

January 13, 2009 (the “proposed Protocol”). I also transmit for the information of the Senate the report of the Department of State, which includes an overview of the proposed Protocol.

The proposed Protocol provides for the elimination of withholding taxes on certain cross-border direct dividend payments and on cross-border royalty payments.

The proposed Protocol also provides for mandatory arbitration of cases that the competent authorities of the countries have been unable to resolve after a reasonable period of time. The proposed Protocol contains a comprehensive provision designed to prevent “treaty shopping,” which is the inappropriate use of a tax treaty by third-country residents. It provides for the exchange of information between tax authorities of the two countries to facilitate the administration of each country’s tax laws.

I recommend that the Senate give early and favorable consideration to the proposed Protocol and give its advice and consent to ratification.

BARACK OBAMA.

THE WHITE HOUSE, September 9, 2009.

APPOINTMENT CORRECTION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Record reflect that the appointment of GEN Michael Hayden to the Public Interest Declassification Board made during the adjournment of the Senate was made by the Republican leader rather than the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS AND ORDERS FOR THURSDAY, SEPTEMBER 10, 2009

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate recess until 7:30 p.m. tonight; that at 7:40 p.m. the Senate proceed as a body to the Hall of the House of Representatives for a joint session to hear the President of the United States; that at the close of the joint session, the Senate adjourn until 9:30 a.m. tomorrow, Thursday, September 10; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there then be a period of morning business until 12:30 p.m., with the time equally divided and controlled between the two leaders or their designees; that following morning business the Senate proceed to executive session to resume consideration of Calendar No. 167, the nomination of Cass Sunstein; further, I ask that the time during any adjournment, recess or period of morning business count against the postcloture time.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DURBIN. Mr. President, the time during morning business tomorrow will be dedicated for Senators to pay tribute to the late Senator Edward Kennedy.

Senators will be notified when the vote on the confirmation of the Sunstein nomination is scheduled. If all time is used, the vote would occur around 11:30 p.m. tomorrow night.

Finally, as a reminder to all Senators, at 2:45 p.m. tomorrow, George LeMieux will be sworn in as a Senator from the State of Florida.

RECESS

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand in recess under the previous order.

There being no objection, the Senate, at 6:43 p.m., recessed until 7:30 p.m. and reassembled when called to order by the Presiding Officer (Mr. BEGICH).

Mrs. SHAHEEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT SESSION OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE UNITED STATES (H. Doc. No. 111-62)

The PRESIDING OFFICER. Under the previous order, the Senate will proceed as a body to the Hall of the House of Representatives to receive a message from the President of the United States.

Thereupon, the Senate, preceded by the Deputy Sergeant at Arms, Drew Willison, the Secretary of the Senate, Nancy Erickson, and the Vice President of the United States, JOSEPH R. BIDEN, Jr., proceeded to the Hall of the House of Representatives to hear the address by the President of the United States, Barack H. Obama.

(The address delivered by the President of the United States to the joint session of the two Houses of Congress is printed in the proceedings of the House of Representatives in today’s RECORD.)

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

At the conclusion of the joint session of the two Houses, and in accordance with the order previously entered, at 9:07 p.m., the Senate adjourned until Thursday, September 10, 2009, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES COAST GUARD RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) STEVEN E. DAY

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RALPH J. JODICE II

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM J. REW

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. CHRISTOPHER D. MILLER

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. BENJAMIN C. FREAKLEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN D. GARDNER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. FRANK G. HELMICK

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MARK P. HERTLING

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL ROBIN B. AKIN
COLONEL ROBERT P. ASHLEY, JR.
COLONEL JEFFREY L. BANNISTER
COLONEL JOSEPH L. BASS
COLONEL LEWIS M. BOOSE
COLONEL CLARENCE K. K. CHINN
COLONEL KENNETH R. DAHL
COLONEL GORDON B. DAVIS, JR.
COLONEL SCOTT F. DONAHUE
COLONEL EDWARD F. DORMAN III
COLONEL RANDAL A. DRAGON
COLONEL BILLY D. FARRIS II
COLONEL TERRY R. FERRELL
COLONEL PAUL E. FUNK II
COLONEL RICKY D. GIBBS
COLONEL HAROLD J. GREENE
COLONEL CHRISTOPHER K. HAAS
COLONEL WILLIAM C. HIX
COLONEL STEPHEN B. LEISENRING
COLONEL STEPHEN R. LYONS
COLONEL JONATHAN A. MADDEX
COLONEL MARK A. MCALISTER
COLONEL JOHN J. MCGUINNESS
COLONEL MICHAEL K. NAGATA
COLONEL BRYAN R. OWENS
COLONEL JAMES F. PASQUARETTE
COLONEL VICTOR PETRENKO
COLONEL AUNDRE F. FIGGEE
COLONEL JOHN S. REGAN
COLONEL BRYAN T. ROBERTS
COLONEL JOHN G. ROSSI
COLONEL WILLIAM J. SCOTT
COLONEL THOMAS C. SEAMANDS
COLONEL CHARLES L. TAYLOR
COLONEL KELLY J. THOMAS
COLONEL STEPHEN M. TWITTY
COLONEL JEFFERY L. UNDERHILL
COLONEL DARRELL K. WILLIAMS
COLONEL PETER B. ZWACK

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. FRANK A. PANTER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A

POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. THOMAS D. WALDHAUSER

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. CHARLES A. RAINEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. JONATHAN W. WHITE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) DAVID W. TITLEY