


## Slide 1

INTERNATIONAL CASE  
PROCESSING UNDER  
UIFSA 2008

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Module 3: Recognition and  
Enforcement of a Convention  
Order under UIFSA (2008) –  
Incoming Application

Office of Child Support Enforcement  
Division of Policy and Training



Module 3 1


## Notes:

Welcome to the Webinar Series on International Case Processing Under UIFSA 2008.

## Slide 2

### Webinar Series

- Targeted Audiences
  - Caseworkers and central registry staff
  - Experienced as well as novice
- Content
  - Background information
  - Case processing information
- Resources
  - PowerPoint with notes
  - Trainer notes



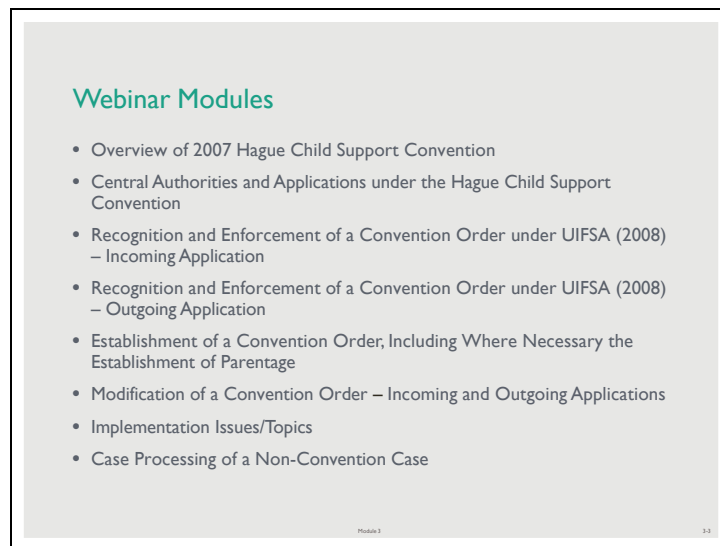
Module 33-2

### Notes:

Some people in the audience may have attended multiple conference presentations where speakers have explained the background of the Convention or presented an overview of UIFSA (2008). For others, this information will be brand new. The webinar content has been designed to cover both audiences.

The webinar resources include the PowerPoint presentation with notes for the slides and a set of trainer notes that provide supplemental information. The resources related to a particular module will be available on OCSE's website.

## Slide 3

A slide titled "Webinar Modules" with a list of nine topics. The slide has a light gray background and a black border. The title is in teal. The list items are in black. At the bottom, there is a small "Module 3" label on the left and a "3/8" label on the right.

**Webinar Modules**

- Overview of 2007 Hague Child Support Convention
- Central Authorities and Applications under the Hague Child Support Convention
- Recognition and Enforcement of a Convention Order under UIFSA (2008) – Incoming Application
- Recognition and Enforcement of a Convention Order under UIFSA (2008) – Outgoing Application
- Establishment of a Convention Order, Including Where Necessary the Establishment of Parentage
- Modification of a Convention Order – Incoming and Outgoing Applications
- Implementation Issues/Topics
- Case Processing of a Non-Convention Case

Module 3 3/8

### Notes:

The first two modules of the webinar series were overview modules. They provided background information about the 2007 Hague Child Support Convention so you will better understand the U.S. goals during treaty negotiations, the process used for negotiating an international treaty, and terminology in the Convention. They also discussed the scope of the Convention and services that a Central Authority must provide so you will have a better idea of what to expect on *outgoing* cases to a Convention country.

Beginning with Module 3, the focus shifts to case processing. The most likely application under the Convention is an application to recognize and enforce a support order issued by a Convention country. For that reason, there is one module explaining the process and forms for incoming applications and a separate module, Module 4, explaining the process and forms for outgoing applications.

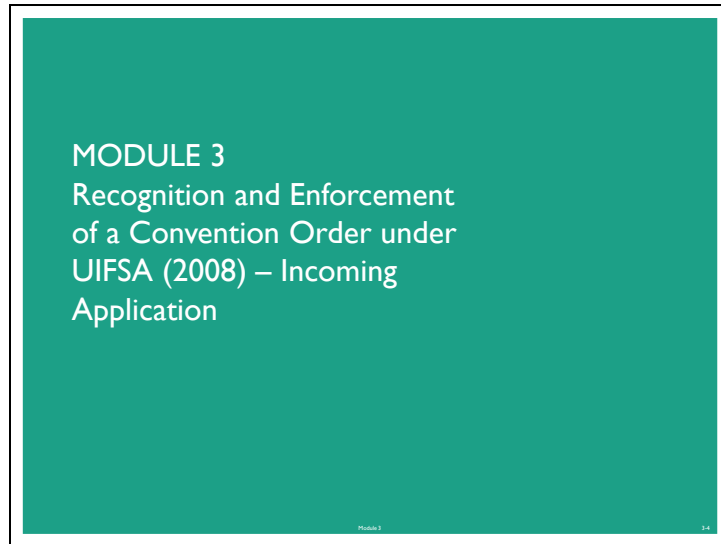
Module 5 examines incoming and outgoing applications for establishment of a support order, including establishment of parentage when necessary to obtain support.

Modules 6 and 7 examine incoming and outgoing applications for modification.

Module 8 addresses implementation issues and questions that have arisen.

Finally, in Module 9 we will discuss processing international support cases from countries with bilateral reciprocity arrangements that are not Convention countries.

## Slide 4



### Notes:

Today we are presenting Module 3, which focuses on an incoming application to the United States requesting recognition and enforcement of a support order issued by a Convention country. That means the emphasis will be on responsibilities of IV-D agencies. Keep in mind that Convention countries will provide reciprocal services for U.S. families, when we initiate an outgoing application.

## Slide 5

Terms within Hague Child Support Convention	
Convention Terms	U.S. Equivalent
• Creditor	• Oblige
• Debtor	• Obligor
• State	• Country
• Maintenance	• Support
• Requesting State	• Initiating State
• Requested State	• Responding State
• Recognition and Enforcement of a Decision	• Recognition and Enforcement of Registered Order
• Maintenance Arrangement	• Foreign Support Agreement


### Notes:

Because the Convention applies to countries with various legal systems, it includes terminology that differs from the terms we use in the United States. This slide “converts” Convention terms to their equivalent U.S. terms. We discussed these terms in prior modules so will not review them again. However, if there are new participants to today’s webinar, please check the Trainer Notes for Module 1 or 2 for an explanation of each term on the slide.

## Slide 6

### Role of Requested Central Authority

- Mandatory Functions – Article 6 of Convention
  - Legal assistance, where needed
  - Location of debtor or creditor
  - Financial information about debtor or creditor
  - Amicable solutions
  - Ongoing enforcement, including any arrears
  - Collection and expeditious transfer of payments
  - Obtaining of documentary or other evidence
  - Assistance in establishing parentage
  - Proceedings to obtain any necessary provisional measures that are territorial in nature, in order to secure outcome of pending application
  - Service of documents



Module 2 34

### Notes:

The Convention outlines responsibilities that the Central Authority has when receiving applications from a Convention country. This slide summarizes measures that Article 6 requires a Central Authority to take, as appropriate, upon receipt of an application under Chapter III of the Convention. We discussed these measures during the Module 2 webinar. Remember – because OCSE has designated state IV-D agencies as central authorities for receiving and transmitting Convention applications – you are responsible for performing these Article 6 measures, which are similar to the services you already provide in intergovernmental cases.

## Slide 7

**Duties of Support Enforcement Agency – Section 307, UIFSA (2008)**

- Must provide services to a petitioner requesting services through a Central Authority of a Convention country
- Must take all appropriate steps related to the application
  - Request a hearing, if needed
  - Obtain information, including financial, about parties
  - Send notices
  - Convert an order that is in foreign currency to equivalent U.S. dollars

Module 3 37

### Notes:

The measures listed in Article 6 of the Convention are similar to the responsibilities that UIFSA requires of a support enforcement agency.

Regardless of whether your state enacted Option A or Option B of UIFSA Section 307, you are required to provide services to a petitioner who has requested IV-D services through a Central Authority of a Convention country. That means you must take all appropriate steps related to the application, including converting an order that is in foreign currency to equivalent U.S. dollars. We will discuss currency conversion in detail during Module 8 of the webinar series.

## Slide 8

**Your New Best Friend!**

- Handbook for Caseworkers
  - Checklists
  - Flow charts
  - Step by step instructions
  - FAQs



The image shows the cover of a handbook. The cover is orange with a pattern of thin, light-colored lines. The title is written in white and yellow text: '> Practical Handbook for Caseworkers under the 2007 Child Support Convention'. There is a small logo on the left side of the cover.

Model 3 34

### Notes:

Included on the Child Support page of the Hague Conference website is a wonderful resource for child support caseworkers and lawyers. In fact, its title is the Practical Handbook for Caseworkers! It was written by Hannah Roots, a child support attorney in British Columbia who often speaks at U.S. child support conferences. The handbook contains detailed information about processing each application under the Hague Child Support Convention. Chapters discuss incoming and outgoing applications, and include flow charts, instructions on how to complete Convention forms, and responses to frequently asked questions.



## Slide 9

### Overview of Application for Recognition or Recognition and Enforcement

- Used when there is existing support decision
- Usually creditor will seek recognition and enforcement but creditor may seek recognition only
- Debtor may only seek recognition
- Not applicable when creditor wants to enforce support order that was made or already recognized in requested State
  - Application for Enforcement

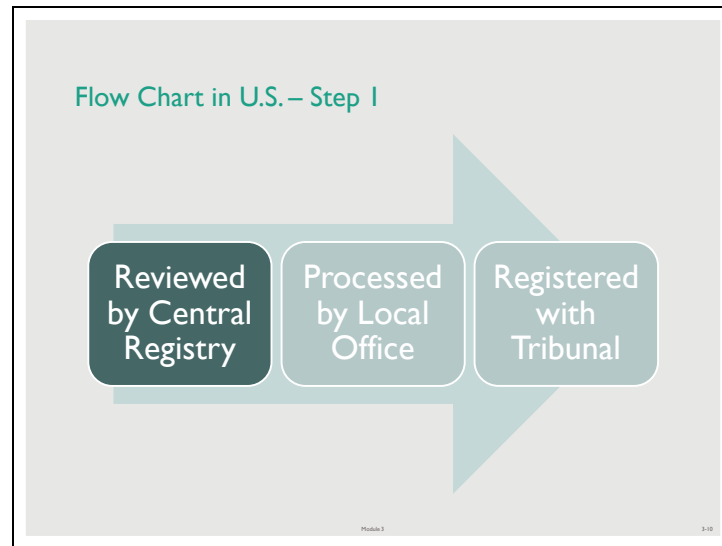
Module 338

### Notes:

An application for recognition or recognition and enforcement is appropriate when there is an existing support order. In the majority of cases, the creditor will seek recognition and enforcement of the order. However, the Convention – and UIFSA – allow a creditor to seek recognition only. That may occur if the creditor is currently satisfied with the debtor's payment but wants to have the order registered in case enforcement is later needed. A debtor may also request recognition of a Convention support order in order to suspend or limit the enforcement of an existing support order in the requested State.

If the requested State issued its own support order, or has already recognized a Convention order, and that's the order the creditor wants to enforce, then the creditor needs to file a different application. In that case, the creditor would file an Application for Enforcement of a Decision Made or Recognised in the Requested State. There is no need to request recognition.

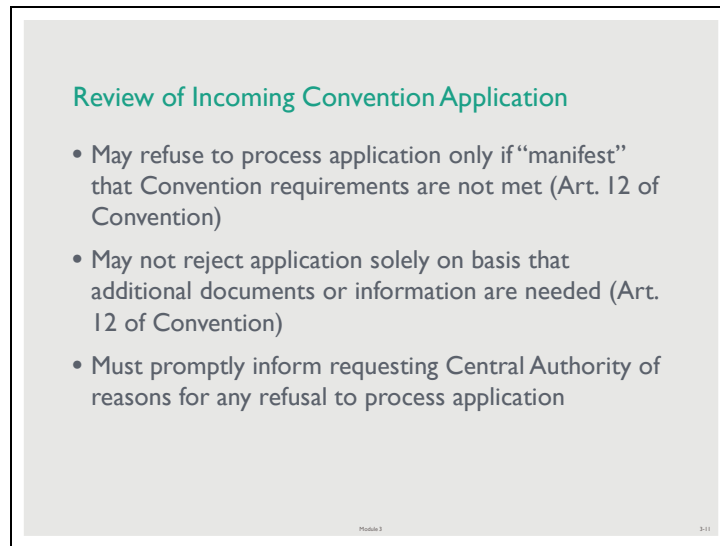
## Slide 10



### Notes:

When a Contracting State, also referred to as a Convention country, sends an Application for Recognition and Enforcement to the United States, it should send the application to the Central Registry of the U.S. state where the obligor lives or has income or assets.

## Slide 11



Review of Incoming Convention Application

- May refuse to process application only if “manifest” that Convention requirements are not met (Art. 12 of Convention)
- May not reject application solely on basis that additional documents or information are needed (Art. 12 of Convention)
- Must promptly inform requesting Central Authority of reasons for any refusal to process application

Module 2 3-11

### Notes:

In its review of an application, there are two important provisions that govern the state Central Registry.

First, the Central Registry may refuse to process an application only if it is manifest that Convention requirements are not met. Second, the Central Registry may not reject an application solely because additional documents or information are needed. In the rare case where the Central Registry decides to refuse to process the application, there must be prompt notice to the requesting State.

Let's talk more about each of these provisions.

## Slide 12

### Review of Incoming Convention Application – Convention Requirements

- May refuse to process application only if “manifest” that Convention requirements are not met (Art. 12 of Convention)
  - Reason for rejection must be clear on face of documents

Module 3 3-12

### Notes:

First, the Central Registry may refuse to process the application only if it is manifest that Convention requirements are not met. According to the Convention’s Explanatory Report, “manifest” means it must be clear on the face of the documents that the requirements are not fulfilled. The Explanatory Report further states that if it’s unclear whether the application satisfies Convention requirements, it is preferable for the requested Central Authority to go ahead and process it and not make any decision that is more properly left to the competent authority acting on the application.

The Explanatory Report gives the following example of when it might be manifest that Convention requirements are not met: the party previously submitted an application concerning the same debtor that had failed on a specific ground and now the applicant is submitting the same application with no change of circumstances. The next slides discuss two other examples.

Is application within scope of Convention and Section 704 of UIFSA (2008)?	
Creditor	Debtor
<ul style="list-style-type: none"><li>• Recognition or recognition and enforcement of a foreign support order</li><li>• Enforcement of a support order issued or recognized in the responding state</li></ul>	<ul style="list-style-type: none"><li>• Recognition of an order suspending or limiting enforcement of an existing support order of the responding state</li></ul>

Notes:

One example of when it may be manifest that Convention requirements are not met is an application that is not within the scope of the Convention.

Applications available through a Central Authority are listed in Article 12 of the Convention. In the United States, we implemented this Article in Section 704 of UIFSA (2008).

The following enforcement applications are available to a creditor:

- Recognition or recognition and enforcement of a foreign support order, and
  - Enforcement of a support order issued, or already recognized, by the responding state.
- Your UIFSA statute will refer to a “support order issued or recognized in this state.”

The following enforcement application is available to a debtor:

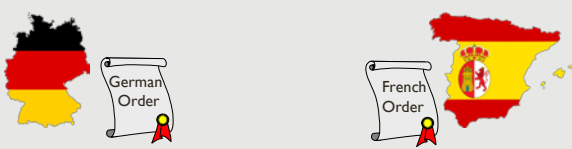
- Recognition of an order suspending or limiting enforcement of an existing support order in the responding state.
- Your UIFSA statute will refer to an “existing support order of a tribunal of this state.”

If the petitioner is seeking recognition and enforcement of a custody order and not a support order, that is not an available application under the Convention. It would be appropriate to return that application because it would be manifest that Convention requirements are not met.

**Was order issued by Contracting State?**

If a Convention application requests recognition and enforcement of an order, the Convention requires that the issuing country be a Contracting State

- A Contracting State may seek recognition and enforcement of its own order; or
- A Contracting State may seek recognition and enforcement of an order issued by another Contracting State



Module 2 3-14

Notes:

A second example of when it may be manifest that Convention requirements are not met is when the petitioner seeks recognition and enforcement of a support order that was not issued by a Contracting State.

As we discussed in Module 2, an applicant may use the Convention's procedures for recognition and enforcement of an order only if a Contracting State issued that order. The most common example is illustrated by the first graphic on the slide. It depicts a Contracting State, Germany, requesting recognition and enforcement of an order it issued. However, another example is illustrated by the second graphic. In this case the requesting State – Spain – is not requesting recognition and enforcement of its own order but of an order issued by France, a different Contracting State. We will assume the creditor was living in France and got a support order there, before moving to Spain. The creditor living in Spain can request recognition and enforcement in the U.S. of the decision made in France since France is also a Contracting State.

Obviously, the applicant must also reside in a Contracting State. We discussed that also in Module 2.

### Review of Incoming Application – Completeness

- May not reject application solely on basis that additional documents or information are needed (Art. 12 of Convention)
  - May ask requesting Central Authority for additional documents or information
  - If not provided within 3 months (or longer specified period), may decide not to process application; but must inform requesting Central Authority of that decision

Module 2 3-15

Notes:

There is a second important provision governing the Central Registry's review of an incoming application.

It may not reject the Application for Recognition and Enforcement solely because additional documents or information are needed. If additional information is needed, the Central Registry should ask the requesting Central Authority for the information. If the information or documents are not provided within 3 months – or whatever longer time period is specified – the Convention allows a country to decide not to process the application. If that is the decision ultimately made by the Central Registry, the Central Registry must inform the requesting State of that decision. Hopefully, with the Convention's emphasis on administrative cooperation, that outcome will be very rare.

## Slide 16

A presentation slide with a light gray background and a black border. The title is in teal. The content is a bulleted list. At the bottom, there are two small, faint labels: 'Module 2' on the left and '3-16' on the right.

Are required documents included with application?

- Application must include transmittal
- Section 706 of UIFSA (2008) lists documents that must accompany application
  - U.S. Country Profile
    - Use Hague recommended forms

Module 2 3-16

### Notes:

In reviewing the application for completeness, the Central Registry should determine whether the required documents have been included.

Every Convention application must include a Transmittal using the required Convention form. An Application for Recognition and Enforcement must include additional documents. These documents are listed in Article 25 of the Convention. In the United States, the required documents are listed in Section 706 of UIFSA (2008).

Although the Transmittal is a mandatory Convention form that all Convention countries must use, countries can decide what form they want a creditor to use for the other required documents. Each country specifies the forms it requires for recognition and enforcement within its responses to the Country Profile. As discussed during Modules 1 and 2, the Country Profile is maintained on the Child Support section of the Hague Conference website. It is the resource that most Contracting States use to inform the Permanent Bureau and other Convention countries of their child support laws and procedures. The Country Profile for the United States informs other Contracting States that we want them to use the recommended Convention forms that were developed by the Convention Forms Working Group for use with an Application for Recognition and Enforcement of a Convention Order.



## Slide 17

Incoming Application for Recognition and Enforcement of Contracting State Order - Documents		
Required by UIFSA Section 706	When Used	Form/Document Used
Transmittal	Always	Convention Transmittal
Application	Always	Convention Application
N/A	If risk of harm	Convention Restricted Information on the Applicant
Complete text of order	Always unless your state allows an abstract or extract of order	Order itself or Convention Abstract, if acceptable
Record stating order is enforceable in issuing country	Always	Convention Statement of Enforceability

### Notes:

This slide and the next one identify the documents required under Section 706 of UIFSA (2008) for recognition and enforcement of a Convention order. The first column lists the document. The second column explains when the document is used. And the third column identifies the applicable Convention form. If there is no applicable standardized form, a country sending an application to the United States may use a domestic form or document.

We will go over these forms in just a minute. For now, note that there is no requirement to include a certified copy of the support order. The requirement is to include the complete text of the order, unless your state has indicated it will accept an abstract or extract.

Incoming Application for Recognition and Enforcement of Contracting State Order (cont'd)		
Required by UIFSA Section 706	When Used	Form/Document Used
Record attesting to proper notice and opportunity to be heard	Always if respondent did not appear and was not represented	Convention Statement of Proper Notice
Record of arrears	Always if there are any	Domestic document showing amount and date calculated
Information about obligor	Always	Convention Financial Circumstances form (for applications by creditor only. Complete sections related to obligor)
Record showing req't for automatic adjustment and explaining how to adjust or index support amount	Always if order provides for automatic adjustment or indexation	Domestic document

#### Notes:

There is no recommended Convention form or format for the record of arrears, if any. Whatever document a country sends should show the amount of any arrears and the date the amount was calculated.

If a support order is supposed to be indexed automatically or adjusted on a specified frequency, the requesting Central Authority should provide details in the application package about how to do the adjustment. For example, if the adjustment is to be made using a cost of living percentage, the requesting Central Authority should provide details about which country will calculate the adjustment, what information is needed in order to make the calculation, and how the recalculated amount of support will be communicated to the requested Central Authority and the parties. According to the Explanatory Report of the Convention, any subsequent decision that adjusts the support amount does not have to go through the full recognition process. The initial recognition contemplates the future adjustments.

## Slide 19

**Transmittal – Required Form**

ANNEX I

**Transmittal form under Article 12(2)**

**CONFIDENTIALITY AND PERSONAL DATA PROTECTION NOTICE**

*Personal data gathered or transmitted under the Convention shall be used only for the purposes for which it was gathered or transmitted. Any authority processing such data shall ensure its confidentiality, in accordance with the law of its State.*

*An authority shall not disclose or confirm information gathered or transmitted in application of this Convention if it determines that to do so could jeopardise the health, safety or liberty of a person in accordance with Article 4b.*

☐ *A determination of non-disclosure has been made by a Central Authority in accordance with Article 4b.*

1. Requesting Central Authority	2. Contact person in requesting State
a. Address	a. Address (if different)
b. Telephone number	b. Telephone number (if different)
c. Fax number	c. Fax number (if different)
d. E-mail	d. E-mail (if different)
e. Reference number	e. Language(s)

Model 2

3-19

### Notes:

Every Application for Recognition and Enforcement must be accompanied by the Convention Transmittal form. The form identifies the parties and the type of application. It also indicates the documents that accompany the application. It is very similar to the Child Support Enforcement Transmittal #1 that we use in the United States in intergovernmental cases.

## Slide 20

Application – Page I

Convention on the International Recovery of Child Support and Other Forms of Family Maintenance 4

**Application for Recognition or Recognition and Enforcement**  
(☐ Article 10(1) a) ☐ Article 10(2) a) ☐ Article 30)

**CONFIDENTIALITY AND PERSONAL DATA PROTECTION NOTICE**

*Personal data gathered or transmitted under the Convention shall be used only for the purposes for which it was gathered or transmitted. Any authority processing such information shall ensure its confidentiality, in accordance with the law of its State.*

*An authority shall not disclose or confirm information gathered or transmitted in application of this Convention if it determines that to do so could jeopardize the health, safety or liberty of a person in accordance with Article 46.*

☐ A determination of non-disclosure has been made by a Central Authority in accordance with Article 46. If this box is ticked, information under sections 2 d, e, f and g and 5 should only be provided in the Restricted Information on the Applicant page of this form.

1. Requesting Central Authority file reference number: \_\_\_\_\_

2. Particulars of the applicant

The applicant is:

☐ The person for whom maintenance is sought or payable

☐ The representative of the person for whom maintenance is sought or payable

☐ The debtor

☐ The representative of the debtor

a. Family name(s): \_\_\_\_\_

b. Given name(s): \_\_\_\_\_

c. Date of birth:<sup>1</sup> \_\_\_\_\_ (dd/mm/yyyy)

or

Footnote 1 3/20

### Notes:

The U.S. has indicated in its Country Profile that it wants Convention countries to use the Application developed by the Hague Convention Forms Working Group. As is true for all applications, the first section of the Application for Recognition and Enforcement provides a confidentiality and personal data protection notice.

After listing the requesting Central Authority's file reference number (similar to our case number), the form provides information about the applicant. If the applicant is an individual, there are places to provide the person's name and date of birth. The applicant may be the person for whom support is sought or payable, such as a spouse, a parent of a child, or the child. In the United States, we usually refer to that person as the obligee. The applicant may be the representative of the person for whom support is sought or payable, such as legal counsel. Or the applicant may be the debtor or a representative of the debtor. In the United States, we usually refer to the debtor as the noncustodial parent or obligor.

## Slide 21

Application – Page I (cont'd)

a.	Name of the public body:	_____
b.	Family name(s) of the contact person:	_____
c.	Given name(s) of the contact person:	_____
and		
d.	Address:	_____ _____ _____
e.	Telephone numbers:	_____ _____
f.	Fax number:	_____
g.	E-mail:	_____

Module 3 3-20

### Notes:

This is the bottom half of page 1 and includes information if the applicant is a public body, such as a child support agency. The application also provides the address, phone number, fax number, and e-mail address of the applicant. The contact information is important so that the applicant can receive the notices required under Article 7 of UIFSA. Some Contracting States may choose to use the address of the Central Authority or of another competent authority as the address for the applicant if release of the personal address is not permitted under the law of the requesting State.

Application – Page 4

6. ☐ This is an application for recognition only; do not initiate enforcement measures

7. Bases for recognition and enforcement (Article 20) (please tick all relevant boxes)  
 Date of decision: \_\_\_\_\_ (dd/mm/yyyy) State of origin: \_\_\_\_\_

☐ The respondent was habitually resident in the State of origin at the time proceedings were initiated;  
 The respondent has submitted to the jurisdiction either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity;

☐ The creditor was habitually resident in the State of origin at the time proceedings were initiated;

☐ The child for whom the maintenance was ordered was habitually resident in the State of origin at the time proceedings were initiated, provided that the respondent has lived with the child in that State or has resided in that State and provided support for the child there;

☐ There has been agreement to the jurisdiction by the parties in writing or evidenced by writing (except in disputes relating to maintenance obligations in respect of children);

☐ The maintenance decision was made by an authority exercising jurisdiction on a matter of personal status or parental responsibility and that jurisdiction was not based solely on the nationality of one of the parties; or

☐ In a case where the State addressed has made a reservation in accordance with Article 20(2), there are factual circumstances in which the law of that State in similar circumstances would confer or would have conferred jurisdiction on its authorities to make such a decision. Please specify: \_\_\_\_\_

8. Appearance of the respondent

☐ The respondent appeared or was represented in the proceedings in the State of origin.

☐ The respondent did not appear and was not represented in the proceedings in the State of origin (see attached Statement of Proper Notice (Art. 25(1) d))

9. ☐ Financial Circumstances Form attached (Art. 11(2) a) and b))

Module 3 3/22

## Notes:

An applicant would check the box in Section 6 of the Application if the applicant seeks recognition only and does not want enforcement of the order. That circumstance is more likely to arise in applications by a debtor than by a creditor.

Section 7 of the Application is particularly important. This is where the requesting State will note the applicable bases for recognition and enforcement of the order. The last tick box is significant for the United States. This is the tick box a country would check if the order was based on creditor jurisdiction – to which the United States has taken a reservation – but there are other facts under U.S. law that would have conferred personal jurisdiction. If a country checks that box, the facts listed should meet one of the bases for jurisdiction under Section 201 of UIFSA. We will discuss this in more detail later.

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Application – Page 5

*Convention on the International Recovery of Child Support and Other Forms of Family Maintenance* 8

10. ☐ Where the application is for the recovery of maintenance other than maintenance obligations arising from a parent-child relationship towards a person under the age of 21 years, the applicant (creditor) has benefited from legal assistance in the State of origin (Articles 17 and 25(1)(b)).

☐ Where the application is for the recovery of maintenance including maintenance obligations arising from a parent-child relationship towards a person under the age of 21 years, the applicant (debtor) has benefited from legal assistance in the State of origin (Articles 17 and 25(1)(b)).

\* See Transmittal Form for the list of documents in support of the application.

11. Other information: \_\_\_\_\_

12. Attestations

☐ This application was completed by the applicant and reviewed by the requesting Central Authority.

☐ This application complies with the requirement of the Convention (Article 12(2)). The information contained in this application and the attached documents correspond to and are in conformity with the information and documents provided by the applicant to the requesting Central Authority. The application is forwarded by the Central Authority on behalf of and with the consent of the applicant.

Name: \_\_\_\_\_ (in block letters) Date: \_\_\_\_\_ (dd/mm/yyyy)  
Authorized representative of the Central Authority

Module 3 3/22

### Notes:

This slide depicts page 5 of the Application for Recognition and Enforcement.

Section 10 is not relevant to us in the United States because IV-D agencies provide legal assistance without regard to whether the applicant received such assistance in the state of origin.

What is important about this final page of the Application is the Attestation at the end. Note that the Application is not signed under penalty of perjury. Rather, an authorized representative of the requesting Central Authority attests that the application was completed by the applicant and reviewed by the requesting Central Authority. Further, the representative attests that the application complies with the requirements of the Convention; that the application and accompanying documents are the same as those provided by the applicant to the requesting Central Authority; and that the applicant has consented to the forwarding of the application to the requested Central Authority.

## Slide 24

**Restricted Information if Applicable**

**Restricted Information on the Applicant**  
Application for Recognition or Recognition and Enforcement  
(☐ Article 10(1) a) ☐ Article 10(2) a) ☐ Article 30)

N.B. The requesting Central Authority has determined that information under sections 2 d, e, f and g and 5 on this page ~~shall not be disclosed or confirmed~~ for the protection of the health, safety or liberty of a person. Such a determination shall according to Article 40(2) be taken into account by the requested Central Authority.

1. Requesting Central Authority file reference number: \_\_\_\_\_
2. Particulars of the applicant
  - a. Family name(s): \_\_\_\_\_
  - b. Given name(s): \_\_\_\_\_
  - c. Date of birth: \_\_\_\_\_ (dd/mm/yyyy)
  - d. Address: \_\_\_\_\_
  - e. Telephone numbers: \_\_\_\_\_
  - f. Fax number: \_\_\_\_\_
  - g. E-mail: \_\_\_\_\_
5. Payments
  - a. Details for electronic transfer of payments (if applicable)
    - Name of the bank: \_\_\_\_\_
    - NBIC: \_\_\_\_\_
    - SWIFT-address: \_\_\_\_\_
    - IBAN: \_\_\_\_\_
    - Account number: \_\_\_\_\_

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### Notes:

If the requesting Central Authority has determined that certain identifying information should not be disclosed or confirmed for the protection of the health, safety, or liberty of a person, it will include this form with the Application for Recognition and Enforcement. The determination by the requesting Central Authority has the same purpose as the allegation by a party under Section 312 of UIFSA. The form is titled Restricted Information on the Applicant. It segregates personal and financial information about the applicant, and is similar to the revised intergovernmental forms we will use in interstate UIFSA cases.



## Slide 25

**Abstract of Decision – If Acceptable**

**Abstract of a Decision**  
(Article 25(3) b)

1. Name of the State of origin of the decision: \_\_\_\_\_  
(identify territorial unit if applicable) \_\_\_\_\_

2. Competent authority issuing the Abstract

2.1 Name: \_\_\_\_\_

2.2 Address: \_\_\_\_\_  
\_\_\_\_\_

2.3 Telephone number: \_\_\_\_\_

2.4 Fax number: \_\_\_\_\_

2.5 E-mail: \_\_\_\_\_

3. The decision<sup>1</sup>

3.1 Type of authority: ☐ judicial authority or ☐ administrative authority<sup>2</sup>

3.2 Name and place of authority: \_\_\_\_\_

3.3 (address if applicable) \_\_\_\_\_

3-25

### Notes:

An Application for Recognition and Enforcement should always include the order itself unless your state – when it enacted UIFSA (2008) – indicated in Section 706(b) that an applicant could include an abstract or extract of the order drawn up by the issuing foreign tribunal in lieu of the order. An acceptable form for that abstract is the recommended Convention form developed by the Convention Forms Working Group.

As noted on this slide, the abstract provides a place to indicate whether the order was issued by a judicial or an administrative authority. The form continues for several pages and summarizes the key components of the order as it relates to child support, including current and past-due support.

## Slide 26

**Statement of Enforceability**

**Statement of Enforceability of a Decision**  
(Article 25(1) b))

1. Name of the State of origin of the decision: \_\_\_\_\_  
(identify territorial unit if applicable) \_\_\_\_\_

2. Competent authority issuing the Statement

2.1 Name: \_\_\_\_\_

2.2 Address: \_\_\_\_\_  
\_\_\_\_\_

2.3 Telephone number: \_\_\_\_\_

2.4 Fax number: \_\_\_\_\_

2.5 E-mail: \_\_\_\_\_

3. The decision<sup>1</sup>

3.1 Type of authority: ☐ judicial authority or ☐ administrative authority<sup>2</sup>

3.2 Name and place of authority: \_\_\_\_\_

3.3 (address if applicable) \_\_\_\_\_  
\_\_\_\_\_

Module 2 3-28

### Notes:

Another document that Section 706 of UIFSA (2008) requires is a record stating that the support order is enforceable in the issuing country. In our Country Profile, the United States has asked requesting Central Authorities to use this recommended Convention form. Titled Statement of Enforceability of a Decision, it provides contact information about the competent authority issuing the Statement as well as information about the authority that issued the decision.

## Slide 27

**Statement of Enforceability – Page I (cont'd)**

3.4	Date of the decision:	_____	(dd/mm/yyyy)
3.5	Date of effect of the decision:	_____	(dd/mm/yyyy)
3.6	Reference number of the decision:	_____	
3.7	Names of the parties to the decision:	_____	
		_____	

4. ☐ The decision is enforceable in the State of origin.

Name: \_\_\_\_\_ (in block letters) Date: \_\_\_\_\_  
Name of the official from the competent authority of the State of origin (dd/mm/yyyy)

☐ This Statement of Enforceability of a Decision was completed by the official from the competent authority of the State of origin whose name appears above and is transmitted by the requesting Central Authority.

Name: \_\_\_\_\_ (in block letters) Date: \_\_\_\_\_  
Authorised representative of the Central Authority (dd/mm/yyyy)

Requesting Central Authority reference number: \_\_\_\_\_  
(For Central Authority use only)

<sup>1</sup> For the definition of decision see Article 18(1).  
<sup>2</sup> The Administrative Authority referred to in this Statement meets the requirements of Article 18(3).

3-27

### Notes:

The bottom half of the Statement includes more information about the decision – the date it was issued, its effective date, the reference number, and the names of the parties.

Section 4 is the most important tick box. That's where the competent authority indicates that the order is enforceable in the State of origin.

There are two name blocks on the form. One is for the name of the official from the competent authority in the State of origin. The other is for the name of the representative of the requesting Central Authority that is forwarding the Statement of Enforceability. That Central Authority representative indicates that the named official from the competent authority completed the Statement of Enforceability and that the Central Authority representative is transmitting the Statement to the requested Central Authority.

## Slide 28

**Statement of Proper Notice – Page I**

**Statement of Proper Notice<sup>1</sup>**  
(Article 25(1) g)

1.	Name of the State of origin of the decision: (identify territorial unit if applicable)	_____
2.	Competent authority issuing the Statement	
2.1	Name:	_____
2.2	Address:	_____ _____ _____
2.3	Telephone number:	_____
2.4	Fax number:	_____
2.5	E-mail:	_____

Module 2 3-28

### Notes:

If the Convention support order was issued by default – in other words, the respondent did not appear and was not represented in the proceedings in the issuing country – Section 706 of UIFSA requires that the Application for Recognition and Enforcement include a record attesting to proper notice and an opportunity to be heard. The Country Profile for the United States indicates that it wants Convention countries to use the Statement of Proper Notice that was developed by the Convention Forms Working Group.

The first part of this form identifies the competent authority in the State of origin who is issuing the statement. As we discussed in Module 2, the identity of the competent authority will vary among countries. It may be a judicial representative in the State of origin who is completing the form; it may be an administrative official; it may be a representative from some other entity. What is important is that it be an official in the issuing country who is able to confirm that the respondent had proper notice as required by the law of the country that issued the order.

## Slide 29

**Statement of Proper Notice – Page I (cont'd)**

3.	The decision <sup>2</sup>	
3.1	Type of authority: <input type="checkbox"/> judicial authority or <input type="checkbox"/> administrative authority <sup>3</sup>	
3.2	Name and place of authority:	_____
3.3	(address if applicable)	_____ _____
3.4	Date of the decision:	_____ (dd/mm/yyyy)
3.5	Date of effect of the decision:	_____ (dd/mm/yyyy)
3.6	Reference number of the decision:	_____
3.7	Names of the parties to the decision:	_____ _____ _____
4.	Name of the respondent:	_____

Module 3 3-29

### Notes:

Section 3 of the form provides information about the order, including the authority that issued the order, the date of the order, the order's reference number, the names of the parties, and the name of the respondent.

**Statement of Proper Notice – Page 2**

5. Proper notice to the respondent

☐ The respondent had proper notice of the proceedings and an opportunity to be heard (☐ Certificate of Service attached if applicable\*)

☐ The respondent had proper notice of the decision and an opportunity to challenge or appeal it on fact and law (☐ Certificate of Service attached if applicable\*)

Name: \_\_\_\_\_ (in block letters) Date: \_\_\_\_\_  
Name of the official from the competent authority of the State of origin (dd/mm/yyyy)

☐ This Statement of Proper Notice was completed by the official from the competent authority of the State of origin whose name appears above and is transmitted by the requesting Central Authority.

Name: \_\_\_\_\_ (in block letters) Date: \_\_\_\_\_  
Authorised representative of the Central Authority (dd/mm/yyyy)

Requesting Central Authority reference number: \_\_\_\_\_  
(For Central Authority use only)

Module 3 3-30

Notes:

Page 2 of the form includes the information about notice. In section 5, the official from the competent authority of the State of origin indicates the type of notice and opportunity to be heard that the respondent received. There are two options. The first tick box is typical for judicial proceedings where the respondent receives advance notice and has an opportunity to be heard. The second tick box is more common in administrative proceedings where obligations are set *ex parte*, especially in the proceedings used by countries like Australia and Norway. This tick box indicates that the respondent received notice of the decision and had an opportunity to challenge or appeal it on fact and law after the decision was rendered.

As with the Statement of Enforceability, there are two name blocks on the form. One is for the name of the official from the competent authority in the State of origin. As noted earlier, that competent authority will depend upon the country. The other is for the name of the representative of the requesting Central Authority that is forwarding the Statement of Proper Notice.

## Slide 31

**Financial Circumstances Form**

N.B. Sections II to VI should be completed only as necessary for the purposes of the application to which this form is attached and to the best of the applicant's knowledge. When completing the Financial Circumstances Form, please consult Country Profile of the requested State to verify what information is required for a specific application.

**CONFIDENTIALITY AND PERSONAL DATA PROTECTION NOTICE**

Personal data gathered or transmitted under the Convention shall be used only for the purposes for which it was gathered or transmitted. Any authority processing such information shall ensure its confidentiality, in accordance with the law of its State. An authority shall not disclose or confirm information gathered or transmitted in application of this Convention if it determines that to do so could jeopardise the health, safety or liberty of a person in accordance with Article 4b.

☐ A determination of non-disclosure has been made by a Central Authority in accordance with Article 4b. If this box is ticked, information under items V.D. 2, 4, 6, 8, 10, 12, 14 and 16 and V.D. 9 and 11 should only be provided in the Restricted Information on the Applicant page of this form.

**I. REFERENCE INFORMATION**

1. Requesting Central Authority	2. Contact person in Requested State
a. Address	a. Address (if different)
b. Telephone number	b. Telephone number (if different)
c. Fax number	c. Fax number (if different)

Module 2

3-20

### Notes:

The Financial Circumstances Form is another form the Convention Forms Working Group developed. If the applicant is seeking both recognition *and* enforcement of the order (which will happen in most cases), the requesting Central Authority will include this form. However, not every section of the form is relevant. The creditor portion of the form will probably be blank since that information is not required for an Application for Recognition and Enforcement. The sections that should be completed are those related to the debtor (or obligor). Those sections provide information about the obligor's income and assets. In keeping with a "medium neutral" approach that allows for electronic transmission of documents, the form does not need to be signed. Rather the form identifies the person in the Central Authority responsible for either completing the application or reviewing the application if it was completed by the applicant personally.

### Review Questions

- What resource is available to Convention countries to identify forms required by the United States?  
The Hague Convention Country Profile
- Does the U.S. require a country to use the mandatory and recommended Convention forms?  
Yes
- Must a country always send the complete text of the order it wants registered in the U.S. for recognition and enforcement?  
No. When enacting UIFSA, each state indicated if it would accept an abstract or extract of the support order in lieu of the complete text.
- May a state Central Registry refuse an application for recognition and enforcement because there is no pay record in support of arrears?  
No. A Central Registry may reject an application only if it is manifest on its face that the application does not comply with Convention requirements. In its acknowledgment, the Central Registry should inform the requesting State of any needed documents or information.

Module 3 3-32

#### Notes:

Let's review some of the material we've covered so far.

- What resource is available to Convention countries to identify forms required by the U.S.?

The Hague Convention Country Profile.

- Does the U.S. require a country to use the mandatory and the recommended Convention forms?

Yes.

- Must a country always send the complete text of the order it wants registered in the U.S. for recognition and enforcement?

No. Some states, when enacting Section 706 of UIFSA, indicated that they would accept an abstract or extract of the support order drawn up by the issuing country.

- May a state Central Registry refuse an application for recognition and enforcement because there is no pay record in support of arrears?

No. A Central Registry may reject an application for recognition and enforcement only if it is manifest on its face that the application does not comply with Convention requirements. In its acknowledgment, the Central Registry should inform the requesting State of any needed documents or information.



### OCSE Resources on Convention Forms

- The Hague forms are federally approved and available on the OCSE website in fillable pdf format. See Hague Forms on <http://www.acf.hhs.gov/css/partners/international>
- The 14 forms include a mandatory transmittal form, a mandatory acknowledgment form, and 12 recommended forms
- DCL-16-21 provides guidance and information about the forms

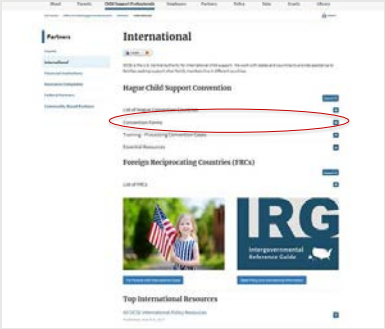
Module 3 3-33

Notes:

OCSE issued DCL-16-21, which provides guidance and information about the mandatory and recommended Convention forms. It has also formatted the forms into a fillable PDF format, which you can access from the OCSE website.

## Slide 34

OCSE International Page



The screenshot shows the OCSE International Page. The page has a header with navigation links: Home, Partners, International, Resources, Policy, News, Events, and About. The main content area is titled 'International' and includes a sidebar with links to 'Partners', 'International', 'Resources', 'Policy', 'News', 'Events', and 'About'. The main content area features a section titled 'Hague Child Support Convention' with a link to 'List of States that are Parties to the Convention'. This link is circled in red. Below this, there is a section titled 'Foreign Reciprocating Countries (FRCs)' and a section titled 'Top International Resources'.

<http://www.acf.hhs.gov/css/partners/international>


Module 3 3-34

### Notes:

This slide depicts OCSE's International page and shows where you would click to access the Hague Convention forms.

### Translation of Incoming Documents to U.S.

- Incoming Application and related documents
  - Original language
  - Translation into English
- Communication from Central Authority
  - English
- Source
  - Section 713, UIFSA (2008)
  - Article 44 of Hague Child Support Convention



Module 3 3-35

Notes:

Section 713 of UIFSA (2008) and Article 44 of the Hague Child Support Convention address translation of documents and communications.

All incoming applications and related documents, such as the child support order, must be in their original language. In the United States we also require that they be translated into English.

Additionally, we require that a Convention country use English when communicating with a state child support agency about a Convention application.

In Module 8 we will discuss translation issues.

## Slide 36

### Acknowledgment by Central Registry

- 45 CFR 303.7
  - Within 10 working days of receipt of application
    - Send acknowledgment
      - Use required Convention form
    - Inform requesting Central Authority of action
    - Request any needed documents/information
    - Provide requesting Central Authority with contact details of person/unit responsible for processing application

Module 33-36

### Notes:

Once the state Central Registry receives an Application for Recognition and Enforcement, it must acknowledge receipt of that application. Federal regulations governing intergovernmental cases require the Central Registry to acknowledge receipt of the application within 10 working days. Please note that the Convention timeframe for returning the Acknowledgement is within six weeks of receipt of the application. (This means that on outgoing cases, you will not likely get a reply within 10 days.) The Hague Child Support Convention has a mandatory Acknowledgment form. That is the form the Central Registry should use, not the federal intergovernmental Transmittal #1 Acknowledgment.

## Slide 37

Acknowledgment – Page I

OMB Control No. 0970-0488  
Expiration date: 5/31/2017

ANNEX II

**Acknowledgement form under Article 12(3)**

CONFIDENTIALITY AND PERSONAL DATA PROTECTION NOTICE

*Personal data gathered or transmitted under the Convention shall be used only for the purposes for which it was gathered or transmitted. Any authority processing such data shall ensure its confidentiality, in accordance with the law of its State.*

*An authority shall not disclose or confirm information gathered or transmitted in application of this Convention if it determines that to do so could jeopardise the health, safety or liberty of a person in accordance with Article 40.*

☐ *A determination of non-disclosure has been made by a Central Authority in accordance with Article 40.*

<b>1. Requested Central Authority</b>  <div style="font-size: x-small; margin-top: 10px;">a. Address</div> <div style="font-size: x-small; margin-top: 10px;">b. Telephone number</div> <div style="font-size: x-small; margin-top: 10px;">c. Fax number</div> <div style="font-size: x-small; margin-top: 10px;">d. E-mail</div> <div style="font-size: x-small; margin-top: 10px;">e. Reference number</div>	<b>2. Contact person in requested State</b>  <div style="font-size: x-small; margin-top: 10px;">a. Address (if different)</div> <div style="font-size: x-small; margin-top: 10px;">b. Telephone number (if different)</div> <div style="font-size: x-small; margin-top: 10px;">c. Fax number (if different)</div> <div style="font-size: x-small; margin-top: 10px;">d. E-mail (if different)</div> <div style="font-size: x-small; margin-top: 10px;">e. Language(s)</div>
--	---

Module 33-37

### Notes:

The Acknowledgment form begins with the standard notice of confidentiality and personal data protection. It identifies the requested Central Authority, as well as the contact person for any follow-up questions about the case. The form has a place to list the languages spoken by the contact person.

## Slide 38

**Acknowledgment – Page I (cont'd)**

**3. Requesting Central Authority**

Contact person \_\_\_\_\_  
Address \_\_\_\_\_

**4. The requested Central Authority acknowledges receipt on \_\_\_\_\_ (dd/mm/yyyy) of the transmittal form from the requesting Central Authority (reference number \_\_\_\_\_; dated \_\_\_\_\_ (dd/mm/yyyy)) concerning the following application under:**

☐ Article 10(1) a)  
☐ Article 10(1) b)  
☐ Article 10(1) c)  
☐ Article 10(1) d)  
☐ Article 10(1) e)  
☐ Article 10(1) f)  
☐ Article 10(2) a)  
☐ Article 10(2) b)  
☐ Article 10(2) c)

*Final Act*

Module 3

3-38

### Notes:

Section 4 of the Acknowledgment is where the state Central Registry would acknowledge receipt of the Application for Recognition and Enforcement of a Convention order. The articles listed are references to articles within the Hague Child Support Convention – not sections of UIFSA. The transmittal and application you received from the requesting Central Authority will identify the applicable Convention article. You may also look at the Convention itself to determine which article subsection applies or refer to the Practical Handbook for Caseworkers. Both are accessible on the Hague Conference website. For purposes of our discussion, the Central Registry would be checking the first box – Article 10(1)a) – to acknowledge receipt of the Application for Recognition and Enforcement of a Convention order.

**Acknowledgment – Page 2**

<b>Family name(s) of applicant:</b>	
<b>Family name(s) of the person(s) for whom maintenance is sought or payable:</b>	
<b>Family name(s) of debtor:</b>	

5. Initial steps taken by the requested Central Authority:

- ☐ The file is complete and is under consideration
- ☐ See attached status of application report
- ☐ Status of application report will follow
- ☐ Please provide the following additional information and / or documentation:  
\_\_\_\_\_  
\_\_\_\_\_
- ☐ The requested Central Authority refuses to process this application as it is manifest that the requirements of the Convention are not fulfilled (Art. 12(3)). The reasons:  
☐ are set out in an attached document  
☐ will be set out in a document to follow

The requested Central Authority requests that the requesting Central Authority inform it of any change in the status of the application.

Name: \_\_\_\_\_ (in black letters)      Date: \_\_\_\_\_  
Authorized representative of the Central Authority      (dd/mm/yyyy)

Module 2      3/25

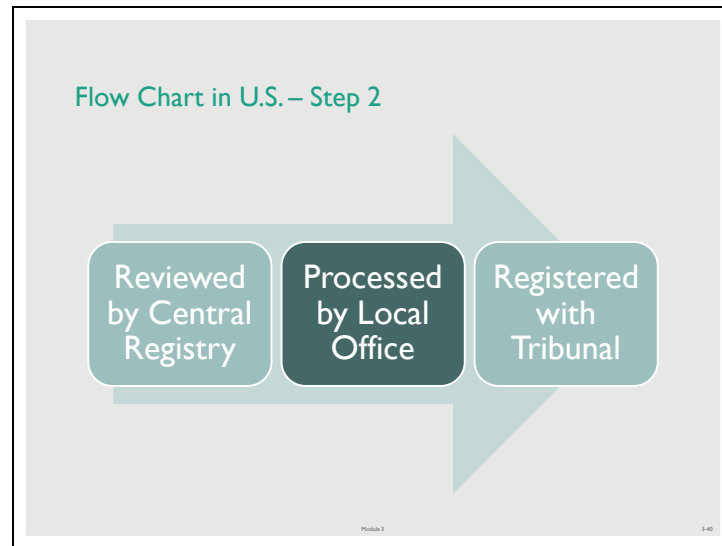
Notes:

The Acknowledgment includes areas to provide the family name of the applicant, the person for whom maintenance or support is sought or payable, and the debtor. You will find this information on the Transmittal that accompanied the incoming application.

Section 5 of the Acknowledgment is where the state Central Registry notes what initial steps have been taken. There are tick boxes to indicate whether the file is complete, or whether additional information or documentation is needed. There is also a tick box to indicate if the Central Registry (i.e., the requested Central Authority) refuses to process the application because it is manifest that the requirements of the Convention are not fulfilled. As we discussed earlier, if that rare action is taken, the reasons must be provided.

Finally there is a standard request that the requesting Central Authority keep the requested Central Authority informed of any changes in the status of the application. Note that the form is not signed; however, the name of the authorized representative of the Central Authority should appear on the form. In the U.S., that would be the name of the appropriate person in the state Central Registry.

## Slide 40



### Notes:

Now that we've discussed the Acknowledgment form, let's talk about the actual processing of the Application for Recognition and Enforcement at the local level.



## Slide 41

### Registration for Recognition and Enforcement – Agency

- Follow Article 6 of UIFSA if no conflict with new Article 7
- Send transmittal, application, and required documents to tribunal
  - Definition of tribunal

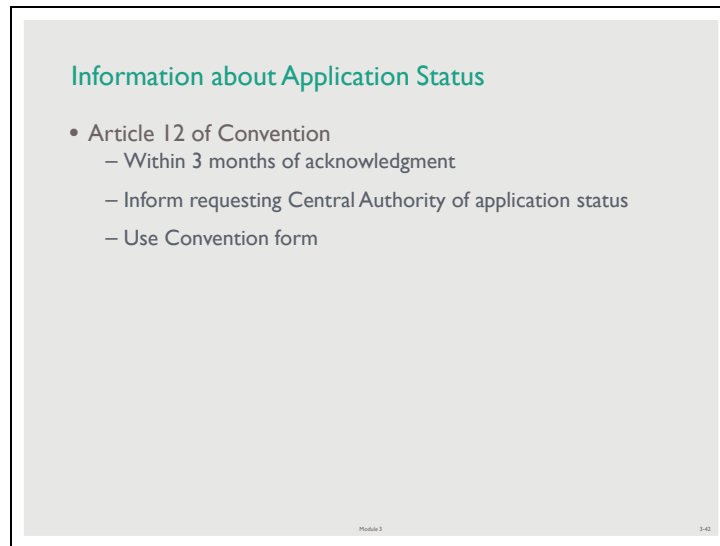
Module 33-41

### Notes:

When the local child support office receives the application from the state Central Registry, it should review the application and accompanying documents again to ensure that the application is complete. If any additional information is needed, it should notify the requesting Central Authority. It may use the Status of Application form to make the request. It may also try sending the request via e-mail.

Section 706 of UIFSA requires the support enforcement agency to register the Convention order as it would other orders under Article 6. That means you should file the Convention support order with the appropriate tribunal in your state. However, Section 706 also notes that there are some requirements within the new Article 7 that supersede the registration provisions within Article 6. These differences mainly impact the tribunal and any contest.

## Slide 42



Information about Application Status

- Article 12 of Convention
  - Within 3 months of acknowledgment
  - Inform requesting Central Authority of application status
  - Use Convention form

Module 3 3-42

### Notes:

Within three months of the Acknowledgment, the requested Central Authority must provide a status update to the requesting State. This timeframe is a Convention requirement. In most U.S. states, it will be the local agency working the case that sends the status form. In doing so, you should use the Status of Application Report that the Convention Forms Working Group developed. It is one of the recommended forms that is accessible from OCSE's website. Because there are four Status of Application forms, make sure you use the one specifically for recognition and enforcement.

## Slide 43

**Status of Application – Page I**

**Status of Application Report – Article 12<sup>1</sup>**  
(Application for Recognition or Recognition and Enforcement  
(☐ Article 10(1) a) ☐ Article 10(2) a) ☐ Article 30))

**CONFIDENTIALITY AND PERSONAL DATA PROTECTION NOTICE**

*Personal data gathered or transmitted under the Convention shall be used only for the purposes for which it was gathered or transmitted. Any authority processing such information shall ensure its confidentiality, in accordance with the law of its State.*

*An authority shall not disclose or confirm information gathered or transmitted in application of this Convention if it determines that to do so could jeopardize the health, safety or liberty of a person in accordance with Article 40.*  
☐ A determination of non-disclosure has been made by a Central Authority in accordance with Article 40.

<b>1. Requested Central Authority</b>	<b>2. Contact person in requested State</b>
a. Address	a. Address (if different)
b. Telephone number	b. Telephone number (if different)
c. Fax number	c. Fax number (if different)
d. E-mail	d. E-mail (if different)
e. Reference number	e. Language(s)
<input type="checkbox"/> First Report / <input type="checkbox"/> Subsequent Report – Date of last Report: (dd/mm/yyyy)	

Module 2 3-42

### Notes:

That Status form begins with the standard notice of confidentiality and personal data protection. It provides contact information for the requested Central Authority and identifies the person in the requested State who can provide information about the application. That is the place where you would most likely list the appropriate person in the local child support office. There are tick boxes to indicate whether this is the first status report – the one required three months after the acknowledgment – or a subsequent status report.

Section 3 of the form, which is not shown, provides information that identifies the relevant application.

## Slide 44

Status of Application – Page 2

4. Status of the application in the requested State

a. ☐ On \_\_\_\_\_ (dd/mm/yyyy) the competent authority declared the decision enforceable or registered the decision for enforcement (☐ declaration or registration attached for information purposes only; ☐ applicant has been notified of the declaration or registration; ☐ applicant will be notified of the declaration or registration)

b. ☐ On or by \_\_\_\_\_ (dd/mm/yyyy) the competent authority is due to declare whether the decision is enforceable or is to be registered for enforcement

c. ☐ On \_\_\_\_\_ (dd/mm/yyyy) the respondent lodged a challenge or an appeal against the declaration or registration

d. ☐ On \_\_\_\_\_ (dd/mm/yyyy) the competent authority issued a decision refusing recognition and enforcement (☐ decision attached for information purposes only; ☐ applicant has been notified of the decision; ☐ applicant will be notified of the decision)

e. ☐ On \_\_\_\_\_ (dd/mm/yyyy) the competent authority refused recognition and enforcement as a result of a reservation under Article 20(2). On \_\_\_\_\_ (dd/mm/yyyy) a decision was established for the benefit of the creditor in accordance with Article 20(4).

Module 3 3-44

### Notes:

Section 4 is where you indicate the current status of the application.

In the United States, use the first tick box to state that the application, order, and accompanying documents have been registered or filed with the appropriate tribunal.

The second tick box is not particularly applicable to the process we use in the United States. It is used to note the date that the registering tribunal is due to declare whether the decision is enforceable or is to be registered for enforcement.

Use the third tick box if the respondent has timely challenged the registration on one of the allowable grounds under Section 708 of UIFSA (2008).

Tick box (d) indicates the tribunal has refused recognition and enforcement. This is the tick box to use if the respondent is successful in his or her challenge to the registration. Note the additional tick boxes related to notice of the decision on the parties.

Use tick box (e) if the tribunal refused recognition and enforcement due to a reservation such as the United States has taken to creditor-based jurisdiction. There is also a place to enter the date that the tribunal established a new support order, assuming that has occurred.

Status of Application – Page 2 (cont'd)

f.	<input type="checkbox"/>	On _____ (dd/mm/yyyy) the respondent lodged a further appeal.
g.	<input type="checkbox"/>	On _____ (dd/mm/yyyy) the application / decision was sent to the enforcement authority.
h.	<input type="checkbox"/>	Application is still pending before the Central Authority.
i.	<input type="checkbox"/>	Application / decision sent to enforcement authority and enforcement is impossible in the foreseeable future because:
	<input type="checkbox"/>	Debtor without necessary resources
	<input type="checkbox"/>	Debtor incarcerated
	<input type="checkbox"/>	Other: _____
5.	<input type="checkbox"/>	The following steps have been taken (past):
a.	<input type="checkbox"/>	<input type="checkbox"/> Debtor / <input type="checkbox"/> creditor located
b.	<input type="checkbox"/>	Voluntary payment secured (no enforcement measures were necessary)
c.	<input type="checkbox"/>	Information concerning the financial circumstances of the debtor gathered
d.	<input type="checkbox"/>	Assets of the debtor located
e.	<input type="checkbox"/>	Enforcement and other measures initiated
	<input type="checkbox"/>	Provisional measures
	<input type="checkbox"/>	Wage withholding
	<input type="checkbox"/>	Garnishment from bank account or other sources
	<input type="checkbox"/>	Deductions from social security payments
	<input type="checkbox"/>	Loan on or forced sale of property
	<input type="checkbox"/>	Tax refund withholding
	<input type="checkbox"/>	Withholding or attachment of pension benefits
	<input type="checkbox"/>	Credit bureau reporting
	<input type="checkbox"/>	Recall, suspension or revocation of licenses or passport
	<input type="checkbox"/>	Mediation, conciliation or similar processes
	<input type="checkbox"/>	Seizure of lottery or gambling winnings
	<input type="checkbox"/>	Prohibition from leaving the requested State
	<input type="checkbox"/>	Incarceration
	<input type="checkbox"/>	Other: _____
f.	<input type="checkbox"/>	Payments were secured (enforcement measures were necessary)

Module 3 3-45

## Notes:

Tick box (f) is for noting any further appeal of the tribunal's decision.

Tick box (g) states that the decision was sent to the enforcement authority. This would be the place to indicate that enforcement has begun, even though a referral isn't necessary in the U.S.

Use tick box (h) if the application is still pending. Because the first status report is due three months after the initial acknowledgment, it would be extremely rare in the United States that the application would still be pending.

Tick box (i) is related to enforcement of the registered Convention order. Although the order may be recognized and enforceable in the United States, the debtor may be unemployed and lack other assets. In other words, the order is enforceable but currently cannot be enforced.

Beginning with section 5 of the form, there are tick boxes related to past steps that you, the requested Central Authority, have taken with regard to enforcement of the registered order. Most of the tick boxes identify the particular enforcement measures initiated. The United States played a major role in ensuring the form has a comprehensive list so most of these enforcement measures should be familiar to you.

**Status of Application – Page 3**

g.	<input type="checkbox"/>	Record of payments made by the debtor as of _____ (dd/mm/yyyy) attached
h.	<input type="checkbox"/>	Other: _____
6.	<input type="checkbox"/>	The following steps are being taken (present):
a.	<input type="checkbox"/>	Locating the <input type="checkbox"/> debtor / <input type="checkbox"/> creditor
b.	<input type="checkbox"/>	Securing voluntary payment (no enforcement measures are necessary)
c.	<input type="checkbox"/>	Gathering of information concerning the financial circumstances of the debtor
d.	<input type="checkbox"/>	Locating the assets of the debtor
e.	<input type="checkbox"/>	Initiating enforcement measures
f.	<input type="checkbox"/>	Securing payments (enforcement measures are necessary)
g.	<input type="checkbox"/>	Other: _____
7.	<input type="checkbox"/>	The following steps will be taken (future):
a.	<input type="checkbox"/>	<input type="checkbox"/> Debtor / <input type="checkbox"/> creditor to be located
b.	<input type="checkbox"/>	Voluntary payment to be sought (no enforcement measures will be necessary)
c.	<input type="checkbox"/>	Information to be gathered concerning the financial circumstances of the debtor
d.	<input type="checkbox"/>	Assets of the debtor to be located
e.	<input type="checkbox"/>	Enforcement measures to be initiated
f.	<input type="checkbox"/>	Payments to be sought (enforcement measures will be necessary)
g.	<input type="checkbox"/>	Other: _____
8.	<input type="checkbox"/>	Please provide the following additional information and / or documentation: _____
9.	<input type="checkbox"/>	The application has been examined by the competent authority and is being returned because a declaration or registration has been refused on the ground that recognition and enforcement of the decision is manifestly incompatible with the public policy ("ordre public") of the State addressed. <sup>1</sup>

Module 3

3-46

Notes:

Whereas Section 5 of the Status form focuses on past steps, Section 6 focuses on present steps being taken.

Section 7 of the form lists future steps that will be taken.

Use the tick box in Section 8 to request any additional information or documents you need.

Use the tick box in Section 9 if the registering tribunal has vacated the registration because it found that recognition and enforcement of the order would be manifestly incompatible with public policy.

Status of Application – Page 3 (cont'd)

10. ☐ A challenge or an appeal has been lodged on the following grounds:

a. ☐ There are no bases for recognition and enforcement under Article 20

b. ☐ Recognition or enforcement of the decision is manifestly incompatible with the public policy ("*ordre public*") of the State addressed

c. ☐ The decision was obtained by fraud in connection with a matter of procedure

d. ☐ Proceedings between the same parties and having the same purpose are pending before an authority of the State addressed and those proceedings were the first to be instituted

e. ☐ The decision is incompatible with a decision rendered between the same parties and having the same purpose, either in the State addressed or in another State, and this latter decision fulfils the conditions necessary for recognition and enforcement in the State addressed

f. ☐ In a case where the respondent has neither appeared nor was represented in proceedings in the State of origin, the respondent had neither proper notice of the proceedings and an opportunity to be heard, nor proper notice of the decision and the opportunity to challenge or appeal it on fact and law

Module 3 3-47

Notes:

Use the tick boxes in Section 10 if the respondent has challenged the registration of the Convention order. The grounds listed are from Article 22 of the Convention, which has been implemented in the United States in UIFSA Section 708.

## Slide 48

Status of Application – Page 4

g. ☐ The decision was made in violation of Article 18

h. ☐ The authenticity or integrity of any document transmitted in accordance with Article 25(1) a), b) or d) or (3) b)

i. ☐ The debt for past due payments has been fulfilled.

11. ☐ The requested Central Authority has refused to process the application for the following reason(s):

a. ☐ Requesting Central Authority did not produce the additional documents or information within the period provided under Article 12(9)

b. ☐ Requirements of the Convention manifestly not fulfilled (☐ reasons attached)

Name: \_\_\_\_\_ (in block letters) Date: \_\_\_\_\_  
Authorised representative of the Central Authority (dd/mm/yyyy)

Module 3 3-48

### Notes:

Use tick box 11 if you, as the requested Central Authority, are refusing to process the application for one of two reasons.

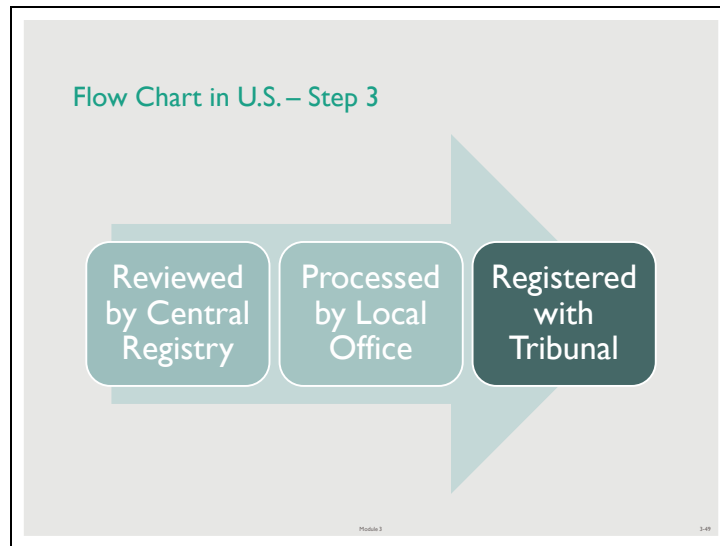
The first is that the requesting Central Authority did not produce the documents or information you had requested within the required time period.

The second is the rare situation that you have determined that the requirements of the Convention are manifestly not fulfilled. In that circumstance, you must provide the reasons for that decision.

At the bottom of the form is a place for the name of the person completing the form.



## Slide 49



### Notes:

The next slides focus on what happens once a Convention support order has been registered with the tribunal for recognition and enforcement.

### Registration for Recognition and Enforcement – Tribunal

- Apply Article 6 of UIFSA if no conflict with new Article 7
- Apply Sections 706 to 710 to registration of Convention order
  - Documents
  - Action by registering tribunal
  - Contest
  - Recognition and enforcement of registered Convention order
  - Partial enforcement
  - Foreign support agreement

Module 3 3-50

Notes:


To the extent there is no conflict with the new Article 7 in UIFSA (2008), the tribunal should also apply Article 6 of UIFSA. That means, the registering tribunal should cause the order to be filed as an order of a tribunal of another state or a foreign support order, together with one copy of the documents and information. The order is registered when it is filed in the registering tribunal.

When the order is registered, the registering tribunal must notify the nonregistering party.

At this point, Articles 6 and 7 diverge. The registering tribunal is governed by Section 706 regarding documents that must accompany the request for registration of a Convention support order and the only basis upon which it can vacate the registration on its own motion. It is governed by Section 707 regarding timeframes for contesting the registered order, and it is governed by Section 708 regarding the limited grounds on which it may refuse to recognize and enforce a registered Convention support order. Section 709 addresses partial enforcement of a registered order. Section 710 governs recognition and enforcement of a foreign support agreement.

### Registering Tribunal

- Registration/filing of Convention order
- Tribunal review
  - May vacate registration on own motion *only if* recognition and enforcement of order would be “*manifestly incompatible*” with public policy
- Notice of registration or order vacating registration
- Effect of registration
- Resolution of challenge by respondent



Module 3 3-51

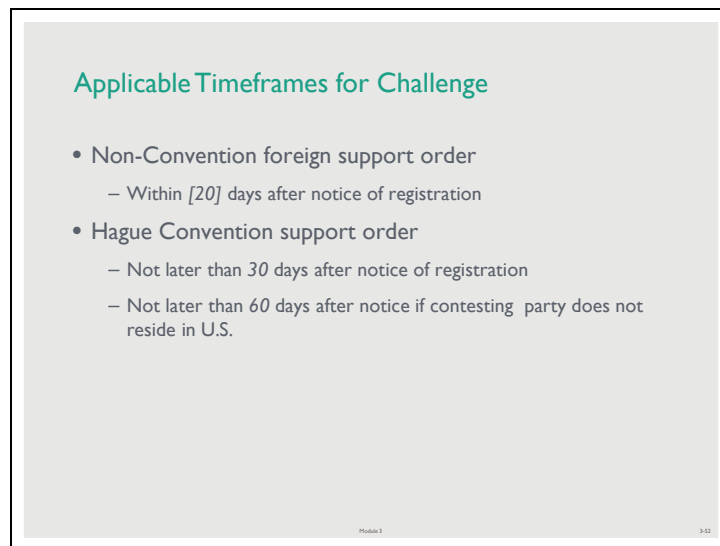
Notes:

Section 706 of UIFSA (2008) provides that a tribunal may vacate the registration of a Convention support order even if the respondent has not filed a contest. This differs from registration under Article 6 of UIFSA. However, the tribunal may take such action only in the limited situation where the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy. An example of when a U.S. tribunal may vacate registration on the basis that recognition and enforcement would be manifestly incompatible with public policy is a support order against a left-behind U.S. parent in a wrongful abduction case. The Official Comment to UIFSA posits another possible example: a tribunal might reject an application to enforce an order against a biological parent whose rights had been subsequently terminated and the child later adopted. Bottom line – it should be very rare that a tribunal vacates the registration on its own motion.

UIFSA requires the registering tribunal to notify the parties of the registration or any order vacating the registration. There is no timeframe but the notice must be given “promptly.” The contents of the notice should be similar to the notice under Section 605 with the exception that there is a longer time period for filing a contest.

Section 707 provides that if the nonregistering party fails to timely contest the registered Convention order, the order is enforceable. If there is a contest, the tribunal must resolve it. The tribunal is bound by the findings of fact on which the foreign tribunal based its jurisdiction, and may not review the merits of the order. It is only deciding whether the contesting party has proven one of the allowable grounds for contest.

## Slide 52



**Applicable Timeframes for Challenge**

- Non-Convention foreign support order
  - Within [20] days after notice of registration
- Hague Convention support order
  - Not later than 30 days after notice of registration
  - Not later than 60 days after notice if contesting party does not reside in U.S.

Module 3 3-52

### Notes:

The timeframe for challenging a registered Convention support order is longer than that allowed for challenging a registered foreign support order that was issued by a non-Convention foreign country.

In the case of a non-Convention support order, most states follow UIFSA's recommended timeframe of 20 days. On the slide, you will notice that the number 20 is in brackets. That is because the Uniform Law Commissioners recommended 20 days but left it to the discretion of states when they enacted UIFSA.

On the other hand, the Hague Child Support Convention contains specific timeframes that all Contracting States must follow. Those timeframes are reflected in Section 707 of UIFSA (2008). That means every U.S. state requires that in the case of a registered Convention support order, the respondent must file a contest within 30 days after the notice of registration. If the contesting party does not reside in the United States – for example, the obligor lives abroad but the order was registered in a U.S. state where the obligor has property – the contest must be filed not later than 60 days after the notice.

Defenses – Section 708, UIFSA (2008)

Tribunal must recognize and enforce a registered Convention support order, unless respondent timely raises and proves:

- Recognition and enforcement of order is manifestly **incompatible with public policy**, including failure of issuing tribunal to observe minimum standards of due process
- Issuing tribunal **lacked personal jurisdiction** consistent with Section 201
- Order is **not enforceable** in issuing country
- Order was obtained by **procedural fraud**
- A record transmitted under Section 706 **lacks authenticity/integrity**
- **Pending proceeding filed first**

Module 3

3-52

Notes:

Section 708 of UIFSA (2008) lists the only grounds on which a party may contest a registered Convention support order.

The first is that recognition and enforcement is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe due process.

The second ground is that the issuing tribunal lacked personal jurisdiction consistent with the long arm bases for jurisdiction listed in Section 201 of UIFSA. The reference to Section 201 is important. Much of the world allows a tribunal to issue a support order if the creditor resides there. This is often called creditor-based jurisdiction. In the U.S., however, a tribunal must have personal jurisdiction over both parties. To have personal jurisdiction over a nonresident, the individual must have sufficient contacts with the forum so that it is fair for the tribunal to issue an order binding the individual. The relevant Supreme Court case concerning child support is *Kulko vs. Superior Court*, 436 U.S. 84 (1978). Section 201 of UIFSA lists sufficient contacts between a nonresident defendant and the forum that satisfy U.S. due process requirements. Even if the tribunal that issued the Convention order used creditor-based jurisdiction, the U.S. tribunal should recognize the order if the facts of the case would support a basis of personal jurisdiction under UIFSA, Section 201. If a respondent raises this challenge, it may be necessary for the child support attorney to request a continuance to learn more about the facts of the case in order to determine whether they support long arm jurisdiction.

Other allowable challenges are that [list the remaining four bullets on this slide].

## Slide 54

Slide 54: Defenses (cont'd)

- Order ***incompatible with more recent support order***, which is entitled to recognition and enforcement
- Alleged ***arrears have been paid***
- If default order, there was a ***lack of due process*** regarding notice and opportunity to be heard
- Order was made in ***violation of Section 711*** (limitation on modification jurisdiction)

Module 3 3-54

### Notes:

In addition to the grounds for a contest that are listed on the prior slide, a respondent may also raise these four grounds:

- The registered order is incompatible with a more recent order, and that order is entitled to recognition and enforcement
- The alleged arrears have been paid (this is similar to a defense under Article 6 of UIFSA. It is a defense to the alleged arrears but is not a defense to the registration itself.)
- If the registered order was a default order, the respondent can try to prove that there was a lack of due process regarding notice and an opportunity to be heard
- Finally, a contest is allowable if the order was issued in violation of Section 711 of UIFSA, which limits a tribunal's jurisdiction to modify. We will discuss this provision during Module 6 of the webinar series.

### Review Questions

- Is the procedure for registration of a Convention order the same as that for registration of a U.S. state order or a non-Convention foreign support order?

No. There are different required documents, timeframes, and defenses. ***Also note that a responding state cannot decide to administratively enforce a Convention order without registration. Article 7 requires registration for recognition and enforcement.***
- May a tribunal vacate the registration, on its own motion, because it does not agree with the decision?

No. A tribunal may vacate a registration without the filing of a contest by the non-registering party only if, acting on its own motion, it finds that recognition and enforcement would be manifestly incompatible with public policy.

Module 3 3-55

Notes:

We've covered a lot of material so let's stop here, and review some key points.

- Is the procedure for registration of a Convention order the same as that under Article 6 of UIFSA for registration of a U.S. state order or a non-Convention foreign support order?


No. Registration of a Convention order under Article 7 has different document requirements, timeframes, and allowable defenses. Also note that a responding state cannot decide to administratively enforce a Convention order without registration. Article 7 requires registration for recognition and enforcement.

- May a tribunal vacate the registration, on its own motion, because it does not agree with the decision?

No. A tribunal may vacate a registration without the filing of a contest by the non-registering party only if, acting on its own motion, it finds that recognition and enforcement would be manifestly incompatible with public policy.

### Choice of Law – Section 604, UIFSA (2008)

- Law of issuing foreign country governs:
  - Current support payments, including duration
  - Computation and payment of arrears, including interest accrual
  - Existence and satisfaction of other support obligations
- Law of responding state governs:
  - Enforcement procedures and remedies
- Law of issuing foreign country **or** responding state – whichever is longest – governs:
  - Statute of limitations on arrears



Module 33-56

#### Notes:

If the respondent challenges the registration of a Convention support order, the respondent has the burden of proving one of the allowable grounds on which a tribunal may refuse to recognize and enforce a registered order.

Section 707 of UIFSA (2008) provides that Sections 605 through 608 of UIFSA apply to a contest of a registered Convention support order unless Article 7 otherwise directs. That means the tribunal will apply the choice of law rules under Section 604 of UIFSA.

The law of the country that issued the registered order governs the nature, extent, amount, and duration of current support payments, as well as the computation of arrears and accrual of interest on the arrears.


The law of the responding state – the state holding the hearing on any registration challenge and the state enforcing the order if it is recognized – governs enforcement procedures and remedies.

And the law of the issuing country or the law of the responding state – whichever is longer – governs the statute of limitations on arrears.



**Admissibility of Evidence – Section 316, UIFSA (2008)**

- “Penalty of perjury” replaces under oath
- Electronic transmission of documents permitted
- Tribunal **must** permit a nonresident witness or party to testify by telephone, audiovisual means, or other electronic means



Module 3 3-57

Notes:

Another UIFSA provision that is important in international cases – including Convention cases – is Section 316.

It replaces the requirement that a person swear under oath before a notary in order for information in a document to be admissible into evidence. Section 316 provides that an affidavit or a document, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing “outside this state.” We will discuss that provision in more detail in a later module.

Section 316 encourages tribunals and parties to take advantage of modern methods of communication. It authorizes the transmission of documents from outside the state by telephone, telecopier, or other electronic means.

A big change from UIFSA 1996 is the requirement that tribunals *must* allow a witness or party residing outside the state to testify by telephone, audiovisual means, or other electronic means. It is not discretionary. We will talk about this requirement in a later module.

Evidence – Sections 317 & 318, UIFSA (2008)

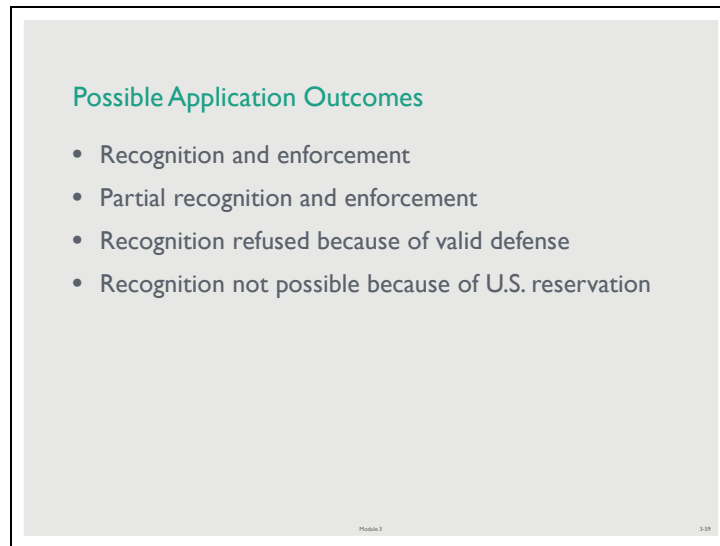
- Tribunal may communicate with a tribunal **outside this state** to obtain information about
  - Laws
  - Legal effect of tribunal's order
  - Status of a proceeding
- Tribunal may
  - Request tribunal **outside this state** to assist with discovery; and
  - Upon request, compel a person over which it has jurisdiction to respond to a discovery order issued by tribunal **outside this state**

Module 3 3-58

Notes:

Section 317 authorizes a state tribunal to communicate with a tribunal “outside this state.” “Outside this state” means a tribunal of another state (as defined by UIFSA), a foreign country, or a foreign nation that is not defined as a foreign country under UIFSA. In other words, any place but where the tribunal is located! The communication can be about the laws, legal effect of an order, or status of a proceeding.

Section 318 authorizes a tribunal to help a tribunal “outside the state” with the discovery process.

A presentation slide with a light gray background and a black border. The title "Possible Application Outcomes" is in green text at the top left. Below it is a bulleted list of four outcomes. At the bottom right, there is a small footer with the text "Module 3" and "3-59".

Possible Application Outcomes

- Recognition and enforcement
- Partial recognition and enforcement
- Recognition refused because of valid defense
- Recognition not possible because of U.S. reservation

Module 3 3-59

Notes:

In most cases, the result of the Application for Recognition and Enforcement will be that the order is recognized and enforceable in the same manner as if the order had been made by the requested State.

However, Section 709 of UIFSA (2008) also recognizes the possibility of partial recognition and enforcement. For example, if there is a dispute about arrears, the tribunal can recognize and enforce the order with regard to current support while the challenge about arrears is under way.

In some cases, the tribunal will refuse to recognize the order because the non-registering party has proven a valid basis for challenging the recognition and enforcement.

In some cases, the support order cannot be recognized because of a reservation that the Contracting State has made under the Convention. For example, the United States will not recognize an order based solely on creditor jurisdiction when there is no factual basis for personal jurisdiction over the debtor under UIFSA Section 201.

## Slide 60

### Non-Recognition of Convention Order – Section 708, UIFSA (2008)

If a tribunal does not recognize a Convention order because of:

- Lack of personal jurisdiction
- Procedural fraud
- Pending proceeding that was filed first
- Default order issued without proper notice & opportunity to be heard

Module 3 3-40

### Notes:

Where an order cannot be recognized because:

- The issuing tribunal lacked personal jurisdiction consistent with UIFSA Section 201;
- The order was obtained by fraud in connection with a matter of procedure; or
- In a case where the respondent neither appeared nor was represented in the proceeding in the issuing foreign country, the respondent did not receive proper notice and an opportunity to be heard.

Then . . .

### Non-Recognition of Convention Order (cont'd)

Then

- Tribunal may not dismiss proceeding without allowing reasonable time for party to request establishment of new Convention support order; and
- The [governmental entity] must take all appropriate measures to request child support order for obligee if application for recognition and enforcement was received through Central Authority
  - No Application for Establishment of a Decision required

Module 3 3-41

Notes:

Section 708 of UIFSA (2008) prohibits the tribunal from dismissing the proceeding without allowing a reasonable time for a party to request the establishment of a new Convention support order. In fact, the IV-D agency must take all appropriate measures to request a child support order if the application for recognition and enforcement came from a Central Authority in the requesting State pursuant to Section 704.

You may need additional information or documents from the applicant in order to proceed with establishment. For example, you will probably need the applicant to complete the creditor sections of the Financial Circumstances form. You may use the Status of Application form to request this information. However, it is not necessary for the applicant to file a new Application for Establishment of a Decision.

## Slide 62

### Foreign Support Agreement – Section 710, UIFSA (2008)

- Definition
  - Agreement enforceable as support order in issuing country
  - Formally drawn up or registered as authentic instrument by a foreign tribunal; or authenticated, registered, or filed with a foreign tribunal
  - May be reviewed and modified by a foreign tribunal
- Documents
  - Complete text of foreign support agreement
  - Record stating agreement is enforceable as a support order in issuing country

Module 33-42

### Notes:

As we discussed during Modules 1 and 2, the Hague Child Support Convention also requires procedures for the recognition and enforcement of maintenance arrangements. UIFSA refers to these arrangements as foreign support agreements. Section 701 of UIFSA (2008) contains the definition of a foreign support agreement and Section 710(b) lists the documents that must accompany an application or direct request for recognition and enforcement of a foreign support agreement.

## Slide 63

### Foreign Support Agreement (cont'd)

- Review by tribunal
  - May vacate registration on own motion only if finding that recognition and enforcement would be manifestly incompatible with public policy
  - If respondent challenges, may refuse recognition and enforcement if it finds:
    - Recognition and enforcement manifestly incompatible with public policy
    - Agreement obtained by fraud or falsifications
    - Agreement is incompatible with support order involving same parties and purpose if support order is entitled to recognition and enforcement under UIFSA
    - Record submitted with application lacks authenticity or integrity
- Suspension of proceeding
  - Must suspend proceeding to recognize and enforce during pendency of a challenge to or appeal of agreement before a tribunal of another state or foreign country

Module 33-42


### Notes:

Section 710 also outlines the procedure for recognition and enforcement of such an agreement. As you can tell from this slide, it's similar to the procedure for recognition and enforcement of a Convention support order. There are two differences. First, there is a requirement that the tribunal must suspend a proceeding for recognition and enforcement of the agreement during the pendency of a challenge or an appeal of the agreement before a tribunal of another U.S. state or a foreign country. Second, there is no requirement to allow a reasonable time for a party to request establishment of a new order if the foreign support agreement is not recognized and enforced.

## Slide 64

### Case Scenario #I

- Application for Recognition and Enforcement comes to Central Registry



- What steps should the Central Registry take?
  - Review application
    - Appropriate applicant
    - Within Convention scope
    - Order issued by Contracting State
    - Required documents
  - Send Acknowledgment
  - Process to extent possible

Module 3 3-64

### Notes:

The next few slides present case scenarios.

In the first case scenario, the custodial parent and child live in France. She has a German support order. The Central Authority in France has sent an Application for Recognition and Enforcement to the Central Registry of Maryland, where the obligor resides.

What steps should the Central Registry take?

[After allowing time for the participants to think about the appropriate answer, the trainer or moderator should go over the steps identified on the slide. For example, in reviewing the application, the Central Registry should ask the following questions:


- Is the application one that is available to the particular applicant?
- Is the Application for recognition and enforcement of an order that is within the Convention scope?
- Was the order issued by a Contracting State?
- Is the application complete? Is it accompanied by the required additional documents?]



## Slide 65

**Case Scenario #I (cont'd)**

- Convention order registered with tribunal



• What steps should the tribunal take?

- Send notice of registration
- If no timely contest, order is confirmed by operation of law and enforceable (Section 707(c))
- Only exception: tribunal may vacate registration without the filing of a contest if, acting on own motion, tribunal finds recognition and enforcement would be manifestly incompatible with public policy
- If contest, comply with Section 708, UIFSA (2008)

Module 3 3-45

### Notes:

We will assume that the Central Registry has timely acknowledged the application and forwarded the application to the appropriate local child support office. That office has filed the application and supporting documents with the tribunal, which has registered the order.

Following registration of the Convention order, what steps should the tribunal take?

[After allowing time for the participants to think about the appropriate answer, the trainer or moderator should list the steps identified on the slide.]

**Are these grounds for refusal to recognize and enforce a registered Convention order?**

- Respondent challenges on basis that Convention order is not certified
- Respondent challenges on basis that support amount is too high
- Respondent challenges on basis that record stating that support order is enforceable in issuing country is not submitted under penalty of perjury
- Respondent challenges on basis that there is no support duty under the law of Maryland because the child is 19 and not attending high school



Module 3 3-66

Notes:

Let's assume that the respondent challenges the registration on the basis that the Convention order is not certified. Is that a ground upon which the tribunal may refuse to recognize and enforce the order? No, it is not. However, an allowable ground under Section 708 of UIFSA (2008) is that a record transmitted under Section 706 lacks authenticity or integrity. If the respondent argues that the order is not authentic and the tribunal has reason to believe that the order may be forged, a tribunal may request the production of a certified copy of the order.


What if the respondent challenges the registration on the basis that the support amount exceeds his ability to pay? That is not a permissible ground for challenging registration. It may affect the ability of the requested State to use certain enforcement measures, but if that is the only challenge, the tribunal must still recognize the order as enforceable in the United States.

May a tribunal refuse to recognize and enforce a registered order because the Statement of Enforceability that the competent authority completes is not signed under penalty of perjury? No. The form does not require signature under oath or penalty of perjury. That is not one of the limited defenses listed in Section 708 of UIFSA.

Let's assume that the respondent challenges the registration because the Convention order requires support to age 21 but the law of Maryland, where the order has been registered, only requires support to age 18 unless the child is enrolled in secondary school. Then support may continue until the child completes school or reaches age 19, whichever occurs first. Is that a valid defense? No. Section 604 provides that duration is governed by the law of the issuing foreign country.

**Case Scenario #2**

- Italian Central Authority requests that California recognize and enforce Italian order for 1500 euros/month for support of child residing with mom in Italy



The image contains two maps. On the left is a map of Italy with a green and white vertical stripe on the left side and a red section on the right. A scroll labeled 'Italian Order' is positioned next to it. On the right is a yellow map of California with the word 'CALIFORNIA' written across it.


Produce 3 3-07

**Notes:**

In Case Scenario #2, the Italian Central Authority has requested that California recognize and enforce an Italian support order for 1500 euros.

**Case Scenario #2 (cont'd)**

- Child was conceived in Switzerland when dad worked in U.S. Embassy and mom worked at Swiss hotel



- Obligor contests registration on basis that Italian court did not have personal jurisdiction over him
- Is that a valid defense? Will it be a successful defense in this case?

Photo 3 3-48

Notes:

The child was conceived in Switzerland.

After receiving the notice of registration, the obligor in the U.S. timely contests the registration on the basis that the Italian court used creditor based jurisdiction, he has had no contacts with Italy, and therefore the Italian court did not have personal jurisdiction over him.

Is that a valid defense to recognition and enforcement of the registered Convention order?

Yes, it is.

Will it be a successful defense in this case?

Section 708 of UIFSA (2008) provides that a tribunal may refuse recognition and enforcement of a registered Convention order if the issuing tribunal lacked personal jurisdiction consistent with Section 201 of UIFSA. So the question is whether the facts presented meet one of the bases for jurisdiction under Section 201. On the limited facts we have, it does not appear that they do. Conception did not occur in Italy. If the obligor has had no other contacts with Italy that are consistent with Section 201, the tribunal will find that the Italian court lacked personal jurisdiction over the obligor and will refuse to recognize and enforce the order.

That is not the final step, however. Section 708 also requires the tribunal to allow the Italian creditor a reasonable time to request the establishment of a new Convention order.

## Slide 69



**QUESTIONS or FEEDBACK?**

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CONTACT  
[ocseinternational@acf.hhs.gov](mailto:ocseinternational@acf.hhs.gov)

3-17

### Notes:

You probably have lots of questions about implementing the Convention in the United States. OCSE's Division of Policy and Training will continue to issue guidance on these implementation issues.

To address immediate needs, the Division is hosting this webinar training series. This module discussed the most common application – recognition and enforcement of a Convention order. Today we focused on incoming applications to the United States. Module 4 discusses outgoing applications for recognition and enforcement from the United States to a Convention country.

At any point, please do not hesitate to contact OCSE at the address on the slide with questions you may have or feedback on the webinar content.

Thank you for attending this webinar.