

Treaty with Liechtenstein on Mutual Legal Assistance in Criminal Matters (Treaty Document No. 107-16).

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

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 Treaty Between the Government of the United States of America and the Principality of Liechtenstein on Mutual Legal Assistance in Criminal Matters, signed at Vaduz on July 8, 2002. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including terrorism, drug trafficking, and fraud and other white-collar offenses. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: locating or identifying persons or items; serving documents; taking the testimony or statements of persons; transferring persons in custody for testimony or other purposes; providing documents, records and items; executing requests for searches and seizures; assisting in proceedings related to immobilization and forfeiture of assets and restitution; initiating criminal proceedings in the Requested State; and any other form of assistance consistent with the purposes of this Treaty and not prohibited by the laws of the State from whom the assistance is requested.

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

GEORGE W. BUSH.

THE WHITE HOUSE, September 5, 2002.

EXECUTIVE SESSION

NOMINATION OF PAMELA F. OLSON, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY

Mr. REID. Mr. President, I ask that the Senate proceed to executive session to consider the following nomination:

Calendar No. 1000, Pamela Olson, of Virginia, to be an Assistant Secretary of the Treasury; that the nomination be confirmed, the motion to reconsider be laid upon the table; that the Presi-

dent be notified of the Senate's action, and any statements thereon be printed at the appropriate place in the RECORD as if given, without intervening action or debate.

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

PROTOCOL AMENDING THE 1949 CONVENTION INTER-AMERICAN TROPICAL TUNA COMMISSION—TREATY DOCUMENT NO. 107-2

Mr. REID. Mr. President, I ask unanimous consent that the Senate consider Executive Calendar No. 6, Protocol Amending the 1949 Convention of Inter-American Tropical Tuna Commission; that the protocol be advanced through its parliamentary stages, up to and including the presentation of the resolution of ratification; and that the Senate now vote on the resolution of ratification.

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

The question is on agreeing to the resolution of ratification. Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division vote, two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification reads as follows:

TREATY 107-2 PROTOCOL AMENDING 1949 CONVENTION OF INTER-AMERICAN TROPICAL TUNA COMMISSION

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).

Mr. REID. Mr. President, I ask unanimous consent that any statements relating to this protocol be printed in the RECORD.

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

SOUTH PACIFIC ENVIRONMENT PROGRAMME AGREEMENT—TREATY DOCUMENT NO. 105-32

Mr. REID. Mr. President, I ask unanimous consent that the Senate consider Executive Calendar No. 7, the South Pacific Environment Programme Agreement; that the agreement be advanced through its parliamentary stages, up to and including the presentation of the resolution of ratification; and that the Senate now vote on the resolution of ratification.

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

The question is on agreeing to the resolution of ratification.

Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division vote, two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification reads as follows:

TREATY DOC. 105-32—SOUTH PACIFIC ENVIRONMENT PROGRAMME AGREEMENT

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

Section 1. Advice and Consent to Ratification of the Agreement Establishing the South Pacific Regional Environment Programme, subject to a Declaration.

The Senate advises and consents to the ratification of the Agreement Establishing the South Pacific Regional Environment Programme, done at Apia on June 16, 1993 (Treaty Doc. 105-32), subject to the declaration in Section 2.

Section 2. Declaration.

The advice and consent of the Senate is subject to the declaration that the "no reservations" provision in Article 10 of the Agreement has the effect of inhibiting the Senate in its exercise of its constitutional duty to give advice and consent to ratification of a treaty, and that the Senate's approval of the Agreement should not be construed as a precedent for acquiescence to future treaties containing such provisions.

Mr. REID. Mr. President, I ask unanimous consent that any statements relating to the agreement be printed in the RECORD.

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

1990 PROTOCOL TO THE 1983 MARITIME ENVIRONMENT OF THE WIDER CARIBBEAN REGION CONVENTION—TREATY DOCUMENT NO. 103-5

Mr. REID. Mr. President, I ask unanimous consent that the Senate consider Executive Calendar No. 8, the 1990 Protocol to the 1983 Maritime and Environment of the Wider Caribbean Region Convention; that the convention be advanced through its parliamentary stages, up to and including the presentation of the resolution of ratification; that the reservations, understandings, and declarations be agreed to; and that the Senate now vote on the resolution of ratification.

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

The question is on agreeing to the resolution of ratification.

Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division vote, two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification reads as follows:

1990 PROTOCOL TO THE 1983 MARITIME ENVIRONMENT OF THE WIDER CARIBBEAN REGION CONVENTION—TREATY DOC. 103-5

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

Section 1. Advice and Consent to Ratification of the Protocol Concerning Specially Protected Areas and Wildlife to the Convention for the Protection and Development of

the Marine Environment of the Wider Caribbean Region, subject to Reservations, an Understanding, and a Declaration.

The Senate advises and consents to the ratification of the Protocol Concerning Specially Protected Areas and Wildlife to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, including Annexes, done at Kingston on January 18, 1990 (Treaty Doc. 103-5), subject to the reservations in section 2, the understanding in Section 3, and the declaration in Section 4.

Section 2. Reservations.

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

(1) The United States of America does not consider itself bound by Article 11(1) of the Protocol to the extent that United States law permits the limited taking of flora and fauna listed in Annexes I and II—

(A) which is incidental, or

(B) for the purpose of public display, scientific research, photography for educational or commercial purposes, or rescue and rehabilitation.

(2) The United States has long supported environmental impact assessment procedures, and has actively sought to promote the adoption of such procedures throughout the world. U.S. law and policy require environmental impact assessments for major Federal actions significantly affecting the quality of the human environment. Accordingly, although the United States expects that it will, for the most part, be in compliance with Article 13, the United States does not accept an obligation under Article 13 of the Protocol to the extent that the obligations contained therein differ from the obligations of Article 12 of the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region.

(3) The United States does not consider the Protocol to apply to six species of fauna and flora that do not require the protection provided by the Protocol in U.S. territory. These species are the Alabama, Florida and Georgia populations of least term (*Sterna antillarum*), the Audubon's shearwater (*Puffinus lherminieri*), the Mississippi, Louisiana and Texas population of the wood stork (*Mycteria americana*) and the Florida and Alabama populations of the brown pelican (*Pelicanus occidentalis*), which are listed on Annex II, as well as the fulvous whistling duck (*Dendrocygna bicolor*), and the populations of widgeon or ditch grass (*Rupia maritima*) located in the continental United States, which are listed on Annex III.

Section 3. Understanding.

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

The United States understands that the Protocol does not apply to non-native species, defined as species found outside of their natural geographic distribution, as a result of deliberate or incidental human intervention. Therefore, in the United States, certain exotic species, such as the muscovy duck (*Carina moschata*) and the common iguana (*Iguana iguana*), are not covered by the obligations of the Protocol.

Section 4. Declaration.

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

Existing federal legislation provides sufficient legal authority to implement United States obligations under the Protocol. Accordingly, no new legislation is necessary in order for the United States to implement the Protocol.

Mr. REID. Mr. President, I ask unanimous consent that any statements relating to this protocol be printed in the RECORD.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

AUTHORIZING TESTIMONY AND REPRESENTATION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 323, submitted earlier today by the two leaders.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

To authorize testimony and representation in Senator MITCH MCCONNELL, et al. v. Federal Election Commission, et al., and consolidated cases.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, the U.S. District Court in the District of Columbia has consolidated for adjudication a number of challenges pending before it to the constitutionality of the Bipartisan Campaign Reform Act of 2002, which Congress enacted into law this spring.

These challenges include the lead case, which was filed by our colleague, Senator MCCONNELL. Four of our other colleagues who played major roles in the passage of this landmark law, Senators MCCAIN, FEINGOLD, SNOWE, and JEFFORDS, have intervened to join in defending the act. Recognizing the significant constitutional issues presented by the passage of this landmark legislation, the Senate acted to ensure that Senators on both sides of the constitutional questions would be able to present their views in court.

Since these lawsuits were filed shortly after the law was signed, there have been comprehensive pretrial proceedings under the supervision of the three-judge court that is handling this case. The court is aiming to decide this case as soon as possible after the law takes effect after the mid-term elections in November, and in time for the Supreme Court to hear the inevitable appeal in its forthcoming term.

As part of the proceedings in the discovery phase of the case, the Members who are participating on either side of the controversy have each been asked to give deposition testimony. Accordingly, at the Members' joint request, the enclosed resolution would authorize them to provide testimony in these cases, except, in keeping with Senate practice, when a privilege should be asserted under the speech or debate clause or when their presence is required on the Senate floor.

Finally, in order to ensure that the Senate's interests are protected in con-

nection with the discovery process in this matter, the resolution authorizes the Senate Legal Counsel to appear in this litigation as an amicus curiae in the name of the Senate to assist in the presentation of views, to the parties, and, if necessary, the court, of the applicability of the principles of legislative privilege to discovery issues arising in this litigation.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to; that the motion to reconsider be laid upon the table; and that a statement by the majority leader be printed in the RECORD.

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

The resolution (S. Res. 323) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES 323

Whereas, in the case of Senator Mitch McConnell, et al. v. Federal Election Commission, et al., No. 02-CV-582, and consolidated cases, pending in the United States District Court for the District of Columbia, notices for the taking of depositions have been served on Senator Mitch McConnell, who is a plaintiff, and Senators Olympia Snowe, James Jeffords, John McCain, and Russell Feingold, who are intervenor-defendants;

Whereas, pursuant to sections 703(c) and 706(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(c) and 288e(a), the Senate may direct its counsel to appear as amicus curiae in the name of the Senate in any legal proceeding in which the powers and responsibilities of Congress under the Constitution are placed in issue;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That, in the case of Senator Mitch McConnell, et al. v. Federal Election Commission, et al., and consolidated cases, Senators Mitch McConnell, Olympia Snowe, James Jeffords, John McCain, and Russell Feingold, and any other Senator who agrees to participate in this litigation, are authorized to testify, except concerning matters for which a privilege should be asserted and when their attendance at the Senate is necessary for the performance of their legislative duties.

SEC. 2. That the Senate Legal Counsel is authorized to appear as amicus curiae in the name of the Senate in the case of Senator Mitch McConnell, et al. v. Federal Election Commission, et al., and consolidated cases, to represent the interests of the Senate in connection with discovery sought from Senators in these cases.