta Convención y que desee adherirse a la misma dirigirá una comunicación a tal efecto a cada una de las Altas Partes Contratantes. Al recibir el consentimiento unánime de las Altas Partes Contratantes a tal adhesión, el gobierno u organización regional de integración económica interesado depositará con el Gobierno de los Estados Unidos de América un instrumento de adhesión en el que se estipulará la fecha de su vigencia. En el caso de que una organización regional de integración económica adhiera a esta Convención, queda prohibido para cada uno de sus estados miembros hacerse parte (o seguir siendo parte) de la Convención a menos que el estado miembro represente un territorio que yace fuera del alcance territorial del tratado que establece la organización regional de integración económica y siempre que la participación de dicho estado miembro se limite a la representación de los intereses de sus territorios solamente. El Gobierno de los Estados Unidos de América transmitirá una copia certificada de la Convención a cada gobierno u organización regional de integración económica que desee adherirse a ella. Cada gobierno u organización regional de integración económica adherente tendrá todos los

derechos y obligaciones que otorgue e imponga esta Convención tal como si fuera uno de sus signatarios originales.”

8. En el Artículo V, párrafo 4, la frase “el gobierno que la transmita” será cambiada a “el gobierno u organización regional de integración económica que la transmita”.

Artículo II

1. Este Protocolo estará abierto a la firma en Guayaquil, Ecuador el 11 de junio de 1999 por todo Estado que sea Alta Parte Contratante de la Convención y posteriormente permanecerá abierto a la firma en Washington.

2. Este Protocolo será sujeto a ratificación, aceptación, aprobación, o adhesión, de conformidad con las leyes y procedimientos administrativos de cada una de las Partes..

3. El original de este Protocolo será depositado con el Gobierno de los Estados Unidos de América, que comunicará copias certificadas del mismo a todas las Altas Partes Contratantes de la Convención.

4. Este Protocolo entrará en vigor treinta días después de la fecha en la cual todas las Altas Partes Contratantes de la Convención hayan indicado su consentimiento en obligarse por el mismo, de conformidad con las disposiciones del párrafo 2.

5. El Gobierno de los Estados Unidos de América informará a todas las Altas Partes Contratantes de la Convención de toda firma y de todo instrumento de ratificación, aceptación, aprobación, o adhesión recibido y de la fecha en la cual este Protocolo entra en vigor.

6. Después de la entrada en vigor de este Protocolo, todo Estado u organización regional de integración económica que se adhiera a la Convención se adherirá a la Convención enmendada por este Protocolo.

IN WITNESS WHEREOF, the undersigned, duly authorized representatives of the States listed below, have signed this Protocol.

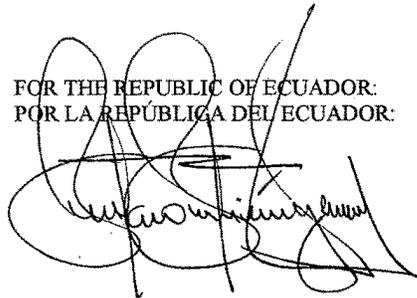
EN FÉ DE LO CUAL, los suscritos, representantes debidamente autorizados de los Estados detallados a continuación, han firmado este Protocolo.

DONE AT Guayaquil this eleventh day of June, 1999, in the English and Spanish languages, both texts being equally authentic.

HECHO EN Guayaquil este undécimo día de junio de 1999, en los idiomas español e inglés, siendo ambos textos de igual autenticidad.

FOR THE REPUBLIC OF COSTA RICA:
POR LA REPÚBLICA DE COSTA RICA:

FOR THE REPUBLIC OF ECUADOR:
POR LA REPÚBLICA DEL ECUADOR:

A large, stylized handwritten signature in black ink, overlapping the text above it. The signature is highly cursive and difficult to decipher.

FOR THE REPUBLIC OF EL SALVADOR:
POR LA REPÚBLICA DE EL SALVADOR:

FOR THE FRENCH REPUBLIC:
POR LA REPÚBLICA FRANCESA:

A handwritten signature in black ink, consisting of several loops and a long vertical stroke, positioned between the text for the French Republic and the text for Japan.

FOR JAPAN:
POR EL JAPÓN:

FOR THE UNITED MEXICAN STATES:
POR LOS ESTADOS UNIDOS MEXICANOS:

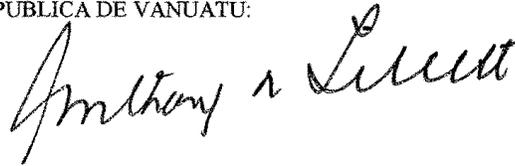
FOR THE REPUBLIC OF NICARAGUA:
POR LA REPÚBLICA DE NICARAGUA:

FOR THE REPUBLIC OF PANAMA:
POR LA REPÚBLICA DE PANAMÁ:

FOR THE UNITED STATES OF AMERICA:
POR LOS ESTADOS UNIDOS DE AMÉRICA:

A handwritten signature in black ink, appearing to read "Ron S. Hill", with a long horizontal line extending to the right.

FOR THE REPUBLIC OF VANUATU:
POR LA REPÚBLICA DE VANUATU:

A handwritten signature in black ink, appearing to read "Anthony R. Luccit", written in a cursive style.

FOR THE REPUBLIC OF VENEZUELA:
POR LA REPÚBLICA DE VENEZUELA:

I CERTIFY THAT the foregoing is a true copy of the Protocol to Amend the 1949 Convention on the Establishment of an Inter-American Tropical Tuna Commission, done at Guayaquil on June 11, 1999, in the English and Spanish languages, both texts being equally authentic, the signed original of which is deposited in the archives of the Government of the United States of America.

IN TESTIMONY WHEREOF, I, Madeleine K. Albright, Secretary of State of the United States of America, have hereunto caused the seal of the Department of State to be affixed and my name subscribed by the Authentication Officer of the said Department, at the city of Washington, in the District of Columbia, this fifth day of August, 1999.



Madeleine K. Albright
Secretary of State

By Paula A. Johnson
Assistant Authentication Officer
Department of State