

**Resolution of Advice and Consent to Ratification
of the Protocol Amending the Convention be-
tween the United States of America and the
Kingdom of Spain for the Avoidance of Dou-
ble Taxation and the Prevention of Fiscal
Evasion With Respect to Taxes on Income**

1 *Resolved, (two-thirds of the Senators present concur-*
2 *ring therein),*

3 **SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO A**
4 **DECLARATION.**

5 The Senate advises and consents to the ratification
6 of the Protocol Amending the Convention between the
7 United States of America and the Kingdom of Spain for
8 the Avoidance of Double Taxation and the Prevention of
9 Fiscal Evasion With Respect to Taxes on Income and its
10 Protocol, signed at Madrid on February 22, 1990, and a
11 related Memorandum of Understanding signed on Janu-
12 ary 14, 2013, at Madrid, together with correcting notes
13 dated July 23, 2013, and January 31, 2014 (the “Pro-
14 tocol”) (Treaty Doc. 113–4), subject to the declaration of
15 section 2 and the conditions of section 3.

1 **SEC. 2. DECLARATION.**

2 The advice and consent of the Senate under section
3 1 is subject to the following declaration: The Protocol is
4 self-executing.

5 **SEC. 3. CONDITIONS.**

6 The advice and consent of the Senate under section
7 1 is subject to the following conditions:

8 (1) Not later than 2 years after the Protocol
9 enters into force and prior to the first arbitration
10 conducted pursuant to the binding arbitration mech-
11 anism provided for in the Protocol, the Secretary of
12 the Treasury shall transmit to the Committees on
13 Finance and Foreign Relations of the Senate and
14 the Joint Committee on Taxation the text of the
15 rules of procedure applicable to arbitration panels,
16 including conflict of interest rules to be applied to
17 members of the arbitration panel.

18 (2)(A) Not later than 60 days after a deter-
19 mination has been reached by an arbitration panel
20 in the tenth arbitration proceeding conducted pursu-
21 ant to the Protocol or any of the treaties described
22 in subparagraph (B), the Secretary of the Treasury
23 shall prepare and submit to the Joint Committee on
24 Taxation and the Committee on Finance of the Sen-
25 ate, subject to laws relating to taxpayer confiden-
26 tiality, a detailed report regarding the operation and

1 application of the arbitration mechanism contained
2 in the Protocol and such treaties. The report shall
3 include the following information:

4 (i) For the Protocol and each such treaty,
5 the aggregate number of cases pending on the
6 respective dates of entry into force of the Pro-
7 tocol and each treaty, including the following
8 information:

9 (I) The number of such cases by trea-
10 ty article or articles at issue.

11 (II) The number of such cases that
12 have been resolved by the competent au-
13 thorities through a mutual agreement as of
14 the date of the report.

15 (III) The number of such cases for
16 which arbitration proceedings have com-
17 menced as of the date of the report.

18 (ii) A list of every case presented to the
19 competent authorities after the entry into force
20 of the Protocol and each such treaty, including
21 the following information regarding each case:

22 (I) The commencement date of the
23 case for purposes of determining when ar-
24 bitration is available.

1 (II) Whether the adjustment trig-
2 gering the case, if any, was made by the
3 United States or the relevant treaty part-
4 ner.

5 (III) Which treaty the case relates to.

6 (IV) The treaty article or articles at
7 issue in the case.

8 (V) The date the case was resolved by
9 the competent authorities through a mu-
10 tual agreement, if so resolved.

11 (VI) The date on which an arbitration
12 proceeding commenced, if an arbitration
13 proceeding commenced.

14 (VII) The date on which a determina-
15 tion was reached by the arbitration panel,
16 if a determination was reached, and an in-
17 dication as to whether the panel found in
18 favor of the United States or the relevant
19 treaty partner.

20 (iii) With respect to each dispute sub-
21 mitted to arbitration and for which a deter-
22 mination was reached by the arbitration panel
23 pursuant to the Protocol or any such treaty, the
24 following information:

1 (I) In the case of a dispute submitted
2 under the Protocol, an indication as to
3 whether the presenter of the case to the
4 competent authority of a Contracting State
5 submitted a Position Paper for consider-
6 ation by the arbitration panel.

7 (II) An indication as to whether the
8 determination of the arbitration panel was
9 accepted by each concerned person.

10 (III) The amount of income, expense,
11 or taxation at issue in the case as deter-
12 mined by reference to the filings that were
13 sufficient to set the commencement date of
14 the case for purposes of determining when
15 arbitration is available.

16 (IV) The proposed resolutions (in-
17 come, expense, or taxation) submitted by
18 each competent authority to the arbitration
19 panel.

20 (B) The treaties referred to in subparagraph
21 (A) are—

22 (i) the 2006 Protocol Amending the Con-
23 vention between the United States of America
24 and the Federal Republic of Germany for the
25 Avoidance of Double Taxation and the Preven-

1 tion of Fiscal Evasion with Respect to Taxes on
2 Income and Capital and to Certain Other
3 Taxes, done at Berlin June 1, 2006 (Treaty
4 Doc. 109–20) (the “2006 German Protocol”);

5 (ii) the Convention between the Govern-
6 ment of the United States of America and the
7 Government of the Kingdom of Belgium for the
8 Avoidance of Double Taxation and the Preven-
9 tion of Fiscal Evasion with Respect to Taxes on
10 Income, and accompanying protocol, done at
11 Brussels July 9, 1970 (the “Belgium Conven-
12 tion”) (Treaty Doc. 110–3);

13 (iii) the Protocol Amending the Convention
14 between the United States of America and Can-
15 ada with Respect to Taxes on Income and on
16 Capital, signed at Washington September 26,
17 1980 (the “2007 Canada Protocol”) (Treaty
18 Doc. 110–15); or

19 (iv) the Protocol Amending the Convention
20 between the Government of the United States
21 of America and the Government of the French
22 Republic for the Avoidance of Double Taxation
23 and the Prevention of Fiscal Evasion with Re-
24 spect to Taxes on Income and Capital, signed

1 at Paris August 31, 1994 (the “2009 France
2 Protocol”) (Treaty Doc. 111–4).

3 (3) The Secretary of the Treasury shall prepare
4 and submit the detailed report required under para-
5 graph (2) on March 1 of the year following the year
6 in which the first report is submitted to the Joint
7 Committee on Taxation and the Committee on Fi-
8 nance of the Senate, and on an annual basis there-
9 after for a period of five years. In each such report,
10 disputes that were resolved, either by a mutual
11 agreement between the relevant competent authori-
12 ties or by a determination of an arbitration panel,
13 and noted as such in prior reports may be omitted.

14 (4) The reporting requirements referred to in
15 paragraphs (2) and (3) supersede the reporting re-
16 quirements contained in paragraphs (2) and (3) of
17 section 3 of the resolution of advice and consent to
18 ratification of the 2009 France Protocol, approved
19 by the Senate on December 3, 2009.