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CONVENTION FOR THE STRENGTHENING OF THE INTER-AMERICAN TROPICAL TUNA COMMISSION ESTABLISHED BY THE 1949 CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF COSTA RICA (TREATY DOC. 109-2)

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NOVEMBER 14, 2005.—Ordered to be printed

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Mr. LUGAR, from the Committee on Foreign Relations,  
submitted the following

REPORT

[To accompany Treaty Doc. 109-2]

The Committee on Foreign Relations, to which was referred the Convention for the Strengthening of the Inter-American Tropical Tuna Commission Established by the 1949 Convention between the United States of America and the Republic of Costa Rica, with Annexes (Treaty Doc 109-2) (hereafter the “Antigua Convention”), which was adopted on June 27, 2003, in Antigua, Guatemala by the parties to the 1949 Convention and which was signed by the United States on November 14, 2003, having considered the same, reports favorably thereon and recommends that the Senate give its advice and consent to ratification thereof, as set forth in this report and accompanying resolution of advice and consent.

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I. PURPOSE

The Antigua Convention sets forth legal obligations and establishes cooperative mechanisms for the long-term conservation and sustainable use of highly migratory fish stocks (such as tuna and

swordfish) that range across the high seas of the Eastern Pacific Ocean as well as through waters under the fishery jurisdiction of numerous coastal nations. Upon its entry into force the Antigua Convention will replace the original 1949 Convention establishing the Inter-American Tropical Tuna Commission (“IATTC”). The Antigua Convention reflects changes in international measures governing living marine resources since the adoption of the 1949 Convention and brings the IATTC current with respect to internationally-accepted law on the conservation and management of oceanic resources, including a mandate to take a more ecosystem-based approach to management.

## II. BACKGROUND

Interest in negotiating revisions to the 1949 Convention began in 1995, in response to concerns that the 1949 Convention should be updated to achieve consistency with more recent international fishery management standards. The new Convention was adopted on June 27, 2003, in Antigua, Guatemala, by the parties to the 1949 Convention. The United States signed the Antigua Convention on November 14, 2003, the day it was opened for signature. The Antigua Convention modifies the original 1949 Convention to augment the IATTC’s ability to adopt measures to reduce catches of juvenile tunas and to avoid, reduce and minimize the bycatch of juvenile tunas and non-target species. The Antigua Convention incorporates elements of the existing international legal regime governing living marine resources, which has developed considerably since 1949, strengthens compliance and enforcement provisions, and enhances science, data collection, and monitoring efforts.

The Convention provides for participation in the IATTC by non-state actors, such as the European Community and Taiwan. Of 22 entities eligible to sign the Convention, 13 have done so, including the European Community. Taiwan has also taken the first of two steps necessary for it to participate in the IATTC. To date, Mexico and El Salvador have ratified the Convention, which will enter into force 15 months following the date on which seven parties to the 1949 Convention have given their consent to be bound.

The substantive provisions of the Antigua Convention are fully consistent with, and incorporate many provisions of, other fisheries conservation and management agreements accepted by the United States, including the 1995 FAO Code of Conduct for Responsible Fisheries and the 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels. The Convention is also consistent with, and does not affect, the 1998 Agreement on the International Dolphin Conservation Program, and the implementation thereof. The landed value of the U.S. tuna harvest taken from the IATTC Convention area in 2004 was approximately \$40 million.

## III. SUMMARY OF KEY PROVISIONS OF THE AGREEMENT

A detailed article-by-article discussion of the Agreement may be found in the Letter of Submittal from the Secretary of State to the President, which is reprinted in full in Treaty Document 109–2. A summary of the key provisions of the Agreement is set forth below.

Article I(1) defines the “fish stocks covered by this Convention” to include all species of fish taken by vessels fishing for tunas and tuna-like species in the Convention Area. This is understood to mean both target fish stocks such as yellowfin, skipjack, and bigeye tunas, as well as non-target species such as sharks, mahi-mahi and numerous other species taken in the tuna fisheries in the Eastern Pacific Ocean.

Article III defines the geographic scope of the Antigua Convention as the area bordered on the east by the coastline of the Americas, to the south by the 50°S parallel, to the west by the 150°W meridian, and to the north by the 50°N parallel, ensuring full coverage for certain temperate species such as albacore and bluefin tuna. The Antigua Convention area overlaps with areas governed by two other regional fisheries management organizations. The area of application of the Agreement on the International Dolphin Conservation Program (AIDCP) is located entirely within the confines of the Antigua Convention area. The Antigua Convention area also overlaps the area of application of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean between the 50°S and the 4°S parallels, and between the 150°W and the 130°W meridians. The United States is a party to the former agreement, and the Committee has recommended that the Senate advise and consent to the ratification of the latter. Recognizing these overlaps, Article XXIV(3) of the Antigua Convention requires the IATTC to cooperate with these other regional fisheries management organizations to either ensure that the objectives of the Convention are reached and that the measures adopted by the IATTC and these other organizations are harmonized and compatible, or to avoid taking measures with regard to species in or migrating through the areas of overlap that are regulated by the other organizations.

Articles VI and XXXI provide for the continuity of the IATTC. Under Article VI(1), IATTC members agree to maintain and strengthen the IATTC established by the 1949 Convention. In particular, Article XXXI(4) provides that, upon entry into force of the Antigua Convention, all decisions of the IATTC adopted under the 1949 Convention remain in force until they expire, are terminated by a consensus decision of the Commission, or are replaced by another decision adopted pursuant to the Convention. Further, in accordance with Article XXXI(5), parties to the 1949 Convention that have not yet become party to the Antigua Convention will be deemed to remain members of the IATTC under the Antigua Convention unless they elect otherwise in writing.

Article VII of the Antigua Convention spells out the functions of the IATTC. It mandates that conservation and management measures adopted by the Commission are to be based on the best scientific information available and designed to ensure the long-term conservation and sustainable use of the fish stocks covered by the Convention. Provisions are included with respect to, *inter alia*, overfishing and stocks that are overfished, fishing capacity, minimizing waste and discards, and allocations of fishing opportunities. It also provides for conservation and management measures for associated and dependent species and species belonging to the same ecosystem. In addition to non-target fish stocks, Article VII (1)(f)

expands the scope of the 1949 Convention by authorizing the Commission to take action with respect to such species as sea turtles and sea birds. Article VII(1)(i) also broadens the mandate of the IATTC contained in the 1949 Convention by requiring development of a “comprehensive program for data collection and monitoring.”

Article XI establishes a Scientific Advisory Committee, comprised of representatives of each member of the Commission, to review the scientific work of the Commission staff and provide such advice and recommendations as may be appropriate to enhance the quality of the Commission’s scientific work, thereby formalizing the current practice of the Commission.

The Antigua Convention also strengthens the compliance and enforcement capabilities of the IATTC. For example, Article X requires the establishment of a committee to review implementation of measures adopted by the Commission. This committee will review and monitor compliance with agreed measures and report to the Commission on the results of such reviews. Each member of the Commission is required to provide the information necessary to carry out this review and to ensure that vessels operating under their jurisdiction comply with agreed rules and measures set forth in Article XVIII.

The Antigua Convention provides for participation by the European Community and Taiwan in the work of the Commission, thus ensuring that vessels operating under the jurisdiction of these entities would be bound by the conservation and management measures adopted by the Commission. Under Article XXVII, the European Community, as a “regional economic integration organization,” may become a party to the Convention; Article XXVIII permits Taiwan, as the “fishing entity” of Chinese Taipei, to become a member of the Commission, and commit to abide by the terms of the Convention, through a separate instrument to this effect.

#### IV. IMPLEMENTING LEGISLATION

Legislation will be needed to implement this Agreement. The executive branch has indicated that it will soon provide proposed legislation to the appropriate congressional committees.

#### V. COMMITTEE ACTION

The Committee on Foreign Relations held a public hearing on the Agreement on September 29, 2005, at which it heard testimony from a representative of the Department of State. (A hearing print of this session will be forthcoming.) On November 1, 2005, the committee considered the Agreement and ordered it favorably reported by voice vote, with the recommendation that the Senate give its advice and consent to its ratification.

#### VI. COMMITTEE RECOMMENDATION AND COMMENTS

The Committee on Foreign Relations believes that the proposed Agreement is in the interest of the United States and urges the Senate to act promptly to give advice and consent to its ratification. The committee believes the Convention is of direct and important interest to United States fishing concerns, including the U.S. tuna industry, as well as U.S. conservation organizations, U.S. con-

sumers, and those who reside in U.S. states bordering the Convention area, all of whom have an important stake in the health of the oceans and the fisheries resources protected by the Convention.

VII. TEXT OF RESOLUTION OF ADVICE  
AND CONSENT TO RATIFICATION

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

The Senate advises and consents to the ratification of the Convention for the Strengthening of the Inter-American Tropical Tuna Commission Established by the 1949 Convention Between the United States of America and the Republic of Costa Rica, with Annexes, adopted on June 27, 2003, in Antigua, Guatemala, and signed by the United States on November 14, 2003 (Treaty Doc. 109-2).