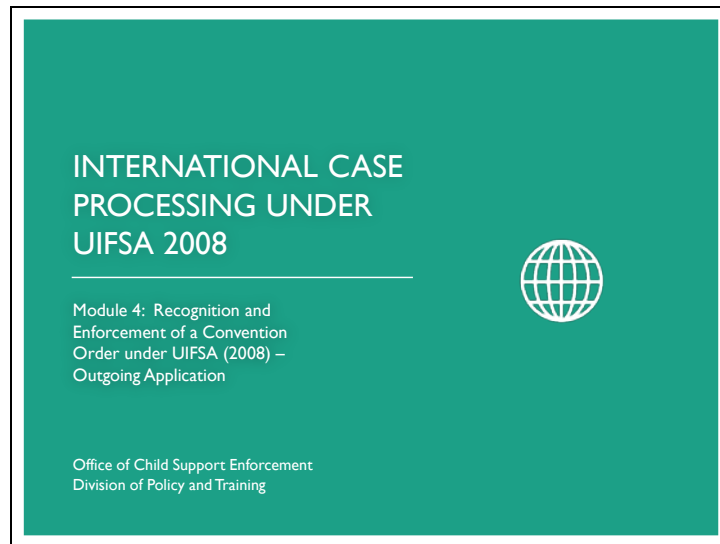


Slide 1




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 442

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 are small labels "Module 4" and "4-2".

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 4 4-2

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.

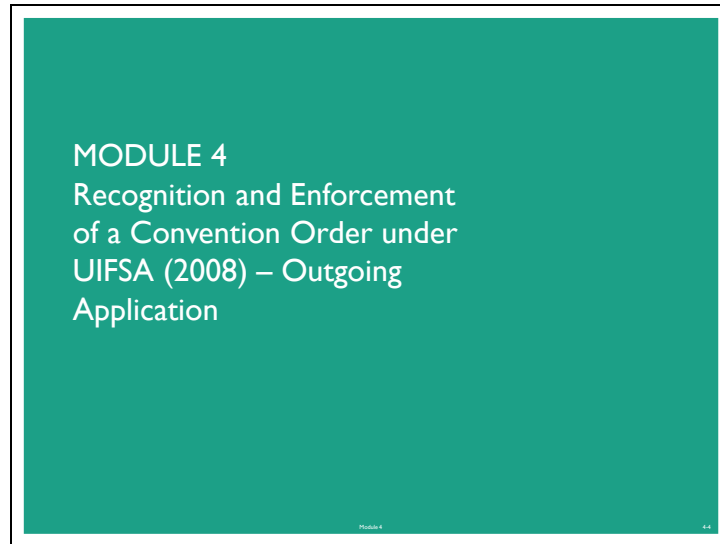
Module 5 examines incoming and outgoing applications for establishment of a support order, including establishment of parentage when necessary to obtain support.

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 4, which focuses on an outgoing application requesting recognition and enforcement of a support order from the United States to a Convention country. We will discuss your role as the requesting Central Authority transmitting the application. We will also discuss the role of the requested Central Authority in the Convention country and the process under the Convention for recognition and enforcement of the order.

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

Additional Terms within Convention

- Competent Authority
 - Depends on context and country. For example,
 - Competent authority for recognition and enforcement may be limited to the court in some countries
 - Competent authority for certifying a document may vary based on the document
- State addressed
 - Convention country that is acting on the application

Module 4 4-6

Notes:

There are two additional terms we will use during this presentation.

The Convention often refers to the “competent authority.” There is no definition within the Convention because the identity of the competent authority will vary among Convention countries. It also depends on the context of the action. For example, the Convention requires the competent authority in the requested State to declare without delay whether a decision registered for recognition and enforcement is in fact enforceable. Depending upon the country, the competent authority might be the court, an administrative agency, or both. Another provision within the Convention provides that if there is a challenge to a document submitted for recognition and enforcement, a complete copy of the document concerned, certified by the competent authority in the State of origin, shall be provided promptly. It will be up to the State of origin to determine who the competent authority is to certify the requested document.

Some of the slides in this module refer to the State addressed. The term means the same thing as the requested State and refers to the country that is acting on the Convention application. In the U.S., we sometimes use the phrase “forum state.” In UIFSA, the corresponding term in an interstate case is “responding state.”

Slide 7

Definition of Central Authority

- Entity designated by a State to perform certain functions specified under an Administrative Cooperation Convention
- Central Authorities under the Hague Child Support Convention
 - Cooperate with each other to achieve the purposes of the Convention
 - Seek as far as possible solutions to difficulties that arise in the application of the Convention
 - Serve as point of contact between Contracting States to transmit and receive applications made under the Convention
 - Provide and facilitate a number of services
- Most functions of the Central Authority may be performed by public bodies, or other bodies subject to the supervision of the competent authorities of that State

Module 4 4.7

Notes:

Each Administrative Cooperation Convention negotiated by the Hague Conference on Private International Law requires a Contracting State to designate a Central Authority. The Central Authority is an agency or organization that is designated to play a key role in the implementation and operation of the international treaty.

Article 5 of the Hague Child Support Convention lays out general functions of Central Authorities: they must cooperate with each other to achieve the Convention's purposes and they must try to resolve as much as possible any difficulties that arise in the implementation of the Convention. Article 6 of the Convention lists specific functions of a Central Authority. For example, the Central Authority must both transmit and receive applications. Other Convention provisions place additional mandatory obligations on the Central Authority. These obligations emphasize the need for international cooperation among Contracting States (countries that are parties to the Convention).

The functions of the Central Authority may be performed by public bodies, or other bodies subject to the supervision of the competent authorities of the Contracting State. That means that countries will vary regarding what entity serves as the Central Authority. However, each country is required to keep the Permanent Bureau informed of the identity of its Central Authority. That information is listed on the Hague website, as well as in the Country Profile that we discussed in Module 1.

Slide 8

U.S. Central Authority

- HHS who, in turn, has delegated Central Authority functions to OCSE
- OCSE's primary Article 6 function – location of debtor or creditor
 - U.S. state of residence
- HHS has designated state IV-D child support agencies as public bodies to perform functions under Article 6, under the supervision of OCSE
 - Transmission and receipt of Convention applications
 - Initiation or facilitation of institution of proceedings in respect of such applications

Module 4 4-8

Notes:


In the United States, the Central Authority is the Department of Health and Human Services. The Secretary of HHS has delegated the responsibilities of the Central Authority to OCSE. Article 6 of the Hague Convention lists two specific functions of Central Authorities:

- They must transmit and receive applications under Chapter III. We will discuss those applications in a bit.
- They must initiate or facilitate the institution of proceedings in respect of such applications.

Article 6 also requires the Central Authority to take all appropriate measures with regard to those applications. One of the specific measures is helping to locate the debtor or creditor. As it does now, OCSE will use the FPLS to assist Convention countries when they do not know the U.S. state in which the creditor or debtor resides. However, the information OCSE returns to the Convention country is the state of residence. It will not provide residential or employment address information.

HHS has formally designated state IV-D agencies as public bodies to perform the functions related to applications under the Convention. That means that applications for Convention cases will continue to be received and transmitted at the state level. And state child support agencies will be responsible for initiating the appropriate proceedings related to those applications, subject to OCSE supervision.

Role of Requesting Central Authority



- Responsibilities – Article 12 of Convention
 - Assist applicant in ensuring that application is accompanied by all necessary information and documents
 - Review application to ensure it complies with Convention
- Mandatory functions - Article 6 of Convention
 - Transmit application on behalf of applicant to Central Authority of requested State
 - Art. 12 requires Requesting Central Authority:
 - Include Transmittal
 - Upon request, send certified documents under Articles 16, 25, and 30
- Translations – Article 45 of Convention
 - May charge applicant for translation costs of application and related documents, unless those costs may be covered by its system of legal assistance

Module 4 49

Notes:

The Convention outlines a number of responsibilities that the requesting Central Authority has when transmitting applications to a Convention country. This slide summarizes them.

In its role in the U.S. as a requesting Central Authority, a IV-D agency must help the petitioner complete the application and ensure that the Convention application includes all the necessary information and documents. The Country Profile is an excellent resource for identifying forms and information needed by the requested State. The IV-D agency must also review the application to ensure it complies with the Convention. State child support agencies need to decide who will be conducting that review. Will it be at the local level or centralized with a unit that focuses on Convention cases? Note that this review is limited to compliance with the Convention; it is not a determination about the merits of the application.

Once it is satisfied that the application complies with the Convention, the requesting Central Authority (the IV-D agency in the U.S.) must transmit the application on behalf of the applicant to the requested Central Authority. The application must include a transmittal form – one of two mandatory forms under the Convention. There is no need to include certified documents unless the requested Contracting State asks for them.

Article 45 of the Convention, which addresses translation, authorizes the requesting Central Authority to charge an applicant translation costs unless those costs are covered by the country's system of legal assistance. That means that IV-D agencies should apply federal regulations regarding recovery of costs related to translation of documents. We will briefly discuss translation requirements again later in this presentation but will wait until Module 8 of the webinar for a more in-depth examination of translation issues.

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 4 4-10

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 (or obligee) 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 (or obligor) 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 11

Your New Best Friend!

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

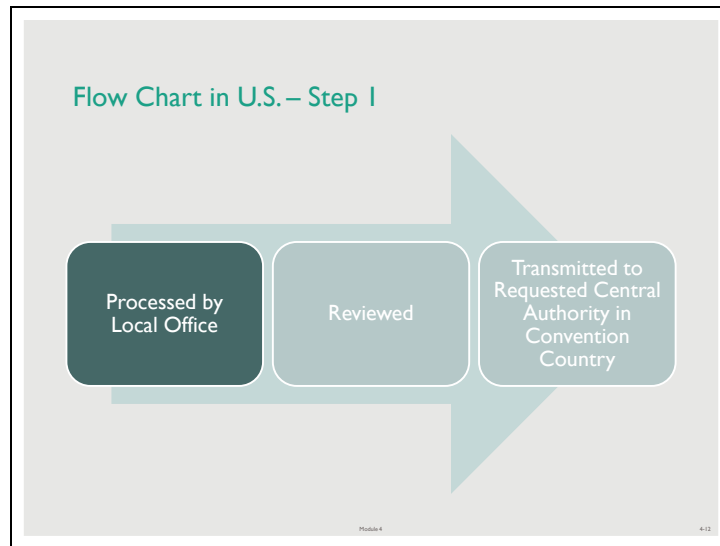


Module 4 4-11

Notes:

Included on the Child Support page of the Hague Conference website is a wonderful resource titled the Practical Handbook for Caseworkers. 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 12



Notes:

In the United States, Convention cases will continue to be processed at the local level. OCSE will not be involved in the transmission of applications.

States are governed by Section 307 of UIFSA, which outlines the duties of the support enforcement agency. The focus of subsection (a) is on providing services to the petitioner. Regardless of whether your state enacted Alternative A or B, you are required to provide IV-D services to a petitioner residing in a U.S. state. If the petitioner seeks support from a respondent living in a Convention country or having assets in a Convention country, you will be transmitting an application under Article 7 of UIFSA (2008). This is the new Article that implements the Convention in the United States. You may also be assisting a debtor who wants a Convention country to recognize an existing order.

Application Must Be within Scope of Convention	
CREDITOR	DEBTOR
<ul style="list-style-type: none">• Recognition or recognition and enforcement of a support order• Enforcement of a support order issued or recognized in the requested State	<ul style="list-style-type: none">• Recognition of an order suspending or limiting enforcement of a previous support order in the requested State

Notes:

The first step the agency should take is ensuring that the application request is 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).

Under the Convention the following enforcement applications are available to a creditor:

- Recognition or recognition and enforcement of a support order, and
- Enforcement of a support order issued, or already recognized, in the requested State.


Under the Convention the following enforcement application is available to a debtor:

- Recognition of an order suspending or limiting enforcement of a previous support order in the requested State.

If the petitioner wants recognition and enforcement of a custody order that includes support terms, the only aspects of the order that are appropriate for recognition and enforcement under the Convention are the support terms.

Order Must Be Issued by Contracting State

- May seek recognition and enforcement of a U.S. order; or
- May seek recognition and enforcement of an order issued by another Contracting State

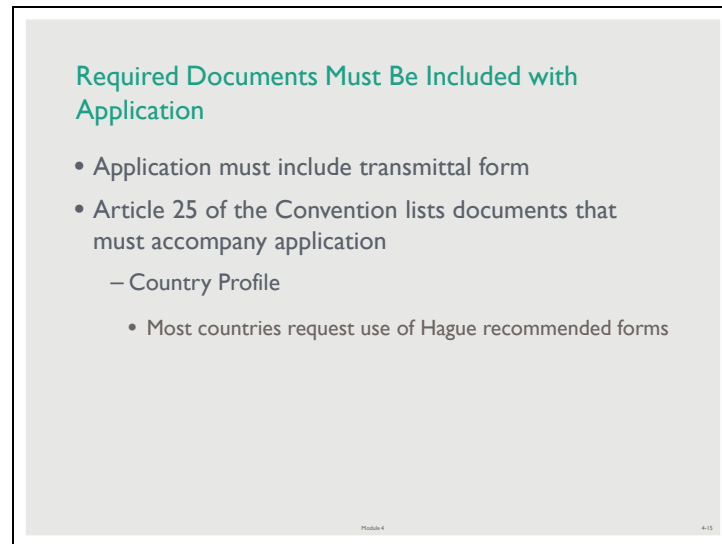


Module 4 4-14

Notes:

The agency must also make sure that the support order the petitioner wants recognized and enforced was issued by a Contracting State.

As we discussed in Modules 2 and 3, 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 when a U.S. state will request recognition and enforcement of an order it issued. For example, New York requesting recognition and enforcement of a New York support order. However, another example is illustrated by the second depicted order. In this case New York is not requesting recognition and enforcement of its own order but of an order issued by France, a different Contracting State. The creditor living in the United States can request recognition and enforcement of the decision made in France since France is also a Contracting State.



Required Documents Must Be Included with Application

- Application must include transmittal form
- Article 25 of the Convention lists documents that must accompany application
 - Country Profile
 - Most countries request use of Hague recommended forms

Module 4 4-15

Notes:

If the local office determines a Convention application for recognition and enforcement is appropriate, the next step is to make sure the agency has all the documents that must be included with the application.

Every Convention application must include a Transmittal form 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.

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. In reviewing the Country Profiles listed on the Hague Conference website, it appears that almost all of the countries want applicants to use the recommended forms published by the Hague Conference for use with an Application for Recognition and Enforcement.

Outgoing Application for Recognition and Enforcement of Contracting State Order – Documents		
Required by Convention Article 25	When Used	Form/Document Used
Transmittal	Always	Convention Transmittal (required form)
Application	<ul style="list-style-type: none"> • Always • If risk of harm 	<ul style="list-style-type: none"> • Convention Application • Convention Restricted Information on the Applicant
Complete text of order	Always unless requested State allows an abstract or extract of order	Order itself or Abstract/Extract, if Acceptable <ul style="list-style-type: none"> • Requested State can require certified order

Notes:

This slide and the next one identify the documents required by Article 25 of the Convention.

The first column lists the document. The second column explains when the document is used. And the third column identifies the applicable Convention form unless the country has identified an alternative preferred form in its Country Profile. If there is no standardized Convention form, you may use a domestic form to provide the information, unless the country has identified an alternative preferred form.

As we will discuss, Article 25 allows a country to specify certain document requirements. The best resource for learning a country's document requirements is the Country Profile. However, not every country has completed a Country Profile. Another resource is the Status Table on the Child Support page of the Hague Conference website. The Status Table lists all the countries that have ratified or acceded to the Convention, as well as the country's reservations, declarations, and notifications. Often the notifications include special document requirements.

In a minute, we'll go over the forms listed in the chart. For now, note that you are required to include the complete text of the order, unless the requested State has indicated it will accept an abstract or extract. As just explained, the Country Profile and the Status Table are the best resources to learn whether a country will accept an abstract. When you send the text of the order, it can be in electronic form. There is no requirement to initially include a **certified** copy of the support order. The exception is if the Contracting State has specified that a complete copy of the decision certified by the competent authority in the State of origin must accompany the application. Again, that would be noted in the Country Profile and may be highlighted in the Status Table.

Slide 17

Outgoing Application for Recognition and Enforcement of Contracting State Order – Documents (cont'd)		
Required by Convention Article 25	When Used	Form/Document Used
Document stating order is enforceable in issuing country	Always	Convention Statement of Enforceability
Document stating requirements of Art. 19(3) are met <ul style="list-style-type: none">• Decisions are subject to appeal or review by judicial authority• Decisions have similar force and effect to judicial decisions	U.S. never needs to send because our Country Profile specifies that decisions of our administrative authorities always meet Art. 19(3) requirements	Domestic form

Notes:

The only documents the Convention requires with every application for Recognition and Enforcement of an Order are the Transmittal, the Application, and a document stating the order is enforceable in the issuing country. The remaining documents listed in the chart have to be produced only if necessary, depending on the circumstances.

If the order was issued by an administrative authority, the Convention requires a document stating that the administrative decision was subject to appeal or review by a judicial authority and that the decision has the same effect as a judicial decision. There are two exceptions. One is if the requested State has indicated it does not require such a document. The other exception is if the issuing country has specified that all of its administrative child support orders meet those requirements. The U.S. has so specified in its Country Profile. ***That means if you are in a state that issues support orders administratively, you do not have to send a document saying your decisions meet Article 19(3) requirements.***

Outgoing Application for Recognition and Enforcement of Contracting State Order – Documents (cont'd)		
Required by Convention Article 25	When Used	Form/Document Used
Document attesting to proper notice and opportunity to be heard	Always if respondent did not appear and was not represented	Convention Statement of Proper Notice
Document of arrears	Always if there are any	Domestic document showing amount and date calculated
Document showing req't for automatic adjustment and explaining how to adjust or index support amount	Always if order provides for automatic adjustment by indexation	Domestic document

Notes:

If you are seeking enforcement of arrears, there is no recommended Convention form or format to use for the record of arrears. Check the Country Profile to see if the requested State has a preferred form. If not, whatever document you send should show the amount of arrears and the date the amount was calculated.

If a support order is supposed to be indexed automatically or adjusted on a specified frequency – for example, the order includes a Cost of Living Adjustment – you 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, you should provide details about whether your state will be calculating the adjustment or asking the requested State to do so, information about how the adjustment is calculated, and – if your state is doing the adjustment – information about 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, the information does not have to be in a formal document. Any informal document, such as an e-mail or a fax, may suffice. The Explanatory Report also notes that 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.

Outgoing Application for Recognition and Enforcement of Contracting State Order – Documents (cont'd)		
Required by Convention Article 25	When Used	Form/Document Used
Documentation showing extent to which applicant received free legal assistance in State of origin	If requested State requires, pursuant to Art. 17 of Convention	Domestic document
Information about debtor	Always	Convention Financial Circumstances form (For application by creditor, complete sections related to income and assets of debtor. Do not complete sections related to creditor.)

Notes:

Legal assistance under the Convention is a broad concept. It means the assistance necessary to enable applicants to know and assert their rights and to ensure that applications are fully and effectively dealt with in the requested State. The means of providing such assistance will vary depending on a country's system. A requested State must provide free legal assistance, if needed, with respect to a creditor's application related to a child below the age of 21. Free legal assistance for some creditor applications may be subject to a merit test under the Convention. However, a creditor's application for recognition or recognition and enforcement may never be subject to a merit test. That means ***you do not need to provide documentation about legal assistance when assisting a creditor with seeking recognition and enforcement of a child support order if the child is below age 21.***

However, under Article 17 of the Convention, for other applications, a Contracting State may make the provision of free legal assistance subject to a means or a merit test. The categories of applications within the scope of Article 17 include:

- An application for the support of a child who is over age 21;
- An application for child support, or an appeal, by a person who is refused free legal assistance under Articles 15(2) or 16(1);
- An application by a debtor; and
- An application for establishment or modification of spousal support, whether or not made in conjunction with an application for child support.

The exception is if the applicant benefited from free legal assistance in his or her State of origin. Then the applicant is entitled to at least the same level of free legal assistance as provided for by the law of the requested State under the same circumstances. In other words, the requested State doesn't have to change its laws and provide free legal assistance. But the applicant should at least be treated the same as a local resident would under the same circumstances. The documentation noted on the chart is what would be needed in that situation. There is no recommended Hague Convention form. So, if you are assisting a debtor with an application for recognition of a support order, you will need to send a letter or some other document explaining if your agency provides free legal assistance to debtors who receive IV-D services. Such assistance may include helping them to know their legal rights and to complete and transmit child support applications.

The financial circumstances of the debtor/obligor are always required when you file an Application for Recognition and Enforcement. We will discuss the Financial Circumstances form in a few minutes.

Transmittal – Required Form – Page 1

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 46).

☐ *A determination of non-disclosure has been made by a Central Authority in accordance with Article 46.*

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)

Module 4 4-20

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.

The Preamble to the Transmittal recognizes that there are situations where the release of any personal information could jeopardize the health, safety, or liberty of a person. If your agency, as the requesting Central Authority, has determined that this case presents such a risk, you should check the tick box indicating a determination of non-disclosure has been made.

Sections 1 and 2 provide information about the requesting Central Authority and the person who should be contacted if the requested State has any follow-up questions. For the address of the requesting Central Authority, use the address of the local agency working the case. Presumably that will also be the address of the contact person so there would be no need to add an address in Section 2.

Slide 21

Transmittal – Page I (cont'd)

3. Requested Central Authority: _____
Address _____

4. Particulars of the applicant

a. Family name(s): _____
b. Given name(s): _____
c. Date of birth: _____ (dd/mm/yyyy)
or
a. Name of the public body : _____

Module 4 4-21

Notes:

Section 3 is self-explanatory. You can find the address of the requested Central Authority in the country's Country Profile. Because not all countries have completed a Country Profile, you can also find the Central Authority's address by clicking on the word "Authorities" on the right-hand column of the Child Support page of the Hague Conference website.

Section 4 requests the name and date of birth of the applicant. In an application for both recognition and enforcement of a child support order, the individual applicant may be the person for whom support is sought or payable, such as 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 legal representative of the person for whom support is sought or payable. A public body may also be the applicant where the public body is providing assistance in lieu of maintenance.

Slide 22

Transmittal – Page 2

5. Particulars of the person(s) for whom maintenance is sought or payable

a. ☐ The person is the same as the applicant named in point 4

b. i. Family name(s): _____
Given name(s): _____
Date of birth: _____ (dd/mm/yyyy)

ii. Family name(s): _____
Given name(s): _____
Date of birth: _____ (dd/mm/yyyy)

iii. Family name(s): _____
Given name(s): _____
Date of birth: _____ (dd/mm/yyyy)

6. Particulars of the debtor¹

a. ☐ The person is the same as the applicant named in point 4

b. Family name(s): _____

c. Given name(s): _____

d. Date of birth: _____ (dd/mm/yyyy)

Module 4 4/22

Notes:

Section 5 requests information about the person for whom support is sought or payable. This person may be the same individual as the applicant. For example, an applicant who is seeking enforcement of spousal support. However, if you list the custodial party's name as the applicant and you want recognition and enforcement of a child support order, in Section 5 you would provide the names and dates of birth of the children who benefit from the support order. The Transmittal provides space for the names of three children.

In Section 6, you should provide details about the debtor. As you can tell, this is basic information. More information about the debtor will be included in the application form and in the Financial Circumstances Form.

Transmittal – Page 2 (cont'd)

7. This transmittal form concerns and is accompanied by an 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*)

8. The following documents are appended to the application:

a. For the purpose of an application under Article 10(1) *a*), and:

In accordance with Article 25:

- ☐ Complete text of the decision (Art. 25(1) *a*)
- ☐ Abstract or extract of the decision drawn up by the competent authority of the State of origin (Art. 25(3) *b*) (if applicable)

Practical 4 422

Notes:

Section 7 contains tick boxes for you to indicate which application the transmittal is accompanying. The Article references are to the Hague Child Support Convention, not UIFSA. Use the Practical Handbook as a quick reference to the correct Article. You may also view the text of the Convention itself. Both are available on the Child Support page of the Hague Conference website. The correct tick box for a creditor's Application for Recognition and Enforcement is the first one: Article 10(1)a).

Section 8 of the Transmittal lists the documents that must be included with the application. You will use Section 8(a) when sending a creditor's application for recognition and enforcement of an order. Check all the boxes that apply to your application.

Transmittal – Page 3

- ☐ Document stating that the decision is enforceable in the State of origin and, in the case of a decision by an administrative authority, a document stating that the requirements of Article 19(3) are met unless that State has specified in accordance with Article 57 that decisions of its administrative authorities always meet those requirements (Art. 25(1) b) or if Article 25(3) c) is applicable
- ☐ If the respondent did not appear and was not represented in the proceedings in the State of origin, a document or documents attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard, or that the respondent had proper notice of the decision and the opportunity to challenge or appeal it on fact and law (Art. 25(1) d))
- ☐ Where necessary, a document showing the amount of any arrears and the date such amount was calculated (Art. 25(1) d))
- ☐ Where necessary, a document providing the information necessary to make appropriate calculations in case of a decision providing for automatic adjustment by indexation (Art. 25(1) d))
- ☐ Where necessary, documentation showing the extent to which the applicant received free legal assistance in the State of origin (Art. 25(1) f))

In accordance with Article 30(3):

- ☐ Complete text of the maintenance arrangement (Art. 30(3) a))
- ☐ A document stating that the particular maintenance arrangement is enforceable as a decision in the State of origin (Art. 30(3) b))
- ☐ Any other documents accompanying the application (e.g., if required, a document for the purpose of Art. 36(4)):

Module 4 4/24

Notes:

Notice that after the first set of tick boxes, there is a second set of tick boxes introduced by the phrase “In accordance with Article 30(3).” Do not check any of these final tick boxes; they are only used where the application is for recognition of a maintenance arrangement.

Transmittal – Page 3 (cont'd)

b. For the purpose of an application under Article 10(1) *b*, *c*, *d*, *e*, *f*, and (2) *a*, *b* or *c*, the following number of supporting documents (excluding the transmittal form and the application itself) in accordance with Article 11(3):

☐ 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* _____

Name : _____ (in block letters) Date: _____

Authorised representative of the Central Authority (dd/mm/yyyy)

THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13)
Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information.
An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Module 4

4-25

Notes:

Section 8(b) applies to different applications than the one we are discussing in this module so do not check any boxes within it when you are sending a creditor's application for recognition and enforcement.

Finally, note the Transmittal does not require a signature. Rather there is a block for the name of the authorized representative of the requesting Central Authority who is completing the form. In most states, that will be the caseworker handling the case.

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 40.

☐ *A determination of non-disclosure has been made by a Central Authority in accordance with Article 40. 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:¹ _____ (dd/mm/yyyy)

or

Module 4 4-20

Notes:

Most Convention countries have indicated in their Country Profiles that they want Contracting States to use the recommended Application form published by the Hague Conference. As is true for all applications, the first section of the Application for Recognition and Enforcement provides a confidentiality and personal data protection notice. If there is concern that disclosure of identifying information would jeopardize the applicant's health, safety, or liberty, place a check mark in the appropriate box on the Application form and do not provide the personal information requested in Section 2. Instead, include the applicant's personal information on the separate Restricted Information Form, which is found at the end of the application form.

After listing your file reference number (in the U.S., that would be your case number), you will be providing information about the applicant. If the applicant is an individual, there are four options. The individual 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 legal representative of the person for whom support is sought or payable. 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.

You will usually check the box indicating the applicant is the person for whom maintenance is sought or payable. The family name would be the obligee's last name. The given name is the obligee's first name.

Slide 27

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 4 4-27

Notes:

This is the bottom half of page 1 and includes information if the applicant is a public body. For the purpose of an application for recognition and enforcement, Article 36 of the Convention allows a creditor to be a public body acting in place of an individual to whom maintenance is owed or one to which reimbursement is owed for benefits provided in place of maintenance. Complete fields “a” through “c” as appropriate.

If you notice, whether the applicant is an individual or a public body, the fields are lettered a, b, and c. In either case, you need to also complete fields “d” through “g.” These fields require text information, not the checking of a tick box. They ask for the applicant’s address, phone number, fax number, and e-mail address. ***Pursuant to OCSE guidance, you should use the agency address as the address for an individual applicant in all IV-D cases, both public assistance and non-public assistance.*** That ensures the agency receives notices required by the Convention. The agency will be responsible for timely forwarding notices to the applicant, as appropriate.

Application – Page 2

3. Particulars of the person(s) for whom maintenance is sought or payable

3.1 ☐ Maintenance is sought or payable for the applicant named above

Maintenance basis:

☐ parentage ☐ *in loco parentis* or equivalent relationship

☐ marriage ☐ analogous relationship to marriage

☐ affinity (please identify): _____

☐ grandparent ☐ sibling ☐ grandchild

☐ other: _____

3.2 ☐ Maintenance is sought or payable for the following child(ren)

a. Family name(s): _____

Given name(s): _____

Date of birth: _____ (dd/mm/yyyy)

Maintenance basis:

☐ parentage ☐ *in loco parentis* or equivalent relationship

b. Family name(s): _____

Given name(s): _____

Date of birth: _____ (dd/mm/yyyy)

Maintenance basis:

☐ parentage ☐ *in loco parentis* or equivalent relationship

c. Family name(s): _____

Given name(s): _____

Date of birth: _____ (dd/mm/yyyy)

Maintenance basis:

☐ parentage ☐ *in loco parentis* or equivalent relationship

Module 4

4-28

Notes:

Section 3 provides information about the individual for whom support is sought or payable.

If the applicant is seeking support for himself or herself, indicate that in Section 3.1. For example, if the applicant is a spouse, and the application seeks recognition and enforcement of an order providing for spousal support as well as child support, check tick box 3.1. You must also indicate the basis for the support duty. For spousal support, check the tick box “marriage.” Some tick boxes such as “affinity” are not relevant to the U.S. because we haven’t extended the Convention to family relationships such as an uncle.

The more common scenario will be the applicant who is a parent or a public body seeking recognition and enforcement of a child support order. In that case, Section 3.2 needs to be completed. For each child, provide the full name and date of birth. The Practical Handbook says to use the name that appears on the child’s birth certificate.

The application must also state the basis for the child support obligation. Check “Parentage” if the children were born during marriage so parentage is presumed or if there is a legal determination of parentage. The Practical Handbook says to check this box also if there are genetic test results establishing a “connection between the parent and child.”

If the child is the applicant, only Section 3.2 needs to be completed.

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Application – Page 2 (cont'd)

3.3 ☐ Maintenance is sought or payable for the following person

Family name(s): _____

Given name(s): _____

Date of birth: _____ (dd/mm/yyyy)

Maintenance basis:

☐ marriage ☐ analogous relationship to marriage

☐ affinity (please identify): _____

☐ grandparent ☐ sibling ☐ grandchild

☐ other: _____

3.4 ☐ Maintenance is sought or payable for additional children or persons, additional particulars are attached

Module 4 4/27

Notes:

Complete Section 3.3 if maintenance is sought or payable for someone other than the applicant or a child.

Check the tick box in Section 3.4 if support is sought for additional children. In that case, you will need to attach information for those children in the same type format as for the three children named in Section 3.2.

Application – Page 3

4.1 Particulars (if known) of the debtor

☐ The person is the same as the applicant named above

a. Family name(s): _____

b. Given name(s): _____

c. Date of birth: _____ (dd/mm/yyyy)

d. Residential address: _____

e. Postal address: _____

4.2 If the debtor is the applicant, particulars (if known and applicable) of the representative of the person(s) for whom maintenance is sought or payable

a. Family name(s): _____

b. Given name(s): _____

c. Address: _____

d. Telephone numbers: _____

e. Fax number: _____

f. E-mail: _____

Module 4 4-30

Notes:

If the applicant is the debtor, you would complete Sections 4.1 and 4.2. Today we are focusing on a creditor's application for recognition and enforcement so we will not review these sections. However, information on completing these sections is in Chapter 15 of the Practical Handbook.

Application – Page 3 (cont'd)

4.3 Information that may assist with the location of the respondent

a. Personal identification number: _____
(include name of country or territorial unit that issued the number)

b. Any other information that may assist with the location of the respondent

5. Payments

a. Details for electronic transfer of payments (if applicable)

Name of the bank: _____

NBIC:³ _____

SWIFT address: _____

IBAN:³ _____

Account number: _____

Name of account holder: _____

Reference:⁴ _____

Module 4 4-20

Notes:

In Section 4.3 you should provide information that will assist in locating the respondent. The personal identification number is a government issued number that may help the Central Authority verify the respondent's identity in government or other databanks. For example, it may be the Social Security number (if the respondent is from the U.S.), National Insurance Number (if the person is from the U.K.), Social Insurance Number (if the person is from Canada), or Tax File Number (if the person is from Australia).

Section 5 provides information about where you want support payments to be sent. Do not complete this section if there is concern that identification of the bank or SDU location would create a risk to the applicant. In that case you would use the Restricted Information Form, which includes an entire section on financial circumstances.

Subsection (a) of Section 5 focuses on EFT payments.

Application – Page 4

b. Details for payments by cheques (if applicable)

Cheque payable to: _____

Cheque to be sent to: _____

(address) _____

Reference:⁵ _____

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 instituted.

☐ The respondent has submitted to the jurisdiction either expressly or by defaulting 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 instituted.

☐ The child for whom the maintenance was ordered was habitually resident in the State of origin at the time proceedings were instituted, 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: _____

Module 4 4-32

Notes:

If check payments should go to the state disbursement unit, include the details in subsection (b).

In both subsections, make sure you provide the correct file or account reference number so that payments can be properly identified.

An applicant would check tick box 6 if the application is for recognition only. If you are assisting a debtor, that tick box may be appropriate.

Section 7 of the application is particularly important. This is where you will identify the applicable bases for recognition and enforcement of the order. **Check all of the boxes that may apply.**

For example, tick boxes 1, 2, and 4 are similar to bases under Section 201 of UIFSA (2008). If jurisdiction over the respondent was based on one of those long-arm bases of jurisdiction, you would check the applicable box on the form. In all likelihood, the creditor in the case resided in the issuing state. If that's true, you would also put a check in the third tick box, even if that's not the basis of jurisdiction the U.S. tribunal used.

Section 201 of UIFSA (2008) also includes some bases of jurisdiction that are not bases for recognition under Convention Article 20. Those are personal service while the respondent was in the state, presence of the child in the state as a result of acts or directives of the respondent, and intercourse in the state that may have resulted in conception of the child. Again, in most of those cases, the creditor resided in the issuing state. And that is a basis for a Convention country to recognize the U.S. order. Therefore, if applicable under the case facts, check the third tick box. It will be the only box you can check if the basis used for jurisdiction over the respondent is available under UIFSA Section 201 but not specifically listed under Article 20.

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Application – Page 4 (cont'd)

8.	Appearance of the respondent
<input type="checkbox"/>	The respondent appeared or was represented in the proceedings in the State of origin
<input type="checkbox"/>	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) c))
9.	<input type="checkbox"/> Financial Circumstances Form attached (Art. 11(2) a) and b))

Module 4 4-23

Notes:

As discussed during Module 3, in order for an order to be recognized or recognized and enforced, the requested State must be satisfied that the respondent had notice of the support proceeding as required by the law of the issuing State and had an opportunity to be heard or was represented in the proceeding.

Section 8 of the application covers this requirement. Indicate whether the respondent appeared or did not appear in the issuing State and whether he or she was represented. Usually a U.S. tribunal makes express findings about notice and appearance in the support order. If the respondent did not appear and was not represented, the competent authority must confirm that the respondent had proper notice, as required by the law of the State where the decision was made. As discussed earlier, the Statement of Proper Notice – one of the recommended Hague forms – accomplishes that. If the decision was made in an administrative system where no hearing is required, you must always include a Statement of Proper Notice.

You will always check the tick box in Section 9 if you are seeking recognition **and** enforcement of a support order. We will discuss the Financial Circumstances form in a few minutes.

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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 28(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 28(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 requirements 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 4 4/24

Notes:

This slide depicts page 5 of the Application for Recognition or Recognition and Enforcement. As noted earlier, in certain circumstances, a requested State may use a means or a merits test in determining whether to provide legal assistance to an applicant. Those two circumstances are outlined in Section 10. However, in most of your cases, where an application for recognition or recognition and enforcement of a child support order is made by a creditor, the requested State must provide free legal assistance and you don't need to complete Section 10. The exception is if you are assisting the debtor with an application for recognition. Then you will need to check the second tick box.

The Financial Circumstances Form addresses the means test. In the situation where the debtor is receiving IV-D services, you should provide information substantiating that the debtor has benefitted from legal assistance in the issuing State.

The final page of the Application also includes an 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. In most U.S. states, the authorized representative will be the caseworker in the local office who assisted with the application preparation.

Restricted Information if Applicable – Page I

Restricted Information on the Applicant

Application for Recognition or Recognition and Enforcement
(☐ Article 10(1) *or* ☐ Article 10(2) *or* ☐ 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: _____

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Notes:

If you have determined that certain identifying information should not be disclosed or confirmed for the protection of the health, safety, or liberty of a person, you will include this form with the Application for Recognition and Enforcement. Under the Convention, the determination by the requesting Central Authority has the same purpose as the allegation by a party under Section 312 of UIFSA (2008). 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 use to protect personally identifiable information in interstate UIFSA cases.

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Restricted Information – Page I (cont'd)

5. Payments

a. Details for electronic transfer of payments (if applicable)

Name of the bank: _____

NBIC: _____

SWIFT-address: _____

IBAN: _____

Account number: _____

Name of account holder: _____

Reference: _____

b. Details for payments by cheques (if applicable)

Cheque payable to: _____

Cheque to be sent to: _____

(address) _____

Reference: _____

☐ 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: _____

Authorised representative of the Central Authority (dd/mm/yyyy)

Module 4

4-35

Notes:

This is the bottom half of the form. Note that the numbering is not sequential; it conforms with the section numbers on the Application for Recognition and Enforcement where identifying information is provided. Because bank account information may help identify the location of a person, Section 5 segregates that information.

There is a separate Restricted Information form for the Financial Circumstances form.

The remaining tick boxes are at the bottom of all Convention applications. The first one indicates whether the application was completed by the applicant and reviewed by the requesting Central Authority. The second tick box should always be checked. It states that the application complies with Convention requirements and that the applicant consents to the application being forwarded to the requested State. The name of an authorized representative of the child support agency should appear at the bottom of the page.

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Abstract of Decision – If Acceptable – Page I

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 decision¹

3.1 Type of authority: ☐ judicial authority or ☐ administrative authority²

3.2 Name and place of authority: _____

3.3 (address if applicable) _____

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Notes:

An Application for Recognition and Enforcement should always include the order itself unless the requested State has indicated that an applicant can include an abstract or extract of the order drawn up by the competent authority in the issuing State in lieu of the complete text. As of August 2018, very few Contracting States have indicated in their Country Profile that they will accept an abstract or extract in lieu of the complete text. An abstract is especially useful if the order is long and only part of it relates to child support. If an abstract is acceptable, then instead of translating the entire order, only the abstract or extracts need to be translated.

An acceptable form for that abstract is the recommended form published by the Hague Conference. As noted on this slide, the abstract provides a place to indicate whether the order was issued by a judicial or an administrative authority.

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Abstract of Decision – 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:	_____ _____ _____
3.8	Decision results from:	<input type="checkbox"/> Divorce or legal separation proceedings <input type="checkbox"/> Parentage establishment proceedings <input type="checkbox"/> Maintenance proceedings <input type="checkbox"/> Parental responsibility proceedings <input type="checkbox"/> Other: _____
4.	Name of the debtor:	_____

Module 4 4-38

Notes:

The form continues for several pages and summarizes the key components of the order as it relates to child support. Most of the sections are self-explanatory.

Abstract of Decision – Page 2

5. Terms of decision

5.1 Maintenance payable for one person or a group of persons (specify currency³ for each amount)

Name(s) and date(s) of birth of the person(s) entitled to support / maintenance, arrears and other payments

a. Family name(s): _____
Given name(s): _____
Date of birth: _____ (dd/mm/yyyy)

b. Family name(s): _____
Given name(s): _____
Date of birth: _____ (dd/mm/yyyy)

c. Family name(s): _____
Given name(s): _____
Date of birth: _____ (dd/mm/yyyy)

Module 4 4-27

Notes:

Section 5 provides information about specific terms of the order. There are places to list each person for whom support is owed. As noted earlier, the “family name” is the individual’s last name and the “given name” is the individual’s first name.

Abstract of Decision – Page 2 (cont'd)

5.1.1 Terms of payment of support / maintenance

☐ Beginning _____ (dd/mm/yyyy) the debtor shall pay support / maintenance in the amount of _____ every:

☐ week ☐ two weeks ☐ month ☐ 3 months ☐ 6 months

☐ year ☐ other (specify): _____

This payment includes: ☐ arrears ☐ retroactive maintenance

☐ interest ☐ health insurance ☐ school fees ☐ other payments, arrangements or conditions (specify): _____

5.1.2 Terms of payment of arrears

☐ As of _____ (dd/mm/yyyy) the total amount of arrears is in the amount of _____. Beginning _____ (dd/mm/yyyy) the debtor shall pay arrears in the amount of _____ every:

☐ week ☐ two weeks ☐ month ☐ 3 months ☐ 6 months

☐ year ☐ single payment ☐ other (specify): _____

5.1.3 Terms of payment of retroactive maintenance

☐ As of _____ (dd/mm/yyyy) the total amount of retroactive maintenance is in the amount of _____. Beginning _____ (dd/mm/yyyy) the debtor shall pay retroactive maintenance in the amount of _____ every:

☐ week ☐ two weeks ☐ month ☐ 3 months ☐ 6 months

☐ year ☐ single payment ☐ other (specify): _____

Module 4
4-42

Notes:

There are places to note the terms of current support, payment of arrears, and payment of retroactive support. In listing the currency, use the applicable ISO code. That is a two-letter code that is an abbreviation for the country. For a U.S. order requiring support, you would note the dollar amount of support followed by the code US.

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Abstract of Decision – Page 3

5.1.4 Other payments as provided in the decision

☐ Beginning _____ (dd/mm/yyyy) the debtor shall pay interest in the amount of _____ every: ☐ week ☐ two weeks ☐ month ☐ 3 months ☐ 6 months ☐ year ☐ other (specify): _____

☐ Beginning _____ (dd/mm/yyyy) the debtor shall pay health insurance in the amount of _____ every: ☐ week ☐ two weeks ☐ month ☐ 3 months ☐ 6 months ☐ year ☐ other (specify): _____

☐ Beginning _____ (dd/mm/yyyy) the debtor shall pay school fees in the amount of _____ every: ☐ week ☐ two weeks ☐ month ☐ 3 months ☐ 6 months ☐ year ☐ other (specify): _____

☐ Beginning _____ (dd/mm/yyyy) the debtor shall make other payments, arrangements or conditions (specify *): _____ to be paid in the amount of _____ every: ☐ week ☐ two weeks ☐ month ☐ 3 months ☐ 6 months ☐ year ☐ other (specify): _____

5.1.5 Lump sum

The debtor shall pay the lump sum amount of _____ on _____

☐ Due date: _____ (dd/mm/yyyy)

☐ Another frequency (specify): _____

Module 4 4-42

Notes:

The abstract also lists terms related to interest, health insurance, school fees, and lump sum payments. There is also a catch-all place to note other required payments.

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Abstract of Decision – Page 4

5.2 Maintenance payments for more than one person on an individual basis (specify currency⁷ for each amount)

a. Family name(s): _____
Given name(s): _____
Date of birth: _____ (dd/mm/yyyy)

☐ Beginning _____ (dd/mm/yyyy) the debtor shall pay support / maintenance in the amount of _____ every: _____
☐ week ☐ two weeks ☐ month ☐ 3 months ☐ 6 months
☐ year ☐ other (specify): _____
This payment includes ☐ arrears ☐ retroactive maintenance
☐ interest ☐ health insurance ☐ school fees ☐ other payments, arrangements or conditions (specify): _____

☐ Beginning _____ (dd/mm/yyyy) the debtor shall pay arrears in the amount of _____ every: _____
☐ week ☐ two weeks ☐ month ☐ 3 months ☐ 6 months
☐ year ☐ single payment ☐ other (specify): _____

☐ Beginning _____ (dd/mm/yyyy) the debtor shall pay retroactive maintenance in the amount of _____ every: _____
☐ week ☐ two weeks ☐ month ☐ 3 months ☐ 6 months
☐ year ☐ single payment ☐ other (specify): _____

☐ Beginning _____ (dd/mm/yyyy) the debtor shall pay interest in the amount of _____ every: _____
☐ week ☐ two weeks ☐ month ☐ 3 months ☐ 6 months
☐ year ☐ other (specify): _____

Module 4 4-42

Notes:

If the child support order requires support for more than one person on an individual basis, use Section 5.2 of the Abstract. That is most likely to occur when the order establishes an amount of support “per child.”

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Abstract of Decision – Page 4 (cont'd)

☐ Beginning _____ (dd/mm/yyyy) the debtor shall pay health insurance in the amount of _____ every: ☐ week ☐ two weeks ☐ month ☐ 3 months ☐ 6 months ☐ year ☐ other (specify): _____

☐ Beginning _____ (dd/mm/yyyy) the debtor shall pay school fees in the amount of _____ every: ☐ week ☐ two weeks ☐ month ☐ 3 months ☐ 6 months ☐ year ☐ other (specify): _____

☐ Beginning _____ (dd/mm/yyyy) the debtor shall make other payments, arrangements or conditions (specify): _____ to be paid in the amount of _____ every: ☐ week ☐ two weeks ☐ month ☐ 3 months ☐ 6 months ☐ year ☐ other (specify): _____

Lump sum
The debtor shall pay the lump sum amount of _____ on _____ (dd/mm/yyyy)
☐ Due date _____
☐ Another frequency (specify): _____

Module 4 4-42

Notes:

As you can tell, Section 5.2 mirrors Section 5.1.

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Abstract of Decision – Page 7

5.3 Maintenance payments directed to a public body (specify currency⁹ for each amount)

a. Name of the public body: _____

b. Family name(s) of the contact person: _____

c. Given name(s) of the contact person: _____

d. Address: _____

e. Telephone numbers: _____

f. Fax number: _____

g. E-mail: _____

☐¹⁰ Beginning _____ (dd/mm/yyyy) the debtor shall pay support / maintenance in the amount of _____ every: _____

☐ week ☐ two weeks ☐ month ☐ 3 months ☐ 6 months

☐ year ☐ other (specify): _____

This payment includes ☐ arrears ☐ retroactive maintenance

☐ interest ☐ health insurance ☐ school fees ☐ other payments, arrangements or conditions (specify): _____

☐ Beginning _____ (dd/mm/yyyy) the debtor shall pay arrears in the amount of _____ every: _____

☐ week ☐ two weeks ☐ month ☐ 3 months ☐ 6 months

☐ year ☐ single payment ☐ other (specify): _____

Module 4 4-42

Notes:

Section 5.3 will rarely apply unless the order requires specific payment to the child support agency for public assistance provided.

Do not complete Section 5.3 simply because support payments go through the SDU. It is the public body's entitlement to support payments under the order, not the location to which payments are directed, that controls whether you need to complete Section 5.3.

Abstract of Decision – Page 8

6. Indexation of maintenance

☐ The decision is silent about indexation

☐ The maintenance is indexed by operation of law.

☐ The maintenance should be indexed every year by _____ %

☐ The maintenance should be indexed as follows: _____

7. Interest where maintenance payments are late

☐ The decision is silent about interest where maintenance payments are late

☐ The interest on late payments is by operation of law.

☐ Unpaid amounts generate interest where payments are late at the following rate: _____ % per ☐ month ☐ 3 months ☐ 6 months ☐ year

☐ The interest is: ☐ simple or ☐ compound

8. Effect of the decision

This decision shall remain in effect:

☐ Until the child(ren) has (have) reached the age of: _____

☐ Until the child(ren) is (are) self-supporting

☐ Until the child(ren) has (have) completed education (specify):

☐ Secondary school ☐ High school ☐ Other: _____

☐ College ☐ University _____

☐ Until the creditor is self-supporting

☐ Unless and until it is changed or discontinued by further decision or by operation of law.

☐ Other: _____

Module 4 4-45

Notes:

Section 6 of the Abstract only applies if the order provides for automatic adjustment or indexation. For example, if your state uses a COLA (cost-of-living adjustment), you would complete this section.

Section 7 is specific to interest.

Section 8 addresses the duration of the support obligation. Keep in mind that the mandatory scope of the Convention requires the recognition and enforcement of current support to age 21. Enforcement beyond age 21 will depend upon domestic law.

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Abstract of Decision – Page 8 (cont'd)

9. Costs and expenses

☐ The decision is silent about costs and expenses

☐ The debtor is ordered to pay costs and expenses

☐ The creditor is ordered to pay costs and expenses

☐ Costs and expenses amount to: _____ (specify currency¹¹)

☐ This Abstract accurately reflects the content of the decision, described under item 3 above, in relation to maintenance for the persons listed under items 5.1. and 5.2. a, b and c above.

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

☐ This Abstract 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)

¹¹ Currency should be specified using the ISO code.

Module 4

4-40

Notes:

Section 9 addresses costs and expenses. Such costs may include genetic test fees.

The bottom of the form contains two name blocks. One is for the name of the official from the competent authority in the State of origin. Because “State” refers to the issuing country, it is OCSE policy that any representative of a IV-D agency can sign as the competent authority, summarizing the terms of a support order issued by its state or another U.S. state.

The other block is for the name of the representative of the requesting Central Authority that is forwarding the Abstract. That Central Authority representative indicates that the named official from the competent authority completed the Abstract and that the Central Authority representative is transmitting the Abstract to the requested Central Authority. In the U.S., the authorized representative of the requesting Central Authority will usually be a caseworker in the local office processing the case.

Bottom line, it is appropriate for the same child support worker or attorney to sign as both the competent authority and the authorized representative of the requesting Central Authority.

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Statement of Enforceability – Page I

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 decision³

3.1 Type of authority: ☐ judicial authority or ☐ administrative authority³

3.2 Name and place of authority: _____

3.3 (address if applicable) _____

Module 4

4-47

Notes:

Another document the Convention requires is a document stating that the support order is enforceable in the issuing country. Unless the requested State has specified otherwise, use the recommended Convention form to comply with this requirement. 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. As we will discuss in a minute, the competent authority may be a representative of the IV-D agency in the requesting U.S. state or in the state that issued the order.

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: _____ (dd/mm/yyyy)
Name of the official from the competent authority of the State of origin

☐ 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: _____ (dd/mm/yyyy)
Authorised representative of the Central Authority

Requesting Central Authority reference number: _____
(For Central Authority use only)

¹ For the definition of decision see Article 19(1).
² The Administrative Authority referred to in this Statement meets the requirements of Article 19(3).

Module 4

4-42

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. So if it's a U.S. order, you would be stating that it is an enforceable order in the U.S. In other words, it's the controlling order in the case.

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. Many states have asked who can sign as the competent authority. Child support orders entered in the United States are subject to the Due Process requirements of the United States Constitution; and, in domestic cases, UIFSA and the Full Faith and Credit for Child Support Orders Act, 28 U.S.C. § 1738B, require recognition of child support orders issued in other U.S. states. Therefore, in an outgoing application for recognition or recognition and enforcement of a U.S. order from a U.S. state to a Convention country, the child support agency in the requesting U.S. state may complete the Statement of Enforceability, whether or not its state issued the order. It should check the state and federal case registries and identify possible controlling order issues before preparing the Statement of Enforceability.

The other name block is for 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 the Central Authority representative is transmitting the Statement to the requested Central Authority.

Statement of Proper Notice – Page I

Statement of Proper Notice¹
(Article 25(1) c)

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 4

4-01

Notes:

If the respondent did not appear and was not represented in the proceedings in the issuing country, the Convention requires that the Application for Recognition and Enforcement include a document attesting to proper notice and an opportunity to be heard. Unless the requested State has specified otherwise, use the recommended Statement of Proper Notice published by the Hague Conference.

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. 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. As we noted when discussing the Statement of Enforceability, the competent authority in the U.S. for completing the Statement of Proper Notice may be a representative of the IV-D agency in the requesting U.S. state or in the state that issued the order. Before signing the Statement of Proper Notice, the child support agency representative should check the order to see if there is a finding about service of process or notice so that the representative can accurately state that the respondent received proper notice – or waived service – and had an opportunity to participate in the hearing. If there is no such finding, the child support representative should contact the tribunal that issued the order and seek information that would support such statements, for example, a copy of the proof of service.

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

3. The decision²

3.1 Type of authority: ☐ judicial authority or ☐ administrative authority³

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 4

4-52

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 (that will be the number assigned by the court or administrative tribunal), the names of the parties, and the name of the respondent.

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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 4 4-51

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 states that the respondent received advance notice and had an opportunity to be heard. States using a judicial process will check this box. The second 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. If you're an administrative process state, check the appropriate box.

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, because U.S. child support orders are subject to the Due Process requirements of the United States Constitution, and the Full Faith and Credit for Child Support Orders Act requires recognition of child support orders issued in other U.S. states, a representative of the child support agency in the requesting U.S. state may complete the Statement of Proper Notice, whether or not its state issued the order.

The other name block is for the representative of the requesting Central Authority that is forwarding the Statement of Proper Notice.

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Financial Circumstances Form – Page I

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 jeopardize the health, safety or liberty of a person in accordance with Article 48.

☐ A determination of non-disclosure has been made by a Central Authority in accordance with Article 48. 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 a. Address b. Telephone number c. Fax number	2. Contact person in Requested State a. Address (if different) b. Telephone number (if different) c. Fax number (if different)
---	---

Module 4 4-52

Notes:

The Financial Circumstances Form is another recommended form published by the Hague Conference. If the applicant is seeking both recognition **and** enforcement of the order (which will happen in most cases), you should include this form.

As with other documents in the application, there is a place on the form to indicate whether there is a concern that the disclosure or confirmation of the information would jeopardize the health, safety, or liberty of a person. In such a case, the personal information will then only appear in the Restricted Information Form.

Financial Circumstances Form – Page I (cont'd)

3. The applicant, _____ (family name(s) and given name(s)), born _____ (dd/mm/yyyy), is: ☐ creditor, ☐ representative of the person(s) for whom maintenance is sought or payable, or ☐ debtor

4. This form is being submitted in relation to: (it is possible to tick more than one box)

☐ Establishment of a decision (Art. 10(1) c) and d))
(Complete all sections)

☐ Recognition or recognition and enforcement of a decision (Art. 10(1) a))
(Complete sections III and IV)

☐ Enforcement of a decision made or recognised in the requested State (Art. 10(1) b))
(Complete sections III and IV)

☐ Modification of a decision (Art. 10(1) c) and f) and (2) b) and c))
(Complete all sections)

☐ Applying for legal assistance (Art. 17 a))
(Complete sections II, V and VI if the applicant is the person identified under II)
(Complete sections III, V and VI if the applicant is the person identified under III)

5. Unless otherwise specified, the currency (ISO code) used to complete this form and, if applicable, the exchange rate (and date of exchange rate) if the amounts are converted into the currency of the requested State is: _____ (dd/mm/yyyy)

Module 4

4/53

Notes:

Indicate in Section 3 whether the applicant is a creditor, debtor, or a representative of the person for whom maintenance is sought or payable.

Section 4 identifies the application that is being made. You do not need to check the box about applying for legal assistance when a creditor is seeking recognition and enforcement of a support order for a child up to age 21. Legal assistance is mandatory, if necessary in the requested State. However, if you are assisting a debtor seeking recognition of a support order, you should check this box in addition to the box for the specific application.

In Section 5 indicate the currency that is used throughout the Financial Circumstances

Form. Currency conversion is not required. However, if you have converted all amounts to the currency of the requested State, indicate the exchange rate used and the date of the conversion.

Financial Circumstances Form – Page 2

II. GENERAL INFORMATION ABOUT THE CREDITOR OR THE PERSON(S) FOR WHOM MAINTENANCE IS SOUGHT OR PAYABLE (IF KNOWN)

A. Information about the creditor or the person(s) for whom maintenance is sought or payable

1. The creditor or the person for whom maintenance is sought is:

☐ Father ☐ Mother ☐ Caretaker other than parent ☐ Foster care provider

☐ Both the child and the above person (marked) are considered as creditors

☐ The child her/himself is the only creditor

☐ Public body

☐ Other person (see the application)

2. Occupation, trade or profession

3. Estimated gross monthly earnings (specify currency)

4. Other monthly income (& source) (specify currency)

5. Present marital status

☐ Married ☐ Single ☐ Partner ☐ Divorced ☐ Separated

B. Information about creditor's dependents

Family name(s) Given name(s)	Age	Relationship to creditor	Subject of this application?
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

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Notes:

Although you should submit the Financial Circumstances Form in conjunction with the Application for Recognition and Enforcement, not every section of the form is relevant. You do not need to complete the creditor portion of the form since that information is not required for an Application for Recognition and Enforcement. Financial information about the creditor is only relevant for Applications to Establish or to Modify.

The sections that should be completed are those related to the debtor (or obligor).

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Financial Circumstances Form – Page 2 (cont'd)

C. Information about current ☐ spouse or ☐ partner of creditor ☐ other member of the household contributing to the expenses of the household

1. Family name(s), given name(s)	2. Employed? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
3. Estimated gross monthly earnings (specify currency)	4. Other monthly income (& source) (specify currency)
5. The person identified above pays child support / maintenance <input type="checkbox"/> voluntarily or <input type="checkbox"/> judicial / administrative decision in the amount of _____ per _____ (specify currency and installment period). As of _____ (dd/mm/yyyy) the total amount paid is: _____; and the total amount outstanding is: _____ (specify currency).	

III. GENERAL INFORMATION ABOUT THE DEBTOR (IF KNOWN)

A. Information about the debtor

1. The debtor is: <input type="checkbox"/> Father <input type="checkbox"/> Mother <input type="checkbox"/> Caretaker other than parent <input type="checkbox"/> Foster care <input type="checkbox"/> Spouse <input type="checkbox"/> Partner <input type="checkbox"/> Child <input type="checkbox"/> Other person	
2. Occupation, trade or profession:	
3. Name and address of the employer:	
4. Estimated gross monthly earnings (specify currency)	5. Other monthly income (& source) (specify currency)
6. Present Marital Status <input type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Partner <input type="checkbox"/> Divorced <input type="checkbox"/> Separated	

Module 4 4-25

Notes:

Part III of the form provides information about the debtor. It should be completed for all applications. Section A identifies the debtor's employment, earnings, and present marital status.

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Financial Circumstances Form – Page 3

B. Information about debtor's dependents

Family name(s) Given name(s)	Age	Relationship to debtor	Subject of this application?
1.			<input type="checkbox"/> Yes <input type="checkbox"/> No
2.			<input type="checkbox"/> Yes <input type="checkbox"/> No
3.			<input type="checkbox"/> Yes <input type="checkbox"/> No
4.			<input type="checkbox"/> Yes <input type="checkbox"/> No
5.			<input type="checkbox"/> Yes <input type="checkbox"/> No

C. Information about current ☐ spouse or ☐ partner of debtor ☐ other member of the household contributing to the expenses of the household

1. Family name(s), given name(s)	2. Employed? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
3. Estimated gross monthly earnings (specify currency)	4. Other monthly income (& source) (specify currency)
5. The person identified above pays child support / maintenance <input type="checkbox"/> voluntarily or <input type="checkbox"/> judicial / administrative decision in the amount of _____ per _____ (specify currency and instalment period). As of _____ (dd/mm/yyyy) the total amount paid is: _____ ; and the total amount outstanding is: _____ (specify currency).	

Module 4 4-55

Notes:

Section B identifies all of the debtor's dependents, including dependents in the debtor's current household.

Section C provides income information about the debtor's current spouse, partner, or other household member who is contributing to the debtor's household expenses. Depending upon the laws of the requested State, the availability of such income may impact enforcement.

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Financial Circumstances Form – Page 3 (cont'd)

IV. ASSETS AND DEBTS OF THE DEBTOR (IF KNOWN)
Please specify currency used to complete the following tables: _____

A. Value of debtor's assets

1. House – Market value: Ownership: <input type="checkbox"/> self <input type="checkbox"/> joint (specify):	2. (location and / or registration number)
3. Other real estate – Market value: Ownership: <input type="checkbox"/> self <input type="checkbox"/> joint (specify):	4. (location and / or registration number, description)
5. Motor vehicle(s) – Market value: Ownership: <input type="checkbox"/> self <input type="checkbox"/> joint (specify):	6. (location and / or registration number, model, year)
7. Caravans/boats – Market value: Ownership: <input type="checkbox"/> self <input type="checkbox"/> joint (specify):	8. (location and / or registration number, model, year)
9. Furniture and household effects – Market value: Ownership: <input type="checkbox"/> self <input type="checkbox"/> joint (specify):	10. (location and description)
11. Bank account(s)	12. (institution(s) and account number(s))
13. Life insurance and buy back value	14. (insurance company, policy number)
15. Other assets * – Value:	16. (institution(s) and account number(s))

Module 4

4-57

Notes:

Part IV should also be completed for all applications. Section A lists the debtor's assets. Complete it to the extent information is known.

Financial Circumstances Form – Page 4

B. Value of debtor's debts

Credit provider	Amount	Payment rate	Encumbered property
1.			
2.			
3.			
4.			

V. FINANCIAL STATEMENT OF THE APPLICANT
Please specify currency used to complete the following tables: _____

A. Applicant's gross income

1. <input type="checkbox"/> Monthly <input type="checkbox"/> Annual	Applicant	Applicant's current spouse/partner	Child(ren) for whom maintenance is sought or payable	Other persons for whom maintenance is sought or payable
2. Gross salary (incl. payments in kind)				
3. Income from non-salaried occupations				
4. Pensions, disability pensions, allowances, allowances, annuities				
5. Unemployment benefits				
6. Income from securities/float capital				
7. Income from real property				
8. Public assistance				
9. Other sources of income*				
10. TOTAL				

Module 4

4-52

Notes:

Section B of Part IV lists any known debts of the debtor.

You do not need to complete Part V when sending an Application for Recognition and Enforcement. This part is only completed if the application is for establishment of an order, modification of an order, or where legal assistance is required in the limited circumstances set out in Article 17 of the Convention.

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Financial Circumstances Form – Page 6

VI. MEDICAL INSURANCE

A. Is debtor required by a maintenance decision to provide medical insurance for the child(ren)?
☐ Yes ☐ No

B. Is debtor required by a maintenance decision to provide medical insurance for the creditor?
☐ Yes ☐ No

C. Medical coverage for child(ren) for whom maintenance is sought and/or the creditor is provided by:

D. Insurance coverage	Coverage provided by:	For child(ren)	For creditor	9. Creditor's Insurance Company:
1. Creditor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2. Debtor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Policy number:
3. State/Medicare	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10. Debtor's Insurance Company:
4. Creditor's employer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5. Debtor's employer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Policy number:
6. Other:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	11. Other Insurance Company:
7. Unknown	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8. No coverage	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Policy number:

☐ This Financial Circumstances Form was completed by the applicant and reviewed by the requesting Central Authority.

☐ The information contained in this Financial Circumstances Form corresponds to and is in conformity with the information and documents provided by the applicant to the requesting Central Authority. The Financial Circumstances Form 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 4

4-22

Notes:

Part VI of the Financial Circumstances Form addresses medical insurance.

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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 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

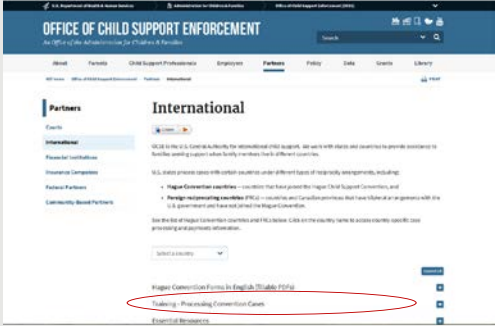
Module 44-62

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.

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OCSE International Page



The screenshot shows the OCSE International Page. The page has a blue header with the OCSE logo and navigation links. The main content area is titled "International" and contains a "Partners" sidebar on the left. The sidebar lists "Partners" and "International" as categories. The main content area includes a "Partners" section with a "Partners" link and a "Partners" link. A red circle highlights the "Partners" link in the sidebar. Below the circle, the text "Hague Convention forms in English (PDF)" is visible. The URL www.acf.hhs.gov/css/partners/international is displayed at the bottom of the slide.

www.acf.hhs.gov/css/partners/international


Florida 4 4-01

Notes:

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

Translation of Outgoing Documents from U.S.

- Outgoing Application and related documents
 - Original language
 - Translation into language of requested State or another language State has declared it will accept
- Communication to requested Central Authority, including Transmittal & Acknowledgment
 - Language of requested State, or
 - English or French, unless reservation
- Source
 - Article 44 of Hague Child Support Convention



Module 4

4-62

Notes:

Article 44 of the Hague Child Support Convention addresses translation of documents and communications.

Any application and related documents must be in the original language, and must be accompanied by a translation into an official language of the requested State or another language which the requested State has declared it will accept, unless the competent authority of that State dispenses with translation.

Unless otherwise agreed by the Central Authorities, any other communications between such Authorities must be in an official language of the requested State or in either English or French. However, a Contracting State may make a reservation objecting to the use of either English or French. For example, the U.S. has objected to the use of French when a Central Authority communicates with us. Such a reservation will be noted in the Status Table on the Child Support page of the Hague Conference website. You can also learn about a country's language requirements by checking its Country Profile.

Country Specific Language Information

Austria

ROUTINE COMMUNICATION:
English

OFFICIAL LANGUAGE:
German

FORMS AND DOCUMENTS:
Bilingual (English/German forms)

PAYMENTS INFORMATION:
Austria no longer accepts child support payments by check. States should send wire payments.

Bank Account Details:

- Name of Bank: BAWAG P.S.K.
- Address of Bank: Georg-Galitz-Platz 2, 1010 Vienna, AUSTRIA
- Bank Branch: Zentralf
- Name of Account Holder: Ministry of Justice
- Address of Account Holder: Museumsstrasse 7, 1070 Vienna, AUSTRIA
- Account Number: 1400000
- SWIFT/ BIC Code: BAWAG333
- IBAN Number: AT12610000000460000

Contact Information for Payment Details:

- Name of Contact Person: Dr. Robert Fackl
- Address: Museumstrasse 1, 1070 Vienna, AUSTRIA
- Email Address: robert.fackl@bmg.gv.at
- Phone Numbers: 011-40 1 52152 2731
- Fax Number: 011-40 1 52152 2829

[Back to country list](#)

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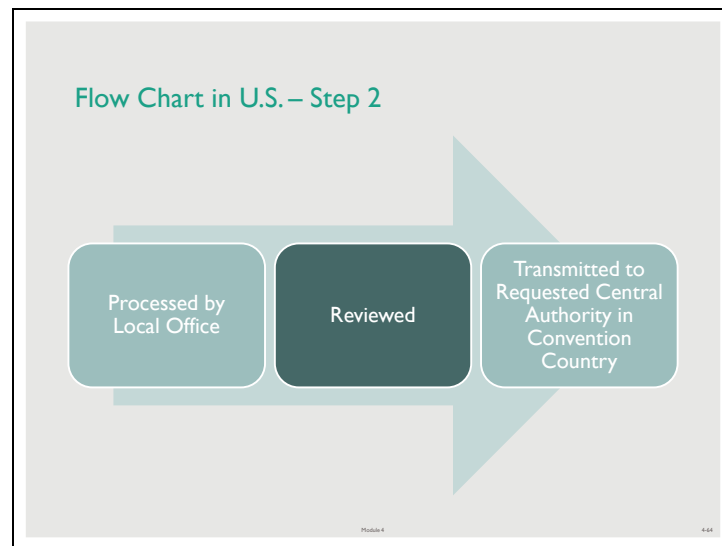
Notes:

From OCSE's international page, you can use the drop down menu for "Select a country," to learn about a country's language requirements.

This slide shows the information available for each Convention country or FRC. We're using Austria as an example. On the left is information about that country's language requirements. It informs you of the communication language – generally English is acceptable in Convention cases, except for two countries (France and Luxembourg). It identifies the country's official language. And it also informs you of the required language for translation of forms and documents. If OCSE has forms translated into the required language, there is a hyperlink to such forms. For example, Austria accepts German/English bilingual forms.

Please review the language information carefully when preparing cases to send to another Hague country. If you need a Convention form in a language that is not currently accessible from the OCSE website, please contact OCSE for help.

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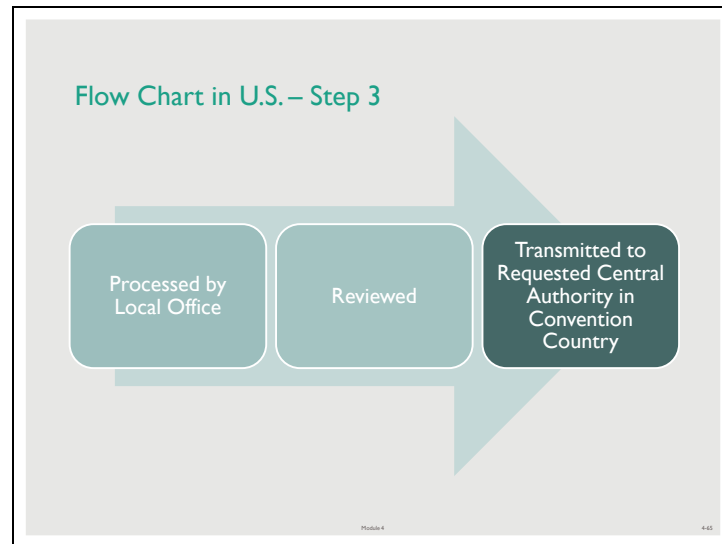


Notes:

Before transmitting the application, Article 12 of the Convention requires the requesting Central Authority to review the application to ensure that it complies with the Convention.

One implementation question a state IV-D agency needs to answer is whether applications will go directly from the local IV-D office to the requested Central Authority – as currently done in most states in international cases – or whether the agency wants to centralize a final review of all outgoing Convention applications. Currently there is no federal requirement to centralize the review or transmission of an application. However, some states are considering centralization in order to establish expertise in Convention provisions. OCSE encourages specialization in international case processing and would like to work with states to share best practices.

Slide 65




Notes:

The next slides focus on what happens once a IV-D agency has transmitted an Application for Recognition and Enforcement to the requested Central Authority in the Convention country.

How will you know the address of the country's Central Authority? You should check the country's Country Profile. As noted earlier, you can also find information about the Central Authority by clicking on the word "Authorities" on the right-hand column of the Child Support page of the Hague Conference website.

Role of Requested Central Authority

- Responsibilities – Article 12 of Convention
 - Within 6 weeks from receipt of application
 - Send acknowledgment form
 - Inform requesting Central Authority of steps taken
 - Request any needed documents and information
 - Provide requesting Central Authority with name and contact details of person/unit responsible for answering questions about application
 - Within 3 months of acknowledgment
 - Inform requesting Central Authority of application status



Module 4

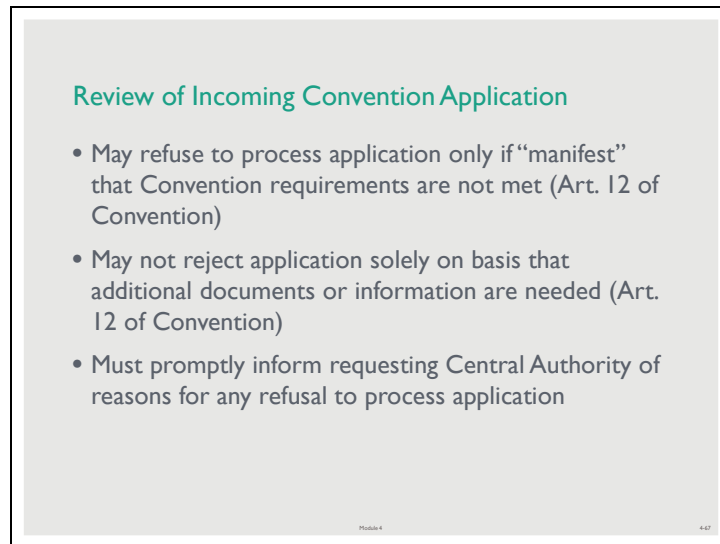
4-66

Notes:

With this slide we begin to focus on the role of the requested Central Authority. What happens when it receives an application from a U.S. child support agency? Article 12 sets out several requirements, including timeframes for taking action. This is unusual for a Hague Convention and an example of how important it was to the U.S. that the treaty address the practical issue of delays in case processing.

The Convention requires the requested Central Authority to acknowledge receipt of the application within six weeks. There is a mandatory Acknowledgment form that must be used. The acknowledgment will also inform you about what initial steps have been taken, identify any needed additional documents, and provide contact information.

Within three months of the Acknowledgment, the Central Authority in the requested State is also required by the Convention to provide a status update. You don't have to request that initial status update.

A presentation slide with a light gray background and a black border. The title "Review of Incoming Convention Application" is in green. Below it is a bulleted list of three points. At the bottom, there is a small "Module 4" label on the left and a "4-67" label on the right.

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

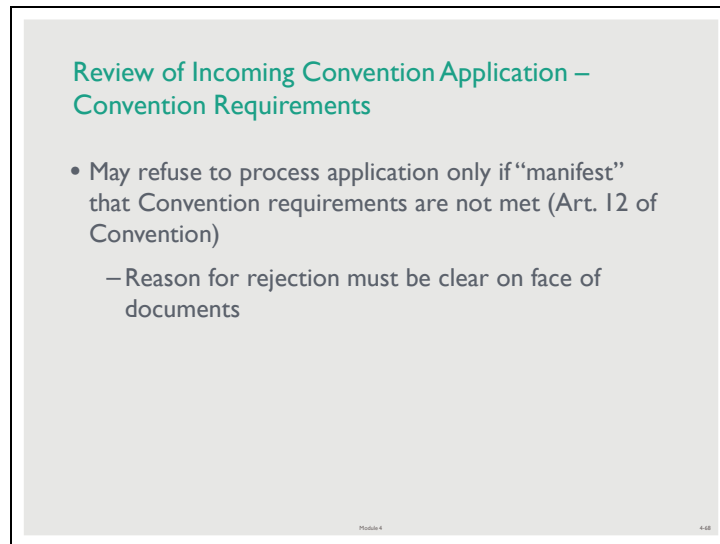
Module 4 4-67

Notes:

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

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

We talked about each of these provisions during Module 3 but we will review them again.



**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 4 4-68

Notes:

First, the Central Authority 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 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.

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 4 4-27

Notes:

There is a second important provision governing the requested Central Authority'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 requested Central Authority should ask you for the information. If the information or documents are not provided within three months – or whatever longer time period is specified – the Convention allows the country to decide not to process the application. Hopefully that situation will never arise with an incoming application from the U.S. However, if that is the decision ultimately made by the requested Central Authority, it must let you know of that decision.

Acknowledgment Form

- Article 12 of Convention
 - Within 6 weeks of receipt of application
 - Send acknowledgment
 - 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 4 4-70

Notes:

The Convention requires the requested Central Authority to acknowledge receipt of an application within six weeks. The Hague Child Support Convention has a mandatory Acknowledgment form so you will receive the same form from every Convention country to which you send an application. The Acknowledgment identifies any needed documents and provides contact details of the person responsible for processing the application.

We reviewed the Acknowledgment during Module 3, but will look at it again.

Slide 71

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 4b.

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

1. Requested 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)
d. E-mail	d. E-mail (if different)
e. Reference number	e. Language(s)

Module 4

4-71

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 72

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 4

4-22

Notes:

Section 4 of the Acknowledgment is where the requested Central Authority 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. For purposes of our discussion, the requested Central Authority 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

Family name(s) of applicant:	<input type="text"/>
Family name(s) of the person(s) for whom maintenance is sought or payable:	<input type="text"/>
	<input type="text"/>
	<input type="text"/>
Family name(s) of debtor:	<input type="text"/>

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 block letters) Date:

Authorized representative of the Central Authority (dd/mm/yyyy)

Module 4 4-73

Notes:


The Acknowledgment includes areas for the requested Central Authority to provide the family name of the applicant, the person for whom maintenance or support is sought or payable, and the debtor. This information will come from the Transmittal you sent along with the application.

Section 5 of the Acknowledgment is where the requested Central Authority 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 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 requested Central Authority should appear on the form.

Case Processing 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 4 4-74

Notes:

The Convention outlines general case processing responsibilities that the Central Authority has when receiving applications from a Convention country. This slide summarizes measures that Article 6 requires, if appropriate. We discussed these measures during the Module 2 webinar. If you recall, the required role of the requested Central Authority is usually to facilitate or help with these measures.

Central Authority and Power of Attorney in Incoming Applications – Article 42 of Convention

Central Authority of requested State may require a power of attorney from the applicant only if:

- It acts on applicant's behalf in judicial proceedings or before other authorities, or
- It needs power of attorney in order to designate a representative to act on applicant's behalf in such proceedings

Module 4

4-75

Notes:

Ordinarily, a requested Central Authority will process applications quickly without the need for any additional formal documents requesting assistance. However, under certain countries' domestic law, there must be a power of attorney in order for the Central Authority to act on behalf of the applicant. In that limited circumstance, Article 42 permits a Central Authority of the requested State to require a power of attorney from the applicant in order to represent the applicant before authorities. The Country Profile will let you know whether a power of attorney form is required.

Role of Central Authority – Application for Recognition and Enforcement

- Where the application is sent by a requesting Central Authority, the requested Central Authority must promptly:
 - Refer application to competent authority, which must without delay declare order enforceable or register order for enforcement
 - If it is the competent authority, take such steps itself

Module 4 4-76

Notes:

This slide assumes that the Application for Recognition and Enforcement has been processed, and not rejected, by the requested Central Authority.

The next steps depend upon the requested State's procedures. In some countries, it may be possible for the requested Central Authority to determine if the order can be registered for enforcement or declared enforceable. In other countries, the requested Central Authority cannot make that determination. In those countries, the requested Central Authority must promptly refer the application to the appropriate competent authority. In both cases, the responsible authorities must act "promptly" or "without delay" in registering the decision or declaring it enforceable.



Role of Competent Authority – Recognition and Enforcement

- Subject to Convention, follows procedures based on its own country's laws
- Procedures under Convention
 - Article 23
 - Declaration of enforceability
 - Registration for recognition and enforcement

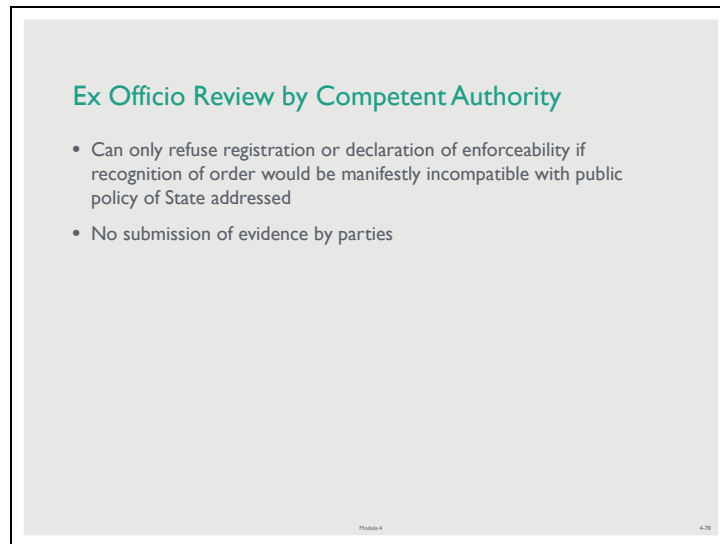
Module 4 4-77

Notes:

To the extent there is no conflict with Convention procedures, the competent authority in the State addressed – the country to which you sent the Application for Recognition and Enforcement – will follow its own laws and procedures. However, the Convention does contain certain requirements to ensure the country uses an expedited process for recognition and enforcement of the order. The main provisions are in Article 23 of the Convention.

The objective is to establish a procedure that is simple, speedy, and low cost. As you can imagine, it took many years of negotiation to reach consensus on what that procedure should look like. Ultimately Article 23 requires a procedure for the registration of a foreign order for enforcement, or for a declaration of the order's enforceability, that excludes submissions of evidence from the parties unless there's a challenge. In the U.S. we use a registration procedure but that's not universal, which is why you see reference to a declaration. The Article 23 procedure limits available challenges and also limits the ability of the competent authority in the requested State to review the order on its own motion.

Slide 78



The slide features a light gray background with a black border. The title 'Ex Officio Review by Competent Authority' is written in a teal color. Below the title, there are two bullet points in black text. At the bottom of the slide, there is a small footer with the text 'Module 4' and '4-78'.

Ex Officio Review by Competent Authority

- Can only refuse registration or declaration of enforceability if recognition of order would be manifestly incompatible with public policy of State addressed
- No submission of evidence by parties

Module 4 4-78

Notes:

Under the Convention, a competent authority may refuse a declaration or registration only if recognition of the order would be manifestly incompatible with the public policy of the State addressed. This is the only ground on which the competent authority may review *ex officio* the application.

Slide 79

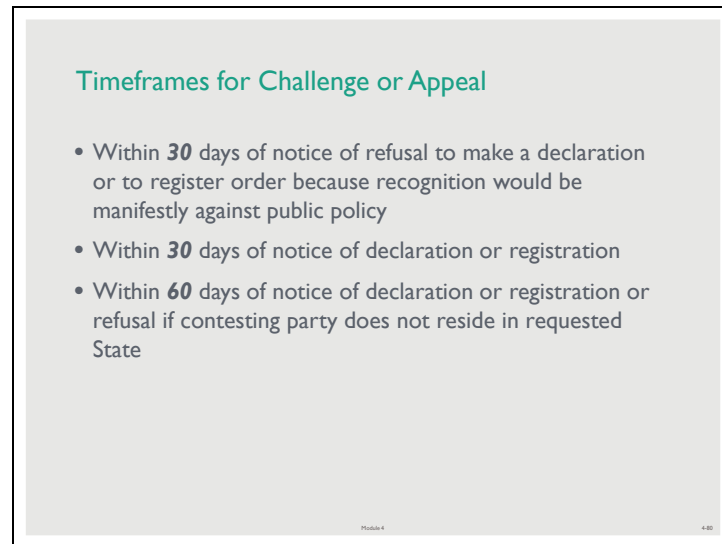
Notice to Parties

- Parties must be notified of:
 - Declaration or registration, or
 - Refusal to make a declaration or to register order because recognition would be manifestly incompatible with public policy of State addressed
- Notice must be prompt

Module 4 4/77

Notes:

Under Article 23, the parties must be notified of the registration or declaration of enforceability, as well as of any refusal to register the order because recognition would be manifestly incompatible with the public policy of the State addressed.



Timeframes for Challenge or Appeal

- Within **30** days of notice of refusal to make a declaration or to register order because recognition would be manifestly against public policy
- Within **30** days of notice of declaration or registration
- Within **60** days of notice of declaration or registration or refusal if contesting party does not reside in requested State

Module 4 4-80

Notes:

The Convention uses the terms “challenge” and “appeal” to cover both judicial and administrative systems. The objective of both terms is the same – to allow the party the chance to oppose the decision first made about recognition of the foreign order. The Hague Convention contains specific timeframes that all Contracting States must follow. (In the U.S., we implemented those timeframes in Section 707 of UIFSA (2008).)

When you send an Application for Recognition and Enforcement to a Convention country, if the requested competent authority refuses to make a declaration or to register the order because recognition of the order would be manifestly incompatible with its country’s public policy, the applicant has 30 days from notice of that decision to appeal.

Assuming the Convention country registers the order or declares it enforceable, the respondent must file a contest within 30 days after the notice of registration or declaration.

And if the contesting party does not reside in the State addressed – for example, the obligor has bank accounts in Spain so you transmitted the application there, but the obligor actually lives in Morocco – the contest must be filed not later than 60 days after the notice.

Since the great majority of applications for recognition and enforcement will be successful, delegates during the treaty negotiations agreed that the time allowed for challenge or appeal should be brief.

Challenge or Appeal - Article 23, Convention

Challenge or appeal may be founded only on following:

- Grounds for refusing recognition and enforcement set out in Article 22;
- Bases for recognition and enforcement under Article 20; or
- Authenticity or integrity of any document transmitted in accordance with Article 25(1) a), b) or d) or (3) b)

Challenge or appeal by respondent may also be founded on fulfilment of debt to extent that recognition and enforcement relates to payments that fell due in past

Module 4 4-81

Notes:

Because the goal is to have an expedited process for recognition and enforcement of support orders, the Convention limits the right to challenge or appeal. Article 23 lists the only bases for challenging the registration:

- One or more of the grounds for refusing recognition and enforcement under Article 22 is present;
- There is no basis for recognition and enforcement under Article 20;
- There is a problem with the authenticity or integrity of a document transmitted under Article 25.

Finally, another ground for challenge or appeal may be founded on payment of the support arrears, to the extent that recognition and enforcement relates to past-due support payments.

At this stage of challenge or appeal, the procedure is adversarial, meaning that both parties may present evidence and have an opportunity to be heard.

Let's talk about each one of these grounds for challenging the registration or declaration.

**Grounds for Refusing Recognition and Enforcement
– Article 22, Convention**

- Recognition and enforcement of order is manifestly **incompatible with public policy** of requested State
- Order was obtained by **procedural fraud**
- **Pending proceeding filed first**
- Order **incompatible with support order** issued between same parties for same purpose, either in requested State or in another State, if latter order is entitled to recognition and enforcement in requested State

Module 4 4-82

Notes:

In an application for recognition and enforcement, a debtor may challenge the registration or declaration because there's a ground for refusing recognition and enforcement under Article 22 of the Convention. This slide and the next list those grounds.

The first is that recognition and enforcement is manifestly incompatible with the public policy of the requested State.

The second ground is that the order was obtained by procedural fraud.

Another ground is that there is a pending proceeding that was filed before the application.

And another ground is that the registered order is incompatible with an order issued between the same parties, either in the requested State or in another State, if that order is entitled to recognition and enforcement in the requested State.

**Grounds for Refusing Recognition and Enforcement
– Article 22, Convention (cont'd)**

- There was a **lack of due process** regarding notice and opportunity to be heard, if the respondent did not appear and was not represented in the State of origin
- Order was made in **violation of Article 18** (limitation on modification jurisdiction)

Module 4 4-83

Notes:

In addition to the grounds for a contest that are listed on the prior slide, a debtor in the requested State may also raise these two grounds:

- Lack of due process regarding notice and an opportunity to be heard where the respondent did not appear and was not represented in the State of origin
- Order was issued in violation of Article 18 of the Convention, which limits a tribunal's jurisdiction to modify. There's a similar provision within Article 7 of UIFSA (2008). We will discuss these provisions during Module 6 of the webinar series.

Challenge Founded on Lack of Basis for Recognition under Article 20, Convention

A support order issued by a Contracting State must be recognized and enforced by another Contracting State if:

- Respondent was resident in State of origin when proceedings were begun
- Respondent submitted to jurisdiction of State of origin either expressly or by defending on case merits, without objecting to jurisdiction at first available opportunity
- Child for whom support was ordered was resident in State of origin when proceedings were begun, provided that respondent has lived with child in that State or has resided in that State and provided support for child there

Module 4 4-88

Notes:

A debtor may also challenge the registration or declaration because there is no basis for recognition under Article 20 of the Convention.

The Convention does not establish particular jurisdictional rules. Therefore there is no requirement that a Contracting State change its laws regarding subject matter and personal jurisdiction. Instead, the Convention sets up indirect rules of jurisdiction. That means it doesn't matter what actual basis of jurisdiction the issuing tribunal used. So long as the facts would satisfy one of the bases listed in Article 20 of the Convention, the requested State must recognize and enforce the order.

As you can tell from this slide, some of the bases listed in Article 20 are similar to ones in Section 201 of UIFSA (2008).

Challenge Founded on Lack of Basis for Recognition under Article 20 (cont'd)

A support order issued by a Contracting State must also be recognized and enforced by another Contracting State if:

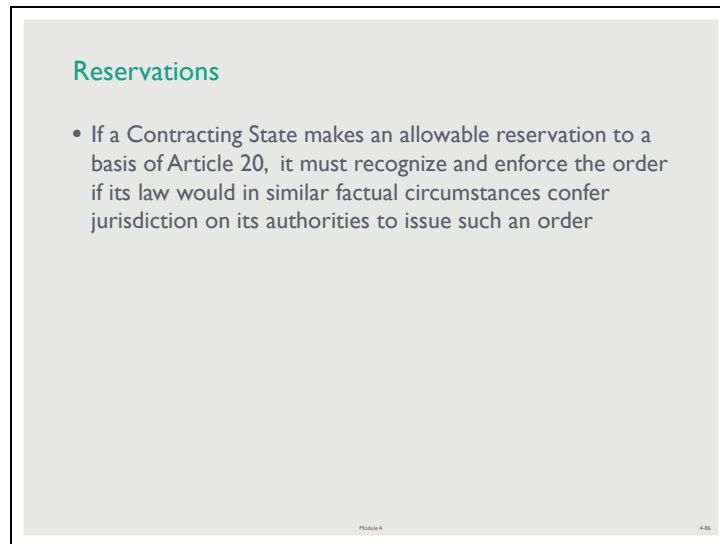
- Creditor was resident in State of origin when proceedings were begun
 - Contracting State can make a reservation to this basis
- Except in child support disputes, parties have agreed to jurisdiction in writing
 - Contracting State can make a reservation to this basis
- The order was made by authority exercising jurisdiction on a matter of personal status or parental responsibility, unless that jurisdiction was based solely on the nationality of one of the parties.
 - Contracting State can make a reservation to this basis

Module 4 4-85

Notes:

However, not all of the bases in UIFSA, Section 201 are listed in the Convention. For example, personal service on the respondent while present in the state is not listed in Article 20 of the Convention. Nor is intercourse in the state that may have resulted in conception of the child. Nor is presence of the child in the state because of acts or directives of the respondent. On the other hand, there are bases listed in Article 20 – as depicted on this slide – that are not listed in Section 201 of UIFSA. One of those is the fact that the creditor was habitually resident in the State of origin when proceedings were instituted. This is often called creditor-based jurisdiction, which the U.S. has taken a reservation to. However, if there is a U.S. order where jurisdiction was based on intercourse in the state that may have resulted in conception **and** the creditor was still living in the state when the support proceeding was initiated, the requested Convention State must recognize the U.S. order.

Again, what is important are the facts of the case – not the jurisdictional basis the tribunal actually used.



Reservations

- If a Contracting State makes an allowable reservation to a basis of Article 20, it must recognize and enforce the order if its law would in similar factual circumstances confer jurisdiction on its authorities to issue such an order

Module 4 4-88

Notes:

As we discussed during Module 3, the Convention allows a Contracting State to make a reservation to the three jurisdictional bases listed on the prior slide. The United States has taken a reservation to all three. If a Contracting State makes such a reservation, it must nevertheless recognize and enforce the registered support order if its law would in similar factual circumstances confer jurisdiction to issue an order. The U.S. implemented this provision in Section 708 of UIFSA (2008).

A U.S. tribunal will never issue a support order under one of those three jurisdictional bases because they conflict with our legal concept of due process. Therefore, this provision should never come into play with regard to a U.S. order sent to another Convention country for recognition and enforcement.

Authenticity or Integrity of Document

- There may be a challenge to the authenticity or integrity of any document transmitted in accordance with Article 25(1) a), b) or d) or (3) b)
 - Complete text of order
 - Document stating order is enforceable
 - Document showing arrears
 - Abstract of order (where acceptable)

Module 4 4-87

Notes:

The Convention allows a challenge to the authenticity or integrity of a document because elsewhere the Convention does away with the requirement to initially send certified copies of documents. The delegates to the Convention wanted to ensure that if a document had been tampered with – for example, certain text had been deleted – there was a way a person could challenge it.

The documents covered are:

- The complete text of the order or, if the State allows, the abstract or extract,
- The document stating that the order is enforceable in the State of origin, and
- The document showing the amount of any arrears.

According to the Explanatory Report, if a certified copy of the document is transmitted initially, it should not be challenged or appealed under Article 23(7) c).

Admissibility of Evidence if Challenge

- Competent authority bound by findings on fact on which issuing State based its jurisdiction
- Competent authority cannot review merits of decision
- Introduction of evidence will depend upon laws and procedures of requested State
 - Country Profile

Module 4 4-88

Notes:

If there is a challenge, the Convention provides that the competent authority is bound by the findings of fact on which the issuing State based its jurisdiction. It also prohibits the competent authority from reviewing the merits of the decision.

Unlike UIFSA, the Hague Child Support Convention contains no evidentiary provisions that apply when there is a challenge to registration. Each Convention country will apply its own laws regarding the admissibility of evidence in a Convention proceeding. The best source of information about a country's laws is its Country Profile, available on the Hague Conference website.

Review Questions

- Does every Convention country use a registration procedure similar to the registration procedures under UIFSA?
No. Some Convention countries use a declaration process rather than a registration process. However, whatever procedure is used must be expedited and comply with Convention requirements.
- May a competent authority in the requested State refuse a declaration or recognition because it does not agree with the U.S. decision?
No. A competent authority may refuse a declaration that the order is enforceable or refuse registration only on the ground that recognition and enforcement would be manifestly incompatible with the public policy of the State.

Module 4 4-89

Notes:

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

- Does every Convention country use a registration procedure similar to the registration procedures under UIFSA?


No. Some Convention countries use a declaration process rather than a registration process. However, whatever procedure is used must be expedited and comply with Convention requirements.

- May a competent authority in the requested State refuse a declaration or recognition because it does not agree with the U.S. decision?

No. A competent authority may refuse a declaration that the order is enforceable or refuse registration only on the ground that recognition and enforcement would be manifestly incompatible with the public policy of the requested State.

Choice of Law – Article 32, Convention

- Law of State addressed governs:
 - Enforcement procedures and remedies
- Law of issuing State governs:
 - Duration
- Law of State addressed **or** issuing State – whichever has longest period – governs:
 - Statute of limitations on arrears



Module 4

4-90

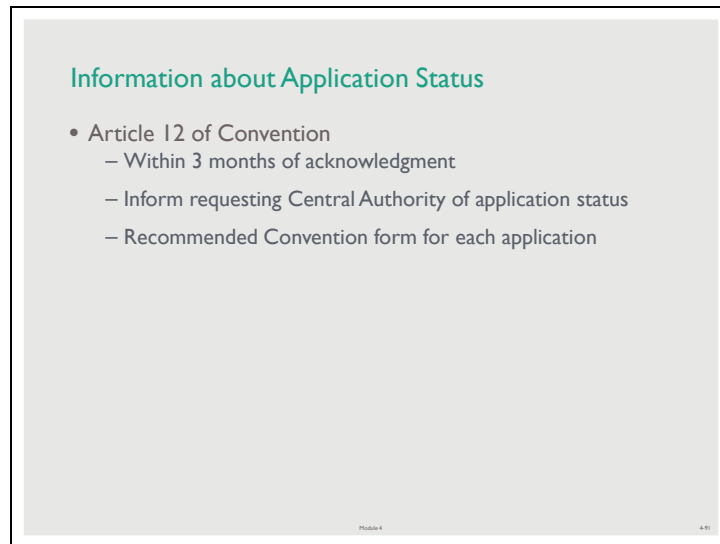
Notes:

Section 604 of UIFSA (2008) contains the choice of law rules that govern Convention proceedings in the United States. However, Hague Convention countries will be following Article 32 of the Convention. It is very similar to our UIFSA provision.

According to the Convention:

- The law of the State addressed (in other words, the law of the forum) governs enforcement procedures and remedies.
- The law of the Convention country that issued the order governs duration of support.
- The law of the issuing country or the law of the State addressed – whichever is longer – governs the statute of limitations on arrears.

Slide 91



The slide is titled "Information about Application Status" in a teal font. It contains a bulleted list with one main item, "Article 12 of Convention", which has three sub-points. The slide has a light gray background and a black border. At the bottom, there is a small footer that reads "Module 4" and "4-91".

Information about Application Status

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

Module 4 4-91

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. Most countries will use the recommended Status of Application Report, published by the Hague Conference. There are status forms for each of the applications so, in the cases we're discussing today, you should be receiving the Status report that relates to an Application for Recognition and Enforcement.

Slide 92

Status of Application – Page I

Status of Application Report – Article 12¹
(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.

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

Module 4

4-92

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. 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 – the IV-D case number, the names of the applicant and debtor, and the names of the persons for whom support is sought. It will be based on information you provided in the Transmittal that accompanied the application.

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 4 4/93

Notes:

Section 4 is where the requested Central Authority will indicate the current status of the application.

It will use the first tick box to state that the competent authority has declared the order enforceable or registered the order for enforcement (like we do in the U.S.).

The second tick box would let you know that the order has not yet been declared enforceable or registered but that is supposed to occur on or before the specified date.

The requested Central Authority will use the third tick box if the respondent has timely challenged the declaration or registration.

Tick box (d) indicates the competent authority has refused recognition and enforcement. This is the tick box that will be used if the respondent is successful in his or her challenge. Note the additional tick boxes related to notice of the decision on the parties.

We discussed tick box (e) during Module 3. If the competent authority refused recognition and enforcement due to one of the three possible reservations to jurisdictional bases that the Convention allows, this tick box would be checked. There is also a place for entry of the date the competent authority 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"/>	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"/>	Reductions from social security payments
	<input type="checkbox"/>	Lien 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"/>	Denial, 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)

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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 should occur automatically once the order is recognized. There is no need to file a separate application seeking enforcement.

The requested Central Authority will use tick box (h) if the application is still pending. Because the first status report isn't due until three months after the initial acknowledgment, hopefully that much of a delay will be rare.

Tick box (i) is related to enforcement of the registered Convention order. Although the order may be recognized and enforceable in the requested State, 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 the requested Central Authority has 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

5.	<input type="checkbox"/>	Record of payments made by the debtor as of _____ (dd/mm/yyyy) attached
6.	<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. ¹

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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.

The requested Central Authority may use the tick box in Section 8 to request any needed additional information or documents.

It will use the tick box in Section 9 if the competent authority has refused the application on its own motion because a declaration or registration would be manifestly incompatible with the public policy of the State addressed.

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

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Notes:

Tick box 10 is important. This is where you will learn if the respondent has challenged the declaration or registration of the order, and – if so – the grounds for the challenge.

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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)

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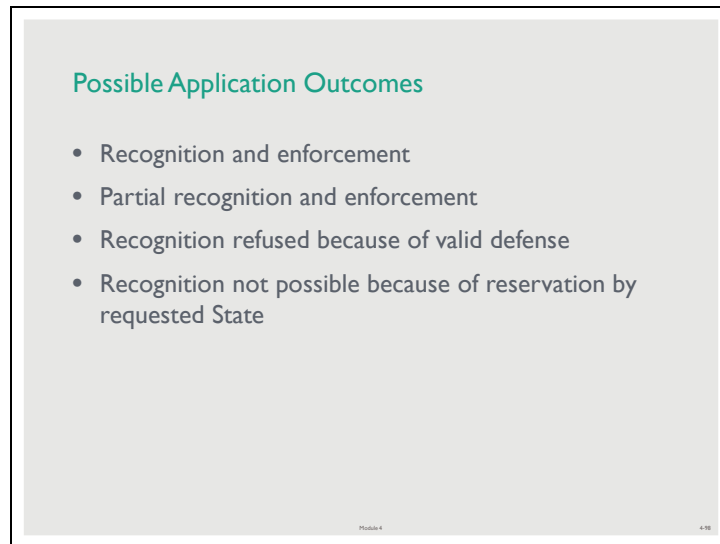
Notes:

The requested Central Authority will use tick box 11 if it, itself, is refusing to process the application for one of two reasons.

The first is that you did not produce the documents or information within the required time period.

The second is the rare situation that it has determined that the requirements of the Convention are manifestly not fulfilled. In that circumstance, it 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.

The slide features a light gray background with a black border. At the top, the title "Possible Application Outcomes" is written in a teal color. Below the title, there is a bulleted list of four items. At the bottom of the slide, the text "Module 4" is on the left and "4-98" is on the right.

Possible Application Outcomes

- Recognition and enforcement
- Partial recognition and enforcement
- Recognition refused because of valid defense
- Recognition not possible because of reservation by requested State

Module 4 4-98

Notes:

In most cases, the result of the Application for Recognition and Enforcement will be that the order you sent is recognized and enforceable in the requested State.


However, the Convention 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 competent authority 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 requested State has made under the Convention. As noted earlier, however, this outcome should not occur in an application from the U.S. because our tribunals do not base jurisdiction on any of the bases to which a Contracting State make take a reservation.

Case Scenario

- Custodial parent in Florida has applied for IV-D child support services. Parent wants enforcement of Mississippi support order for \$1000/month for one child. Obligor lives in Sweden.



• What steps should the local child support office take?

- Review application
 - Appropriate applicant
 - Within Convention scope
 - Order issued by Contracting State
 - Required documents, including translations if necessary

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Notes:

The next few slides present a case scenario.

In this case, the custodial parent and child live in Florida. The noncustodial parent lives in Sweden. She has a Mississippi support order that she wants enforced. She has applied for IV-D services in Florida.


What steps should the local Florida child support office 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 completing the application, the caseworker should make sure that:

- The application is one that is available to the particular parent
- The Application for Recognition and Enforcement is within the Convention scope, i.e., it relates to child support
- The order was issued by a Contracting State
- The worker has all the required additional documents, including translated documents where necessary]

Case Scenario (cont'd)

- Florida IV-D agency transmits the Application for Recognition and Enforcement, along with the Transmittal and other required documents, to Swedish Social Insurance Agency.
- What steps should the Swedish Social Insurance Agency take?
- What steps should the competent authority in Sweden take?
 - Send notice of declaration or registration
 - Only exception: Declaration or registration may be refused if recognition would be manifestly incompatible with public policy of State addressed
 - If contest, comply with Article 23



Module 4

4-100

Notes:

We will assume that Florida has completed the application, rounded up all the required additional documents, and transmitted everything to the Central Authority in Sweden.

What steps should the Swedish Social Insurance Agency take?


It should timely acknowledge the application and promptly forward the application and documents to the competent authority in Sweden with power to declare the Mississippi order enforceable or to register the order.

Following registration of the Convention order, what steps should the competent authority in Sweden 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 the competent authority to refuse to recognize and enforce a U.S. order?

- Respondent challenges on basis that support amount in the U.S. order is too high
- Respondent challenges on basis that the U.S. order requires support to age 21 but the support duty under Swedish law ends at age 18



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Notes:

Let's assume the respondent challenges the registration on the basis that the support amount exceeds his ability to pay. May the competent authority in Sweden refuse to recognize and enforce the U.S. order on that basis?

No. That is not a permissible ground for challenging registration. The respondent's income may affect the ability of Sweden to use certain enforcement measures, but if that is the only challenge, the competent authority must still recognize the Mississippi order as enforceable in that country.

Let's assume that the respondent challenges the registration because the Mississippi order requires support to age 21 but the law of Sweden, where the order has been registered, only requires support to age 18. Is that a valid ground for a challenge?

No. Article 32 of the Convention provides that duration is governed by the law of the country that issued the order. And the mandatory scope of the Convention requires Sweden to enforce current support through age 21 if that is what the order requires.



QUESTIONS or FEEDBACK?

CONTACT
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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. In Module 3 we focused on incoming applications to the United States. This module discussed 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.