

CONVENTION (NO. 176) CONCERNING SAFETY AND
HEALTH IN MINES

SEPTEMBER 5, 2000.—Ordered to be printed

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

REPORT

[To accompany Treaty Doc. 106-8]

The Committee on Foreign Relations, to which was referred the Convention (No. 176) Concerning Safety and Health in Mines, adopted by the International Labor Conference at its 82nd session in Geneva on June 22, 1995, having considered the same, reports favorably thereon with two understandings, two declarations and two provisos, and recommends that the Senate give its advice and consent to the ratification thereof as set forth in this report and the accompanying resolution of ratification.

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I. PURPOSE

The purpose of the Convention (No. 176) Concerning Safety and Health in Mines (“the Convention”) is to obligate ratifying states, in consultation with employers’ and workers’ organizations, to formulate, carry out and periodically review a coherent policy on safety and health in mines, and to develop national laws and regulations to ensure implementation of the Convention’s provisions.

II. BACKGROUND

The Convention was adopted by the International Labor Organization (“ILO”) on June 22, 1995, and entered into force in June 1998. Since its adoption, fourteen countries have ratified Convention No. 176.

In its preamble, the Convention declares that “workers have a need for, and a right to, information, training and genuine consultation on and participation in the preparation and implementation of safety and health measures concerning the hazards and risks they face in the mining industry.” The preamble also recognizes the desirability of preventing mine-related injuries and damage to the environment from mine operations.

Convention No. 176 is a non-self-executing treaty. However, the United States is already in compliance with the Convention by virtue of the Federal Mine Safety and Health Act of 1977. For that reason, there is no need for the United States to alter its law or practice with respect to mine safety, and no such alterations were proposed or anticipated in connection with ratification.

The President submitted the Convention to the Senate for advice and consent on September 9, 1999.

III. SUMMARY

A. GENERAL

The International Labor Organization has dealt with labor and social problems of the mining industry for years, from the adoption of the Hours of Work (Coal Mines) Convention (No. 31) in 1931 to the Safety and Health in Mines Convention (No. 176), adopted by the International Labor Conference in 1995 (“the Convention”).

Adoption of the Convention in 1995, which has set the principle for national action on the improvement of working conditions in the mining industry, is important for several reasons: because special hazards are faced by mineworkers; the mining industry in many countries is assuming increasing importance; earlier ILO standards on occupational safety and health, as well as existing legislation in many countries, are inadequate to deal with the specific needs of mining. The Convention came into force in June 1998, one year after the second ratification by an ILO member State. As of July 2000, 14 countries had ratified the Convention.

In submitting the Convention to the Senate, the Executive Branch stated that the Convention will not require implementing legislation for the United States. Current U.S. law—the Federal Mine Safety and Health Act of 1977—is the culmination of several decades of statutory development, and far exceeds the basic minimum standards laid down by the Convention.

B. KEY PROVISIONS

The Convention consists of twenty-four articles, divided into five parts.

Part I—Definitions

Part I of the Convention (Article I) defines the terms “mine” and “employer” for the remaining articles.

Part II—Scope and Means of Application

Part II of the Convention (Articles II–V) identifies the scope and application of the Convention. Articles IV and V provide that national laws and regulations shall regulate the application of the Convention, designate an authority “to monitor and regulate various aspects of safety and health in mines,” and implement specific oversight actions to ensure safety and health in mines.

Part III—Preventive and Protective Measures at the Mine

Part III of the Convention (Articles VI–XV) includes three subparts. Subpart A identifies the responsibilities of employers with respect to eliminating or minimizing health and safety risks in mines. Such responsibilities include ensuring proper mine design and construction, adequate ventilation, regular inspections, and two means of egress from a mine. Employers must also take measures to prevent, detect, and combat fires and explosions; prepare an emergency response plan for reasonably foreseeable industrial and natural disasters; and provide regular health surveillance of workers who are exposed to occupational health hazards specific to mining.

Subpart B identifies the rights and duties of workers and their representatives. Among other things, workers have the right to report accidents, dangerous occurrences, and hazards; request and obtain an inspection when there is a safety or health concern; remove themselves from the mine when circumstances appear to pose a serious danger to their safety or health; and remain informed of workplace hazards that may affect their safety or health.

During its review of the Convention, the U.S. Government’s Tripartite Advisory Panel on International Labor Standards (“TAPILS”) consulted the International Labor Organization’s Standards Branch about the proper interpretation of Convention Articles XII and XIII. These two articles concern (respectively) responsibilities of an employer in charge for acts of an independent contractor and notice of inspections. Two understandings based upon this consultation are included in the resolution of ratification recommended by the Committee. The entire TAPILS Report on the Convention may be found beginning on page 20 of Treaty Doc. 106–8.

Subpart C states that measures shall be taken, in accordance with national laws and regulations, to “encourage cooperation between employers and workers * * * to promote safety and health in mines.”

Part IV—Implementation

Part IV (Article XVI) identifies the responsibilities of Members to implement the Convention. Members shall take all necessary measures to ensure the effective enforcement of the Convention and provide appropriate inspection services to supervise the application of measures taken pursuant to the Convention.

Part V—Final Provisions

Part V (Articles XVII–XXIV) includes standard final provisions. These articles contain rules for the Convention’s entry into force, additional rules for ratification, and rules for denunciation.

IV. ENTRY INTO FORCE AND DENUNCIATION

A. ENTRY INTO FORCE

The Convention entered into force in June 1998. For each State ratifying the Convention after that date, the Convention enters into force twelve months after registration by such State of its instrument of ratification with the Director-General of the International Labor Office.

B. DENUNCIATION

The Convention shall remain in force indefinitely, but any Party may denounce it ten years after the Convention enters into force for the denouncing Party. Otherwise, if a Party does not denounce the Convention within one year after the Convention has been binding upon that Party for ten years, the Convention will continue to be binding upon that Party for an additional ten years. An act of denunciation must be registered with the Director-General of the International Labor Office, and shall not take effect until one year after the date on which it is registered.

V. COMMITTEE ACTION

The Committee on Foreign Relations held an informal public meeting on the Convention on July 20, 2000 (a transcript of the session and questions for the record will be found in the appendix to this report).¹ The Committee considered the Convention on July 26, 2000, and ordered it favorably reported by voice vote, with the recommendation that the Senate give its advice and consent to the ratification of the proposed Convention subject to two understandings, two declarations and two provisos.

VI. COMMITTEE RECOMMENDATION AND COMMENTS

The Committee on Foreign Relations recommends favorably the proposed Convention. The Committee understands that the Convention is closely modeled on the United States Federal Mine Safety and Health Act of 1977. The Committee has received communications indicating that both the United States mining industry and the mine labor force support ratification of this Convention, in part because the Convention is expected to have the effect of obliging other ratifying parties to bring their domestic standards up to Convention standards—that is to say, closer to the U.S. safety standards. The Committee recognizes and will welcome the competitive benefits that should flow from making the nation's mine safety standard the global mine safety standard.

On balance, the Committee believes that the proposed Convention is in the interest of the United States and urges the Senate to act promptly to give its advice and consent to ratification.

¹On the day the Committee was scheduled to conduct a hearing on the treaty, permission to do so pursuant to Senate Rule 26(5)(a) had not been granted. Therefore, the Committee proceeded in informal session. The transcript is appended to this report.

VII. EXPLANATION OF PROPOSED CONVENTION

For a detailed analysis of the proposed Convention, see Senate Treaty Doc. 106–8, and in particular, the Statement of United States Law and Practice with Respect to International Labor Organization Convention No. 176 Concerning Safety and Health in Mines, which begins on page 31 of Treaty Doc. 106–8.

VIII. TEXT OF THE RESOLUTION OF RATIFICATION

Resolved, (two thirds of the Senators present concurring therein), that the Senate advise and consent to the ratification of Convention (No. 176) Concerning Safety and Health in Mines, Adopted by the International Labor Conference at its 82nd Session in Geneva on June 22, 1995 (Treaty Doc. 106–8) (hereinafter, “The Convention”), subject to the understandings of subsection (a), the declarations of subsection (b) and the provisos of subsection (c).

(a) UNDERSTANDINGS.—The Senate’s advice and consent is subject to the following understandings, which shall be included in the instrument of ratification:

(1) ARTICLE XII.—The United States understands that Article XII does not mean that the employer in charge shall always be held responsible for the acts of an independent contractor.

(2) ARTICLE XIII.—The United States understands that Article XIII neither alters nor abrogates any requirement, mandated by domestic statute, that a miner or a miner’s representative must sign an inspection notice, or that a copy of a written inspection notice must be provided to the mine operator no later than the time of inspection.

(b) DECLARATIONS.—The Senate’s advice and consent is subject to the following declarations, which shall be binding on the President:

(1) NOT SELF-EXECUTING.—The United States understands that the Convention is not self-executing.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the State Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISOES.—The advice and consent of the Senate is subject to the following provisos:

(1) REPORT.—One year after the date the Convention enters into force for the United States, and annually for five years thereafter, the Secretary of Labor, after consultation with the Secretary of State, shall provide a report to the Committee on Foreign Relations of the Senate setting forth the following:

(i) a listing of parties which have excluded mines from the Convention’s application pursuant to Article II(a) of the Convention, a description of the excluded mines, an explanation of the reasons for the exclusions, and an indication of whether the party plans or has taken steps to progressively cover all mines, as set forth in Article II(b);

(ii) a listing of countries which are or have become parties to the Convention and corresponding dates; and

(iii) an assessment of the relative costs or competitive benefits realized during the reporting period, if any, by United States mine operators as a result of United States ratification of the Convention.

(2) SUPREMACY OF THE CONSTITUTION.—Nothing in the Convention requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

IX. APPENDIX

INFORMAL PUBLIC MEETING ON TREATIES

INTER-AMERICAN CONVENTION FOR THE PROTECTION AND CONSERVATION OF SEA TURTLES (TREATY DOC. 105-48); INTERNATIONAL PLANT PROTECTION CONVENTION (IPPC) (TREATY DOC. 106-23); FOOD AID CONVENTION 1999 (TREATY DOC. 106-14); ILO CONVENTION CONCERNING SAFETY AND HEALTH IN MINES (TREATY DOC. 106-8); UNITED NATIONS CONVENTION TO COMBAT DESERTIFICATION IN THOSE COUNTRIES EXPERIENCING SERIOUS DROUGHT AND/OR DESERTIFICATION, PARTICULARLY IN AFRICA (TREATY DOC. 104-29)

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THURSDAY, JULY 20, 2000

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met informally, at 2:50 p.m. in room SD-419, Dirksen Senate Office Building, Hon. Chuck Hagel presiding.

Present: Senator Hagel.

Senator HAGEL. Good afternoon. I need to read an announcement here as a result of an action taken this morning that affects committee hearings meeting today, so I will dispose of this and then we will get down to business.

An objection has been lodged in the cloakroom to the conduct of any legislative business today. However, Senator Helms has agreed to proceed with this hearing on an informal basis on the grounds that no legislative business will be conducted.

So it shall be said, so it shall be written, and that is according to the words of the chairman.

Now, in today's hearing we will consider five treaties that have been transmitted by the President to the Senate for advice and consent. The treaties include the Inter-American Convention on Sea Turtles, the U.N. Convention to Combat Desertification, the International Labor Organization Convention Concerning Safety and Health in Mines, the International Plant Protection Convention, and the Food Aid Convention.

We have invited two Assistant Secretaries from the Department of State to help the committee understand the implications of these treaties for the United States. Our first witness is the Honorable David B. Sandalow, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, who is becoming a weekly guest of the committee, and we are pleased to have you back, Mr. Secretary.

Before coming to the State Department, Secretary Sandalow served as Associate Director for the Global Environment at the National Security Council, and as Senior Director for Environmental Affairs at the White House Council on Environmental Quality. Prior to his work at the White House, he worked in the General Counsel's Office at the Environmental Protection Agency, and again we are glad you are here, and we appreciate you taking the time.

Our second witness today is the Honorable Earl Anthony Wayne, Assistant Secretary of State for Economic and Business Affairs. Prior to being confirmed in his current position this past May, Secretary Wayne served as Principal Deputy Assistant Secretary of State for European Affairs and as Deputy Assistant Secretary for Europe.

Secretary Wayne has also served as Deputy Chief of Mission at the U.S. Mission, and to the European Union under Ambassador Stewart Eizenstat, and as Director for Western European Affairs at the National Security Council, and to you, sir, welcome.

We have five important treaties to consider this afternoon. The first treaty, the Inter-American Convention on Sea Turtles, is intended to protect sea turtles and the habitats on which they depend. The United States currently has laws in place to protect sea turtles from drowning in fishing nets. We require U.S. shrimp fishermen to install devices in their nets that allow the turtles to escape, and we ban the importation of shrimp that are harvested in ways that harm turtles.

One potential benefit of this treaty for the United States is that it would impose the same requirements for protecting sea turtles on our neighbors in the Western Hemisphere, thus leveling the playing field for our shrimping industry.

The second treaty under consideration today is the United Nations Convention to Combat Desertification. The objective of this treaty is to combat desertification in countries experiencing serious drought, particularly in Africa. The treaty does not seek to roll

back existing natural deserts but, rather, seeks to maintain the productivity of dry lands.

In the United States we have had direct and painful experience with large areas of farmland turning into a Dust Bowl as happened to parts of where I am from, the Midwest, in the 1930's. Many African countries are now suffering from the same phenomenon, and this treaty seeks to address this problem.

The third treaty under consideration today is the ILO Convention Concerning Safety and Health in Mines. The United States' laws requiring safety in mines are the most comprehensive in the world, and our understanding is that this ILO Convention is a pared-down version of our own laws.

The Convention sets forth the responsibilities of mine employers, and the rights and duties of mineworkers and their representatives. The Convention covers areas such as supervision and inspection of mines, procedures for reporting and investigating accidents, and occupational diseases.

Again, one potential benefit of this Convention would be to put foreign mining companies on a level playing field with our own companies in terms of production costs by requiring them to purchase safety equipment and undertake safety measures that our own companies currently must undertake.

The fourth treaty under consideration today is a revised version of the International Plant Protection Convention. The original Convention first entered into force internationally in 1952, and for the United States in 1972. The Convention is intended to promote international cooperation to control and prevent the spread of harmful plant pests.

This revised treaty is intended to bring the Convention into alignment with the World Trade Organization agreement on the application of sanitary measures known as the SPS agreement. The SPS agreement for its part calls for the harmonization of sanitary measures on the basis of international standards.

This Convention could assist U.S. agriculture exporters through the establishment of science-based sanitary import standards. These standards are necessary to ensure that countries do not discriminate against imports of agricultural products based on arbitrary sanitary standards.

At the same time, some members of the committee have concerns about some aspects of the Convention, particularly the idea that a new United Nations Secretariat within the Food and Agricultural Organization may be needed for implementation. We look forward to hearing from the administration on this aspect of this Convention.

The last treaty under consideration today is the Food Aid Convention of 1999. This 1999 Convention is the latest in the line of agreements, dating to 1967, which have been ratified by the United States.

The objective of this Convention and its predecessors is to establish a reliable level of food aid commitments that would cover as wide a range of donors and donation foodstuffs as possible to meet the critical needs of developing countries. Under this Convention, the United States will contribute at least 2.5 million tons of foodstuffs annually during its 5-year duration.

The 1999 Convention contains several innovations in comparison with its predecessors. First, it expands the list of covered commodities beyond grains and legumes, to include edible oils and milk powder. It encourages donor States to fortify their food contributions with vitamins and minerals by counting this cost toward their contribution.

The Convention also encourages donors to provide food aid to difficult-to-reach destinations by allowing transport costs to be counted toward donor contributions.

Finally, the Convention promotes local agricultural development in recipient countries and improves coordination among donors.

We will now hear from our two distinguished witnesses. Secretary Sandalow, I understand you will be addressing the Inter-American Convention on Sea Turtles and the U.N. Convention to Combat Desertification, and Secretary Wayne, I understand you will address the Treaties on Plant Protection, Food Aid, and Mine Safety, and then we will move into a series of questions.

With that, again, thank you each for coming forward, and I would ask Mr. Sandalow if you will proceed.

[The following statements of Senators Feingold and Jeffords were submitted for the record:]

PREPARED STATEMENT OF HON. RUSSELL D. FEINGOLD, U.S. SENATOR FROM WISCONSIN

I want to speak very briefly about the Convention to Combat Desertification. Desertification is the severe degradation of land in arid and semi-arid regions which renders the land infertile, and life on that land unsustainable. This Convention addresses some of the fundamental causes of famine and food insecurity in Africa, and this committee's consideration of it could not be more timely. Just two days ago, a front page story in the Washington Post reminded readers of the 13 million people in six countries around the Horn of Africa at risk of starvation from this year's drought. Now is an excellent time to send a clear signal to the people of Africa—the U.S. wants to be a part of the most effective prevention strategies possible to combat these terrible crises.

As the ranking member of the Subcommittee on African Affairs, I have had the opportunity to see first-hand how valuable the provisions of this Convention will be to the people of Africa, where nearly one-quarter of drylands are moderately or severely desertified. It does not require the U.S. to make additional assistance commitments, but it will leverage our efforts, making each aid dollar more effective. Desertification and food security are issues that cut across borders and affect entire regions, and one of the primary benefits, in my view, to U.S. participation in this Convention is the opportunity to take advantage of multilateral coordination.

The Convention focuses on bottom-up decision-making and governance, encouraging communities to take control of their own destinies. And it creates a mechanism for public-private partnerships that will tap the expertise of U.S. universities and farmers and provide excellent opportunities for U.S. businesses. For these reasons, it is supported by the business community, the development community, and the environmental community. The Convention enjoys bipartisan support; I have been a supporter for several years, as has Senator Jeffords of Vermont. The United States and New Zealand are currently the only OECD countries that have not ratified the Desertification Convention. I understand that New Zealand is working to rectify that, and I am delighted to see the Senate moving to consider this Convention today.

PREPARED STATEMENT OF HON. JAMES M. JEFFORDS, U.S. SENATOR FROM VERMONT
STATEMENT ON THE CONVENTION TO COMBAT DESERTIFICATION

Mr. Chairman: For over two years, I have been involved with efforts to raise awareness of the threat posed by widespread desertification in 70 percent of the world's agriculturally-used arid lands and of the importance of ratifying the Conven-

tion to Combat Desertification. I commend Senator Helms and his staff for their work on this treaty and I thank you, Senator Hagel, for bringing it before the Foreign Relations Committee today. I believe that American participation in this convention will prove beneficial to us and many other nations.

On March 21, 1998, President Clinton announced at the Mokolodi Nature Reserve in Botswana that Senator Russ Feingold and I had agreed to join him in a renewed push for U.S. ratification of the Desertification Convention. Enactment of this Convention has been a priority for many African nations for some time. I have seen first-hand the effects of desertification in Indonesia and across Africa and have been impressed by the insidiousness of this often ignored phenomenon. In both regions, farmers are fighting to hold on to arable land in the face of huge environmental changes brought on by over-cutting of vegetation, overgrazing of arid lands, changes in regional weather patterns, increased population pressures or a mixture of all of these factors. I have also seen the poverty and dislocation that then grip these desertified areas. In many cases, the resulting migration and instability prevents countries from moving ahead in economic and social development. The best laid plans for sustainable development can be washed away if the effects of desertification wash over a region.

The Convention is truly unique among international treaties. The driving force being this Convention has been the countries most effected by desertification. By the time negotiations began on the desertification treaty in 1994, the U.S. and other developed nations were rightfully weary of carrying the burden of support for environmental treaties. U.S. negotiators insisted that no new responsibilities or financial obligations be placed on our government. The treaty breaks ground by placing the burden of compliance on the affected countries. Moreover, it does not require domestic implementing legislation from the United States.

Our victory over our own period of desertification—the Dust Bowl in the southwestern Great Plains in the 1930's and the poverty and massive human migration that resulted from it—is one of the big success stories of land reclamation. Since the 1930's, our universities, agri-businesses and farmers have developed the world's most advanced technology and greatest expertise in combating desertification. Other countries want to gain from our extensive experience and U.S. businesses would like the opportunity to broaden their markets. This Convention will facilitate closer collaboration between those needing our technology and advice, and U.S. businesses and organizations who are eager to provide it.

The next meeting of the Conference of Parties, the Convention's decision-making body, begins on December 11, 2000, in Bonn, Germany. Important decisions on the details of implementing the Convention will be made at that meeting. It looks as if all other OECD member nations will be present at that meeting. Because 90 days must pass before a nation is a full-fledged party and eligible to participate at these talks, the United States must complete the ratification process by September 11 if we wish to participate at the Conference of Parties. I urge this committee to move forward on this ratification of the Convention in time to be a full participant at these meetings.

I appreciate the excellent work that has been done on this treaty by many people at the Agency for International Development, the Department of State and on this committee. I hope the committee will move expeditiously to send this treaty to the full Senate for ratification.

I thank the Chairman.

STATEMENT OF HON. DAVID B. SANDALOW, ASSISTANT SECRETARY OF STATE FOR OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS, DEPARTMENT OF STATE

Mr. SANDALOW. Thank you very much, Mr. Chairman. I am especially grateful for your willingness to hold this hearing today. I am pleased to be here to discuss the two treaties you mentioned, the Inter-American Convention for the Protection and Conservation of Sea Turtles, and the Convention to Combat Desertification.

However, it is with great sadness that I must extend the Department's deep regret and sorrow at the sudden death of Senator Paul Coverdell. His deep and abiding interest in foreign policy and his

unwavering patriotism will long be remembered. Our thoughts and prayers are with Senator Coverdell's family.

Senator HAGEL. Thank you.

Mr. SANDALOW. Mr. Chairman, I have a written statement for the record which, with your permission, I will submit.

Senator HAGEL. It will be included.

Mr. SANDALOW. Let me turn first to the Sea Turtle Convention. Sea turtles have lived on this Earth since the days of the dinosaurs. They are grand and majestic creatures. Unfortunately, all species of sea turtles in the Western Hemisphere have become threatened or endangered, some critically so. To address these threats, U.S. laws and regulations extend strict protection to sea turtles. However, because sea turtles migrate widely, effective protection of these species requires cooperation among many nations.

Recognizing this, Congress passed legislation in 1989 calling for negotiation of multilateral agreements to protect sea turtles. With this mandate, the United States joined with Mexico in leading a 3-year effort to negotiate the Convention that lies before the Senate today.

The Convention takes a comprehensive approach, seeking to protect sea turtles from a wide range of threats. Under the Convention, parties must reduce the accidental deaths of sea turtles in commercial fishing operations. The Convention also prohibits the intentional taking of and domestic and international trade in sea turtles, their eggs and products. Finally, the Convention fosters international cooperation in research and management of sea turtles.

As you said in your statement, Mr. Chairman, since 1990 U.S. law has required U.S. shrimp fishermen operating in areas where sea turtles occur to use turtle excluder devices, or TED's. This simple, cost-effective equipment can greatly reduce the risk that shrimp trawl fisheries pose to sea turtles. For this reason, the Convention specifically obligates parties to require the use of TED's in a manner that is comparable to the U.S. TED's program.

The Convention will thus help ensure that the U.S. fishing industry and foreign fishing industries face comparable regulatory requirements with respect to activities that may affect sea turtles. The Convention has the broad support of both the United States fishing industry and the environmental community.

Mr. Chairman, I do not want to presume any knowledge about the great State of Nebraska, but it is my impression—now, you can correct me on this if I am wrong—that the shrimping industry is not a major economic force in your State. So I thought you might treasure this opportunity for a real, bona fide view of a turtle excluder device, which we have here.

My colleague here, who has been quite a leader on these issues, can offer a detailed explanation when time permits.

Mr. Chairman, significantly, no new legislation is necessary for the United States to ratify the Sea Turtle Convention. For many years the United States has been a leader in the conservation of endangered sea turtles. The Convention in many respects is an outgrowth of that leadership. The administration respectfully urges this committee to support U.S. ratification of the Sea Turtle Convention.

I will turn now to the Convention to Combat Desertification, from sea to shore, from oceans to dry land. The term, desertification, refers to the loss of soil fertility in dry lands. This is a pressing problem around the world. Every year, soil degradation threatens the sustenance and livelihood of millions of farmers, especially in Africa. In part, this is the result of natural weather patterns. In part, it is the result of agricultural practices that deplete soils of vital nutrients and degrade lands that can be used for farming and grazing.

In the fight against poverty and hunger, sound dry land management must be part of our arsenal. The Convention to Combat Desertification is a unique, innovative tool at our disposal. The Convention makes developing nations responsible for designing and carrying out their own national action programs to combat desertification. It especially emphasizes the role of local communities in this effort.

In addition, the Convention promotes the coordinated and effective use of foreign assistance to help promote sound dry land management. It establishes a global mechanism to inventory relevant programs and improve the coordination of cooperative activities at the national level. The Convention also maintains a roster of experts available to work in this area.

The Convention can also provide direct benefits to countries such as the United States with considerable scientific and technical expertise in dry land management. Parties to the Convention may make nominations to a roster of experts which is widely used around the world as a source of information. Private companies, research universities, and technical institutions such as, to pick a random example, the National Drought Mitigation Center in Lincoln, Nebraska, stand to benefit.

So far, I have told you what the Convention does, Mr. Chairman. Let me also tell you what the Convention does not do. First, the Convention does not establish a mandatory funding mechanism, nor does it obligate parties to provide specific resources in connection with these activities.

Second, the Convention would not require the United States to enact any implementing legislation, change any laws, or alter our land management practices in any way.

Finally, the Convention does not establish a dispute mechanism, a dispute settlement body or process to which parties are bound.

Becoming a party to the Convention would manifestly serve U.S. interests in several ways. First, becoming a party will help us fight hunger and poverty around the world. The United States has both a humanitarian and economic stake in such action.

Second, the Convention can help the United States promote our democratic values.

Third, the Convention is good for U.S. business. It would increase opportunities for U.S. business, along with experts in research universities and public institutions, to export technology and expertise through networks established by the agreement.

Fourth, the Convention can contribute to stability and decrease political strains around the world. Dry land degradation can exacerbate ethnic tensions and contribute to conflict. Every year, many

thousands migrate over our borders, for example, from land-degraded countries such as Mexico.

Finally, ratifying the Convention can help the United States build strong and constructive relationships with Africa. Many African nations have identified U.S. membership in the Convention as a priority. For many years, the United States has been a leader in the global war to combat desertification.

Senegal's Ambassador to the United States, Mamadou Mansour Seck, whose country suffers repeatedly from droughts, has said much progress could be made with the help of the United States, which has successful community based soil and water conservation programs and is recognized as one of the world's leaders in fighting desertification. The technical resources of American universities, research institutions and businesses are urgently needed in the Convention-generated partnership with communities around the world.

Mr. Chairman, I am honored to be able to recognize Ambassador Seck, who is in the audience today, reflecting his commitment to this treaty.

Senator HAGEL. Mr. Ambassador, welcome. We are glad you are here. Thank you for what you are doing.

Mr. SANDALOW. Mr. Chairman, the Convention was concluded in 1994, and it entered into force in 1996. More than 165 countries are parties to the Convention. The administration respectfully urges the committee to support U.S. ratification of the Convention.

Thank you for the opportunity to testify. I look forward to answering questions.

[The prepared statement of Mr. Sandalow follows:]

PREPARED STATEMENT OF HON. DAVID B. SANDALOW

Mr. Chairman and Members of the Committee:

I am pleased to be here today to discuss with you U.S. ratification of the Inter-American Convention for the Protection and Conservation of Sea Turtles and the Convention to Combat Desertification.

INTER-AMERICAN CONVENTION FOR THE PROTECTION AND CONSERVATION OF SEA
TURTLES

All species of sea turtles found in the Western Hemisphere are threatened or endangered, some critically so. Because sea turtles migrate extensively, effective protection and conservation of these species require cooperation among States within their migratory range. Although the international community has banned trade in sea turtles and sea turtle products pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES"), the Convention is the first multilateral treaty that actually sets standards to protect and conserve sea turtles and their habitats.

Congress called for the negotiation of multilateral agreements for the protection and conservation of sea turtles in Section 609 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162). In close cooperation with Mexico, the United States led a three-year effort to negotiate the Convention with other Latin American and Caribbean nations. Substantive negotiations on the Convention concluded on September 5, 1996, at a meeting in Salvador da Bahia, Brazil.

The Convention will enhance the conservation of this hemisphere's sea turtles and harmonize standards for their protection. The Letter of Transmittal and related materials that accompanied the transmittal of the Convention to the Senate review the salient provisions of the Convention. To summarize, the Convention requires Parties to:

- protect and conserve sea turtle populations and their habitats;

- reduce the incidental capture, injury and mortality of sea turtles associated with commercial fisheries;
- prohibit the intentional take of, and domestic and international trade in, sea turtles, their eggs, parts and products; and
- foster international cooperation in the research and management of sea turtles.

The Convention specifically obligates Parties to require the use of turtle excluder devices, or TEDs, in a manner that is comparable to the requirements in effect in the United States. A 1990 study by the National Academy of Sciences indicated that the incidental capture and mortality of sea turtles in shrimp trawl fisheries was one of the primary threats to sea turtles in this region of the world. Fortunately for sea turtles, the installation of TEDs in shrimp trawl nets allows virtually all sea turtles that are caught in those nets to escape unharmed—without appreciable loss of shrimp catch. Many nations in the Western Hemisphere have followed the U.S. decision to require the use of TEDs in shrimp fisheries where there is a likelihood of catching sea turtles. Implementation of the Convention will thus reinforce TEDs programs in some nations and require the establishment of such programs in other nations. In this way, the Convention will both advance the protection of sea turtles and help to level the economic playing field for shrimp fisheries throughout the Western Hemisphere.

The United States signed the Convention, subject to ratification, on December 13, 1996, in Caracas, Venezuela. The Convention will enter into force following the deposit of the eighth instrument of ratification with the Government of Venezuela, which serves as the depositary for this treaty. At this time, four governments have deposited such instruments—Venezuela, Peru, Brazil and Costa Rica. A number of other governments, including Mexico, Honduras and Ecuador, have informed us that they expect to be in a position to ratify the Convention in the very near future. We thus anticipate that the Convention will enter into force quite soon.

The Administration believes that U.S. interests will best be served if the United States is among the first eight States that bring the Convention into force. By doing so, the United States ensures itself a seat at the table during the first meeting of the Parties to be convened pursuant to Article V of the Convention. At that meeting, the Parties will consider a number of significant issues relating to the implementation of the Convention. Decisions reached at meetings of the Parties are to be adopted by consensus. Through our participation at the first meeting of the Parties, the United States can thus play a pivotal role in ensuring that activity under the Convention proceeds in a way that fully accords with U.S. interests and priorities.

Existing legislation, including the Endangered Species Act, 16 U.S.C. Section 1531 et seq., and the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. Section 1081 et seq., provide sufficient legislative authority to implement U.S. obligations under the Convention. Accordingly, no new legislation is necessary in order for the United States to ratify the Convention.

The Convention is in many ways a model agreement. It represents a cooperative effort on the part of Congress and the Executive Branch to build international support for the protection of endangered and threatened sea turtles. As noted above, the Convention will also help to ensure that the U.S. fishing industry and foreign fishing industries face comparable regulatory requirements with respect to their activities that may affect these species. Moreover, the Convention is already serving as a model for use in the negotiation of comparable conservation agreements in other regions of the world where sea turtles are at great risk. In that regard, I am pleased to inform the Committee that the first round of negotiations to establish a sea turtle conservation arrangement for the Indian Ocean and South East Asian region just concluded on July 14, 2000.

For many years, the United States has been a leader in the conservation of endangered and threatened sea turtles. The Convention is in many respects an outgrowth of that leadership. By ratifying the Convention, the United States can preserve its leadership role in the effort to conserve and protect sea turtles in a comprehensive manner. The Administration therefore urges this Committee to support U.S. ratification of the Convention as soon as possible.

CONVENTION TO COMBAT DESERTIFICATION

Turning to the Convention to Combat Desertification, the term “desertification” refers to the loss of soil fertility in drylands. This is a pressing problem around the world. Every year, soil degradation threatens the sustenance and livelihood of millions of farmers, especially in Africa. In part, this is the result of natural weather patterns. In part, it is the result of agricultural and other practices that deplete soils of vital nutrients and degrade land that can be used for farming and grazing.

In the fight against poverty and hunger, sound dryland management must be part of our arsenal.

The Convention to Combat Desertification is a unique and innovative tool at our disposal. The Convention makes developing nations responsible for designing and carrying out their own National Action Programs to combat desertification. It especially emphasizes the role of local communities and nongovernmental organizations in this effort. The Convention's community-based "bottom-up" approach reinforces democracy-building initiatives and the development of civil society in many countries.

In addition, the Convention promotes the coordinated and effective use of foreign assistance to help promote sound dryland management. It establishes a "Global Mechanism" to inventory relevant programs and improve the coordination of cooperative activities at the national level. The Convention also maintains a roster of experts available to work in this area. These steps are helping to cut through bureaucracy and eliminate waste in the delivery of foreign assistance.

The Convention can also provide direct benefits to countries—such as the United States—with considerable scientific and technical expertise in dryland management. Parties to the Convention may make nominations to a "roster of experts" which is widely used as a source of information. Private companies, research universities and technical institutions (such as the National Drought Mitigation Center in Lincoln, Nebraska) stand to benefit.

So far, I've told you what the Convention does. Let me also tell you what the Convention does not do.

First, the Convention does not establish a mandatory funding mechanism nor does it obligate Parties to provide specific resources in connection with its activities.

Second, the Convention would not require the United States to enact any implementing legislation, change any laws, or alter our land management practices in any way. For decades, the United States has been a leader in dryland management; the Convention is in many ways designed to help countries learn from the U.S. experience and others like it.

Finally, the Convention does not establish a dispute settlement body or process to which Parties are bound. The United States would not be bound to the jurisdiction of any dispute settlement body or process under the Convention.

Becoming a Party to the Convention would manifestly serve U.S. interests in several ways.

First, becoming a Party will help us fight hunger and poverty around the world. The Sahel drought of 1968–73 contributed to the deaths of 250,000 people and forced millions from their homes. By helping to prevent crises before they happen, the Convention can prevent desperate suffering and save hundreds of millions of dollars in costs for emergency relief. The United States has both a humanitarian and economic stake in such action.

Second, the Convention can help the United States promote our democratic values. The Convention's innovative focus on local decision-making and its emphasis on countries' taking responsibility for dryland management are contributing to democratic institution-building around the globe.

Third, the Convention is good for U.S. business. It would increase opportunities for U.S. business—along with experts in research universities and public institutions—to export technology and expertise through networks established by the agreement. By promoting sound agricultural practices and economic growth in many developing countries, it can also generate higher demand for U.S. exports of seeds, fertilizers, agro-chemicals and farm equipment.

Fourth, the Convention can contribute to stability and decrease political strains around the globe. Dryland degradation can exacerbate ethnic tensions and contribute to conflict. In some countries, soil erosion and degradation leads to massive internal migrations, forcing whole villages to flee the farms for the city. Every year, many thousands migrate over our borders from land-degraded countries such as Mexico.

Finally, ratifying the Convention can help the United States build stronger and more constructive relations with Africa. Many African nations have identified U.S. membership in the Convention as a priority.

For many years, the United States has been a leader in the global war to combat desertification. Senegal's ambassador to the United States, Mamadou Mansour Seck, whose country has suffered repeatedly from drought, made this recent plea:

Much more progress could be made with the help of the U.S., which has successful community-based soil and water conservation programs and is recognized as one of the world's leaders on fighting desertification. The technical resources of American universities, research institutions, and

businesses are urgently needed in the Convention-generated partnerships with communities around the world.

Unchecked, desertification will continue to foster food crises, poverty, conflict, migration, floods, and other environmental disasters. No nation is immune from the consequences.

Africa's 750 million people look to the U.S. for leadership on many issues, and desertification is one of the closest to our hearts. We look forward to welcoming the U.S. as a full partner to the Convention.

The Convention was concluded in 1994 and entered into force in 1996. More than 165 countries are Parties to the Convention.

Ratification is in our economic interest, in our security interest, and in the interest of the millions of lives that may be saved by preventing desertification and the famine and violence that too often follow. The administration respectfully urges this Committee to support U.S. ratification of the Convention as soon as possible.

Thank you for this opportunity to testify. I will be pleased to answer any questions.

Senator HAGEL. Mr. Secretary, thank you as well for your creative enlightenment for this land-locked Nebraska boy, who barely knows what a turtle looks like, and I am grateful. I do learn faster and better if I see it.

So thank you. It is good to have you with us, Mr. Secretary.
Secretary Wayne.

STATEMENT OF HON. E. ANTHONY WAYNE, ASSISTANT SECRETARY OF STATE FOR ECONOMIC AND BUSINESS AFFAIRS, DEPARTMENT OF STATE

Mr. WAYNE. Thank you very much, Mr. Chairman. Let me express first my thanks to you for holding this hearing, and for holding the hearing that you had last week, and accepting my testimony for the record along with Assistant Secretary Sandalow's. Unfortunately, I was in Japan or we could have had a double tag team 2 weeks in a row here.

Senator HAGEL. Well, we missed you. It was a nice party, and it is all show business. You know that, Mr. Secretary.

Mr. WAYNE. Exactly. Exactly.

Well, I very much appreciate the opportunity to present the views of the administration on the three treaties submitted for your advice and consent, the Food Aid Convention 1999, the International Plant Protection Convention, and the International Labor Organization Convention 176 on Safety and Health in Mines. We recommend speedy ratification of all three, and hope you share our view that they are in the best interests of the United States.

In the interest of time, Mr. Chairman, I will submit a longer statement for the record, and would like to offer a few shortened comments on each of the Conventions.

Senator HAGEL. Your statement will be included in the record.

Mr. WAYNE. Thank you. First, I would like to address the Food Aid Convention, FAC for short, 1999. This replaces the previous FAC, which had been negotiated in 1995. That agreement expired on June 30 of last year. Since then, the U.S. and other parties that have not yet ratified have continued to work as "provisional parties."

The Convention was submitted to the Senate on October 13 of last year. It provides a means to ensure that food aid reaches the world's most needy, despite fluctuations in world prices and supplies. No implementing legislation would be required to carry out

U.S. obligations. No new costs would be associated with the Convention, and the personnel to administer it are already in place.

The decision to renegotiate the 1995 Convention was taken as a followup to the World Food Summit and the World Trade Organization's Singapore Ministerial in 1996. At those two meetings it became clear that more was needed to provide for the developing countries, and the ministers at the WTO conference instructed the FAC to establish a level of food aid sufficient to meet the legitimate needs of developing countries.

After nine rounds of negotiations during the succeeding 2 years, a text was agreed and entered into force on July 1 of last year. The annual minimal commitments made by the FAC members are aimed at establishing a food aid "floor" which gives developing nations the security of knowing that aid will be forthcoming even in the event of high prices or fluctuating supply.

Another objective of the new FAC is to achieve greater efficiency. Members have agreed to place greater emphasis on monitoring and evaluating food aid operations. They have pledged to support recipient countries in their efforts to develop their own food strategies, so a longer term planning would be involved here.

Under the new Convention, members can make their commitments either by weight, by value, or a combination of both. The United States has pledged to provide a minimum of 2.5 million tons in wheat equivalent each year. The European Union has pledged to provide 1.32 million metric tons, plus 130 million Euros. The total annual minimum commitment from all the members of the FAC is just under 5 million metric tons, plus the 130 million Euros that the EU has promised.

All of the food aid to the least developed countries will be in the form of grants. However, members have the option of providing food aid to low income or lower middle income countries using long-term concessional loans such as our Public Law 480 Title I program. Members have also agreed not to link any of their FAC food aid to commercial exports of goods and services in the recipient countries.

Now, as you know, Mr. Chairman, the United States remains the world's food aid leader. We have provided over 40 million tons of food aid, or 54 percent of the world's total over the past decade. The EU is the second largest provider, providing 20 million tons in that time period.

The FAC, the new FAC of 1999, is a flexible mechanism. It has expanded, as you mentioned, Mr. Chairman, the list of foods that can now be donated. The idea here is that we can have a more equitable sharing of the food aid burden, as more countries can now participate. You do not just have to be a large grain producer. As you noted, powdered milk, vegetable oil or vitamin-reinforced foods can be given. So we hope very much that the FAC will expand and more countries will participate, helping to build that "floor" of food aid up a bit.

Although the intention of the FAC is to help alleviate poverty and hunger among the world's poorest nations, it seems clear to us that food aid benefits American farmers as well. U.S. farmers are the most productive in the world, so productive, as you well know, that they produce far more food than Americans consume. Food aid

programs use U.S. surpluses to address deficits around the world. Last year alone, the U.S. Government purchased over 9 million tons of commodities from American farmers.

Mr. Chairman, the Food Aid Convention 1999 provides an excellent mechanism for directing surplus U.S. food production to alleviate the suffering of the world's poorest people. I urge you and the Senate to provide your advice and consent to ratify this Convention.

Next, Mr. Chairman, I would like to address the revised International Plant Protection Convention, or the IPPC. The IPPC itself was established in 1952. The goal of this organization is to prevent the spread of plant pests by committing Governments to establish national pest surveillance programs, inspect imports and certify exports, communicate plant importation requirements, announce emerging pest threats, and work jointly on pest control and eradication programs. This objective must be met without disrupting trade between countries, and regulatory action affecting trade must have technical justification.

Evolving plant quarantine practices and conflicts and the expanding agricultural trade have led to this latest revision to the IPPC. This is the first revision in 20 years. Some of the new revisions include clarified and strengthened requirements that phytosanitary measures be based on science, incorporation of important principles of transparency, nondiscrimination, and science-based regulatory actions, making it more difficult for countries to use arbitrary and unjustified health requirements to restrict trade.

A greater role for plant quarantine officials in development and adoption of international standards is created in the new IPPC, as well as improved procedures for exchanging information to reduce the risk of pest spread, and minimize unnecessary trade disruptions.

We believe the revised IPPC will expedite development of international plant health standards. As you know, this has become a key part of our strategy of creating a stable trade system that consists of sound quarantine principles and is predictable for the American farmer trying to export to foreign markets. International standards are critical for achieving a trade system balancing protection with predictability and fairness in trade practices.

Also of strategic significance to agriculture is the advent of new products derived from biotechnology, as we focused on last week in your hearings. We are facing serious challenges in the way countries view these new food and agricultural products. We see the IPPC framework as providing science-based standards to assure that these products are treated fairly, and that U.S. farmers can continue to export new agricultural products overseas.

No changes in law or administrative action will be required to implement the IPPC. Existing plant protection statutes already enable the U.S. Department of Agriculture's Animal and Plant Health Inspection Service to discharge its responsibilities under the Convention, and appropriate staff and regulations are already in place. Accepting the IPPC revisions will send a clear signal to our trading partners that the U.S. remains committed to strengthening agricultural trade through international standards and rules.

Ratification of the treaty will help eliminate and prevent unjustified trade barriers and help U.S. farmers and exporters of agricultural products. We hope you will give this treaty favorable consideration.

The third treaty I would like to discuss is the International Labor Organization's "Convention 176 Concerning Safety and Health in Mines." This was submitted to the Senate by the President on September 9, 1999. The administration strongly supports ratification of this Convention, which will help improve working conditions for miners around the world, while promoting a level, competitive playing field for the American mining industry.

The Convention requires states to establish and review mine safety and health laws and policies. It establishes responsibilities for employers and specific rights and duties for miners. The provisions of the Convention are fully consistent with existing U.S. mine safety and health laws and regulations. In fact, as you alluded to in your opening statement, Mr. Chairman, Convention 176 was patterned after the Federal Mine Safety and Health Act of 1977.

Once again, no new legislation, personnel, or organization is needed to implement this Convention. Representatives of labor and industry as well as the Federal Government examined this Convention using the ground rules adopted by the Senate in 1988 for review of similar Conventions and concluded that there were no legal impediments to U.S. ratification.

Ratification of Convention 176 represents an opportunity to advance mining safety and health, and can help the American mining industry compete by ensuring mining companies around the world must meet basic safety and health standards, and it would also promote market opportunities for U.S. companies that manufacture mining equipment that meets safety and health standards. For these reasons, both the United Mineworkers of America and the National Mining Association support ratification of Convention 176.

The United States began the 20th century with thousands of miners losing their lives annually in mining accidents, but close the century with fewer than 100. Ratification of Convention 176 will help raise safety and health protection for miners throughout the world. We strongly request your favorable consideration of this important Convention.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Wayne follows:]

PREPARED STATEMENT OF HON. E. ANTHONY WAYNE

Mr. Chairman, on behalf of the Department of State I appreciate the opportunity to present the views of the Administration concerning three treaties submitted to you for advice and consent: first, the Food Aid Convention, 1999; second the International Plant Protection Convention; and third the International Labor Organization Convention 176 on Safety and Health in Mines. The Administration recommends speedy ratification of all three of these treaties and hopes you will share the view that all three are in the best interests of the United States.

I. FOOD AID CONVENTION (FAC), 1999

The Food Aid Convention (FAC) 1999 replaces the Food Aid Convention of 1995, which expired June 30, 1999. The Convention provides an international forum for donors to discuss food assistance to needy countries. Parties to the 1995 Convention are the major food aid donors and include the United States, the European Union, Japan, Canada, Australia, Norway, Switzerland and Argentina. The Food Aid Convention 1999, like its 1995 predecessor, commits the United States to donate or sell

on concessional terms at least 2.5 million tons of food aid annually. The treaty was submitted to the Senate October 13, 1999.

We believe the Food Aid Convention (FAC) 1999 will play a critical role in helping to ensure that food aid from major donors reaches the world's neediest people on a regular and predictable basis irrespective of fluctuations in world food prices and supplies. No implementing legislation is required to carry out U.S. obligations under FAC 1999. Administrative duties overseas are handled by the Secretariat of the International Grains Council (an inter-governmental organization concerned with grains trade based in London since 1949) and in the U.S. by the Department of State. In both cases, personnel are already in place.

For your background information, 1996 saw both the World Food Summit in Rome and the World Trade Organization's Singapore Ministerial. Developed and developing countries alike agreed at the World Food Summit that enhancement of world food security was necessary. At the WTO Conference, Ministers recommended that the parties to the Food Aid Convention "establish a level of food aid commitments, covering as wide a range of donors and donable foodstuffs as possible . . . sufficient to meet the legitimate needs of developing countries." In response, parties to the 1995 Food Aid Convention decided to open the FAC for renegotiation in December 1997.

Parties held nine rounds of negotiations during 1998 and early 1999 and completed the new Food Aid Convention in April 1999. It has an initial three-year duration, but can be extended for successive periods, not exceeding two years in each extension. The Food Aid Convention, 1999 entered into force on July 1, 1999. Argentina, Austria, Ireland, Sweden, Denmark, Finland, Portugal, Luxemburg, Netherlands, Italy, Greece, Australia, Switzerland, and Canada have ratified the Food Aid Convention, 1999. The United States signed the Convention on June 16, 1999 and is being treated as a provisional party pending Senate consent and advice and deposit of the U.S. instrument of ratification. A number of other states are still applying the 1999 Convention only provisionally: Belgium, EC, France, Germany, Japan, Norway, Spain and the U.K.

The 1999 Convention's stated objectives are to "contribute to world food security and to improve the ability of the international community to respond to emergency food situations and other food needs of developing countries." FAC parties will make food aid available to developing countries with the greatest need on a predictable basis, irrespective of fluctuations in world food prices and supplies. Food aid is directed to the alleviation of poverty and hunger of the most vulnerable groups. FAC parties make specific annual minimum commitments, thus setting a "floor" for food aid. Needy developing countries thus gain some security in knowing that food aid will be forthcoming even in the event of high world prices and scarce supply.

The new FAC aims at achieving greater efficiency in all aspects of food aid operations. FAC parties have agreed to place greater emphasis on the monitoring and evaluation of food aid operations. They also have agreed to support the efforts of recipient countries to develop and implement their own food aid strategies.

While focusing upon the least developed countries, the Convention also recognizes that even lower middle income countries experience food emergencies and also have vulnerable groups within their borders. Thus these states remain eligible recipients under the new Convention, and the Convention remains a flexible instrument.

Grains continue to represent the bulk of eligible products under the 1999 Convention. However, the list has been broadened to include edible oils, skimmed milk powder and milk products. Another important innovation is the inclusion of "micro-nutrients" including fortified products (e.g., vegetable oil fortified with Vitamin A) and vitamin supplements.

Under the new Convention, the specific annual commitments of FAC parties can be commodities (in metric tons), cash value, or a combination of both. (The United States will provide commodities.) The United States has pledged to provide a minimum of 2.5 million metric tons (in grain equivalent) annually. The European Union, which contributes cash and commodities, has pledged to provide 1.32 million metric tons plus 130 million Euros cash. (The other six parties to the Convention have made their pledges in metric tons of commodities.)

The total annual minimum commitment of FAC parties is slightly below five million metric tons (in grain equivalent) plus 130 million Euros. Donors have agreed, to the extent possible, to bear the cost of transportation, particularly in the case of emergency food aid or when food aid is directed to least developed countries.

All food aid to least-developed countries covered by parties' minimum annual commitments will be in the form of grants. However, parties will continue to have the option of providing food aid to low-income and lower middle-income countries in the form of long-term concessional loans (such as under the U.S. P.L. 480 Title I program), thus retaining another important element of flexibility. Parties agree not to

tie the provision of their FAC food aid to commercial exports of goods and services to recipient countries.

To promote local agricultural development, donors agree to consider purchasing food from a developing country for supply to a recipient country or to buy food in one part of a developing country for supply to another part. This process helps strengthen regional and local markets and enhances the longer-term food security of recipient countries.

The United States remains the world's food aid leader, providing over 40 million tons, or 54 percent of the world's total, from 1990 through 1999. The EC provided the second largest amount through the same period with 20 million tons or 27 percent of the total. The Food Aid Convention, 1999, by expanding the list of eligible food aid commodities, has made a significant step toward sharing the burden of food aid more equitably. Countries which are not grain exporters are now able to donate useful commodities such as milk powder or vegetable oil. While no new donors have joined the FAC, outreach is planned to encourage those nations which have become middle-income countries to shoulder a greater share of the world's food aid needs.

U.S. food aid, under the Food Aid Convention, is an extremely valuable tool to alleviate suffering and raise standards of living among the poorest of the poor. Food aid not only feeds hungry people, but also provides a key resource in programs like "food for work" that help make poor nations less vulnerable to future food shortages. Examples include making drainage ditches and roads in agricultural areas in Bangladesh and reforestation projects in Peru and Bolivia to reduce erosion. We have had many successes, and in some cases made the difference between life and death. Food aid has prevented mass starvation in Ethiopia and assisted rebuilding in countries such as Honduras harmed by natural disasters like hurricane Mitch. Our food aid programs have enabled us to feed the hungry in other places devastated by wars and natural disasters, such as Bosnia-Herzegovina, Eritrea, Albania, Mongolia and Rwanda.

Yet we must be careful not to create the misperception that U.S. food aid benefits only people in far off lands. In reality, U.S. food aid also helps our farmers right here at home. The most productive in the world, U.S. farmers produce more food than Americans can consume. Food assistance programs are an effective way of linking U.S. surpluses with the deficits that exist around the world. Last year alone, the U.S. government purchased over nine million tons of commodities from U.S. farmers, including wheat, corn, soybeans, pork, planting seeds, rice, lentils, dry beans and milk, to provide as food aid worldwide.

Clearly, the roots of U.S. food aid run deeply into, the soil of America's farms. We are aware of no domestic opposition to the Food Aid Convention. Mr. Chairman, I urge you and the Senate to provide your advice and consent to U.S. ratification of the Food Aid Convention, 1999.

II. INTERNATIONAL PLANT PROTECTION CONVENTION (IPPC)

Mr. Chairman, the International Plant Protection Convention (IPPC) was established in 1952 and has been revised twice since then (1979 and 1997). It is administered and supported through the United Nations Food and Agricultural Organization (FAO) based in Rome. The revised Convention was submitted to the Senate on March 23, 2000. Originally, the Convention's main goal was to promote cooperation among countries in preventing the spread of plant pests associated with the movement of commodities, people, and conveyances.

The Convention, in its early years, provided crucial direction in the area of plant health and the United States has been a leading force in furthering the work of the IPPC. The IPPC parties committed governments to establish national regulatory systems capable of conducting pest surveillance; inspecting imports; certifying exports as free of pests; informing other countries of their plant health import requirements; notifying parties of emerging pest threats; and working together in joint pest control and eradication programs. These safeguarding objectives were, and continue to be, fully in line with our goals of trying to deter and prevent the spread of harmful plant pests into the United States. The IPPC has 110 signatories. Fifteen countries have already ratified the revised Convention and deposited their official letters of acceptance with the FAO including Sweden, Australia, New Zealand and several developing countries.

Preventing the spread of pests, without disrupting trade between countries, is what brought quarantine officials together at the IPPC, and continues as the organization's guiding principle. Since its inception, the IPPC has maintained and promoted the concept that regulatory actions that affect trade MUST have a technical justification. This concept foreshadowed the obligation contained in the Uruguay

Round Agreements on Sanitary and Phytosanitary (SPS) measures—that health-related requirements in trade be based on science.

Why revise the Convention? The last revision to the Convention occurred over 20 years ago. Since then, plant quarantine practices and concepts have evolved. In addition, the expansion in agricultural trade has created a greater need by industry and governments for harmonized approaches to risk management. Both exporters and regulatory agencies need an international framework harmonized decision-making processes to govern trade in grain, fruit, vegetables, and other agricultural and forest products. Moreover, the threat from invasive species has intensified in recent years as global commerce has expanded.

The recent Uruguay Round Agreement on SPS sets out the rights and obligations of countries to take protective measures and promote fair trade practices. This is consistent with U.S. support for a science-based, rules-based system, which prevents the use of arbitrary and unjustified technical measures as disguised barriers to trade. In this new environment, IPPC signatory countries, including the United States, agreed on the need to modernize the IPPC.

Throughout the negotiations to revise the Convention, we held two key objectives. First, we sought to reinforce and clarify within the Convention itself the obligation that regulatory measures that affect trade be firmly based in science. Second, we wanted to ensure that the IPPC was positioned to play a full and active role as a global standard setting body in the area of plant health. We feel that we accomplished these objectives. However, this revision to the IPPC does not impose any new obligations on the United States.

Let me give you some examples of what the revised text provides:

- First, it clarifies and strengthens the requirements that phytosanitary measures be based on science. The existing Convention is unclear about the nature of the technical justification required to support a measure. The revised text is quite explicit about what it means to base a measure on science. We incorporated specific provisions on the use of risk analysis as a basis for regulatory decision making.
- Second, it incorporates important principles of transparency, nondiscrimination, and science-based regulatory actions throughout the text, thereby making it more difficult for countries to use arbitrary and unjustified phytosanitary requirements as barriers to trade.
- Third, it formalizes the IPPC standard setting procedure within the Convention in order that plant quarantine officials may play an active role in the development and adoption of international phytosanitary standards.
- Fourth, it clarifies some of the basic procedures for information exchange to ensure that information on potentially harmful pests as well as import regulations are notified between parties to reduce the risk of pest spread and minimize unnecessary trade disruptions.

Why is the revised IPPC important to agriculture? The primary benefit we expect from IPPC activities in the coming years is to expedite the development of international plant health standards. This development will contribute to greater harmonization of phytosanitary measures used in trade, thereby providing greater predictability for our exporters. In fact, a 1998 survey of a cross-section of U.S. industry involved in plant-related commodities (including food producers, horticultural industries, and nurseries) made clear industry's interest and need for more standards to govern their trade and provide greater predictability with respect to foreign regulatory practices that affect their business decisions.

Having a common, or harmonized, set of concepts, terms, and approaches in the phytosanitary area is essential for facilitating industry and intergovernmental discussions and resolving disputes over pest and disease issues that affect trade. A common vocabulary or agreement on basic quarantine practices, provide a solid basis for trying to sort out and resolve our differences over these issues. This common vocabulary allows us to engage with our foreign regulatory counterparts on disease risk issues related to the movement of citrus to Mexico and Korea, or tobacco to China, or wheat to Brazil.

Mr. Chairman, we believe that IPPC standards and activities in the years ahead will have a significant impact on agricultural trade. International standards will help prevent disputes from occurring in the first place and, when they do, they will serve as important benchmarks for use by WTO dispute panels that may be formed to decide phytosanitary trade disputes. In fact, an IPPC standard (i.e., guidelines for conducting pest risk analysis) was a crucial tool in the recent WTO dispute between the U.S. and Japan concerning trade in fruit, in which we obtained a favorable ruling. This standard was critical in the panel's evaluation of Japan's phytosanitary practices which were harming our agricultural trade interests.

The IPPC standard-setting functions have become more visible as a result of the WTO's SPS Agreement, somewhat overshadowing the institution's equally important role in sharing information internationally. The IPPC contains several provisions regarding specific kinds of information to be exchanged between parties. These include:

1. Pest Reporting: Parties are required to inform each other of the occurrence or outbreak of pests within their territory which may pose a potential threat to other parties.
2. Phytosanitary Measures: The IPPC requires parties to share copies of new or amended phytosanitary legislation or regulations with other parties who may be affected. This requirement includes providing on request the rationale for these new or amended phytosanitary measures.

Also, the newly revised text of the IPPC requires parties to establish official contact points. Generally, the chief plant protection officer at the national level is the official contact point. (Each party submits a contact point to the Secretariat, which compiles a directory.) The intent of establishing a system of official contact points is to facilitate the exchange of information directly between parties. These contact points are critical for making it easier to communicate on urgent issues related to export certification, pest issues, and other phytosanitary matters.

Standard setting has become a key part of our strategy of creating a stable trade system that consists of sound quarantine principles and is predictable from the standpoint of an American farmer trying to export his products to foreign markets. International standards are critical for achieving a trade system that balances the need for health protection with a need for predictability and fairness in trade practices.

A top priority for the United States overall is to increase and expedite the development of phytosanitary standards to govern trade in fruit, vegetables, and other plant commodities. U.S. horticultural, grain, and nursery industries have indicated that increasing the number of regional and global standards to provide greater predictability in trade is a high priority for them. The revised Convention allows us to pursue these strategic objectives.

Also of strategic significance to agriculture is the advent of new products derived from biotechnology. We are currently facing some serious challenges in the way countries are viewing and treating these new food and agricultural products. While some environmental groups have raised questions regarding the scope and application of the Convention to protection of plants and the environment, we have clarified to these groups and assured them that the Convention does indeed help protect plants and the environment. We see the IPPC framework as the appropriate forum for developing science-based standards to assure that trade in these products is not hindered by unjustified phytosanitary standards and that U.S. farmers will continue to benefit from being able to export new agricultural products to overseas markets.

Today, we have an opportunity to demonstrate continued U.S. leadership and interest in international standards by acceptance of the revised Convention as soon as possible. Completing the acceptance process within the United States this year will send a clear signal to our trade partners that the United States remains fully committed to strengthening agricultural trade conditions through the development and use of science-based international plant protection standards and rules. Ratification of the treaty will help eliminate and prevent arbitrary or unjustified barriers to trade and help U.S. farmers and exporters of agricultural products.

No changes in law or administrative action will be required to implement the IPPC. Existing plant protection statutes already enable the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) to discharge its responsibilities under the Convention. Appropriate staff and regulations are already in place.

We hope that you will give this treaty your favorable consideration and thank you for the opportunity to present our position.

III. INTERNATIONAL LABOR ORGANIZATION (ILO) CONVENTION 176 ON MINE SAFETY AND HEALTH

The International Labor Organization (ILO) Convention 176 "Concerning Safety and Health in Mines" was submitted to the Senate by the President on September 9, 1999. Representatives of the U.S. Government, as well as U.S. worker and employee organizations, played a leading role in the negotiations leading to the ILO's adoption of the Convention, on June 22, 1995. The Administration strongly supports ratification of this Convention, which will help improve working conditions for miners around the world, while promoting a level, competitive playing field for the American mining industry.

Convention 176 obligates ratifying states to formulate, carry out, and periodically review a consistent policy on safety and health in mines. So far 14 countries have ratified Convention 176: Armenia, Austria, Botswana, Finland, Germany, Ireland, Lebanon, Norway, Philippines, Slovakia, South Africa, Spain, Sweden and Zambia. In addition, ratifying states are to develop national laws and regulations to effect implementation of the Convention's provisions. Responsibilities for employers are established in the provisions of the Convention, as are specific rights and duties of workers and their representatives. The obligations, policies, responsibilities, rights and duties of the Convention are fully consistent with existing U.S. mine safety and health laws and regulations. No new legislation, personnel, or organization is needed to implement the Convention.

Convention 176 was patterned after U.S. law: the Federal Mine Safety and Health Act of 1977, a statute that has proven its effectiveness in protecting miners' safety and health. The Tripartite Advisory Panel on International Labor Standards (TAPILS), which includes representatives of the American Federation of Labor—Congress of Industrial Organizations and the U.S. Council for International Business, as well as the Departments of Labor, Commerce and State conducted a detailed examination of the Convention. TAPILS also examined how U.S. law and practice conform to its provisions.

TAPILS conducted its review using the three ground rules adopted by the Senate in 1988. These rules require that each convention related to labor be examined on its merits by the TAPILS participants; that any differences between the Convention and U.S. law and practice be addressed in the normal legislative process, and that there is no intention to change state law and practice through the ratification process. These ground rules work to assure that the legal consequences, if any, of ratification are identified and addressed prior to ratification. Since the requirements of the Convention are fully consistent with existing U.S. mine safety and health policy and law, TAPILS concluded that there are no legal impediments to U.S. ratification of Convention 176.

Ratification of Convention 176 presents an opportunity to advance safety and health in the mining industry throughout the world by establishing uniform safety and health standards. Ratification of Convention 176 would also help the American mining industry compete in this increasingly global economy. The United States is among the leading exporters of coal in the world. Wide ratification of this Convention would help ensure that mining companies around the world must meet basic safety and health standards. It would also promote market opportunities for American companies that manufacture mining equipment that meets safety and health standards. For these reasons, both the United Mine Workers of America and the National Mining Association support ratification of Convention 176. The U.S. Council for International Business, representing more than 500 members including the "Fortune 250," is also in support of ratification of the Convention.

As the President stated on September 9, 1999, "Mining has long been recognized as one of the most dangerous jobs in the world. Men, women and sometimes even children are exposed to hazards that can claim their lives or destroy their health. . . . Despite the considerable advances in safety and health throughout this century, mining remains one of the most hazardous occupations worldwide."

Recent events attest to his remarks. In March 2000, a methane explosion in the Ukraine resulted in the deaths of 80 coal miners. New reports indicate that mining accidents in China killed more than 3,000 miners in 1999, and that more than 2,700 miners were killed in the first half of 2000. The United States began the 20th century with thousands of miners losing their lives annually in mining accidents, but closed the century with fewer than 100. Ratification of Convention 176 will help raise safety and health protections for miners throughout the world. We strongly request your favorable consideration of this important Convention.

Senator HAGEL. Gentlemen, thank you.

In the interests of time, I am going to ask a question on each of the treaties and then I will submit for the record questions that you can respond to in writing. Some of my colleagues, including the chairman, Chairman Helms, have asked that questions be submitted in writing and I will do that.

First, Secretary Sandalow, on the Inter-American Convention on Sea Turtles—this is actually a question from Chairman Helms. Some members of our committee are concerned, and I expect this

can be applied to each of these treaties, that we are going to create bigger and more and deeper bureaucracy.

What can you tell us about this treaty? Will it create more bureaucracy? Expand on that, if you would. You have touched on some of the dynamics of increased bureaucracy, as you both did in your statements, but if you would not mind, could each of you hit that question and give me an answer.

Mr. SANDALOW. Thank you for the question, Mr. Chairman. I will start with the Sea Turtle Convention. This is an exceedingly lean and mean instrument. It is envisioned that there would be a very small secretariat. The secretariat would involve voluntary contributions from the United States, no more than roughly \$100,000 a year in that area. It is not a United Nations instrument. The investment that we would make in voluntary contributions associated with this type of treaty would be paid back in spades in benefits to our business and to the global environment.

With respect to the desertification, this, too, is a treaty that will not create bureaucracies. It will help cut through bureaucracies. It is a U.N. instrument, but it is designed specifically to make sure that moneys are better spent and the bureaucracies are better managed, so the treaty involves, or creates a mechanism for donor coordination, which ensures that foreign assistance dollars are better spent, and it empowers communities on the ground to make sure the projects that come forward are better projects.

Senator HAGEL. Would it be necessary for any new United States law or legislation to be introduced to comply with this treaty?

Mr. SANDALOW. Not under either of the treaties that I spoke of today, Mr. Chairman.

Senator HAGEL. Could you address enforcement of this Convention, specifically additional Convention measures, moneys, people, anything in the way of enforcement of the five treaties we are talking about.

Mr. SANDALOW. There are no mandatory procedures under these Conventions, Mr. Chairman.

Mr. WAYNE. Similarly, we do not believe there will be any additional personnel or new bureaucracy created in the three treaty Conventions that I spoke about.

In the case of the FAC, the secretariat is provided by an international, intergovernmental organization that exists. The International Grains Council, which handles the flow of grain trade normally, and it has also taken on the responsibilities of the FAC.

In the case of the International Plant Protection Convention, the secretariat is provided by existing FAO resources. That secretariat already exists. We do not foresee a new secretariat being created, and we do not foresee any new money being called for.

In the case of the ILO Mine Safety and Health Convention, the Department of Labor's Mine Safety and Health Administration will continue to carry out its normal functions. No additional requirements would be laid upon them here. Internationally, the ILO would take on the responsibility of monitoring the compliance with this Convention, but we do not see the need for a new bureaucracy or new resources in the ILO to do that.

Senator HAGEL. Thank you.

Secretary Sandalow, you mentioned that the National Drought Mitigation Center in Lincoln, Nebraska would be assisted with the ratification of the Desertification Convention. Could you go into a little more detail on how that would happen?

Mr. SANDALOW. Thank you for the opportunity, Mr. Chairman.

Among other ways, the Convention provides for a roster of experts which is maintained by the secretariat under the Convention, and that roster of experts has become the clearinghouse and a central source of information for those who are looking for technical assistance with respect to drought mitigation and dry land management issues around the world.

Should the United States become a party to this Convention, we would be entitled to nominate the National Drought Mitigation Center in Lincoln to take a place on that roster of experts, and anybody around the world looking for assistance could come to the center.

Senator HAGEL. Thank you.

Secretary Wayne, on the ILO Convention concerning Safety and Health in Mines, is any additional legislation required from the United States to comply with this treaty?

Mr. WAYNE. No, Mr. Chairman. Indeed, our safety standards are higher than the safety standards in this ILO Convention. Indeed, what we are doing here is bringing other countries up closer to our standard-setting level, which is the model in the rest of the world, so we would not have to have any implementing legislation, indeed, for any of the three Conventions that I talked about, Mr. Chairman.

Senator HAGEL. A question that one of my committee colleagues had asked regarding this treaty, would this Convention in any way conflict with the prerogatives of our own judges or our own laws in the area of mine safety or health. Is there any conflict that you might see potentially arising?

Mr. WAYNE. No. In our examination of it we have not seen any conflict, and indeed part of the mandate of the tripartite organization, which is called the Tripartite Advisory Panel on International Labor Standards, was to examine this Convention to see if it would interfere in any way with U.S. law, including State law, or U.S. prerogative, and they found that no, that indeed there would be no new demands for changes in U.S. law or regulation, and this was a panel of Government, industry, and union representatives.

Senator HAGEL. Thank you.

Under the Food Aid Convention we encourage private voluntary organizations to carry out the purposes of this Convention. Do you believe that we have tapped into those organizations to the maximum extent?

Mr. WAYNE. Well, Mr. Chairman, what I know for certain is that these PVO's are essential partners, very active partners, and are used on a regular basis, consulted with on a regular basis, CARE, Catholic Relief, many others. I think that partnership is always evolving, but it is an extremely close one, and I think they indeed are well-used in this process and deeply integrated into it.

Senator HAGEL. I'd like to ask another question on the Food Aid Convention and distributing food aid, this time relating to the age-old question of trying not to penalize the people to get to the cor-

rupt ruler, Iraq being a good example. This question is a specific question that one of my colleagues on the committee asked that I raise with you.

How would this aid be distributed in countries like North Korea? What assurances are there that that food is not diverted to troops or for Government use?

Mr. WAYNE. Mr. Chairman, you are correct that this is a very important question. It is a question that we have center before our thought whenever we are dealing with difficult situations like this, or in difficult regimes, whether it be a civil war or a regime of concern, a State of concern.

And when we have provided food for humanitarian need in those situations, it has either been through the U.N. World Food Program, or through private voluntary organizations, and with the clear stipulation that very careful monitoring is required, very careful accounting to ensure that the food goes to the people and is not diverted either to government or to the military. I know that there has been much work to improve these monitoring and accounting systems to make sure that everything is accounted for and it really gets to the intended recipient.

Senator HAGEL. Thank you.

Gentlemen, we could go on, but coming in right behind you we have a most distinguished nominee to be Inspector General of the U.S. Agency for International Development, so I do not want to hold him up. I would ask that if you could respond to written questions which we will submit, and if you could turn those around in a timely manner we would appreciate it.

I have not consulted with Chairman Helms on how fast we can move on these, but I assume he will bring them up in the next business meeting, but being just a modest member of the committee with absolutely no authority or power, I cannot speak for the chairman, of course, but I think that is his intent.

Secretary Sandalow, your net was a very instructive prop, and I might ask that you leave it. We might find a very effective use for that here. Good to see both of you again. Thank you for your service to our country.

Mr. SANDALOW. Thank you, Mr. Chairman.

Mr. WAYNE. Thank you, Mr. Chairman.

[Whereupon, at 3:30 p.m., the committee adjourned.]

ADDITIONAL QUESTIONS SUBMITTED FOR THE RECORD

RESPONSES OF ASSISTANT SECRETARY OF STATE DAVID B. SANDALOW TO ADDITIONAL QUESTIONS SUBMITTED BY SENATOR JESSE HELMS

DESERTIFICATION CONVENTION

Question 1. As a so-called “developed country” under the Convention, would the United States be absolutely bound to specific funding requirements or specific requirements to provide resources, including technology, to so-called “affected countries?”

Answer. The Convention and its annexes do not bind the United States to specific funding requirements or other specific requirements regarding the provision of any resource, including technology, to any of the “affected countries,” as defined in the Convention.

Question 2. Would ratification of the Convention obligate the United States to help fund two new United Nations bureaucracies—a permanent secretariat and “Global Mechanism”—devoted to the treaty’s implementation?

Answer. The Convention creates a Secretariat and a Global Mechanism, but does not prescribe a level of funding for them. As a party, the United States would be expected to make annual contributions to the Convention’s budget to support the administrative expenses of the Secretariat and the Global Mechanism. Nothing in the Convention or the budget decisions adopted by the Conference of the Parties makes these contributions mandatory. The United States regards them as voluntary.

Question 3. Would ratification of the Convention require alteration of U.S. domestic legal processes for determining bilateral and multilateral foreign assistance funding levels or foreign assistance recipients?

Answer. Ratification would not alter our domestic legal processes for determining bilateral and multilateral foreign assistance funding levels, or the recipients of those funding levels.

Question 4. Would the United States be forced to overhaul its land management practices in order to meet its obligations under this Convention?

Answer. Ratification will not require the United States to alter its national land management or agricultural practices. The CCD does not call for any land use restrictions, or require additional legislation or regulations for U.S. implementation. Our current land use practices are in accord with the Convention obligation to establish strategies to combat desertification and mitigate the effects of drought.

Question 5. Are the dispute settlement provisions of article 28(2) of the Convention mandatory? Would the United States be absolutely bound by recommendations resulting from conciliation exercises undertaken pursuant to the Convention?

Answer. Paragraph 2 of article 28 permits a Party, when joining the Convention, to declare that it accepts binding adjudication before the International Court of Justice and/or binding arbitration. We do not intend for the United States to make such a declaration, and therefore the dispute settlement provisions of article 28(2) would not be mandatory for disputes involving the United States. With respect to conciliation procedures under article 28(6), any recommendations resulting from such procedures would not be binding on the United States.

Question 6. Would the Convention obligate the United States to provide even more resources to the Global Environment Facility?

Answer. The Convention does not obligate the United States to provide increased levels of funding to the GEF. The GEF Council decided to integrate desertification projects into the appropriate focal areas already existing in the GEF. Results of the last two rounds of GEF Council meetings indicated to us that desertification projects have been integrated well into the existing GEF “focal area” of biodiversity conservation and sustainable use. The GEF is continuing to improve integration of desertification into other appropriate focal areas, such as international waters and climate change.

INTER-AMERICAN SEA TURTLE CONVENTION

Question 1. Will the Convention impose a mandatory obligation upon the United States to co-finance a permanent secretariat to implement the treaty?

Answer. No. The Convention does not actually establish a secretariat. Rather, Article VI of the Convention calls upon the Parties to consider the establishment of a secretariat at their first meeting.

If the Parties decide to establish a secretariat, Article VI, paragraph 2 calls upon them to “consider the possibility of appointing the Secretariat from among com-

petent international organizations that are willing and able to perform the functions provided for in this Article.” The idea behind this provision is to avoid costs associated with the creation of an independent secretariat.

Even if the Parties were to decide to establish an independent secretariat, the Convention does not impose a mandatory obligation on the United States to co-finance the secretariat. Article VI, paragraph 2 instead provides that the Parties “shall determine the means of financing necessary to carry out the functions of the Secretariat.” The Administration anticipates that any such determination would either involve voluntary contributions from the Parties or the seeking of contributions from existing international environmental organizations, or a combination of both approaches.

In accordance with Article V, paragraph 5, any decision on financing a possible secretariat would be made by consensus of the Parties. Thus, the United States could prevent the adoption of a decision on this matter that would be adverse to our interests.

Question 2. How does the Administration propose to enforce the Convention? Is there anything that would prevent the U.S. Coast Guard from boarding, inspecting or even seizing a foreign flag, U.S. flag, or no-flag vessel in connection with enforcement?

Answer. Each Party is responsible for enforcing the provisions of the Convention in its land territory and in waters over which it exercises sovereignty, sovereign rights or jurisdiction with respect to living marine resources. Generally speaking, these waters extend to the seaward limit of any exclusive economic zone that a Party has established which, under international law, may be no more than 200 nautical miles from coastal baselines.

Each Party is also responsible for enforcing the provisions of the Convention with respect to vessels on the high seas that are authorized to fly its flag. Nothing in the Convention would prevent the U.S. Coast Guard from boarding, inspecting or even seizing a foreign flag, U.S. flag, or no-flag (stateless) vessel for violating the provisions of the Convention in waters over which the United States exercises jurisdiction; i.e., to the seaward limit of the U.S. exclusive economic zone. In accordance with international law, the United States would have no authority to enforce the provisions of the Convention in waters over which any other State exercises jurisdiction, except with the consent of that State.

Under international law, vessels on the high seas are generally subject to the exclusive jurisdiction of the State whose flag they are authorized to fly. Again, the Convention does not alter this general rule. The United States can, however, take action to enforce the provisions of the Convention with respect to stateless vessels on the high seas.

Existing legislation, including the Endangered Species Act, 16 U.S.C. Section 1531 et seq., and the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. Section 1081 et seq., provide sufficient legislative authority to enforce the provisions of the Convention in U.S. land territory and in applicable U.S. waters, as described above.

Question 3. Will proper implementation of this Convention require new legislation to supplement existing law—such as the Endangered Species Act and the Magnuson-Stevens Fishery Conservation and Management Act?

Answer. No. Existing legislation, including the Endangered Species Act, 16 U.S.C. Section 1531 et seq., and the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. Section 1081 et seq., provide sufficient legislative authority to implement U.S. obligations under the Convention. Accordingly, no new legislation is necessary in order for the United States to ratify or implement the Convention.

Question 4. Will entry into force of this Convention in the United States further interfere with the rights of waterfront property owners, public or private, to use or alienate their property?

Answer. No. Nothing in the Convention requires the United States to take any action that would affect the rights of waterfront property owners, public or private, to use or alienate their property, beyond existing requirements of domestic law.

Article IV of the Convention sets forth the basic measures to be taken by each Party. It requires that each Party take measures it considers “appropriate and necessary.” The provisions of Article IV reflect the intention to address the many different sources of threat to sea turtles, while also leaving each Party a reasonable degree of discretion to implement the measures in ways that make sense in light of its particular legal regime and environmental situation.

Question 5. Are there “traditional communities” in the United States that would qualify for an exemption from the Convention’s restrictions?

Answer. Article IV, paragraph 2(a) of the Convention requires Parties to prohibit the “intentional capture, retention or killing of, and domestic trade in, sea turtles, their eggs, parts or products.” Article IV, paragraph 3 allows each Party to make exceptions to this rule “to satisfy economic subsistence needs of traditional communities . . .”

Under the Endangered Species Act, there is no community (or individual) in the United States that is currently permitted to engage in any activity covered by Article IV, paragraph 2(a) in order to satisfy “economic subsistence needs.” Accordingly, under existing domestic law, the United States would not be able to apply the exception for traditional communities.

Question 6. In terms of enforcement, would the United States be obligated to respect under all circumstances and in all places a determination by another Convention party that all or part of its fishing fleet is entitled to a “traditional communities” exemption?

Answer. As explained in the answer to the previous question, Article IV, paragraph 2(a) of the Convention requires Parties to prohibit the “intentional capture, retention or killing of, and domestic trade in, sea turtles, their eggs, parts or products.” Article IV, paragraph 3 of the Convention allows each Party to make exceptions to this rule “to satisfy economic subsistence needs of traditional communities . . .”

Fishing fleets are not, generally speaking, engaged in the “intentional capture, retention or killing of, and domestic trade in, sea turtles, their eggs, parts or products.” Rather, the activities of fishing fleets that are covered by the Convention are the unintentional (or incidental) capture of sea turtles in the course of fishing for other species. See Article IV, paragraph 2(h).

Hence, the “traditional communities” exception does not apply to the activities of fishing fleets. The activities that would come within the ambit of the exception would involve limited harvesting of sea turtles when they are nesting and of sea turtle eggs.

The Convention does not give each Party an unfettered right to apply the “traditional communities” exception. Under Article IV, paragraph 3, such exceptions must not undermine efforts to achieve the objective of the Convention to protect, conserve and recover sea turtle populations and the habitats on which they depend. See Article II. Moreover, a Party considering the application of a “traditional communities” exception must take into account the recommendations of the Consultative Committee established pursuant to Article VII, must establish a management plan that includes limits on levels of intentional taking and must include in its Annual Report, referred to in Article XI, information concerning any such management plan.

Under this scheme, the United States would have the right to question the application of the “traditional communities” exception by another Party.

RESPONSES OF ASSISTANT SECRETARY OF STATE E. ANTHONY WAYNE TO ADDITIONAL QUESTIONS SUBMITTED BY SENATOR JOSEPH R. BIDEN, JR.

Question 1. Please describe the standard-setting process under the IPPC.

- What is the level of U.S. participation under the Interim Commission?
- By what means does the U.S. Government consult with affected U.S. parties?

Answer. Currently, IPPC standards may be proposed in a number of ways. The IPPC Secretariat may initiate the development of a draft standard by forming a working group to develop a standard deemed a priority by the members of the Interim Commission on Phytosanitary Measures (ICPM). Draft standards or discussion papers may also be submitted to the IPPC Secretariat for consideration by regional or national plant protection organizations or other interested parties. The IPPC Secretariat refers draft standards to the Standards Committee, which considers the drafts and recommends action. Drafts approved by the Standards Committee are then submitted to member countries for consultation and comment. Comments made during country consultation are then considered by the Secretariat, which revises the standard before resubmitting it to the Standards Committee.

If the Standards Committee approves the revised draft, it is submitted to the ICPM, the governing body of the IPPC, for adoption. Each member country is represented on the ICPM by a single delegate. Although experts and advisers may accompany the delegate to the meetings of the ICPM, only the delegate or an authorized alternate may vote on proposed standards or other initiatives. Parties involved in a vote by the ICPM are to make every effort to reach agreement on all matters by consensus. Only after all efforts to reach a consensus have been exhausted may a decision on a standard be passed by a vote of two-thirds of delegates present and voting.

Step 1.—Proposals for a new International Standard for Phytosanitary Measures (ISPM) (Discussion paper with topic or draft) or for the review of an existing ISPM are submitted to the Secretariat.

Step 2.—Proposals are submitted to the ICPM for prioritization. The priorities identified by the ICPM are communicated to the Secretariat.

Step 3.—Specifications for priority standards are drafted by the Secretariat. These are submitted to the Standards Committee for approval/amendment and subsequently made available for further comment (60 days). Specifications are finalized by the Standards committee taking comments into account.

Step 4.—The standard is drafted or redrafted by a Working Group designated by the Standards Committee and in accordance with the specification, and submitted to the Standards Committee.

Step 5.—The draft standard is reviewed by the Standards Committee and distributed to Members and Regional Plant Protection Organizations for consultation. As part of the consultation process, Members may comment by written submission. In addition, where appropriate, the Standards Committee may establish Open-ended Discussion Groups, as for further comment. Comments will be summarized by the Secretariat and submitted to the Standards Committee.

Step 6.—The draft standard is revised by the Standards Committee in response to comments. The final version is submitted to the ICPM for adoption.

Step 7.—The ISPM is established through formal adoption by the ICPM.

Step 8.—The ISPM is reviewed by the specified date or such other date as may be agreed upon by the ICPM.

A delegation from the United States participated in the first meetings of the Interim Commission, held 3–6 November 1998 and 4–8 October 1999. The U.S. delegation was headed by the Deputy Administrator for Plant Protection and Quarantine, Animal and Plant Health Inspection Service, USDA, who is designated as the official U.S. delegate to the ICPM.

All proposed standards are reviewed by the United States during the country consultation phase of standard setting in the IPPO. Furthermore, technical experts from the United States have participated directly in a number of working groups, including working groups on dispute resolution, the phytosanitary aspects of living modified organisms (LMOs)/products of biotechnology, and official control. In addition, U.S. technical experts review all IPPO draft standards.

Documents and positions developed by USDA and by the North American Plant Protection Organization have served as the basis for many of the standards adopted to date.

The U.S. Government solicits input from affected U.S. parties on IPPO standard setting and other activities in a number of ways. First, a notice is published annually in the Federal Register, describing the on-going activities under the IPPO, and the standards that are being considered for adoption. This notice is generally published in the fall of each year, before the annual meeting of the IPPO. Second, APHIS publishes proposed IPPO standards on its web page (<http://www.aphis.usda.gov/ppq/standards/>), along with guidelines for submitting comments on the proposed standards. The comments can be submitted electronically from the web page. Last, the National Plant Board and the North American Plant Protection Organization (NAPPO) industry advisory group are notified of all standards during the country consultation phase so that their members can review and comment on proposed standards.

Question 2. What role does the U.S. Government envisage for the phytosanitary aspects of genetically modified organisms?

Answer. The United States Government sees that addressing genetically-engineered products is consistent with the IPPO mandate to protect plant health, particularly the plant pest concerns that may be presented by genetically-engineered products/LMOs. Furthermore, we believe that these fall within the scope of the IPPC as the standard setting body for plant protection, as recognized by the WTO. International standards for LMOs/products of biotechnology in the IPPO context can also raise the international confidence level with the introduction of LMOs into the environment. The IPPO's risk analysis and regulatory approach is appropriate for assessing and managing, if necessary, the potential of genetically-engineered products/LMOs to both directly and indirectly damage or injure both cultivated and wild plant species and products relative to their traditional counterparts.

During the October 1999 meeting of the Interim Commission on Phytosanitary Measures, many developing countries expressed a need for more guidance under the IPPO regarding phytosanitary issues related to genetically-engineered products/LMOs. The development and use of genetically-engineered products/LMOs have raised specific concerns related to potential plant pest risks. These concerns include the potential for an LMO to become a weed or to spread to, establish in and displace

other species in natural habitats, including through gene flow to weedy or wild relatives. In addition, concerns related to the potential for negative impacts on non-target organisms beneficial to plants have been expressed.

Although transgenic plants generally differ from conventionally cultivated plant species by only a few traits, they are subject to a regulatory review in most developed countries. This review is, in part, to determine whether the novel traits and genetic modification (including any plant pest components or vectors used in the genetic modification) pose an additional plant pest risk compared to their unmodified counterpart.

Question 3. The Interim Commission on Phytosanitary Measures Exploratory Working Group on Phytosanitary Aspects of Genetically Modified Organisms, Biosafety and Invasive species met last month in Rome.

- What was the level of U.S. participation in this session? What are the U.S. objectives in the process?
- Given the differences in attitudes and regulatory experience between the United States, on the one hand, and the European Union and other nations on the other, can you describe the internal dynamics of the interim Committee and the Working Group? Are there identifiable voting blocks? What is your assessment of the recent history of these entities, and what are the prospects for consensus on these issues?

Answer. The United States was represented by the APHIS Administrator's Science Advisor (Dr. Sally McCammon), the U.S. Alternate to the North American Plant Protection Organization Executive Committee (Mr. Nancy Klag), and the Director of Biotechnology Trade Issues in Plant Protection and Quarantine (Dr. Cathleen Enright).

It is important to note that an inter-agency working group developed and agreed upon the positions advanced by the U.S. delegation at this IPPO meeting. In addition to USDA, the Departments of State and the Interior, the U.S. Trade Representative's Office, the Environmental Protection Agency and the Office of Science Technology Policy at the White House participated in this inter-agency group. Other interested government agencies, including the Council on Environmental Quality, the Departments of Commerce, Defense, Transportation, and the Treasury, the Food and Drug Administration, and the Agency for International Development were made aware of this process.

With respect to U.S. objectives in this process, in the long term, the development of these standards will make clear that phytosanitary issues related to genetically-engineered products/LMOs and invasive species fall within the scope of the IPPO. In the absence of such standards under the IPPO, implementation of international procedures related to biotechnology, i.e., the Cartagena Protocol on Biosafety, and invasive species could lead to a dual system of regulation; governance under existing IPPO plant health standards, and phytosanitary measures taken under the Protocol for instance, that may be inconsistent with IPPO principles.

To date, the issue of potential environmental impacts associated with biotechnology and invasive species has been discussed largely in environmental fora among environmental ministries. This has led to some confusion among many IPPO members in the Plant Protection and Quarantine (PPQ) agricultural community who have not been involved in the international activities related to biotechnology, yet on whose shoulders any responsibility to implement international procedures related to biotechnology and invasive species will likely fall.

In October 1999, these IPPO members expressed the need for more guidance under the IPPO regarding phytosanitary issues related to LMOs and invasive species. In order to meet the needs of IPPO members, and most importantly, in order to affect discussion of these issues in a science-based organization, the U.S. advocated the development of two standards at the June Working Group meeting: 1) a standard for the assessment of plant pest risk potential presented by genetically-engineered products; and 2) a standard for the assessment of the potential environmental impacts of quarantine pests, including species that are invasive.

Recommendations consistent with our position were agreed to by the working group. Adoption of these recommendations at the April 2001 meeting of the ICPM is our near term goal.

The approach taken by the majority of the working group participants, including the UK, Germany, France, and the EC was consistent with the U.S. position. There is general concern among the European participants, represented by Ministries of Agriculture, that their authority to protect the environment from potential plant pests is being severely tested by domestic environmental agendas led by Ministries (e.g., Environment, Natural Resources) who are unaware of the scope and objectives

of the IPPO, and of the expertise resident in the PPQ community for protecting the environment.

During the development of the two standards, we believe we will be able to work effectively with our North American Plant Protection (NAPPO) counterparts, as well as with key members of the Cairns Group. To date, standards developed under NAPPO and forwarded to the IPPO for international adoption have been viewed favorably by other Regional Plant Protection Organizations operating under the IPPO, including the European Plant Protection Organization (EPPO). The IPPC venue may actually hold more promise for consensus between the U.S. and EU on the issues of biotechnology and invasive species than has been observed recently in the international environmental arena.

Question 4. In article II(1), in the term pest, please elaborate on the meaning of the term “pathogenic agent.”

Answer. A pathogenic agent would be an organism other than an insect which is harmful to plants. Viruses, fungi, and bacteria which cause plant diseases or other damage to plants would be considered pathogenic agents.

Question 5. In article II(1), the term “quarantine pest” contains the phrase “potential economic importance to the area endangered thereby.” This contrasts with article II(2) of the current IPPO text, which uses the phrase “potential national economic importance to the country” in the definition of “quarantine pest” (emphases added). Is a change in meaning implied by the new definition? If so, what is the change?

Answer. The new definition does not imply a change in meaning. Instead, it reflects the concept of “regionalization” which is included in the WTO SPS Agreement (Article 6). Under the SPS Agreement, members are to “ensure that their . . . phytosanitary measures are adapted to the . . . phytosanitary characteristics of the area—whether all of a country, part of a country, or all of parts of several countries—from which the product originated and to which the product is destined.” The new definition reflects this obligation under the SPS Agreement. This new definition is also included in IPPO standards that were recently adopted, for example, in the FAO Glossary of Phytosanitary Terms (adopted 1990, revised 1999) and the Guidelines for Pest Risk Analysis (1996). According to these standards, an area is an officially defined country, part of a country, or all or parts of several countries.

Question 6. Is there a common understanding among the parties about the meaning of the term “economically unacceptable impact” in Article II(1) (definition of “regulated non-quarantine pest”)?

Answer. The nature of regulated non-quarantine pests, including what is meant by economically unacceptable impact, remains to be elaborated by the contracting parties. A working group will consider the development of a standard to guide the application of phytosanitary measures for this category of pests. This working group is to meet in July 2000. The question of what is meant by “economic importance” has also been considered by other working groups, including the working group on GMOs, Biosafety and Invasive Species. The United States considers that this economic component can allow for the non-monetary quantification of environmental effects.

Question 7. What is a “biological control agent” as the term is used in Article VII(1)(d)?

Answer. A biological control agent is a living organism used to control a harmful organism. A biological control agent would be used in place of or in conjunction with chemical controls such as pesticides. For example, ladybugs are predators of aphids, and could be used as biological control agents to manage aphid infestations of plants.

Question 8. What should this Committee understand about the “interpretations” about the treaty text as “agreed by the Thirteenth Session of the Committee on Agriculture?” (set forth on pages 27–28 of the APHIS document “IPPO: Current and Revised Convention Texts,” Feb. 1998).

- Are these interpretations accepted by other parties to the IPPO?

Answer. These are interpretive statements clarifying the meaning of various terms contained in the revised Convention. The FAO Conference members concurred with the FAO Committee on Agriculture (COAG), which earlier agreed by consensus on the interpretative statements, as part of COAG’s discussion of the revised Convention, and are aimed at helping parties in their consideration of ratifying the revised Convention.

The interpretations are shared by other parties to the IPPO, since the COAG and Conference reports were adopted by consensus. In the FAO Conference Report Containing Final Resolutions Regarding Adoption of the Revised IPPC, the Conference “takes note of the agreed interpretations.”

ADDITIONAL STATEMENTS SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF RICHARD GUTTING, JR., PRESIDENT, NATIONAL FISHERIES INSTITUTE

THE INTER-AMERICAN CONVENTION FOR THE PROTECTION AND CONSERVATION OF SEA TURTLES

Thank you Mr. Chairman, and distinguished members of the Senate Foreign Relations Committee, for the opportunity to provide comment on this very important Convention. I am President of the National Fisheries Institute, a non-profit trade association that represents nearly one thousand U.S. fish and seafood companies. I testify before you today as a representative of the industry, just as I represented the interests of the U.S. fish and seafood industry at the negotiation of the Inter-American Sea Turtle Convention some years ago. I am extremely pleased that this Committee has convened a hearing to discuss something of such importance to my industry.

As you have already heard, the Inter-American Convention for the Protection and Conservation of Sea Turtles is a truly extraordinary agreement; it represents a cooperative effort on the part of the U.S. Congress, Executive Branch, and perhaps even more remarkably, a cooperation of domestic seafood companies and environmental organizations. We support the Convention, and urge you to take steps that will hasten its ratification.

In the past, marine turtles provided us with nutritional, economic, and spiritual sustenance. Indeed, sea turtles are part of the cultural fabric of almost all U.S. coastal communities. Dramatic decline of sea turtle populations threatened to rob us of these wonderful reptiles. In response to these concerns, and in an effort to implement the protection required for threatened and endangered creatures under the Endangered Species Act, the National Marine Fisheries Service published regulations in 1987 which severely impacted the domestic shrimp fishery. As I am sure you are aware, included in the protection methods was the mandated use of Turtle Excluder Devices (TED's) in mechanized shrimp trawls. The TED's are essentially escape hatches for turtles that accidentally are captured in shrimp trawls—unfortunately, some of the shrimp catch also “escapes” through the TED. As an industry, we recognized that one of the many causes leading to the threatened and/or endangered status of our sea turtles was a result of our fishing methods. Because of our impact upon sea turtle populations, we have struggled with the Administration to comply with TED's regulations.

In the years since 1987, we have begun a deliberate transformation from impediment to contributing conservationist. In the past decade, we have successfully maintained a 98% compliance rate (according to U.S. Coast Guard records) with the Turtle Excluder Device regulation. Beyond our mandatory obligations, the U.S. shrimp industry has contributed significantly to the highly successful Kemp's ridley sea turtle conservation project in southern Texas and within Mexico. This particular Gulf of Mexico sea turtle has demonstrated a remarkable population recovery since 1978—due to the cooperative efforts of the U.S. and Mexican governments with the shrimping industry. This is exactly the kind of cooperation that the Inter-American Convention would foster. The U.S. shrimp industry has become a key proponent of sea turtle conservation, providing funds, labor, and public outreach (through brochures, advertisements, and newspaper articles about our conservation activities), as well as working with the U.S. Congress to maintain funding for the Kemp's ridley sea turtle project through the Department of the Interior.

In 1990, Congress called for the protection and conservation of sea turtles through a variety of international methods in Section 609 of Public Law 101-162. We fully support the initiative, as it is consistent with our desire to protect sea turtles, provides a level playing field for American shrimpers, and insures that the shrimp available in U.S. markets is environmentally friendly. It was in this spirit of industry support of sea turtle conservation that I participated in the U.S. Delegations to the Inter-American Sea Turtle Convention negotiations.

We have worked closely with the Department of State in its efforts to implement Section 609 of P.L. 101-162, and are pleased with the increased transparency and stakeholder participation they have brought to this issue. In particular, we are encouraged that this effort to implement, the Inter-American Convention, establishes a Consultative Committee that heavily involves industry input into the process—as significant stakeholders in an international business, this representation is critical to us. Most importantly, the ratification of the Convention will help to ensure that the U.S. fishing industry and foreign fishing vessels share the same regulatory restrictions with respect to our activities that may affect the sea turtle. The Conven-

tion will also help resolve international and domestic lawsuits that have surrounded the implementation of this law, and have burdened our industry.

Thank you, Mr. Chairman and members of the Committee for allowing me to provide a statement.

PREPARED STATEMENT OF HON. ALEXIS M. HERMAN, SECRETARY, U.S. DEPARTMENT OF LABOR

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to express for the record the Department of Labor's strong support of United States ratification of International Labor Organization (ILO) Convention Number 176, the "Convention Concerning Safety and Health in Mines." Wide ratification of the Convention would help raise safety and health protection for workers in one of the world's most dangerous occupations. It would also enhance the ability of the mining industry in the United States—where miners are already protected by a strong and effective Federal statute—to compete on a more level playing field in the global economy.

The Tripartite Advisory Panel on International Labor Standards (TAPILS), which includes representatives of both the American Federation of Labor and Congress of Industrial Organizations and the U.S. Council for International Business, as well as the Departments of Labor, Commerce, and State, carefully reviewed the provisions of Convention 176 using the ground rules established by the Senate in 1988. They unanimously concluded that ratification of the Convention by the United States would not require *any* change to existing U.S. law or regulation. This conclusion is reflected in detailed reports submitted to the Senate.

Convention 176 was patterned after our own Federal Mine Safety and Health Act of 1977 (Mine Act), a statute that has proven its effectiveness in forging a commitment among industry, labor and government to protect American miners from injury, illness and death. In the late 1960's, before the Mine Act was passed, an average of about 400 miners died annually in occupationally related accidents. Last year, in contrast, fewer than 100 miners were killed in mining accidents. The basic elements of the Mine Act, which are embodied in Convention 176, are critical to advancing safety and health improvements in the mining industry worldwide.

In the negotiations that led to adoption of the Convention, representatives of the United States government, American workers represented by the United Mine Workers of America, and American employers represented by the National Mining Association worked diligently to ensure that the Convention would be effective, widely ratifiable, and consistent with current U.S. law.

Convention 176, like our own Mine Act, contains responsibilities for government, employers and workers. Ratifying states are to formulate, carry out, and review mine safety and health policy, including designating a competent authority to monitor and regulate safety and health in mines. Employers are responsible for ensuring adequate underground ventilation; preventing fires and explosions; providing emergency response, evacuation plans, and training; and conducting accident investigations. Workers must comply with safety and health measures, be afforded the right to report accidents and dangerous conditions, and be allowed to exercise safety and health rights without discrimination or retaliation. Workers' representatives also have the right to participate in mine inspections. These principles deserve much of the credit for the remarkable progress in improving mine safety and health in the United States.

In developing Convention 176, the U.S. government, industry and labor agreed that the adoption and enforcement of a common set of safety and health laws by the international community would help ensure safe and healthy working conditions for miners throughout the world, as well as help the American mining industry compete in the global economy. Currently, the U.S. is among the leading exporters of coal in the world. Wide ratification of Convention 176 will help ensure that the mining industries of all countries—not just nations like the United States—observe basic safety and health standards. American companies are world leaders in meeting mine safety and health requirements and in developing the equipment and technologies that make this possible.

It is clear that mining is part of the global economy and that the United States can help raise safety and health standards around the world. In recent years, our Mine Safety and Health Administration (MSHA) has provided mine safety and health assistance and advice to several countries. In July 1998, MSHA sent mine rescue personnel and equipment to Austria following a mudslide at a talc mine that trapped ten miners. In 1999, MSHA hosted the first International Mine Rescue Con-

ference and Competition, which focused on the coal mining industry. The second international competition is occurring this month and focuses on the metal and nonmetal mining industry. The participation of the international mining community in these events demonstrates that mine workers and mine operators throughout the world increasingly recognize the importance of basic mine safety and health principles. That growing awareness should be encouraged.

Miners remain at terrible risk in other countries. In January 2000, the Christian Science Monitor reported that 313 miners lost their lives in South Africa in 1999. A June 2000 New York Times article reported that China produces one-fourth of the world's coal, but accounts for four-fifths of the world's coal industry fatalities. The Associated Press has reported, based upon government figures, that 289 Ukrainian coal miners were killed in 1999. A methane explosion in March of this year resulted in the deaths of 80 coal miners in the Ukraine. It has been more than thirty years since an explosion of this magnitude occurred in the United States, in large measure because of the basic safety and health elements of our law. These tragic deaths—many of which our own history tells us are preventable—have deepened our conviction that establishing minimum safety and health standards is critical to raising labor standards globally.

As the President stated when he sent Convention 176 to the Senate, “mining has long been recognized as one of the most dangerous jobs in the world. Men, women—and sometimes even children—are exposed to hazards that can claim their lives or destroy their health.” In the findings and purposes of the Mine Act, as well as its preceding statute, the Federal Coal Mine Health and Safety Act of 1969, the Congress declared that “the first priority and concern of all in the coal or other mining industry must be the health and safety of its most precious resource—the miner.” To date, 14 countries have ratified Convention 176. We are hopeful that with this Committee's support the United States also will ratify this Convention. U.S. ratification would underscore the importance of Convention 176 and encourage other countries to ratify it as well, thereby helping to improve miners' safety and health throughout the world.

PREPARED STATEMENT OF THE NATIONAL WILDLIFE FEDERATION

The National Wildlife Federation¹ is the United States' largest not-for-profit conservation, education, and advocacy organization, with over four million members and supporters, ten field offices and forty-six state and territorial affiliates.

For over sixty years, the National Wildlife Federation (NWF) has been supporting common-sense solutions to complex environmental problems that work for both people and wildlife. NWF's members are mainstream and main street Americans who share a commitment to finding innovative and cooperative ways to protect endangered species while allowing for economic growth and development.

NWF strongly supports Senate ratification of the Inter-American Convention for the Protection and Conservation of Sea Turtles, as it is the first regional agreement providing broad coverage for protecting endangered sea turtles and their habitats throughout the Western Hemisphere. We respectfully request the Senate to move expeditiously to ratify this critical sea turtle protection agreement during the current session.

I. ENDANGERED SEA TURTLES

Sea turtles have inhabited our oceans and coastlines since the time of the dinosaurs, for more than 100 million years. They are highly-migratory, air-breathing reptiles that can swim thousands of miles in one year, traversing oceans all over the world. Female sea turtles return to land only to nest, inhabiting beaches worldwide. Beautiful and ancient, sea turtles also perform useful functions in the ocean ecosystem, such as circulating nutrients while swimming between different layers of the ocean and cropping seabed grasses to allow for new growth and greater health of the plants on which they feed.

At one time sea turtles were innumerable, but in recent decades populations worldwide have been decimated, largely from human activities. The primary threats to sea turtle survival are: drowning caused by entanglement in fishing gear; habitat destruction caused by development in and around nesting beaches; poaching and predation of sea turtle hatchlings; and harvesting and trading of sea turtles and their eggs.

¹For more information about the Inter-American Convention and NWF's work on sea turtles, please contact Amanda Johnson at (202) 797-6801 or johnsonA@nwf.org

Today, all species of sea turtles found in U.S. waters are listed as endangered or threatened under the U.S. Endangered Species Act. All sea turtle species are internationally recognized as vulnerable, threatened, endangered or critically endangered under international agreements including the Convention on International Trade in Endangered Species (CITES). Many sea turtle populations are continuing to plummet, and some are likely to become extinct within the next few years.

The United States and other countries have expended significant resources protecting endangered sea turtles. U.S. laws prohibit intentional taking of sea turtles and their eggs, limit development and require fishermen to use devices which minimize the incidental capture of sea turtles in fishing operations. Yet sea turtle species are highly migratory, and travel thousands of miles through different national jurisdictions during their lifetimes. As a result, U.S. and other nationally-based sea turtle protection programs can only reach a certain level of effectiveness. Due to their migratory nature, sea turtles can only be adequately protected by international conservation policies and agreements which address the varied threats to sea turtle survival.

II. THE INTER-AMERICAN CONVENTION FOR THE PROTECTION AND CONSERVATION OF SEA TURTLES

The Inter-American Convention is the first regional agreement with broad coverage for protecting sea turtles and their habitats. The stated objective of the Convention is to "promote the protection, conservation and recovery of sea turtle populations and of the habitats on which they depend, based on the best available scientific evidence, taking into account the environmental, socioeconomic and cultural characteristics of the Parties." The Convention calls for member countries to adopt comprehensive measures requiring the use of Turtle Excluder Devices (TEDs) in shrimp fisheries; prohibit international trade in sea turtles and their products; promote the conservation of sea turtle habitats and nesting beaches; and engage in cooperative research efforts on sea turtle populations and the threats they face. The Parties have also agreed to meet regularly to confirm compliance, consider recommendations, make any necessary changes to the agreement, and submit annual reports on their efforts and programs.

The United States played a leading role in negotiating the Inter-American Convention, pursuant to U.S. Public Law 101-162, Section 609 which calls for the development of multilateral agreements to protect sea turtles. Representatives of both the shrimp industry and the environmental community, in addition to U.S. Senate staff, served on the delegation. The Convention was signed by the United States in December, 1996, and by eleven other countries: Belize, Brazil, Costa Rica, Ecuador, Honduras, Mexico, the Netherlands, Nicaragua, Peru, Uruguay, and Venezuela.

The Convention cannot enter into force until it is ratified by at least eight signatory nations. As of June 1, 2000, the Convention had been ratified by only four countries: Venezuela, Peru, Brazil and Costa Rica. Mexico, Honduras and Ecuador are close to completing the ratification process as well. The Convention was transmitted to the Senate for U.S. ratification in May, 1998.

III. SENATE RATIFICATION OF THE INTER-AMERICAN CONVENTION

The Inter-American Convention receives wide-spread, nation-wide support from environmental organizations as well as the U.S. fishing industry for the following reasons:

- The Convention is a critical step in achieving comprehensive, lasting protection for endangered sea turtles throughout the Western Hemisphere.
- The Convention levels the playing field for all participating nations by requiring fishermen in other countries to use Turtle Excluder Devices to protect sea turtles, which are already mandatory for U.S. fishermen.
- Current U.S. laws already address each of the requirements of the Convention, so no new legislation is necessary to implement the Convention in the United States after it is ratified.
- Implementing the Convention throughout the Western Hemisphere will not require a significant amount of U.S. resources, though a limited amount of technical and financial assistance will help to further the conservation objectives of the Convention.
- U.S. ratification of the Inter-American Convention will strengthen U.S. authority in the global effort to extend and strengthen sea turtle conservation efforts.
- The Convention is consistent with other international agreements, including the World Trade Organization agreements, the Convention on International Trade in Endangered Species and numerous fisheries-related agreements.

The United States Senate has an historic opportunity to help provide comprehensive, long-lasting protection for some of the world's most critically endangered and ancient species. The National Wildlife Federation strongly urges the Senate to ratify the Inter-American Convention for the Protection and Conservation of Sea Turtles without delay and thereby help to ensure that this precedent-setting agreement is implemented throughout the Hemisphere.

PREPARED STATEMENT OF THE UNITED STATES COUNCIL FOR INTERNATIONAL
BUSINESS

ILO CONVENTION ON SAFETY AND HEALTH IN MINES

The U.S. Council for International Business represents the interests of its members on international economic policy issues at the major international economic institutions and to the executive and legislative branches of the U.S. Government. As the U.S. member of the International Chamber of Commerce (ICC), it consults with various bodies of the United Nations. As the U.S. member of the Business and Industry Advisory Committee (BIAC), it represents business views in the Organization of Economic Cooperation and Development (OECD). More particularly relevant to this issue, the USCIB is the U.S. member of the International Organization of Employers (IOE) and has been the organization representing U.S. business in the International Labor Organization (ILO) since 1979.

Since the United States joined the ILO in 1934, it has taken a careful and cautious approach to the ratification of ILO conventions. In large part, this has been due to an agreement among the U.S. Council, AFL-CIO and the U.S. Government that domestic labor and employment law should not be made through the ratification of ILO treaties. In practice, this means that ILO conventions should be consistent with U.S. law and practice if they are to be ratified by the United States. The business community continues to be of the view that many ILO conventions, including some of the core conventions, are at variance with U.S. law, both at the federal and state levels.

Reflecting those considerations, U.S. business has been cautious in supporting ratification of ILO conventions. In historical perspective, it is an exceptional event. Our decision whether to support ratification of the ILO Convention on Safety and Health in Mines (No. 176) was based on whether the United States can ratify it without changing existing federal and state law.

After thorough legal review, it is our view that ratification of Convention 176 will not require any changes to federal or state statutes on safety and health of workers in the mining industry. The legal review accompanying President Clinton's submission of the treaty—in which U.S. business participated—supports this opinion by providing a detailed analysis of the Convention. The legal review determined that Convention 176 is a non-self-executing treaty. If ratified, Convention 176, as a non-self-executing treaty, would not be enforceable in U.S. courts. As existing legislation already brings the United States into compliance with Convention 176, no new legislation is required. U.S. ratification of this Convention, however, allows us to demonstrate global leadership on safety and health in the mine industry, and wide ratification will provide mineworkers around the world an opportunity to work in safer and healthier workplaces.

The U.S. business community places a great deal of emphasis on the in-depth legal review of a convention's requirements and current U.S. law and practice undertaken by Tripartite Advisory Panel on International Labor Standards (TAPILS), which is composed of legal representatives of the Department of Labor, State, and Commerce, and the AFL-CIO and the U.S. Council. Absent a change in the current situation with respect to U.S. law and practice, there is no basis for any one to bring a complaint against the United States in the ILO or other fora with respect to this Convention.

With this in mind, the U.S. business community supports U.S. ratification of the ILO Convention on Safety and Health in Mines, adopted by the 1995 International Labor Conference in Geneva. We believe this comprehensive, multilateral approach represents the best means to strengthen safety and health in mining around the world. The U.S. business community supports ratification of this Convention for several reasons.

Convention 176, which applies to all mines, would require ILO member States that ratify it to consult with employers and workers in order to formulate, carry out and periodically review a coherent policy on safety and health in mines and develop provisions in national laws and regulations to ensure implementation. The Convention recognizes the desirability of preventing mine-related injuries and deaths as

well as damage to the environment as a result of mining activities. Though mining employs only 1 percent of the world workforce, the industry accounts for a significant percentage of fatal accidents at the workplace. ILO estimates point to approximately 15,000 mining related deaths annually. In the United States, according to the National Mining Association, more than 320,000 people work directly in mining. As a result of the broad U.S. safety and health regulations for the mining industry, U.S. miners reported only 5.19 injuries per 100 workers in 1997, a lower rate of occupational injuries than grocery and department stores, hospitals, restaurants and hotels.

U.S. ratification is essential to establishing global scope of understanding of the need to protect those working in mining industries. The discussion and ratification of Convention 176 will have a positive impact on extending the safety and health precautions that protect mineworkers in the United States to other countries around the world.

In addition, recognizing the need to strengthen the ILO's ability to address credibly violations of fundamental workers' rights, U.S. business spearheaded and supports the *ILO Declaration on Fundamental Principles and Rights at Work*. This Declaration, adopted by the ILO in June 1998, represents a political commitment by all 176 ILO member states to respect and uphold certain fundamental principles. We anticipate that the Declaration's follow-up will bring serious international pressure to bear on countries with a persistent pattern of abuses in the areas it covers. Together, the Declaration and U.S. ratification of the Safety and Health in Mines Convention demonstrate U.S. support for the central role of the ILO in addressing basic workers' rights.

We believe that a comprehensive, multilateral approach represents the best means to alleviate injury and fatalities in mining. ILO Convention 176 provides a well-crafted binding multilateral instrument that addresses the core problems without being so detailed that it creates barriers to ratification and implementation. The Convention will provide powerful tools to reduce injury and death to mineworkers. We urge you to take the lead in securing advice and consent of the United States Senate to ratification of ILO Convention 176.

