U.S. TREASURY DEPARTMENT OFFICE OF PUBLIC AFFAIRS

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TESTIMONY OF TREASURY DEPUTY ASSISTANT SECRETARY FOR INTERNATIONAL TAX AFFAIRS MICHAEL F. MUNDACA BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS ON PENDING INCOME TAX TREATIES

Washington, DC—Mr. Chairman, Ranking Member Lugar, and distinguished Members of the Committee, I appreciate the opportunity to appear today to recommend, on behalf of the Administration, favorable action on three tax treaties pending before this Committee. We appreciate the Committee's interest in these treaties and in the U.S. tax treaty network overall.

This Administration is committed to eliminating barriers to cross-border trade and investment, and tax treaties are the primary means for eliminating tax barriers to such trade and investment. Tax treaties provide greater certainty to taxpayers regarding their potential liability to tax in foreign jurisdictions; they allocate taxing rights between the two jurisdictions and include other provisions that reduce the risk of double taxation, including provisions that reduce gross-basis withholding taxes; and they ensure that taxpayers are not subject to discriminatory taxation in the foreign jurisdiction.

This Administration is also committed to preventing tax evasion, and our tax treaties play an important role in this area as well. A key element of U.S. tax treaties is exchange of information between tax authorities. Under tax treaties, one country may request from the other such information as may be relevant for the proper administration of the first country's tax laws. Because access to information from other countries is critically important to the full and fair enforcement of U.S. tax laws, information exchange is a top priority for the United States in its tax treaty program.

A tax treaty reflects a balance of benefits that is agreed to when the treaty is negotiated. In some cases, changes in law or policy in one or both of the treaty partners make the partners more willing to increase the benefits beyond those provided by the treaty; in these cases, negotiation of a revised treaty may be very beneficial. In other cases, developments in one or both countries, or international developments more generally, may make is desirable to revisit a treaty to prevent exploitation of treaty provisions and eliminate unintended and inappropriate consequences in the application of the treaty; in these cases, it may be expedient to modify the agreement. Both in setting our overall negotiation priorities and in negotiating individual treaties, our focus is on ensuring that our tax treaty network fulfills its goals of facilitating cross border trade and investment and preventing fiscal evasion.

The treaties before the Committee today with Canada, Iceland, and Bulgaria serve to further the goals of our tax treaty network. The treaties with Canada and Iceland would modify existing tax treaty relationships. The tax treaty with Bulgaria would be the first between our two countries. We urge the Committee and the Senate to take prompt and favorable action on all of these agreements.

Before discussing the pending treaties in more detail, I would like to address some more general tax treaty matters, to provide background for the Committee's and the Senate's consideration of the pending tax treaties.

Purposes and Benefits of Tax Treaties

Tax treaties set out clear ground rules that govern tax matters relating to trade and investment between the two countries.

One of the primary functions of tax treaties is to provide certainty to taxpayers regarding the threshold question with respect to international taxation: whether a taxpayer's cross-border activities will subject it to taxation by two or more countries. Tax treaties answer this question by establishing the minimum level of economic activity that must be engaged in within a country by a resident of the other before the first country may tax any resulting business profits. In general terms, tax treaties provide that if branch operations in a foreign country have sufficient substance and continuity, the country where those activities occur will have primary (but not exclusive) jurisdiction to tax. In other cases, where the operations in the foreign country are relatively minor, the home country retains the sole jurisdiction to tax.

Another primary function is relief of double taxation. Tax treaties protect taxpayers from potential double taxation primarily through the allocation of taxing rights between the two countries. This allocation takes several forms. First, the treaty has a mechanism for resolving the issue of residence in the case of a taxpayer that otherwise would be considered to be a resident of both countries. Second, with respect to each category of income, the treaty assigns the primary right to tax to one country, usually (but not always) the country in which the income arises (the "source" country), and the residual right to tax to the other country, usually (but not always) the country of residence of the taxpayer (the "residence" country). Third, the treaty provides rules for determining which country will be treated as the source country for each category of income. Finally, the treaty establishes the obligation of the residence country to eliminate double taxation that otherwise would arise from the exercise of concurrent taxing jurisdiction by the two countries.

In addition to reducing potential double taxation, tax treaties also reduce potential "excessive" taxation by reducing withholding taxes that are imposed at source. Under U.S. law, payments to non-U.S. persons of dividends and royalties as well as certain payments of interest are subject to withholding tax equal to 30 percent of the gross amount paid. Most of our trading partners impose similar levels of withholding tax on these types of income. This tax is imposed on a gross, rather than net, amount. Because the withholding tax does not take into account expenses incurred in generating the income, the taxpayer that bears the burden of withholding tax frequently will be subject to an effective rate of tax that is significantly higher than the tax rate that would be applicable to net income in either the source or residence country. The taxpayer may be viewed, therefore, as suffering excessive taxation. Tax treaties alleviate this burden by setting maximum levels for the withholding tax that the treaty partners may impose on these types of income or by providing for exclusive residence-country taxation of such income through the elimination of source-country withholding tax. Because of the excessive taxation that withholding taxes can represent, the United States seeks to include in tax treaties provisions that substantially reduce or eliminate source-country withholding taxes.

As a complement to these substantive rules regarding allocation of taxing rights, tax treaties provide a mechanism for dealing with disputes between the countries regarding the treaties, including questions regarding the proper application of the treaties that arise after the treaty enters into force. To resolve disputes, designated tax authorities of the two governments – known as the "competent authorities" in tax treaty parlance – are to consult and to endeavor to reach agreement. Under many such agreements, the competent authorities agree to allocate a taxpayer's income between the two taxing jurisdictions on a consistent basis, thereby preventing the double taxation that might otherwise result. The U.S. competent authority under our tax treaties is the Secretary of the Treasury. That function has been delegated to the Deputy Commissioner (International) of the Large and Mid-Size Business Division of the Internal Revenue Service.

Tax treaties also include provisions intended to ensure that cross-border investors do not suffer discrimination in the application of the tax laws of the other country. This is similar to a basic investor protection provided in other types of agreements, but the non-discrimination provisions of tax treaties are specifically tailored to tax matters and, therefore, are the most effective means of addressing potential discrimination in the tax context. The relevant tax treaty provisions explicitly prohibit types of discriminatory measures that once were common in some tax systems. At the same time, tax treaties clarify the manner in which possible discrimination is to be tested in the tax context.

In addition to these core provisions, tax treaties include provisions dealing with more specialized situations, such as rules coordinating the pension rules of the tax systems of the two countries or addressing the treatment of Social Security benefits and alimony and child-support payments in the cross-border context. These provisions are becoming increasingly important as more individuals move between countries or otherwise are engaged in cross-border activities. While these matters may not involve substantial tax revenue from the perspective of the two governments, rules providing clear and appropriate treatment are very important to the affected taxpayers.

Tax treaties also include provisions related to tax administration. A key element of U.S. tax treaties is the provision addressing the exchange of information between the tax authorities. Under tax treaties, the competent authority of one country may request from the other competent authority such information as may be relevant for the proper administration of the first country's tax laws; the information provided pursuant to the request is subject to the strict confidentiality protections that apply to taxpayer information. Because access to information from other countries is critically important to the full and fair enforcement of the U.S. tax laws, information exchange is a priority for the United States in its tax treaty program. If a country has bank-secrecy rules that would operate to prevent or seriously inhibit the appropriate exchange of information under a tax treaty, we will not enter into a new tax treaty relationship with that country. Indeed, the need for appropriate information exchange provisions is one of the treaty matters that we consider non-negotiable.

Tax Treaty Negotiating Priorities and Process

The United States has a network of 58 income tax treaties covering 66 countries. This network covers the vast majority of foreign trade and investment of U.S. businesses and investors. In establishing our negotiating priorities, our primary objective is the conclusion of tax treaties that will provide the greatest benefit to the United States and to U.S. taxpayers. We communicate regularly with the U.S. business community and the Internal Revenue Service, seeking input regarding the areas in which treaty network expansion and improvement efforts should be focused and seeking information regarding practical problems encountered under particular treaties and particular tax regimes.

The primary constraint on the size of our tax treaty network may be the complexity of the negotiations themselves. Ensuring that the various functions to be performed by tax treaties are all properly taken into account makes the negotiation process exacting and time consuming.

Numerous features of a country's particular tax legislation and its interaction with U.S. domestic tax rules must be considered in negotiating a treaty or protocol. Examples include whether the country eliminates double taxation through an exemption system or a credit system, the country's treatment of partnerships and other transparent entities, and how the country taxes contributions to pension funds, earnings of the funds, and distributions from the funds.

Moreover, a country's fundamental tax policy choices are reflected not only in its tax legislation but also in its tax treaty positions. These choices differ significantly from country to country, with substantial variation even across countries that seem to have quite similar economic profiles. A treaty negotiation must take into account all of these aspects of the particular treaty partner's tax system and treaty policies to arrive at an agreement that accomplishes the United States' tax treaty objectives.

Obtaining the agreement of our treaty partners on provisions of importance to the United States sometimes requires concessions on our part. Similarly, the other country sometimes must make concessions to obtain our agreement on matters that are critical to it. Each treaty that we present to the Senate represents not only the best deal that we believe can be achieved with the particular country, but also constitutes an agreement that we believe is in the best interests of the United States.

In some situations, the right result may be no tax treaty at all. Prospective treaty partners must evidence a clear understanding of what their obligations would be under the treaty, especially those with respect to information exchange, and must demonstrate that they would be able to fulfill those obligations. Sometimes a tax treaty may not be appropriate because a potential treaty partner is unable to do so.

In other cases, a tax treaty may be inappropriate because the potential treaty partner is not willing to agree to particular treaty provisions that are needed to address real tax problems that have been identified by U.S. businesses operating there or because the potential treaty partner insists on provisions the United States will not agree to, such as providing a U.S. tax credit for investment in the foreign country (so-called "tax sparing"). With other countries there simply may not be the type of cross-border tax issues that are best resolved by treaty. For example, if a country does not impose significant income taxes, there is little possibility of double taxation of cross-border income, and an agreement that is focused on the exchange of tax information ("tax information exchange agreements" or TIEAs) may be the most appropriate agreement.

A high priority for improving our overall treaty network is continued focus on prevention of "treaty shopping." The U.S. commitment to including comprehensive limitation on benefits provisions is one of the keys to improving our overall treaty network. Our tax treaties are intended to provide benefits to residents of the United States and residents of the particular treaty partner on a reciprocal basis. The reductions in source-country taxes agreed to in a particular treaty mean that U.S. persons pay less tax to that country on income from their investments there and residents of that country pay less U.S. tax on income from their investments in the United States. Those reductions and benefits are not intended to flow to residents of a third country. If third-country residents are able to exploit one of our tax treaties to secure reductions in U.S. tax, such as through the use of an entity resident in a treaty country that merely holds passive U.S. assets, the benefits would flow only in one direction as third-country residents would enjoy U.S. tax reductions for their U.S. investments, but U.S. residents would not enjoy reciprocal tax reductions for their investments in that third country. Moreover, such third-country residents may be securing benefits that are not appropriate in the context of the interaction between their home country's tax systems and policies and those of the United States. This use of tax treaties is not consistent with the balance of the deal negotiated in the underlying tax treaty. Preventing this exploitation of our tax treaties is critical to ensuring that the third country will sit down at the table with us to negotiate on a reciprocal basis, so we can secure for U.S. persons the benefits of reductions in source-country tax on their investments in that country.

Consideration of Arbitration

Tax treaties cannot facilitate cross-border investment and provide a more stable investment environment unless the treaty is effectively implemented by the tax administrations of the two countries. Under our tax treaties, when a U.S. taxpayer becomes concerned about implementation of the treaty, the taxpayer can bring the matter to the U.S. competent authority who will seek to resolve the matter with the competent authority of the treaty partner. The competent authorities will work cooperatively to resolve genuine disputes as to the appropriate application of the treaty.

The U.S. competent authority has a good track record in resolving disputes. Even in the most cooperative bilateral relationships, however, there will be instances in which the competent authorities will not be able to reach a timely and satisfactory resolution. Moreover, as the number and complexity of cross-border transactions increases, so does the number and complexity of cross-border tax disputes. Accordingly, we have considered ways to equip the U.S. competent authority with additional tools to resolve disputes promptly, including the possible use of arbitration in the competent authority mutual agreement process.

The first U.S. tax agreement that contemplated arbitration was the U.S.-Germany income tax treaty signed in 1989. Tax treaties with several other countries, including Canada, Mexico, and the Netherlands, incorporate authority for establishing voluntary binding arbitration procedures based on the provision in the prior U.S.-Germany treaty. Although we believe that the presence of these voluntary arbitration provisions may have provided some limited assistance in reaching mutual agreements, it has become clear that the ability to enter into voluntary arbitration does not provide sufficient incentive to resolve problem cases in a timely fashion.

Over the past few years, we have carefully considered and studied various types of mandatory arbitration procedures that could be used as part of the competent authority mutual agreement process. In particular, we examined the experience of countries that adopted mandatory binding arbitration provisions with respect to tax matters. Many of them report that the prospect of impending mandatory arbitration creates a significant incentive to compromise before commencement of the process. Based on our review of the U.S. experience with arbitration in other areas of the law, the success of other countries with arbitration in the tax area, and the overwhelming support of the business community, we concluded that mandatory binding arbitration as the final step in the competent authority process can be an effective and appropriate tool to facilitate mutual agreement under U.S. tax treaties.

One of the treaties before the Committee, the Protocol with Canada, includes a type of mandatory arbitration provision negotiated contemporaneously with, and very similar to, a provision in our current, recently ratified treaties with Germany and Belgium, which this Committee and the Senate considered last year.

In the typical competent authority mutual agreement process, a U.S. taxpayer presents its problem to the U.S. competent authority and participates in formulating the position the U.S. competent authority will take in discussions with the treaty partner. Under the arbitration provision proposed in the Canadian protocol, as in the similar provisions that are now part of our treaties with Germany and Belgium, if the competent authorities cannot resolve the issue within two years, the competent authorities must present the issue to an arbitration board for resolution, unless both competent authorities agree that the case is not suitable for arbitration. The arbitration board must resolve the issue by choosing the position of one of the competent authorities. That position is adopted as the agreement of the competent authorities and is treated like any other mutual agreement (*i.e.*, one that has been negotiated by the competent authorities) under the treaty.

Because the arbitration board can only choose between the positions of each competent authority, the expectation is that the differences between the positions of the competent authorities will tend to narrow as the case moves closer to arbitration. In fact, if the arbitration provision is successful, difficult issues will be resolved without resort to arbitration. Thus, it is our expectation that these arbitration provisions will be rarely utilized, but that their presence will encourage the competent authorities to take approaches to their negotiations that result in mutually agreed conclusions in the first instance.

The arbitration process proposed in the agreement with Canada, consistent with the German and Belgian provisions, is mandatory and binding with respect to the competent authorities. However, consistent with the negotiation process under the mutual agreement procedure, the taxpayer can terminate the arbitration at any time by withdrawing its request for competent authority assistance. Moreover, the taxpayer retains the right to litigate the matter (in the United States or the treaty partner) in lieu of accepting the result of the arbitration, just as it would be entitled to litigate in lieu of accepting the result of a negotiation under the mutual agreement procedure.

Arbitration is a growing and developing field, and there are many forms of arbitration from which to choose. We intend to continue to study other arbitration provisions and to monitor the performance of the provisions in the agreements with Belgium and Germany, as well as the performance of the provision in the agreement with Canada, if ratified. We look forward to continuing to work with the Committee to make arbitration an effective tool in promoting the fair and expeditious resolution of treaty disputes. The Committee’s comments made with respect to the German and Belgian arbitration provisions have been very helpful and will inform future negotiations of arbitration provisions.

Discussion of Proposed Treaties

I now would like to discuss in more detail the three treaties that have been transmitted for the Senate’s consideration. We have submitted a Technical Explanation of each treaty that contains detailed discussions of the provisions of each treaty. These Technical Explanations serve as an official guide to each treaty. The Technical Explanation to the Protocol with Canada was reviewed by Canada, and Canada subscribes to its contents, as will be confirmed by a press release from the Canadian Ministry of Finance.

Canada

The proposed Protocol with Canada was signed in Chelsea on September 21, 2007, and is the fifth protocol of amendment to the current Convention negotiated in 1980 and amended by prior protocols in 1983, 1984, 1995, and 1997. The most significant provisions in this treaty relate to the taxation of cross-border interest, the treatment of income derived through fiscally transparent entities, the taxation of certain provisions of services, and the adoption of mandatory arbitration to facilitate the resolution of disputes between the U.S. and Canadian revenue authorities. The proposed Protocol also makes a number of changes to reflect changes in U.S. and Canadian law, and to bring the current Convention into closer conformity with current U.S. tax treaty policy.

The proposed Protocol eliminates withholding taxes on cross-border interest payments. The elimination of withholding taxes on all cross-border interest payments between the United States and Canada has been a top tax treaty priority for both the business community and the Treasury Department for many years. The proposed Protocol represents a substantial improvement over the current Convention, which generally provides for a source-country withholding tax rate of 10 percent. This provision would be effective for interest paid to unrelated parties on the first day of January of the year in which the proposed Protocol enters into force, and it would be phased in for interest paid to related persons over a three-year period. Consistent with U.S. tax treaty policy, the proposed Protocol also provides exceptions to the elimination of source-country taxation with respect to contingent interest and payments from a U.S. real estate mortgage investment conduit.

The proposed Protocol also would provide that a U.S. person is generally eligible to claim the benefits of the treaty when such person derives income through an entity that is considered by the United States to be fiscally transparent (*e.g.*, a partnership) unless the entity is a Canadian entity and is not treated by Canada as fiscally transparent. The proposed Protocol in addition contains anti-abuse provisions intended to address certain situations involving the use of these entities to obtain treaty benefits inappropriately.

The current Convention generally limits the taxation by one country of the business profits of a resident of the other country. The source country's right to tax such profits is generally limited to cases in which the profits are attributable to a permanent establishment located in that country. The proposed Protocol would add provisions related to the taxation of permanent establishments. Most importantly, the proposed Protocol includes a special rule allowing source-country taxation of income from certain provisions of services not otherwise considered to be provided through a permanent establishment. This rule is broader than the permanent establishment rule in the U.S. Model tax treaty but was key to achieving an overall agreement that we believe is in the best interests of the United States and U.S. taxpayers.

As previously noted, the proposed Protocol provides for mandatory arbitration of certain cases that have not been resolved by the competent authority within a specified period, generally two years from the commencement of the case. Under the proposed Protocol, the arbitration process may be used to reach an agreement with respect to certain issues relating to residence, permanent establishment, business profits, related persons, and royalties. The arbitration board must deliver a determination within six months of the appointment of the chair of the arbitration board, and the determination must either be the proposed resolution submitted by the United States or the proposed resolution submitted by Canada. The board's determination has no precedential value and the board shall not provide a rationale for its determination.

The proposed Protocol also makes a number of other modifications to the current Convention to reflect changes to U.S. law and current U.S. tax treaty policy. For example, the proposed Protocol updates the current Convention's treatment of pensions for cross-border workers to remove barriers to the flow of personal services between the United States and Canada that could otherwise result from discontinuities in the laws of the two countries regarding the tax treatment of pensions. In addition, the proposed Protocol updates the current Convention's limitation on benefits provisions so that they apply on a reciprocal basis. The proposed Protocol also addresses the treatment of companies that engages in corporate "continuance" transactions and revises the current Convention's rules regarding the residence of so-called dual resident companies.

The proposed Protocol provides that the United States and Canada shall notify each other in writing, through diplomatic channels, when their respective applicable procedures for ratification have been satisfied. The proposed Protocol will enter into force upon the date of the later of the required notifications. For taxes withheld at source, it will generally have effect for amounts paid or credited on or after the first day of the second month that begins after the date the proposed Protocol enters into force, although certain provisions with respect to interest may have earlier effect. With respect to other taxes, the proposed Protocol will generally have effect for taxable years that begin after the calendar year in which the proposed Protocol enters into force. Certain provisions will be phased in or have a delayed effective date. Provisions regarding corporate continuance transactions will apply retroactively, consistent with prior Treasury Department public statements.

Iceland

The proposed Convention and accompanying Protocol with Iceland was signed in Washington, D.C., on October 23, 2007. It would replace the current Convention, concluded in 1975. The most important change from the current Convention is the addition of a limitation on benefits provision. The proposed Convention also makes changes to some of the withholding tax rates provided in the current Convention. In addition, the proposed Convention makes a number of changes to reflect changes in U.S. and Icelandic law, and to conform to current U.S. tax treaty policy.

As just noted, the proposed Convention contains a comprehensive limitation on benefits provision, generally following the current U.S. Model income tax treaty. The current Convention does not contain treaty shopping protections and, as a result, has been abused by third-country investors in recent years. For this reason, revising the current Convention has been a top tax treaty priority.

The proposed Convention generally provides for withholding rates on investment income that are the same as or lower than those in the current Convention. Like the current Convention, the proposed Convention provides for reduced source-country taxation of cross-border dividends. In addition, the proposed Convention would eliminate source-country withholding tax on cross-border dividend payments to pension funds. As with the current Convention, the proposed Convention generally would eliminate source-country withholding tax on cross-border interest payments. However, while the current Convention eliminates source-country withholding taxes on all cross-border payments of royalties, the proposed Convention would allow the country in which certain cross-border trademark royalties arise to impose a withholding tax of up to 5 percent. Inclusion of this provision was key to achieving an overall agreement that we believe is in the best interests of the United States and U.S. taxpayers.

In addition, the proposed Convention provides for the exchange between the tax authorities of each country of information relevant to carrying out the provisions of the agreement or the domestic tax laws of either country.

The proposed Convention provides that the United States and Iceland shall notify each other in writing, through diplomatic channels, when their respective applicable procedures for ratification have been satisfied. The proposed Convention will enter into force on the date of the later of the required notifications. It will have effect, with respect to taxes withheld at source, for amounts paid or credited on or after the first day of January of the calendar year following entry into force, and with respect to other taxes, for taxable years beginning on or after the first day of January following the date upon which the proposed Convention enters into force. The current Convention will, with respect to any tax, cease to have effect as of the date on which this proposed Convention has effect with respect to such tax. However, where any person would be entitled to greater benefits under the current Convention, at the election of the person, the current Convention shall continue to have effect in its entirety with respect to such person for a period of 12 months from the date the provisions of the proposed Convention are effective.

Bulgaria

The proposed income tax Convention and accompanying Protocol with Bulgaria signed in Washington, D.C., on February 23, 2007, and the subsequent Protocol with Bulgaria signed in Sofia, on February 26, 2008, together would represent the first income tax treaty between the United States and Bulgaria. The proposed Convention is generally consistent with the current U.S. Model income tax treaty and with treaties that the United States has with other countries.

Under the proposed Convention, withholding taxes on cross-border portfolio dividend payments may be imposed by the source state at a maximum rate of 10 percent. When the beneficial owner of a cross-border dividend is a company that directly owns at least 10 percent of the stock of the company paying the dividend, withholding tax may be imposed at a maximum rate of 5 percent. The proposed Convention also provides for a withholding rate of zero on cross-border dividend payments to pension funds.

The proposed Convention generally limits withholding taxes on cross-border interest payments to a maximum rate of 5 percent. No withholding tax on a cross-border interest payment is generally permitted, however, when the interest is beneficially owned by, or guaranteed by, the government or the central bank of the other country (or any institution owned by that country), a pension fund resident in the other country, or a financial institution (including a bank or an insurance company) resident in the other country.

The proposed Convention provides that withholding taxes on cross-border royalty payments are limited to a maximum rate of 5 percent.

The proposed Convention also incorporates rules provided in the U.S. Model tax treaty for certain classes of investment income. For example, dividends paid by entities such as U.S. regulated investment companies and real estate investment trusts, are subject to special rules to prevent the use of these entities to transform what is otherwise higher-taxed income into lower-taxed income.

The proposed Convention limits the taxation by one country of the business profits of a resident of the other country. The source country's right to tax such profits is generally limited to cases in which the profits are attributable to a permanent establishment located in that country. The proposed Convention includes a rule, similar to a rule in the proposed Protocol with Canada, allowing source-country taxation of income from certain provisions of services. The proposed Convention also provides that certain employees or agents that maintain a stock of goods from which the agent regularly fills orders on behalf of the principal, and conduct additional activities contributing to the conclusion of sales, may result in a permanent establishment.

Consistent with current U.S. tax treaty policy, the proposed Convention includes a comprehensive limitation on benefits article, which is designed to deny treaty shoppers the benefits of the Convention. The proposed Convention provides for non-discriminatory treatment by one country to residents and nationals of the other country. In addition, the proposed Convention provides for the exchange between the tax authorities of each country of information relevant to carrying out the provisions of the agreement or the domestic tax laws of either country. This will facilitate the enforcement of U.S. domestic tax rules.

The proposed Convention provides that the United States and Bulgaria shall notify each other, through diplomatic channels, when their respective applicable procedures for ratification have been satisfied.

The proposed Convention will enter into force upon the date of receipt of the later of the required notifications. It will have effect, with respect to taxes withheld at source, for amounts paid or credited on or after the first day of January in the year following the date upon which the proposed Convention enters into force and, with respect to other taxes, for taxable years beginning on or after the first day of January in the year following the date upon which the proposed Convention enters into force.

Treaty Program Priorities

A key continuing priority for the Treasury Department is updating the few remaining U.S. tax treaties that provide for low withholding tax rates but do not include the limitation on benefits provisions needed to protect against the possibility of treaty shopping. Accordingly, we currently are in ongoing discussions with both Poland and Hungary regarding the inclusion of anti-treaty shopping provisions.
In addition, we continue to maintain a very active calendar of tax treaty negotiations. We recently initialed a new tax treaty with Malta. We also are currently negotiating with France and New Zealand, and expect to announce soon the opening of other negotiations.
We also have undertaken exploratory discussions with several countries in Asia and South America that we hope will lead to productive negotiations later in 2008 or in 2009.

Conclusion

Mr. Chairman and Ranking Member Lugar, let me conclude by thanking you for the opportunity to appear before the Committee to discuss the Administration's efforts with respect to the three agreements under consideration. We appreciate the Committee's continuing interest in the tax treaty program, and we thank the Members and staff for devoting time and attention to the review of these new agreements. We are also grateful for the assistance and cooperation of the staff of the Joint Committee on Taxation.

On behalf of the Administration, we urge the Committee to take prompt and favorable action on the agreements before you today. I would be happy to respond to any question you may have.

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