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ENTRY INTO FORCE OF THE ANTIGUA CONVENTION

As of June 1, 2009, ten governments have ratified the Antigua Convention and deposited their instruments of ratification with the Depository government, which is the United States. The Convention enters into force “fifteen (15) months after the deposit with the Depository of the seventh instrument of ratification, acceptance, approval, or accession of the Parties to the 1949 Convention that were Parties to that Convention on the date the Antigua Convention was opened for signature.”

Seven governments now meet this criterion: Costa Rica, El Salvador, France, Japan, Mexico, Nicaragua, and Panama. The seventh instrument of ratification was deposited by Costa Rica on 27 May 2009, and the United States, as depository government, has stated that the Antigua Convention will therefore enter into force on 27 August 2010.

It is worth noting that, when the Convention enters into force, all IATTC members that do not decide otherwise will remain members of the Commission. On this point, paragraph 5 of Article XXXI of the Convention states that:

“Upon entry into force of this Convention, a Party to the 1949 Convention that has not yet consented to be bound by this Convention shall be deemed to remain a member of the Commission unless such Party elects not to remain a member of the Commission by so notifying the Depository in writing prior to the entry into force of this Convention.”

And relatedly, paragraph 3 of the same Article states that:

“Upon entry into force of this Convention, this Convention shall prevail, as between Parties to this Convention and the 1949 Convention, over the 1949 Convention.”

Thus, after it enters into force, the Antigua Convention will be operational for all current IATTC member governments that do not decide otherwise.

It is also worth noting that paragraph 4 of Article XXXI states that:

“Upon the entry into force of this Convention, conservation and management measures and other arrangements adopted by the Commission under the 1949 Convention shall remain in force until such time as they expire, are terminated by a decision of the Commission, or are replaced by other measures or arrangements adopted pursuant to this Convention.”

There will be implications for the work of the Commission in several areas as a result of the entry into force of the Antigua Convention, and this needs to be carefully analyzed and considered by all Commission members in order to ensure a smooth transition.