

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

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on December 3, 2009, at 10 a.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate in Room 628 on December 3, 2009, at 2:15 p.m. of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on December 3, 2009, at 10 a.m., in Room SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on December 3, 2009, at 2:30 p.m.

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on National Parks be authorized to meet during the session of the Senate to conduct a hearing on December 3, 2009, at 2:30 p.m., in Room SD-366 of the Dirksen Senate Office Building.

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

SUBCOMMITTEE ON WATER AND WILDLIFE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Water and Wildlife of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on December 3, 2009, at 2 p.m. in Room 406 of the Dirksen Senate Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that Stacey Sachs, a detailee in the Senate HELP Committee Majority Health Office, be granted the privileges of the floor for the duration of H.R. 3590, the Patient Protection and Affordable Care Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that my health pol-

icy fellow, Dr. Janet Phoenix, have floor privileges throughout the consideration of this debate on H.R. 3590.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

EXECUTIVE SESSION

PROTOCOL AMENDING TAX
CONVENTION WITH FRANCE

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar No. 1, Treaty Document No. 111-4, Protocol Amending Tax Convention with France; that the treaty be considered as having advanced through the various parliamentary stages, up to and including the presentation of the resolution of ratification; that any committee understanding, declaration, or condition be agreed to as applicable; that any statements be printed in the RECORD; further, that when the vote on the resolution of ratification is taken, the motion to reconsider be considered made and laid upon the table, and the President be immediately notified of the Senate's action.

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

Mr. CASEY. Mr. President, I ask for a division vote on the resolution of ratification.

The PRESIDING OFFICER. A division vote has been requested. Senators in favor of the resolution of ratification will rise and stand until counted. Those opposed will rise and stand until counted.

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

The resolution of ratification agreed to is as follows:

Resolved, (two-third of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to a declaration and a condition.

The senate advises and consents to the ratification of the Protocol Amending the convention between the Government of the United States of America and the Government of the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed at Paris on August 31, 1994, as Amended by the Protocol signed on December 8, 2004, signed on January 13, 2009, at Paris, together with a related Memorandum of Understanding, signed January 13, 2009 (the "Protocol") (Treaty Doc. 111-4), subject to the declaration of section 2 and the condition of section 3.

Section 2. Declaration.

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

The Protocol is self-executing.

Section 3. Condition.

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

1. Not later than two years from the date on which this Protocol enters into force and prior to the first arbitration conducted pur-

suant to the binding arbitration mechanism provided for in this Protocol, the Secretary of Treasury shall transmit the text of the rules of procedure applicable to arbitration panels, including conflict of interest rules to be applied to members of the arbitration panel, to the committees on Finance and Foreign Relations of the Senate and the Joint Committee on Taxation.

2. Sixty days after a determination has been reached by an arbitration panel in the tenth arbitration proceeding conducted pursuant to this Protocol, the 2006 Protocol Amending the Convention between the United States of America and the Federal Republic of Germany for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital and to Certain Other Taxes (the "2006 German Protocol") (Treaty Doc. 109-20), the Convention between the Government of the United States of America and the Government of the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, and accompanying protocol (the "Belgium Convention") (Treaty Doc. 110-3), or the Protocol Amending the Convention between the United States of America and Canada with Respect to Taxes on Income and on Capital (the "2007 Canada Protocol") (Treaty Doc. 110-15), the Secretary of Treasury shall prepare and submit a detailed report to the Joint Committee on Taxation and the Committee on Finance of the Senate, subject to law relating to taxpayer confidentiality, regarding the operation and application of the arbitration mechanism contained in the aforementioned treaties. The report shall include the following information:

I. The aggregate number, for each treaty, of cases pending on the respective dates of entry into force of this Protocol, the 2006 German Protocol, the Belgium Convention, and the 2007 Canada Protocol, along with the following additional information regarding these cases:

- a. The number of such cases by treaty article(s) at issue;
- b. The number of such cases that have been resolved by the competent authorities through a mutual agreement as of the date of the report; and
- c. The number of such cases for which arbitration proceedings have commenced as of the date of the report.

II. A list of every case presented to the competent authorities after the entry into force of this Protocol, the 2006 German Protocol, the Belgium Convention, and the 2007 Canada Protocol, with the following information regarding each case:

- a. The commencement date of the case for purposes of determining when arbitration is available;
- b. Whether the adjustment triggering the case, if any, was made by the United States or the relevant treaty partner;
- c. Which treaty the case relates to;
- d. The treaty article(s) at issue in the case;
- e. The date the case was resolved by the competent authorities through a mutual agreement, if so resolved;
- f. The date on which an arbitration proceeding commenced, if an arbitration proceeding commenced; and
- g. The date on which a determination was reached by the arbitration panel, if a determination was reached, and an indication as to whether the panel found in favor of the United States or the relevant treaty partner.

III. With respect to each dispute submitted to arbitration and for which a determination was reached by the arbitration panel pursuant to this Protocol, the 2006 German Protocol, the Belgium Convention, and the 2007 Canada Protocol, the following information shall be included:

a. In the case of a dispute submitted under this Protocol, an indication as to whether the presenter of the case to the competent authority of a Contracting State submitted a Position Paper for consideration by the arbitration panel;

b. An indication as to whether the determination of the arbitration panel was accepted by each concerned person;

c. The amount of income, expense, or taxation at issue in the case as determined by reference to the filings that were sufficient to set the commencement date of the case for purposes of determining when arbitration is available; and

d. The proposed resolutions (income, expense, or taxation) submitted by each competent authority to the arbitration panel.

3. The Secretary of Treasury shall, in addition, prepare and submit the detailed report described in paragraph (2) on March 1 of the year following the year in which the first report is submitted to the Joint Committee on Taxation and the Committee on Finance of the Senate, and on an annual basis thereafter for a period of five years. In each such report, disputes that were resolved, either by a mutual agreement between the relevant competent authorities or by a determination of an arbitration panel, and noted as such in prior reports may be omitted.

4. The reporting requirements referred to in paragraphs (2) and (3) supersede the reporting requirements contained in paragraphs (2) and (3) of Section 3 of the 2 resolution of advice and consent to the 2007 Canada Protocol, approved by the Senate on September 23, 2008.

EXECUTIVE CALENDAR

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate consider en bloc Executive Calendar Nos. 550, 555, 559, 562, 565 to and including 577, and all nominations on the Secretary's desk in the Air Force, Army, and Navy; that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc; that no further motions be in order; that any statements relating to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate resume legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF LABOR

David Morris Michaels, of Maryland, to be an Assistant Secretary of Labor.

EXECUTIVE OFFICE OF THE PRESIDENT

Victoria Angelica Espinel, of the District of Columbia, to be Intellectual Property Enforcement Coordinator, Executive Office of the President.

UNITED STATES POSTAL SERVICE

Alan C. Kessler, of Pennsylvania, to be a Governor of the United States Postal Service for a term expiring December 8, 2015.

SELECTIVE SERVICE SYSTEM

Lawrence G. Romo, of Texas, to be Director of the Selective Service.

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Kurt A. Cichowski

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Janet C. Wolfenbarger

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., sections 12203 and 12212:

To be brigadier general

Col. Frank J. Sullivan

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Guy C. Swan, III

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Brig. Gen. William N. Phillips

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Richard P. Formica

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Michael L. Oates

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Charles J. Barr

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Sean R. Filipowski

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. John T. Blake

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Bernard J. McCullough, III

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Michael A. LeFever

The following named officer for appointment in the United States Navy to the grade

indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. William R. Burke

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN982 AIR FORCE nominations (34) beginning JEFFREY K. ATKISSON, and ending ROGER L. WILLIS JR., which nominations were received by the Senate and appeared in the Congressional Record of September 21, 2009.

PN983 AIR FORCE nominations (1201) beginning CHRISTOPHER C. ABATE, and ending CHRISTOPHER J. ZUHLKE, which nominations were received by the Senate and appeared in the Congressional Record of September 21, 2009.

PN1190 AIR FORCE nomination of Elisha T. Powell IV, which was received by the Senate and appeared in the Congressional Record of November 17, 2009.

IN THE ARMY

PN1113 ARMY nomination of James C. Lewis, which was received by the Senate and appeared in the Congressional Record of October 22, 2009.

PN1122 ARMY nominations (4) beginning ANULI L. ANYACHEBELU, and ending JOHN M. STANG, which nominations were received by the Senate and appeared in the Congressional Record of October 28, 2009.

PN1123 ARMY nominations (7) beginning ANTHONY C. BOSTICK, and ending JOSEPH G. WILLIAMSON, which nominations were received by the Senate and appeared in the Congressional Record of October 28, 2009.

PN1124 ARMY nominations (21) beginning RISA D. BATOR, and ending THOMAS R. YARBER, which nominations were received by the Senate and appeared in the Congressional Record of October 28, 2009.

PN1125 ARMY nominations (37) beginning JAMES R. ANDREWS, and ending SHANDA M. ZUGNER, which nominations were received by the Senate and appeared in the Congressional Record of October 28, 2009.

PN1147 ARMY nomination of Edwin S. Fuller, which was received by the Senate and appeared in the Congressional Record of November 4, 2009.

PN1148 ARMY nomination of Robert J. Schultz, which was received by the Senate and appeared in the Congressional Record of November 4, 2009.

PN1149 ARMY nominations (2) beginning CLEMENT D. KETCHUM, and ending JOHN LOPEZ, which nominations were received by the Senate and appeared in the Congressional Record of November 4, 2009.

PN1150 ARMY nominations (4) beginning CAREY L. MITCHELL, and ending MELISSA F. TUCKER, which nominations were received by the Senate and appeared in the Congressional Record of November 4, 2009.

PN1151 ARMY nominations (10) beginning CRAIG R. BOTTONI, and ending AKASH S. TAGGARSE, which nominations were received by the Senate and appeared in the Congressional Record of November 4, 2009.

PN1169 ARMY nomination of Leon L. Robert, which was received by the Senate and appeared in the Congressional Record of November 16, 2009.

PN1170 ARMY nomination of Michael C. Metcalf, which was received by the Senate and appeared in the Congressional Record of November 16, 2009.

PN1171 ARMY nominations (2) beginning TODD E. FARMER, and ending STEVEN R. WATT, which nominations were received by the Senate and appeared in the Congressional Record of November 16, 2009.

PN1172 ARMY nominations (12) beginning MARK D. CROWLEY, and ending MICHAEL