



## Environmental Treaties

**John F. Turner, Assistant Secretary for Oceans and International Environmental and Scientific Affairs**

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Mr. Chairman and Members of the Committee, I am pleased to be here today to discuss six important international agreements that have been submitted to the Senate for Advice and Consent – the Protocol Concerning Specially Protected Areas and Wildlife (SPA) to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena Convention), or the "SPA Protocol;" the South Pacific Regional Environment Program (SPREP) Agreement; the Niue Boundary Treaty; an amendment to the Inter-American Tropical Tuna Commission; and two amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer, the "Montreal Amendment" and the "Beijing Amendment." Because these agreements serve important U.S. foreign policy interests, we favor their early ratification.

While these agreements address different situations in different parts of the world, they share several common elements. First, any obligations set forth in these agreements can be undertaken through existing statutory authority. No changes in law are required. Second, consensus-based decision-making is the modus operandi for the governing bodies of these agreements, even for those agreements that formally provide for voting. This means that in matters affecting the lives of American citizens--whether it concerns protecting the ozone layer or conserving marine resources--the United States can adequately protect American interests. Third, no new costs will be created. And fourth, we understand that U.S. ratification of these agreements is not controversial and is generally supported by the public and private stakeholders.

### **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**

Turning to a brief description of each agreement, the SPA Protocol serves to protect the marine environment of the Gulf of Mexico and Caribbean sea, including the areas surrounding the U.S. mainland off the coast of Florida and the Gulf States and territories in the Caribbean region. This Protocol is an outgrowth of the Cartagena Convention, and is one of three Protocols anticipated by the Cartagena Convention. The Convention establishes general legal obligations for the protection and preservation of the marine environment of the Caribbean region. Geographically, it covers the marine environment of the Gulf of Mexico, the Caribbean Sea and areas primarily within 200 nautical miles of the Atlantic coasts of 20 countries and island territories. Twenty-eight countries of the Wider Caribbean Region are eligible to become Parties to the Cartagena Convention and its Protocols. Currently, ten countries are Parties to the SPA Protocol, while eleven others are non-Party Signatories.

The SPA Protocol also encompasses internal waters extending in the case of watercourses up to the fresh water limit, and any related terrestrial areas (including watersheds) that a party may wish to designate. It requires parties to establish protected areas and to take specified protection and management measures therein, as necessary and appropriate to carry out the provisions of the Protocol, and in conformity with national laws and regulations and international law.

U.S. participation would demonstrate our political interest in protecting the environment of the wider Caribbean Region. We feel so strongly about the need to do so, that we have identified the Caribbean as a focus for the upcoming World Summit on Sustainable Development. Strengthening our support for the Cartagena Convention by ratifying the SPA Protocol will allow us to better protect the marine resources of the Wider Caribbean region -- our backyard and, as President Bush has dubbed, our Third Border. Many non-governmental organizations, such as Monitor International, the World Wildlife Fund, The Nature Conservancy, and the Humane Society of the United States, support U.S. ratification of the SPA Protocol.

Were the United States to ratify the SPA Protocol, we would issue two reservations and an understanding along with our ratification. One of the reservations is needed to ensure that our application of Article 11 of the Protocol is consistent with provisions of the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA) that allow for the limited taking of species listed in Annex I and II for the purpose of public display, scientific research, rescue and rehabilitation, or as incidental catch related to fishing operations. The second reservation is to Article 13, which could be interpreted to require environmental assessments for non-Federal activities not covered by the National Environmental Policy Act of 1969, as amended (NEPA). The Understanding would state that the provisions of the Protocol do not apply to non-native species.

There are three Annexes that contain the lists of 481 endangered and threatened species of flora and fauna covered by Article 11 of the Protocol. The United States plans to notify the depositary at the time it accepts the Annexes that the Protocol will not apply to six species of fauna and flora that do not require the protection provided by the Protocol in U.S. territory. It is envisioned that the Annexes will be treated separately as an Executive Agreement.

### **South Pacific Regional Environment Program (SPREP) Agreement**

The South Pacific Regional Environment Program (SPREP) has existed for nearly twenty years to protect and improve the South Pacific environment and to ensure sustainable development in that region. The U.S. territories of American Samoa, Guam and the Commonwealth of the Northern Mariana Islands, are located within the SPREP region. The State of Hawaii is also closely linked to the Pacific basin by geography, history, economics and politics. SPREP provides for increased cooperation among the United States, Australia, New Zealand, France and twenty-one island States and territories of the South Pacific region in addressing issues affecting the environment and development in the region.

SPREP is the best opportunity for us to both influence regional Pacific environmental policies and encourage coordinated approaches on environmental and sustainable development issues. With greater commercial development, the region's unique wildlife and plants are at risk. U.S. participation in SPREP sends a strong signal that the Pacific region is a priority for us.

Negotiations to conclude the agreement ended in 1993. Prior to the agreement, SPREP had the status of an informal institution housed within the South Pacific Commission. The agreement simply accords SPREP formal status as an intergovernmental organization. It will not change our costs or the manner of our participation. The United States as well as its territories, American Samoa, Guam and the Commonwealth of the Northern Mariana Islands believe that U.S. interests would be best served by moving rapidly to become a Party to the Agreement, which entered into force on August 31, 1995. With the exception of the United States, all 18 remaining active members that participated in the negotiations are Parties to the agreement.

### **Treaty with Niue on Delimitation of a Maritime Boundary**

On May 13, 1997, in Wellington, New Zealand, the Governments of the United States and Niue signed a treaty delineating a maritime boundary between their respective territories in the South Pacific. The purpose of the U.S. Treaty with Niue on Delimitation of a Maritime Boundary, is to create a maritime boundary in the waters between American Samoa and Niue. Niue is an island in the South Pacific Ocean about one and a half times the size of Washington D.C. It is in our interest to establish limits of the exclusive economic zone (EEZ) around American Samoa to give certainty to U.S. jurisdiction over the water column and sea floor, which allows the U.S. to manage properly the fisheries resources in these areas. The boundary is based on an equidistant line, calculated from all relevant territories. American Samoa supports U.S. ratification of the agreement.

### **Montreal and Beijing Amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer**

The Montreal Protocol on Substances that Deplete the Ozone Layer was ratified by the United States in 1988 to strengthen international efforts to reduce the effects of ozone depleting chemicals, such as chlorofluorocarbons (CFCs). Scientific evidence showed that more steps were needed to protect human health from the debilitating effects of ozone depletion. Increased UVB radiation associated with ozone depletion is linked to serious health and environmental effects including higher incidences of skin cancers and eye cataracts and ecosystem disruption.

A multilateral regime such as that provided in the Montreal Protocol is necessary to control emissions of ozone-depleting substances because such emissions occurring anywhere could affect the ozone layer globally. The Montreal Protocol established schedules and timetables for reducing CFCs and other ozone depleting substances based on sound science. Since the Protocol's entry into force, four amendments have been adopted to quicken the pace of repairing the ozone layer. The London Amendment, which sped up the phase-out schedule for CFCs and other major ozone depleting chemicals, was adopted in 1990 and ratified by the United States in 1991. The 1992 Copenhagen amendment, which provides for controls on three new substances, including methyl bromide, was ratified by the United States in 1994.

#### Montreal Amendment

The 1997 "Montreal" Amendment, which entered into force in 2000, is designed to address two important trade-related matters. First, the amendment bans the trade in methyl bromide between a Party and a non-Party. This provision is identical to trade provisions that have been included in the Montreal Protocol for other controlled chemicals. It is designed to protect the environment by ensuring that countries that have not agreed to the Montreal Protocol's production and consumption rules for methyl bromide do not have unfettered access to this ozone depleting compound. In addition, the Protocol's trade provisions ensure that non-Parties do not gain a competitive advantage over Parties that do comply with these reduction provisions. Second, the amendment calls on each Party to put in place a system for licensing the import and export of all new, used, recycled and reclaimed controlled substances under the Montreal Protocol. Finally, the amendment makes it illegal for non-complying producers to export "recycled" substances. It is important to note that the last two provisions (both the licensing system and the restriction on exports of recycled substances) will support law enforcement efforts to prevent the illegal trade in controlled substances.

## Beijing Amendment

The 1999 Beijing Amendment, which entered into force in February 2002, further fine-tunes the Montreal Protocol. The amendment adds bromochloromethane, an industrial solvent and flame retardant to the control regime. This action will ensure the phase-out of this new ozone depleting chemical before it can come into widespread use, possibly in developing countries. The Beijing Amendment also establishes trade and production controls on hydrochlorofluorocarbons (HCFCs), similar to those which already exist for other controlled substances. The trade provisions ban trade in HCFCs between Parties and non-Parties, while the production controls limit the amount of HCFCs that can be produced as they are gradually phased out over the next two decades. Finally, the amendment requires Parties to report on their use of methyl bromide for quarantine and preshipment purposes.

U.S. ratification of the Montreal and Beijing Amendments would send a clear signal that the Administration is committed to strengthening international environmental standards on chemicals that degrade the global environment. In addition, because these amendments have both already entered into effect, ratification would allow the United States to fully participate in Montreal Protocol decisions related to these two agreements.

## **Protocol Amending 1949 Convention of Inter-American Tropical Tuna Commission**

Finally, I would like to mention briefly the Protocol amending the 1949 Convention on the Establishment of an Inter American Tropical Tuna Commission (IATTC). The Protocol amends the Convention to allow the European Commission (EC) to become a member of the IATTC. The original Convention, adopted in 1949, only allows States to be members of the Commission. Today, however, it is the EC, not the Member States, that has the competence to regulate fishing vessels of EC Member States fishing in the Convention area. The Protocol includes language that has become standard in regional fishery conventions to allow membership by "regional economic integration organizations." This would be the first time the Convention has been amended since its entry into force in 1950.

The current members of the IATTC are the United States, Costa Rica, Ecuador, El Salvador, France, Guatemala, Japan, Mexico, Nicaragua, Panama, Vanuatu and Venezuela. Collectively, the members of the IATTC review research conducted by the IATTC scientists and adopt conservation and management measures for the tuna fisheries of the eastern Pacific Ocean, which the members are then legally bound to implement. In recent years, these measures have included catch quotas for yellowfin tuna and bigeye tuna, measures to reduce bycatch in tuna purse seine fisheries, and other measures.

Allowing the EC to accede to the Convention serves important U.S. interests. EC membership in the IATTC is the only way to ensure that vessels flying the flag of any EC Member State are bound by the conservation and management measures adopted by the IATTC for the fishery resources of the eastern Pacific Ocean. Although the EC participates in the meetings of the IATTC and has generally complied with the conservation and management measures adopted by the organization, it is currently not legally bound to do so. If vessels operating under EC jurisdiction are to be legally bound by such measures, the EC must be allowed to accede to the Convention.

## **Conclusion**

In conclusion, we strongly request your favorable consideration of these agreements. Thank you for the opportunity to appear before you today and I look forward to answering any questions you may have.

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