(D) whether the persons operating or embarking in a submersible vessel or semi-submersible vessel willfully caused, attempted to cause, or permitted the destruction or damage of such vessel or failed to leave the area when directed by law enforcement officers; and

(E) circumstances for which the sentencing guidelines and policy statements provide sentencing enhancements;

(3) ensure reasonable consistency with other relevant directives, other sentencing guidelines and policy statements, and statutory provisions;

(4) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(5) ensure that the sentencing guidelines and policy statements adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

**TITLE II—CIVIL PROHIBITION**

**SEC. 201. OPERATION OF SUBMERSIBLE VESSEL OR SEMI-SUBMERSIBLE VESSEL WITHOUT NATIONALITY.**

(a) **FINDING AND DECLARATION.**—Section 70501 of title 46, United States Code, is amended by adding at the end thereof the following:

'(5) ensure that the sentencing guidelines and policy statements adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.''

**SEC. 202. OPERATION PROHIBITED.**

(a) **IN GENERAL.**—Chapter 705 of title 46, United States Code, is amended by adding after the end thereof the following:

'§ 70508. Operation of submersible vessel or semi-submersible vessel without nationality.

'(a) IN GENERAL.—An individual may not operate by any means or embark in any submersible vessel or semi-submersible vessel that is without nationality and that is navigating or has navigated into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country, with the intent to evade detection.

'(b) EVIDENCE OF INTENT TO EVADE DETECTION.—In any civil enforcement proceeding for a violation of subsection (a), the presence of any of the indicia described in paragraph (1)(A) or (B), in paragraph (3)(A), (B), or (C), of section 70507(b) may be considered, in the totality of the circumstances, to be prima facie evidence of intent to evade detection.

'(c) DEFENSES.—

'(1) IN GENERAL.—It is a defense in any civil enforcement proceeding for a violation of subsection (a), that the submersible vessel or semi-submersible vessel involved was, at the time of the violation—

'(A) a vessel of the United States or lawfully registered in a foreign nation as claimed by the master or individual in charge of the vessel when requested to make a claim by an officer of the United States authorized to enforce applicable provisions of United States law;

'(B) classed by and designed in accordance with the rules of a classification society; and

'(C) lawfully in government-regulated or licensed activity, including commerce, research, or exploration; or

'(D) equipped with and using an operable automatic identification system, vessel monitoring system, or long range identification and tracking system.

'(2) PRODUCTION OF DOCUMENTS.—The defenses provided by this subsection are proved conclusively by the production of—

'(A) government documents evidencing the vessel's nationality at the time of the offense, as provided in article 5 of the 1958 Convention on the High Seas;

'(B) a certificate of classification issued by the vessel's classification society upon completion of relevant classification surveys and valid at the time of the offense; or

'(C) government documents evidencing license, regulation, or registration for research or exploration.

'(d) CIVIL PENALTY.—A person violating this section shall be liable to the United States for a civil penalty of not more than $1,000,000.''

**SEC. 203. SUBMERSIBLE VESSEL AND SEMI-SUBMERSIBLE VESSEL DEFINED.**

Section 70502 of title 46, United States Code, is amended by adding at the end thereof the following:

'(f) SEMI-SUBMERSIBLE VESSEL; SUBMERSIBLE VESSEL.—In this chapter:

'(1) 'SUBMERSIBLE VESSEL' means a vessel that is capable of operating completely below the surface of the water, including both manned and unmanned watercraft.

'(2) 'SUBMERSIBLE VESSEL' means a vessel that is capable of operating completely below the surface of the water, including both manned and unmanned watercraft.'

**EXECUTIVE SESSION**

**NOMINATIONS DISCHARGED AND PLACED ON THE CALENDAR**

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to executive session and that the Agriculture Committee be discharged of the nomination of Mark Everett Keenum, and that the nomination be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent that the Rules Committee be discharged of the following: PN655, the nomination of Garcia M. Hillman; PN1661, the nomination of Donetta Davidson; PN1662, the nomination of Rosemary E. Rodriguez; and PN1983, the nomination of Gineen Bressler Beach, and that the nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

**LAND-BASED SOURCES PROTOCOL TO THE CARTAGENA CONVENTION**

**THE HAGUE CONVENTION**

**AMENDMENT TO THE CONVENTION ON PHYSICAL PROTECTION OF NUCLEAR MATERIAL**

**INTERNATIONAL CONVENTION FOR SUSPENSION OF ACTS OF NUCLEAR TERRORISM**

**PROTOCOLS OF 2005 TO THE CONVENTION CONCERNING THE SAFETY OF MARITIME NAVIGATION AND TO THE PROTOCOL CONCERNING THE SAFETY OF FIXED PLATFORMS ON THE CONTINENTAL SHELF**

**PROTOCOL TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF THE REPUBLIC OF ALBANIA**

**1998 AMENDMENTS TO THE CONSTITUTION AND THE CONVENTION OF THE INTERNATIONAL TELECOMMUNICATION UNION**

**2002 AMENDMENTS TO THE CONSTITUTION AND THE CONVENTION OF THE INTERNATIONAL TELECOMMUNICATION UNION**

**2006 AMENDMENTS TO THE CONSTITUTION AND THE CONVENTION OF THE INTERNATIONAL TELECOMMUNICATION UNION**

Mr. DURBIN. I ask unanimous consent that the Senate consider the following treaties on the Executive Calendar, Calendar Nos. 25, 31, 34, 35, 36, 37, 38, 39, and 40, and that the treaties be considered as having advanced through the various parliamentary stages up to and including the presentation of the resolutions of ratification; that any committee understandings, declarations, or conditions be agreed to as applicable; that any statements be printed in the Record as if read; and that the Senate take one vote on the resolutions of ratification to be considered as separate votes; further, that when the resolutions of ratification are voted on, the motions to reconsider be considered made and laid on the table, the President be immediately notified of the Senate’s action, and the Senate resume legislative session, all without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The treaties and protocol will be considered to have passed through their various parliamentary stages, up to and including the presentation of the resolutions of ratification.
Mr. DURBIN. I ask for the division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division vote has been requested.

Senators in favor of the resolutions of ratification of these treaties will rise and stand until counted.

The ayes will rise and stand until counted.

On a division, two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are as follows:

TREATY DOC. 110–1: LAND-BASED SOURCES PROTOCOL TO THE CARTAGENA CONVENTION Resolved (two-thirds of the Senators present concurring therein).

Section 1. Senate Advice and Consent Subject to declarations.

The Senate advises and consents to the ratification of the Protocol Concerning Pollution from Land-Based Sources and Activities to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, with Annexes, done at Oranjestad, Aruba, on October 6, 1999 (Treaty Doc. 110–1), subject to the declaration of section 2 and the declaration of section 3.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration, which shall be included in the instrument of ratification:

In accordance with Article XVIII, the United States of America declares that, with respect to the United States of America, any instrument of ratification:

(1) It is the understanding of the United States of America that, as true for all civilian objects, the primary responsibility for the protection of cultural objects rests with the Party comprising the object, to ensure that it is properly identified and that it is not used for an unlawful purpose.

Section 3. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

With the exception of the provisions that obligate the United States to impose sanctions on persons who commit or order to be committed a breach of the Convention, this Convention is self-executing. This Convention does not confer domestic rights enforceable in United States courts.

TREATY DOC. 110–6: AMENDMENT TO THE CONVENTION ON PHYSICAL PROTECTION OF NUCLEAR MATERIAL Resolved (two-thirds of the Senators present concurring therein).

Section 1. Senate Advice and Consent Subject to a reservation, understandings, and a declaration.

The Senate advises and consents to the ratification of the Amendment to the Convention on the Physical Protection of Nuclear Material, adopted on July 8, 2005 (the Amendment (Article 2 of the Convention on the Physical Protection of Nuclear Material, as amended)), subject to the reservation of section 2 and the declaration of section 4.

Section 2. Reservation.

The advice and consent of the Senate under section 1 is subject to the following reservation, which shall be included in the instrument of ratification:

The advice and consent of the Senate under section 1 is subject to the following declaration, which shall be included in the instrument of ratification:

The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the instrument of ratification:

(1) It is the understanding of the United States of America that any decision by any military or law enforcement personnel or any other person responsible for planning, authorizing, or executing military action or other activities covered by this Convention shall be based on the basis of that person's assessment of the information reasonably available to the person at the time the person planned, authorized, or executed the action under review, and shall not be judged on the basis of information that comes to light after the action under review was taken.

(2) It is the understanding of the United States of America that the rules established by the Convention apply only to conventional weapons without prejudice to the rules of international law governing other types of weapons, including nuclear weapons.

(3) It is the understanding of the United States of America that, as true for all civilian objects, the primary responsibility for the protection of cultural objects rests with the Party comprising the object, to ensure that it is properly identified and that it is not used for an unlawful purpose.

Section 3. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

With the exception of the provisions that obligate the United States to impose sanctions on persons who commit or order to be committed a breach of the Convention, this Convention is self-executing. This Convention does not confer domestic rights enforceable in United States courts.

TREATY DOC. 110–4: INTERNATIONAL CONVENTION FOR SUPPRESSION OF ACTS OF NUCLEAR TERRORISM Resolved (two-thirds of the Senators present concurring therein).

Section 1. Senate Advice and Consent Subject to a reservation, understandings, and a declaration.

The Senate advises and consents to the ratification of the International Convention for the Suppression of Acts of Nuclear Terrorism, adopted on April 13, 2005, in the form as released on behalf of the United States of America on September 14, 2005 (the “Convention”) (Treaty Doc. 110–4), subject to the reservation of section 2, the understandings of section 3, and the declaration of section 4.

Section 2. Reservation.

The advice and consent of the Senate under section 1 is subject to the following reservation, which shall be included in the instrument of ratification:

Pursuant to Article 23(2) of the Convention, the United States of America declares that it does not consider itself bound by Article 23(1) of the Convention.

Section 3. Understandings.

The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the instrument of ratification:

(1) The United States of America understands that the term “armed conflict” in Article 4 of the Convention does not include situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature.

(2) The United States of America understands that the term “international humanitarian law” in Article 4 of the Convention has the same substantive meaning as the law of war.

(3) The United States of America understands that, pursuant to Article 4 and Article 9 of the Convention, (a) members of the military forces of a State, which are the armed forces of a State organized, trained, and equipped under its internal law for the primary purpose of national defense or security, in the exercise of their official duties, (b) civilians who direct the official activities of military forces of a State; and (c) civilians acting in support of the official activities of the military forces of a State are under the formal command, control, and responsibility of the military forces.

(4) The United States of America understands that current United States law with

Section 3. Understandings.
The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the instrument of ratification:


Section 4. Declaration.
The advice and consent of the Senate under section 1 is subject to the following declaration:

With the exception of the provisions that obligate the United States to treat certain offenses as extraditable offenses for purposes of bilateral extradition treaties. None of the provisions in the Convention, including Articles 10 and 12, confer private rights enforceable in United States courts.

TREATY DOC. 110-8: PROTOCOLS OF 2005 TO THE CONVENTION CONCERNING THE SAFETY OF MARITIME NAVIGATION AND TO THE PROTOCOL FOR THE SAFETY OF FIXED PLATFORMS ON THE CONTINENTAL SHELF

Resolved (two-thirds of the Senators present concurring therein).

Section 1. Senate Advice and Consent subject to a reservation, understandings, and a declaration.


Section 2. Reservation.
The advice and consent of the Senate under section 1 is subject to the following reservation, which shall be included in the instrument of ratification:

Consistent with Article 16(2) of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005, and incorporated by Article 2 of the 2005 Fixed Platforms Protocol, the United States of America (the “Pro-
The Senate advises and consents to the ratification of the amendments to the Constitution and Convention of the International Telecommunication Union (Geneva 1992), as amended by the Plenipotentiary Conference (Kyoto 1994), the Plenipotentiary Conference (Minneapolis 1998), and the Plenipotentiary Conference (Marrakesh 2002), signed by the United States at Antalya on November 24, 2006, as contained in the Final Acts of the Plenipotentiary Conference (Antalya 2006) (the “2006 Final Acts”) (Treaty Doc. 110–15), subject to declarations and reservations Nos. 70(1)(second paragraph), 70(2), 104, and 106 of the 2006 Final Acts and the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is not self-executing.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Minority Leader, pursuant to Public Law 110–183, announces the appointment of the following individual as a member of the Commission on the Abolition of the Transatlantic Slave Trade: Mark Rodgers, of Virginia.

UNANIMOUS CONSENT AGREEMENT—H.R. 2638

Mr. DURBIN. Mr. President, I ask unanimous consent that with respect to the House message on H.R. 2638, that if cloture is filed on the motion to concur in the House amendment with a technical amendment on Friday, it be as if the cloture motion was filed on Thursday, September 25, with the mandatory quorum waived; and that the cloture vote occur on Saturday, at a time to be determined.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY, SEPTEMBER 26, 2008

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. tomorrow, Friday, September 26; that following the prayer and the pledge, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISCHARGED NOMINATIONS

The Senate Committee on Rules and Administration was discharged from further consideration of the following nominations and the nominations were placed on the Executive Calendar:


The Senate Committee on Agriculture, Nutrition, and Forestry was discharged from further consideration of the following nomination and the nomination was placed on the Executive Calendar:

MARK EVERETT KEENUM, OF MISSISSIPPI, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION FOR A TERM EXPIRING MAY 21, 2014.

*Nominee has committed to respond to requests to appear and testify before any duly constituted committee of the Senate.