

INTERNATIONAL PLANT PROTECTION CONVENTION

OCTOBER 5 (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

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

REPORT

[To accompany Treaty Doc. 106-23]

The Committee on Foreign Relations, to which was referred the International Plant Protection Convention, Adopted at the Conference of the Food and Agriculture Organization (FAO) of the United Nations at Rome on November 17, 1997 (Treaty Doc. 106-23) (“the amended Convention”), having considered the same, reports favorably thereon with three understandings, one declaration 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 proposed amended Convention is a further revision of the original 1951 Convention, which entered into force for the United States in 1972. The amended Convention is intended to promote international cooperation to control and prevent the spread of harmful plant pests. Through regional and national plant protection organizations, the amended Convention is expected to foster development of international plant health standards, harmonization of plant quarantine activities with emerging standards, dissemination of phytosanitary information and extension of plant health assistance to developing countries.

II. SUMMARY

A. GENERAL

The original International Plant Protection Convention was done at Rome on Dec. 6, 1951. In general, it is intended to protect the health of plants and related agricultural trade worldwide. It entered into force on April 3, 1952, and was ratified by the United States on August 18, 1972 (23 U.S.T. 2767, T.I.A.S. No. 7465). A prior amendment was done at Rome on November 28, 1979, was accepted by the United States on June 11, 1982, and entered into force on April 4, 1991.

The proposed amended Convention discussed in this report is a substantial revision of the existing text. Under the terms of the existing Convention, the amended Convention would likewise enter into force for all parties on the thirtieth day after acceptance by two-thirds of the parties, the Conference of the Food and Agriculture Organization (the FAO Conference) having determined that the amendments entail no new obligations for the current parties.

Amendment of the existing Convention was deemed necessary after the adoption of the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) in 1995. The SPS Agreement recognized that there was no multilateral, international framework for SPS standards and was intended to promote the harmonization of the SPS standards of WTO members, based on the international standards developed by existing international organizations active in the field of SPS measures.

Among the international organizations to which the SPS Agreement referred are the international and regional plant protection organizations operating within the framework of the existing Convention's umbrella framework. However, as presently constituted, this framework is not well equipped to handle the role envisioned by the SPS Agreement. As a result, soon after the establishment of the WTO, parties to the existing Convention began their work on the revision which is before the Senate.

The amended Convention was adopted by the FAO Conference in Rome on November 17, 1997. This revision is intended to strengthen the Convention structure, to formally incorporate some of the concepts promulgated by the SPS Agreement, and to establish the framework for developing international SPS standards. The amended Convention would formally establish a permanent Secretariat, which was created informally in 1993. It would also establish the Commission on Phytosanitary Measures within the framework of the Food and Agriculture Organization of the United Nations (FAO). FAO has already approved an Interim Commission to carry out the functions proposed for the permanent Commission pending the entry into force of the amended Convention, but the actions of the Interim Commission will not receive official recognition by the FAO Council.

In the United States, section 432 of the Uruguay Round Agreements Act of 1994 required the President to designate an agency to inform the public about international standard-setting activities. Under Presidential Proclamation 6780 (60 Fed. Reg 15,845 (1995)), the Secretary of Agriculture is in charge of these activities.

With regard to the regional plant protection organizations established within the Convention framework, the United States is a member of the Caribbean Plant Protection Commission (CPPC), the North American Plant Protection Organization (NAPPO), and the Pacific Plant Protection Organization (PPPO).

B. KEY PROVISIONS

For a detailed discussion of the amended Convention's provisions, please refer to Treaty Doc. 106-23.

The major differences between the existing Convention and the amended Convention reflect concepts and policies set forth in the SPS Agreement, such as harmonization of standards, minimization of negative impact on trade, emphasis on "technical" justification of SPS measures, pest risk assessments, and designation of pest-free areas; the establishment of administrative and governing organs distinct from, although within the framework of, the administrative and governing bodies of the FAO; inclusion of regulated non-quarantine pests; promotion of the Convention and its standards among countries and organization currently not parties to the Convention; designation of official languages, thereby facilitating information exchange and dissemination among the contracting parties to the Convention; and the promotion of technical assistance to contracting parties, particularly those that are developing countries.

In the Secretary of State's letter of submittal to the President (reprinted in Treaty Doc. 106-23), the Secretary recommends the incorporation of two understandings in the Senate resolution of ratification to clarify the understanding and position of the United States with respect to the effect of the amended Convention on the rights of the United States under other international agreements, and on the ability of the United States to regulate for health and safety purposes. The Committee has slightly modified the language of the first proposed understanding, though there is, in the Committee's view, no material difference in meaning. If approved by the Senate, the understanding will emphasize the view of the United States that nothing in the amended Convention is to be interpreted in a manner inconsistent with, or alter the terms or effect of, the SPS Agreement and other relevant international agreements. This applies, in particular, to Articles VI and VII of the amended IPPC.

The second understanding recommended by the Department of State would make clear that nothing in the existing or amended Convention limits the authority of the United States to take measures against any pest to protect human, animal or plant life or health, or the environment, consistent with the SPS Agreement. The Committee accepts the State Department analysis pointing out that the scope of the amended Convention covers the protection of plant life and health and the environment. The Committee shares the State Department's conclusion that Article VI of the amended Convention, which prohibits measures concerning non-regulated pests under the Convention, should not be interpreted to prohibit measures concerning pests outside the scope of the Convention i.e., pests potentially harmful to human or animal life or health. To make this view clear to the other parties, the Committee has included the recommended understanding in the proposed resolution of ratification, below.

III. ENTRY INTO FORCE AND DENUNCIATION

A. ENTRY INTO FORCE

In accordance with Article XIII(4) of the existing Convention, the amended Convention will enter into force 30 days from the date of its acceptance by two-thirds of the contracting parties to the existing Convention.

B. DENUNCIATION

Any contracting party may at any time give notice of denunciation of the amended Convention by notification addressed to the FAO Director-General, who shall at once inform all contracting parties. Denunciation shall take effect one year from the date of receipt of the notification by the FAO Director-General.

IV. COMMITTEE ACTION

The Committee on Foreign Relations held an informal public meeting on the amended Convention on July 20, 2000 (a transcript of the meeting and questions for the record are included in Senate Exec. Rept. 106–16).¹ The Committee considered the amended Convention on September 27, 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 amended Convention subject to three understandings, one declaration and two provisos.

V. COMMITTEE RECOMMENDATION AND COMMENTS

The Committee on Foreign Relations recommends favorably the amended Convention. On balance, the Committee believes that the amended Convention is in the interest of the United States and urges the Senate to act promptly to give its advice and consent to ratification.

The Committee is aware that the Animal and Plant Health Inspection Service (APHIS) of the Department of Agriculture currently publishes an annual notice in the Federal Register, pursuant to section 491 of the Trade Agreements Act of 1979, setting forth information, inter alia, about the standard-setting activities of the IPPC (*see, e.g.*, 64 Fed. Register 53657 (Oct. 4, 1999)). Inclusion of the information set forth in that notice in the report required by Proviso (1) would satisfy the reporting requirements of Proviso (1) (A) and (B).

VI. 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 the International Plant Protection Convention (IPPC), Adopted at the Conference of the Food and Agriculture Organization (FAO) of the United Nations at Rome on November 17, 1997 (Treaty Doc. 106–23) (referred to in this resolution of ratification as “the amended

¹ On 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 text of which is appended to Executive Report 106–16.

Convention,") subject to the understandings of subsection (a), the declaration of subsection (b) and the provisos of subsection (c).

(a) UNDERSTANDINGS.—The advice and consent of the Senate is subject to the following understandings, which shall be included in the instrument of ratification of the amended Convention and shall be binding on the President:

(1) RELATIONSHIP TO OTHER INTERNATIONAL AGREEMENTS.—The United States understands that nothing in the amended Convention is to be interpreted in a manner inconsistent with, or alters the terms or effect of, the World Trade Organization Agreement on the Application of Sanitary or Phytosanitary Measures (SPS Agreement) or other relevant international agreements.

(2) AUTHORITY TO TAKE MEASURES AGAINST PESTS.—The United States understands that nothing in the amended Convention limits the authority of the United States, consistent with the SPS Agreement, to take sanitary or phytosanitary measures against any pest to protect the environment or human, animal, or plant life or health.

(3) ARTICLE XX ("TECHNICAL ASSISTANCE").—The United States understands that the provisions of Article XX entail no binding obligation to appropriate funds for technical assistance.

(b) DECLARATION.—The advice and consent of the Senate is subject to the following declaration:

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

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

(A) a discussion of the sanitary or phytosanitary standard-setting activities of the IPPC during the previous year;

(B) a discussion of the sanitary or phytosanitary standards under consideration or planned for consideration by the IPPC in the coming year;

(C) information about the budget of the IPPC in the previous fiscal year; and

(D) a list of countries which have ratified or accepted the amended Convention, including dates and related particulars.

(2) SUPREMACY OF THE CONSTITUTION.—Nothing in the amended 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.

