


# INTERNATIONAL CASE PROCESSING UNDER UIFSA 2008

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Module 6: Modification of a  
Support Order under the  
Convention – Incoming  
Application

Office of Child Support Enforcement  
Division of Policy and Training

Module 6

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Notes:

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

## 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



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### 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.

## 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 Support Order under the Convention – Incoming Application
- Modification of a Support Order under the Convention – Outgoing Application
- Implementation Issues/Topics
- Processing of a Non-Convention Case

Module 6

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### Notes:

The first two modules of the webinar series are overview modules. They provide 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 discuss 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.

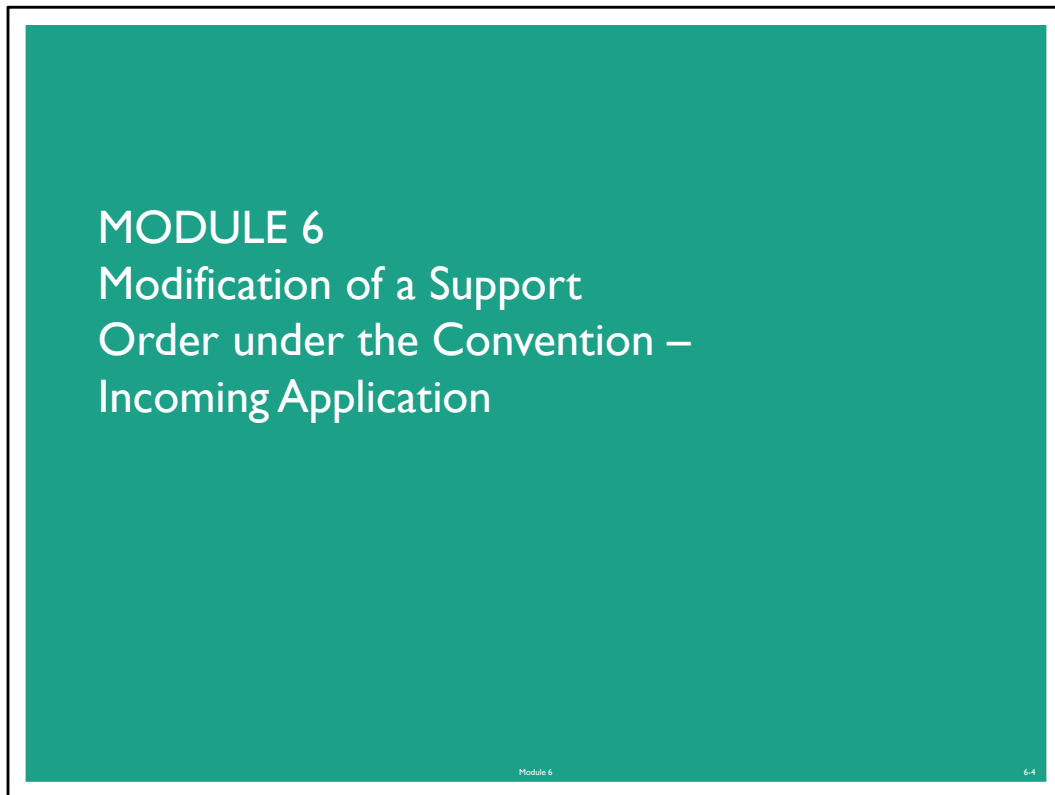
Beginning with Module 3, the focus shifts to case processing. The most likely application under the Convention is an application to recognize and enforce a support order issued by a Convention country. For that reason, there is one module explaining the process and forms for incoming applications and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

Module 6 examines incoming applications for modification, and Module 7 examines 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.



Notes:

Today we are presenting Module 6, which focuses on an incoming Convention application to modify a support order. We will discuss your role as the requested Central Authority when receiving an incoming application from a Central Authority in a Convention country. We will also discuss the role of the tribunal. Because of the amount of information in this module, we have added a separate module to discuss your role as the requesting Central Authority when you are preparing an outgoing application for modification.

Terms within Hague Child Support Convention		
Convention Terms	=	U.S. Equivalent
• Creditor		• Obligee
• 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

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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.

## Additional Terms within Convention

- Competent Authority
  - Depends on context and country. For example,
    - Competent authority for modification of an order may be limited to the court in some countries
    - Competent authority for certifying a document may vary based on the document
- Contracting State
  - Country in which the Convention is in effect

Module 6

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### 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. The competent authority for modifying a support order may or may not be the same authority as the one that declares whether a decision registered for recognition and enforcement is in fact enforceable. Depending on the country, the competent authority might be the court, an administrative agency, or both. The identification of competent authority may also depend on the context. For example, if there is a challenge to the integrity of a document, it will be up to the State of origin to determine the competent authority for certifying the requested document.

When we refer to a “Contracting State,” we are talking about a country in which the Hague Child Support Convention is in effect. That is the term used by the Convention. In the United States, we often refer to a Contracting State as a Convention country.

## 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

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### 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.

## 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 initiation of proceedings in respect of such applications

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### 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:

- (1) They must transmit and receive applications under Chapter III. We will discuss those applications in a bit.
- (2) 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.



## Overview of Application for Modification

- Used when there is existing support order
  - Issued by requested State
  - Issued by another Convention country
  - Issued by non-Convention country
- Available to creditor and debtor
  - Limitations to application by debtor
- Requested State applies domestic law on modification, including jurisdiction requirements

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### Notes:

An application for modification of a child support order is appropriate when there is an existing support order. According to the Convention Explanatory Report, the order may have been issued by the requested State, by a Contracting State other than the requested State, or even by a non-Contracting State. In that regard it differs from an application for recognition and enforcement, which is limited to orders by a Contracting State. Although there is no requirement in the Convention that the decision being modified be from a Contracting State, it must be one that falls within the scope of the Convention, in other words, child support up to age 21.

Under the Convention, an application to modify a child support order is available to both creditors and debtors. The distinction is that as long as the creditor is residing in the issuing State, the debtor cannot seek modification in a different State unless one of three exceptions applies. That is a rule familiar to us because it is similar to the UIFSA concept of continuing, exclusive jurisdiction. Under the Convention, however, there is no limitation regarding where a creditor may seek modification.

The requested State will use its domestic law, including its jurisdiction requirements, when responding to a Convention application for modification. We will focus on UIFSA's jurisdiction requirements during this module. Although all U.S. states have enacted UIFSA, it will be your state's domestic law that applies regarding the availability of, and defenses to, modification, as well as the applicable support guidelines.

## Incoming Application to Modify a U.S. Child Support Order

- Convention applicant has two options, based on the facts:
  - Send application to issuing U.S. state
    - State has CEJ under Section 205 of UIFSA (2008); or
    - State retains jurisdiction to modify under Section 611(f) of UIFSA (2008)
  - Send application to U.S. state that did not issue order but has personal jurisdiction over other party
    - There is no CEJ state and applicant chooses not to use Section 611(f); or
    - Both parties have agreed for state where other party or the child resides to assume modification jurisdiction

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### Notes:

As just noted, the law of the requested State governs modification, including its jurisdiction rules. In the U.S., that means the rules in UIFSA govern which U.S. state has modification jurisdiction and where the requesting Central Authority should send the application.

If the applicant seeks modification of a U.S. order, the applicant should send the application to the U.S. state that issued the order in two circumstances. The first is if the issuing state has continuing, exclusive jurisdiction (CEJ) to modify. Under Section 205 of UIFSA, an issuing state has CEJ if the obligee, obligor, or a child resides there at the time the application is filed. Even if all the parties have left the state, Section 205 provides that the state has CEJ if the parties consent in a record or in open court that the tribunal may continue to exercise its jurisdiction to modify the order. The second situation is based on Section 611(f) of UIFSA. That section provides that a U.S. tribunal retains jurisdiction to modify an order it has issued if one party resides in a different U.S. state and the other party resides outside of the United States. Note that this is not an exclusive jurisdiction to modify.

There are two circumstances in which the applicant should **not** send the application to the issuing state but instead should send the application to a U.S. state with personal jurisdiction over the other party. Usually that means the state where the other party resides. The first circumstance is when there is no CEJ state as defined by Section 205 and the applicant chooses to submit to the jurisdiction of the respondent's state rather than use Section 611(f). The second is when the parties file consent in a record with the tribunal of the issuing state that they want a state that does not have continuing, exclusive jurisdiction to nevertheless assume modification jurisdiction. Section 205(b)(1) allows such a consent so long as the state assuming modification jurisdiction has jurisdiction over at least one of the parties or is the residence of the child.

The requesting Central Authority isn't necessarily going to understand U.S. jurisdictional rules. If the application is transmitted to the incorrect state, Section 306 of UIFSA authorizes a tribunal to forward pleadings to an appropriate tribunal in another state. According to the official Comment, although the section only addresses a tribunal, it is likely that a child support agency will also assist in transferring documents to the appropriate tribunal if that is what the requesting Central Authority wants.

### Incoming Application to Modify a Non-Convention or a Convention Child Support Order

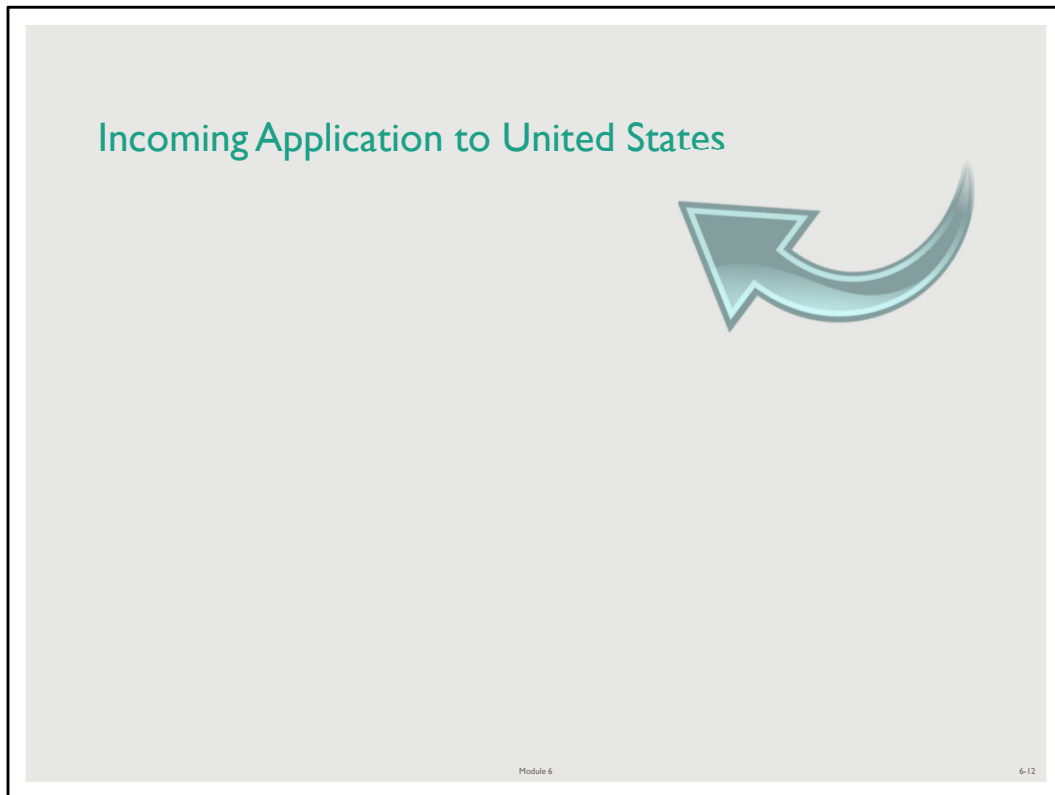
- Convention applicant should send application to U.S. state where other party resides

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#### Notes:

If the applicant seeks modification of an order that is not issued by a U.S. tribunal, the applicant should send the application to the U.S. state with personal jurisdiction over the respondent. Usually that will mean the state where the respondent resides.



Notes:

Assuming that the application has been transmitted to the correct jurisdiction, let's review the steps in the United States for processing this incoming Convention application for modification.

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

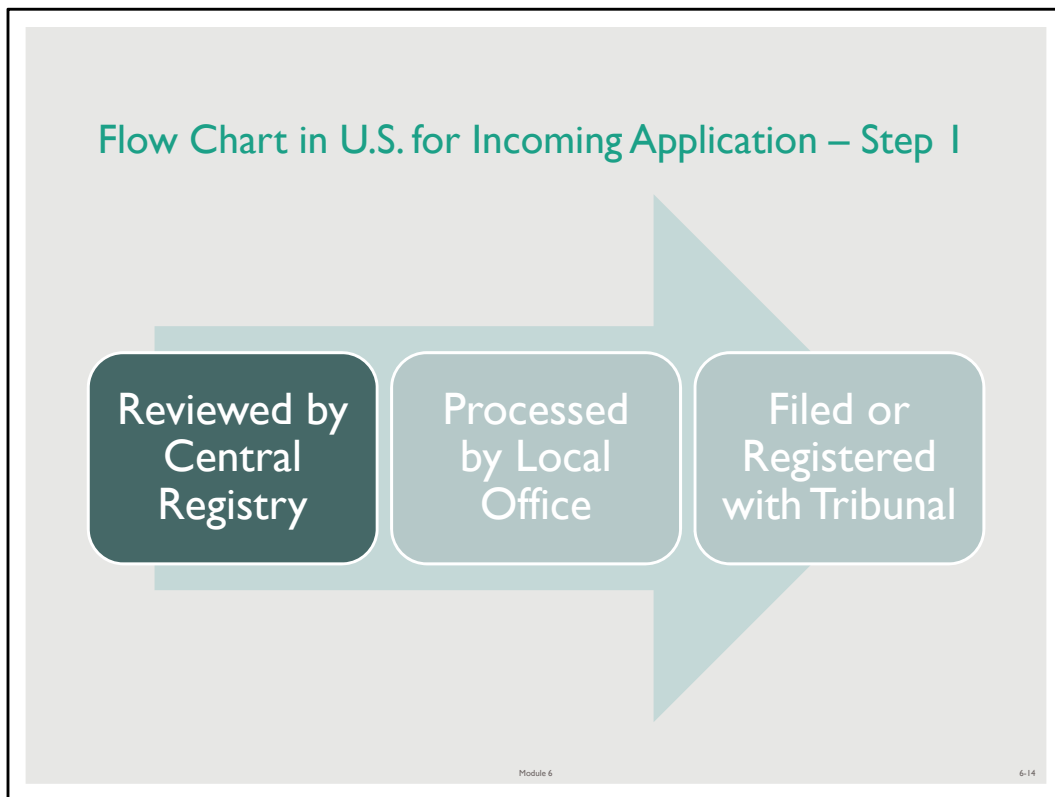
- Under Alternative A or B, must provide services to a petitioner requesting services through a Central Authority of a Convention country

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### Notes:

Regardless of whether your state enacted Alternative A or Alternative B of UIFSA Section 307, you are required to provide services to a petitioner who has requested services through a Central Authority of a Convention country.



Notes:

When a Convention country sends an Application for Modification to the United States, it should send the application to the Central Registry of the U.S. state with modification jurisdiction. As noted earlier, UIFSA rules will determine the appropriate state.

## 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

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### Notes:

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

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

Let's talk more about each of these provisions.

## 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

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### Notes:

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

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



## Is application within scope of Convention and Section 704 of UIFSA (2008)?

### CREDITOR

- Modification of a support order issued by tribunal of U.S. requested state
- Modification of a support order issued by tribunal of another state or foreign country
  - Non-Convention country
  - Convention country

### DEBTOR

- Modification of a support order issued by tribunal of U.S. requested state
- Modification of a support order issued by a tribunal of another state or foreign country
  - Non-Convention country
  - Convention country

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### Notes:

One example is if the application request is not within the scope of the Convention. Applications available through a Central Authority are listed in Article 10 of the Convention. In the United States, we implemented this Article in Section 704 of UIFSA (2008).

Section 704 provides that the following modification applications are available through the Central Authority to both an obligee and an obligor:

- Modification of a support order issued by the requested U.S. state; and
- Modification of a support order issued by another U.S. state or a foreign country.

If the application seeks modification of a custody order, that would be an example of an application that manifestly does not comply with Convention requirements.

## Is application from a Central Authority in a Contracting State?

- To receive IV-D services under Article 7 of UIFSA (2008), petitioner must reside in Contracting State and must forward Hague application through Central Authority in that country
- A direct application to IV-D agency (not through Central Authority) is not a Convention case
- If direct request to tribunal under Section 705 of UIFSA, IV-D child support agency not required to provide assistance

The diagram consists of three teal circles arranged horizontally. The first circle on the left contains the text 'CONTRACTING STATE'. To its right is a large gold plus sign '+'. The second circle in the middle contains the text 'CENTRAL AUTHORITY'. To its right is a large gold equals sign '='. The third circle on the right contains the text 'CONVENTION CASE with IV-D ASSISTANCE'.

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### Notes:

The second example is if the applicant does not reside in a Contracting State or is using the Central Authority of a country where he or she does not reside. In order for an applicant to receive the assistance of a IV-D agency under Article 7 of UIFSA, the applicant must reside in a Contracting State and must forward the Hague application through the Central Authority in that Contracting State. If the applicant does not live in a Contracting State or has not transmitted the application through the Central Authority of that Contracting State, then it would be clear from the face of the documents that Convention requirements are not met.

If your state has enacted Alternative A of UIFSA Section 307 and allows a petitioner to file directly with the IV-D agency, rather than go through a Central Authority, you would process the modification application under Articles 1 through 6 of UIFSA. It would not be considered a Convention case.

The Hague Convention and UIFSA also allow a petitioner to file a request for modification directly with the tribunal. If the petitioner files a direct request to the tribunal, the IV-D agency is not involved.

## 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

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### Notes:

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

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

## Are required documents included with application?

- Hague Child Support Convention
  - Application must include transmittal
- U.S. Country Profile
  - Requires use of Hague application form
  - Requires financial information about creditor and debtor
  - Advises that additional documents/information may be required based on facts of case and law of requested U.S. state

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### Notes:

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

Every Convention application must include a Transmittal. This is a mandatory Convention form. However, there is no mandatory form for the application. Nor does the Convention require specific documents to accompany an Application to Modify a Decision.

Each country may specify by declaration any documents that **must** accompany an incoming application to modify a maintenance decision. The United States did not make any declaration. In the Country Profile, a country may also identify any form, information, and supporting documents it needs in order to process an application for modification. As discussed during Modules 1 and 2, the Country Profile is maintained on the Child Support section of the Hague Conference website.

The Country Profile for the United States informs other Convention countries that we want them to use the Application for Modification developed by the Convention Forms Working Group. The U.S. Country Profile also states the following documents should accompany a modification application:

- A complete text of the decision
- Salary statements and income tax returns
- Special expenses
- Any written agreement between the parties related to modification
- Documents showing any significant change in circumstances.

The U.S. Country Profile notes that individual states may have additional document and information requirements based on their state laws, support guidelines, and procedures. It directs countries to the appropriate sections of the Intergovernmental Reference Guide (IRG).

## Additional Documents Needed for Modification of U.S. Support Order

- Order issued by requested U.S. state
  - Complete text of the order
  - Documents required by domestic law
- Order issued by U.S. state other than requested U.S. state
  - Documents required by Section 602 of UIFSA (2008)
    - Letter of transmittal
    - Two copies, including one certified copy, of order
    - Sworn statement showing arrearage
    - Locate, income, and asset information about obligor
    - Name and address of obligee and person to whom payments should be remitted

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### Notes:

Because UIFSA will govern incoming Convention applications, we need to look at the applicable UIFSA provisions to see if they have particular document and information requirements.

A Convention application to modify a U.S. order will be processed under the general rules of UIFSA, not the special Article 7 provisions. If an applicant wants a U.S. state to modify an order it has issued, registration is not needed. The requesting Central Authority should send the text of the order to make sure the correct order is identified. The application should also include the Financial Circumstances Form developed by the Convention Forms Working Group. Other documents and information will be based on the issuing state's modification laws and support guidelines.

If an applicant wants to modify an order issued by a U.S. state **other than** the requested state, the requested state will need to register the U.S. order for modification. The registration procedure governing registration of a state order is in Article 6. The slide lists documents and information required by Section 602 of UIFSA. Other documents and information will be based on the registering state's modification laws and support guidelines. The requesting Central Authority will usually provide income and asset information through the Financial Circumstances Form developed by the Convention Forms Working Group. A U.S. tribunal may consider the Convention Transmittal form a sufficient transmittal letter for purposes of Section 602. If it does not and additional documents are needed for registration, it is appropriate for the state Central Registry or the local child support agency to request them from the requesting Central Authority. You should continue to process the case to the extent possible.

## Additional Documents Needed for Modification of Foreign Support Order Issued by Non-Convention Country

- Documents required by Section 602 of UIFSA (2008)
  - Letter of transmittal
  - Two copies, including one certified copy, of order
  - Sworn statement showing arrearage
  - Locate, income, and asset information about obligor
  - Name and address of obligee and person to whom payments should be remitted

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### Notes:

According to the Convention's Explanatory Report, the original decision to be modified needs to be entitled to recognition in the requested State if modification is to occur. The Convention does not require that the order first be registered and recognized before it is modified. However, that step may be necessary under the law of the requested State, which is the law that governs processing of the Convention application for modification. In the United States, if an applicant wants to modify a foreign support order, the order must first be recognized before it is modified. That means the child support agency will need to register the order for modification.

If the order was issued by a foreign country that is not a Convention country, it will be processed under Section 602 of UIFSA, not the special Article 7 provisions. The slide lists documents and information required by Section 602 of UIFSA. These are the same documents required for registration of a U.S. state order. Other documents and information will be based on the registering state's modification laws and support guidelines. The requesting Central Authority will usually provide income and asset information through the Financial Circumstances Form developed by the Convention Forms Working Group. A U.S. tribunal may consider the Convention Transmittal form a sufficient transmittal letter for purposes of Section 602. If it does not and additional documents are needed for registration – including a Statement of Enforceability or a Statement of Proper Notice – it is appropriate for the state Central Registry or the local child support agency to request them from the requesting Central Authority. You should continue to process the case to the extent possible.

## Additional Documents Needed for Modification of Support Order Issued by Convention Country

- Documents required by Section 706 of UIFSA (2008)

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### Notes:

Similarly, if the foreign support order was issued by a Convention country, a U.S. tribunal must first recognize the order before it can modify the order. This is true even if the Application to Modify a Decision is not accompanied by an application to recognize and enforce the decision, which will probably be the situation. However, in the case of a Convention order, the child support agency will need to register the order following the requirements of Article 7 of UIFSA. Section 706 of UIFSA (2008) identifies the documents and information that must accompany a request for registration of a Convention support order. The next slides will review those documents. Other documents and information will be based on the registering state's modification laws and support guidelines.

## Incoming Application for Modification of a Convention Support Order – Documents/Information

Required by Convention and UIFSA	When Used	Form/Document Used
Transmittal	Always	Convention Transmittal
Application	Always <ul style="list-style-type: none"> <li>• If risk of harm</li> </ul>	Convention Application <ul style="list-style-type: none"> <li>• Convention Restricted Information on the Applicant</li> </ul>
Information about obligee	Always	Convention Financial Circumstances form
Information about obligor	Always	Convention Financial Circumstances form

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### Notes:

This slide and the next one identify the documents and information required by the Convention and UIFSA for registration and modification of a Convention order. The first column lists the document or information needed. The second column explains when the document or information is used. And the third column identifies any applicable Convention form.

Section 311 of UIFSA requires the filing of a petition or similar pleading in a proceeding to register and modify a support order. OCSE encourages IV-D agencies to work with their tribunals to determine whether the Hague application is a sufficient pleading or whether the tribunal requires the agency to file a petition to which the application is attached.



### Incoming Application for Modification of a Convention Support Order – Documents/Information (cont'd)

Required by Convention and UIFSA	When Used	Form/Document Used
Complete text of order	Always, unless your state allows an abstract or extract of order	Order itself or Convention Abstract, if acceptable
Record stating order is enforceable in issuing country	Always	Convention Statement of Enforceability
Record attesting to proper notice and opportunity to be heard	Always if respondent did not appear and was not represented	Convention Statement of Proper Notice
Record of arrears	Always if there are any	Domestic document showing amount and date calculated

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#### Notes:

The documents listed on this slide are documents required under Section 706 of UIFSA, which governs registration of a Convention order.

Since many countries do not require recognition of the underlying order before modifying it, the requesting Central Authority may not realize such documents are needed in the United States. If the documents are not initially provided with the Application for Modification of a Decision, it is appropriate for the state Central Registry or the local child support agency to request them from the requesting Central Authority.

There is no recommended Convention form or format for the record of arrears, if any. Assuming the requesting Central Authority wants enforcement of arrears, whatever document it sends should show the amount of arrears and the date the amount was calculated.

### Incoming Application for Modification of a Convention Support Order – Documents/Information (cont'd)

Required by Convention and UIFSA	When Used	Form/Document Used
Record showing requirement for automatic adjustment and explaining how to adjust or index support amount	Always if order provides for automatic adjustment or indexation	Domestic document

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#### Notes:

As explained during Module 3 of the webinar series, if a support order is supposed to be indexed automatically or adjusted on a specified frequency, the requesting Central Authority should provide details in the application package about how to do the adjustment. For example, if the adjustment is to be made using a cost of living percentage, the requesting Central Authority should provide details about which country will calculate the adjustment, what information is needed in order to make the calculation, and how the recalculated amount of support will be communicated to the requested Central Authority and the parties.

## Transmittal – Required Form

ANNEX I

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

**CONFIDENTIALITY AND PERSONAL DATA PROTECTION NOTICE**

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

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

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

<b>1. Requesting Central Authority</b>  a. Address  b. Telephone number c. Fax number d. E-mail e. Reference number	<b>2. Contact person in requesting State</b>  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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### Notes:

Every Application for Modification 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.

## Application for Modification – Page I

**Application for Modification of a Decision**  
☐ Article 10(1) *a* ☐ Article 10(1) *b* ☐ Article 10(2) *b* ☐ Article 10(2) *c*)

**CONFIDENTIALITY AND PERSONAL DATA PROTECTION NOTICE**

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

*An authority shall not disclose or confirm information gathered or transmitted in application of this Convention if it determines that to do so could jeopardise the health, safety or liberty of a person in accordance with Article 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:<sup>1</sup> \_\_\_\_\_ (dd/mm/yyyy)

d. Address: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

e. Telephone numbers: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

f. Fax number: \_\_\_\_\_

g. E-mail: \_\_\_\_\_

Module 6

6-28

### Notes:

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

After listing the requesting Central Authority's file reference number (similar to our case number), the form provides information about the applicant. The applicant may be the person for whom support is sought or payable, such as a parent of a child. In the United States, we usually refer to that person as the obligee. The applicant may be the representative of the person for whom support is sought or payable. 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.

## Application for Modification – Page 4

6. The decision

6.1 Type of authority: ☐ judicial authority or ☐ administrative authority

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

6.3 (address if applicable) \_\_\_\_\_

6.4 Date of the decision: \_\_\_\_\_ (dd/mm/yyyy)

6.5 Date of effect of the decision: \_\_\_\_\_ (dd/mm/yyyy)

6.6 Reference number of the decision: \_\_\_\_\_

6.7 Names of the parties: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. The following changes have occurred since the decision was made or last modified:

☐ Change in the income of the creditor or its financial situation

☐ Change in the income of the debtor or its financial situation

☐ Change in the income or financial situation of the person who has care of the child

☐ Change in circumstances of the person for whom maintenance is sought

☐ Change in child care arrangements

☐ Change in cost of living

☐ Change of currency exchange rate

☐ Decision was made by consent, and the amount ordered to be paid is no longer appropriate or adequate

☐ Other. Please specify: \_\_\_\_\_

Module 6
6-29

Notes:

There is a section of the application providing information about the order that the applicant wants modified. There are tick boxes for identifying changes that have occurred since the order was made or last modified. Such changes include a change in income or financial situation and a change in child care arrangements. Some of the listed changes, such as a change in cost of living, may or may not be grounds for modification in your state. As we will discuss later, it is the forum's law that applies with regard to the grounds for, and defenses to, modification.

## Application for Modification – Page 4 (cont'd)

8. The following modifications are sought by the applicant:
- ☐ Increasing the amount of maintenance  
Please specify the new amount and currency: \_\_\_\_\_
  - ☐ Decreasing the amount of maintenance  
Please specify the new amount and currency: \_\_\_\_\_
  - ☐ Modifying the frequency of payments, please specify:  
☐ week    ☐ two weeks    ☐ month    ☐ 3 months    ☐ 6 months  
☐ year    ☐ other (specify): \_\_\_\_\_
  - ☐ Modifying the method of payment  
Please specify: \_\_\_\_\_
  - ☐ Modifying the nature of payments  
Please specify: \_\_\_\_\_
  - ☐ Reducing or cancelling arrears  
Please specify reasons: \_\_\_\_\_
  - ☐ Terminating the maintenance obligation  
Please specify reasons: \_\_\_\_\_
  - ☐ Please specify termination date: \_\_\_\_\_ (dd/mm/yyyy)
  - ☐ Other. Please specify: \_\_\_\_\_

### Notes:

There are also tick boxes for the applicant to specify the modification sought, such as an increase in the amount of support or a termination of the support obligation. Again, the requests are not binding on the tribunal in the requested State.

## Application for Modification – Page 5

9. The following documents are attached to establish the basis for modification of the maintenance decision and to assist in establishing, where necessary, the amount of the maintenance:
- ☐ Complete text of the decision from the State of origin
  - ☐ Evidence establishing a change in income or other change in circumstances
  - ☐ Written agreement between the parties related to modification of the maintenance
  - ☐ Financial Circumstances Form
  - ☐ Written submissions in support of application
  - ☐ Other evidence in accordance with the law of the requested State
10. ☐ Please initiate enforcement measures once the decision is established
11. Other information: \_\_\_\_\_  
\_\_\_\_\_

Module 6

6-31

### Notes:

The application includes tick boxes for the applicant to identify any documents that are attached to establish the basis for modification.

Finally, in keeping with a “medium neutral” approach allowing electronic transmission of documents, the application does not need to be signed. Rather the application has two attestations by a representative of the requesting Central Authority. This is true of all Convention applications.

## Financial Circumstances Form

### Financial Circumstances Form

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

#### CONFIDENTIALITY AND PERSONAL DATA PROTECTION NOTICE

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

*An authority shall not disclose or confirm information gathered or transmitted in application of this Convention if it determines that to do so could jeopardise the health, safety or liberty of a person in accordance with Article 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 items V.D. 2, 4, 6, 8, 10, 12, 14 and 16 and VI.D. 9 and 11 should only be provided in the Restricted Information on the Applicant page of this form.*

#### I. REFERENCE INFORMATION

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

Module 6

6-32

### Notes:

The Financial Circumstances Form is another Convention form the United States has requested Convention countries include with modification applications to the U.S. We will review this form in detail during Module 7 when we discuss outgoing applications. The form includes sections for financial information about the debtor as well as the creditor. In keeping with a “medium neutral” approach that allows for electronic transmission of documents, the form does not need to be signed. Rather the form identifies the person in the Central Authority responsible for either completing the Financial Information form or reviewing it if it was completed by the applicant personally.



## Abstract of a Decision, If Acceptable by U.S. State

Abstract of a Decision (Article 25(3) b))	
1.	Name of the State of origin of the decision: _____ (identify territorial unit if applicable) _____
2.	Competent authority issuing the Abstract
2.1	Name: _____
2.2	Address: _____ _____ _____
2.3	Telephone number: _____
2.4	Fax number: _____
2.5	E-mail: _____
3.	The decision <sup>1</sup>
3.1	Type of authority: <input type="checkbox"/> judicial authority or <input type="checkbox"/> administrative authority <sup>2</sup>
3.2	Name and place of authority: _____
3.3	(address if applicable) _____

Module 6

6-33

### Notes:

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

As noted on this slide, the abstract provides a place to indicate whether the order was issued by a judicial or an administrative authority. The form continues for several pages and summarizes the key components of the order as it relates to child support, including current and past-due support. We discussed this form in detail during Modules 3 and 4. The abstract must be completed by an official of the competent authority in the country that issued the order.

## Statement of Enforceability

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

1. Name of the State of origin of the decision: \_\_\_\_\_  
(identify territorial unit if applicable) \_\_\_\_\_
  
2. Competent authority issuing the Statement
  - 2.1 Name: \_\_\_\_\_
  - 2.2 Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  - 2.3 Telephone number: \_\_\_\_\_
  - 2.4 Fax number: \_\_\_\_\_
  - 2.5 E-mail: \_\_\_\_\_
  
3. The decision<sup>1</sup>
  - 3.1 Type of authority: ☐ judicial authority or ☐ administrative authority<sup>2</sup>
  - 3.2 Name and place of authority: \_\_\_\_\_
  - 3.3 (address if applicable) \_\_\_\_\_  
\_\_\_\_\_

Module 6
6-34

**Notes:**

Because the Convention order must first be registered for recognition under Article 7 before it can be modified, the application should include a record stating that the support order is enforceable in the issuing country. In our Country Profile, in the section on Recognition and Enforcement, the United States has asked requesting Central Authorities to use the Statement of Enforceability of a Decision, which was developed by the Convention Forms Working Group. We discussed this form in detail during Modules 3 and 4. The Statement of Enforceability must be completed by an official of the competent authority in the country that issued the order.

## Statement of Proper Notice

**Statement of Proper Notice<sup>1</sup>**  
(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 66-35

Notes:

If the respondent did not appear and was not represented in the proceedings in the issuing country, Section 706 of UIFSA (2008) also requires a document attesting to proper notice and an opportunity to be heard. In our Country Profile, in the section on Recognition and Enforcement, the United States has asked requesting Central Authorities to use the Convention form titled Statement of Proper Notice. It should be completed by an official of the competent authority in the country that issued the order. We discussed this form in detail during Modules 3 and 4.

## Translation of Incoming Documents to U.S.

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



Module 6

6-36

### Notes:

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

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

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

In Module 8, we will discuss translation issues.

## Acknowledgment by Central Registry

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

Module 6

6-37

### Notes:

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

## Acknowledgment – Page I

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

ANNEX II

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

**CONFIDENTIALITY AND PERSONAL DATA PROTECTION NOTICE**

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

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

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

<b>1. Requested Central Authority</b> <div style="background-color: #e6f2ff; height: 20px; margin-bottom: 5px;"></div> <b>a. Address</b> <div style="background-color: #e6f2ff; height: 20px; margin-bottom: 5px;"></div> <b>b. Telephone number</b> <div style="background-color: #e6f2ff; height: 20px; margin-bottom: 5px;"></div> <b>c. Fax number</b> <div style="background-color: #e6f2ff; height: 20px; margin-bottom: 5px;"></div> <b>d. E-mail</b> <div style="background-color: #e6f2ff; height: 20px; margin-bottom: 5px;"></div> <b>e. Reference number</b> <div style="background-color: #e6f2ff; height: 20px; margin-bottom: 5px;"></div>	<b>2. Contact person in requested State</b> <div style="background-color: #e6f2ff; height: 20px; margin-bottom: 5px;"></div> <b>a. Address (if different)</b> <div style="background-color: #e6f2ff; height: 20px; margin-bottom: 5px;"></div> <b>b. Telephone number (if different)</b> <div style="background-color: #e6f2ff; height: 20px; margin-bottom: 5px;"></div> <b>c. Fax number (if different)</b> <div style="background-color: #e6f2ff; height: 20px; margin-bottom: 5px;"></div> <b>d. E-mail (if different)</b> <div style="background-color: #e6f2ff; height: 20px; margin-bottom: 5px;"></div> <b>e. Language(s)</b> <div style="background-color: #e6f2ff; height: 20px; margin-bottom: 5px;"></div>
---	--

### 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.

## 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 6
6-39

### Notes:

Section 4 of the Acknowledgment is where the state Central Registry would acknowledge receipt of the Application for Modification. The articles listed are references to articles within the Hague Child Support Convention – not sections of UIFSA. The transmittal and application you received from the requesting Central Authority will identify the applicable Convention article. You may also look at the Convention itself to determine which article subsection applies or refer to the Practical Handbook for Caseworkers. Both are accessible on the Hague Conference website.

For purposes of our discussion, the Central Registry would check Article 10(1) *e)* or Article 10(1) *f)* – to acknowledge receipt of a creditor's Application for Modification. Article 10(1) *e)* is modification of a decision made in the requested State. Article 10(1) *f)* is modification of a decision made in a state other than the requested State.

Similarly the Central Registry would check Article 10(2) *b)* or *c)* to acknowledge receipt of a debtor's Application for Modification.

## Acknowledgment – Page 2

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

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(8)). 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: \_\_\_\_\_

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

Module 6 6-40

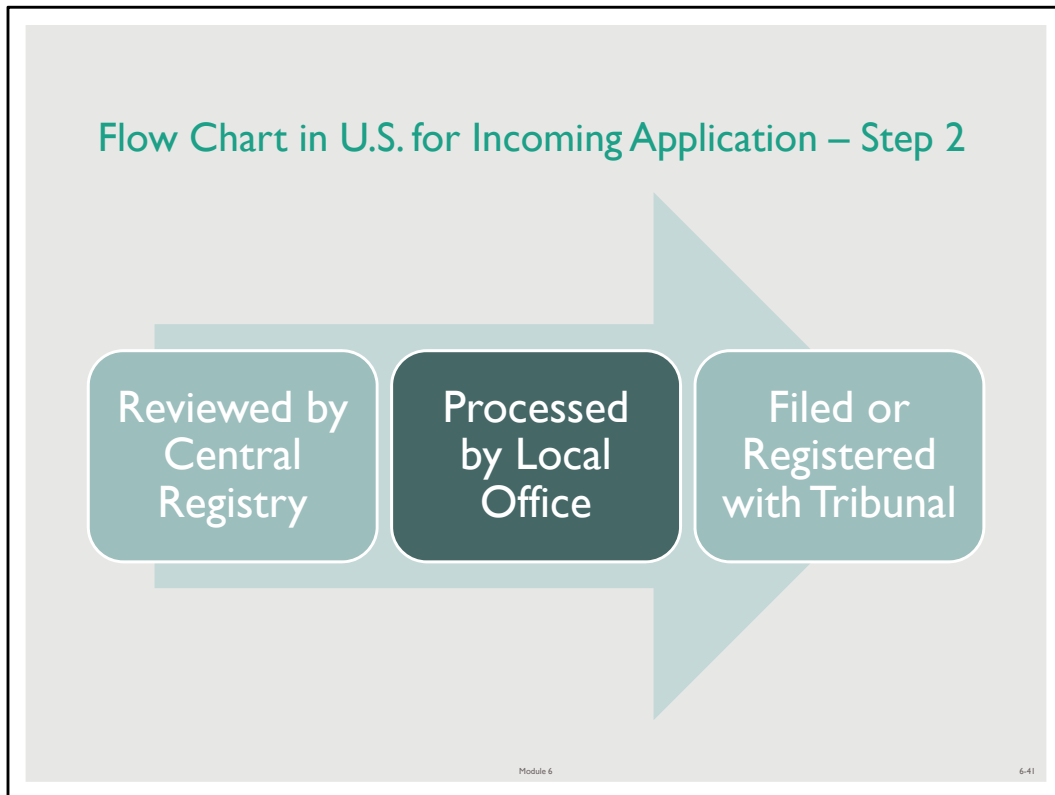
### Notes:

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

Section 5 of the Acknowledgment is where the state Central Registry notes what initial steps have been taken. There are tick boxes to indicate whether the file is complete or whether additional information or documentation is needed. This is where you should identify any additional documents needed for registration of the order, since in the United States the order must be registered before it can be modified. There is also a tick box to indicate if the Central Registry (the requested Central Authority) refuses to process the application because it is manifest that the requirements of the Convention are not fulfilled. As we discussed earlier, if that rare action is taken, the reasons must be provided.

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





Notes:

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

## 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 6

6-42

### Notes:

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

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

- Must take all appropriate steps related to the application
  - Request a hearing, if needed
  - Obtain information, including financial, about parties
  - Send notices
  - Convert an order that is in foreign currency to equivalent U.S. dollars

Module 6

6-43

### Notes:

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

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

## Modification of Order Issued by Responding State – Agency

- Follow Articles 1 through 3 of UIFSA, as well as Section 611(f)
- Section 205 of UIFSA (2008) applies
  - Tribunal may modify if it has continuing exclusive jurisdiction
  - Exception: Section 611(f)
- Section 611(f) authorizes retention of modification jurisdiction in certain circumstance
  - One party resides outside U.S.
  - One party resides in another U.S. state
  - Not exclusive modification jurisdiction
- Registration not required

Module 6

6-44

### Notes:

Once the local child support agency receives the Convention application from the Central Registry, the next steps will depend on who issued the order. If the order was issued by a tribunal in that state, the general provisions of UIFSA will apply, not Article 7.

In order to ensure the issuing state is the appropriate forum, the first question the caseworker should ask is whether the state has continuing, exclusive jurisdiction to modify its order. Under Section 205 of UIFSA, a tribunal has CEJ if the order is the controlling order and at the time of the filing of the request for modification the state is the residence of the obligor, obligee, or the child for whose benefit the order is issued. So if the respondent continues to reside in the issuing state, the state has CEJ. Section 205 also provides another situation when the issuing state has CEJ. Even if no party or child resides in the state, a tribunal has CEJ if the parties consent in a record or in open court that the tribunal may continue to exercise jurisdiction to modify its order. So even if no one now lives in the issuing state, if the applicant and respondent have agreed for it to continue to exercise CEJ, the applicant may seek modification in the issuing state.

If the state does not have CEJ, the next question the caseworker should ask is whether Section 611(f) applies. Under that Section, the state will retain jurisdiction to modify its order if one of the parties continues to live in the United States and the other party lives outside the United States. Note that this jurisdiction to modify is not exclusive. That means an applicant may seek modification in the issuing tribunal, but is not required to do so. The applicant may also seek modification in the state where the respondent lives.

If the issuing state has jurisdiction to modify its own order, registration is obviously not necessary.

## Modification of Order Issued by Another U.S. State – Agency

- Follow Articles 1 through 6 of UIFSA
- Section 611(a) applies
  - There is no CEJ state, petitioner is nonresident, and respondent is subject to personal jurisdiction of responding state; or
  - The responding state is residence of a child or has personal jurisdiction over respondent, and all parties have filed consents in issuing tribunal for responding tribunal to modify order and assume CEJ
- Order should be registered pursuant to Article 6

Module 6

6-45

### Notes:

If the order was issued by a different U.S. state, the first question the caseworker should ask is whether that issuing state has CEJ. If it does not and if the responding state has personal jurisdiction over the respondent, the applicant may seek modification in the responding state. If the issuing state has CEJ, the caseworker should determine whether the parties have filed consents in the issuing tribunal for the responding tribunal to modify the order.

If the responding tribunal appears to have jurisdiction to modify the order, the caseworker will need to register the order for modification. The caseworker should follow the steps in Article 6 that govern registration and modification of a child support order of another state. The registration provisions in Article 7 do not apply.

## Modification of Foreign Order Issued by Non-Convention Country – Agency

- UIFSA Section 704 authorizes an application to modify an order issued by a “foreign country”
  - Defined in UIFSA Section 102
- Order should be registered pursuant to Article 6
  - Tribunal may modify foreign support order if issuing country will not or cannot modify its order (Section 615)

Module 6

6-46

### Notes:

The Convention and UIFSA authorize an application to modify an order issued by a non-Convention country. To comply with Section 704(b) and (c) of UIFSA (2008), the caseworker should ask whether the support order was issued by a foreign country. As defined in Section 102 of UIFSA, a foreign country includes most but not all foreign nations.

If the order accompanying the application was issued by a non-Convention country that meets the UIFSA definition of a “foreign country,” the caseworker will follow the steps in Article 6 that govern registration and modification of a foreign child support order. It will be up to the tribunal to determine whether the requirements of Section 615 are met. Section 615(a) provides that a U.S. tribunal may modify a foreign child support order, other than a Convention order, when the foreign issuing tribunal lacks or refuses to exercise jurisdiction to modify its order.

## Modification of Foreign Order Issued by Convention Country – Agency

- Follow Articles 1 through 6 of UIFSA if no conflict with new Article 7
- Where conflict, Article 7 governs
  - Section 711 - Limitation on modification
  - Sections 706 through 709 - Registration of Convention support order

Module 6

6-47

### Notes:

Finally, the Convention and UIFSA authorize an application to modify an order issued by a Convention country.

Although the Convention does not require a Contracting State to recognize the order before modifying it, it does not prohibit a country from doing so. In fact, the Explanatory Report emphasizes that the law of the requested State will govern modification of the order, including its jurisdiction rules.

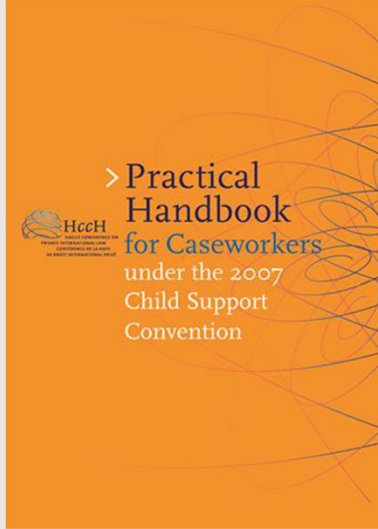
In the United States, if the order accompanying the application was issued by a Convention country, the caseworker should follow the steps in Article 7 that govern recognition and enforcement of a Convention support order.

The Convention does not restrict where the creditor may seek modification. However, it does place a restriction on the debtor. Under the Convention, a debtor cannot seek modification in another Contracting State if the creditor remains habitually resident in the issuing State. The exception is if the creditor submits to the jurisdiction of the requested State; the competent authority in the issuing State cannot, or refuses to, exercise jurisdiction to modify the decision or make a new decision; or the decision made in the State of origin cannot be recognized or declared enforceable in the Contracting State where proceedings to modify the decision or make a new decision are contemplated.

If the applicant is the debtor, the caseworker needs to review the application to ensure that Section 12 of the form has been completed. That section has tick boxes related to the Convention's limitation on modification, which is implemented in Section 711 of UIFSA (2008).

## Your New Best Friend!

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



Module 6

6-48

### 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.



## Information about Application Status

- Article 12 of Convention
  - Within 3 months of acknowledgment
  - Inform requesting Central Authority of application status
  - Use Convention Status form related to Application for Modification

Module 6

6-49

### Notes:

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

## Status of Application – Page 1

### Status of Application Report – Article 12<sup>1</sup>

(Application for Modification of a Decision)

(☐ Article 10(1) *a*) ☐ Article 10(1) *f*) ☐ Article 10(2) *b*) ☐ Article 10(2) *e*)

CONFIDENTIALITY AND PERSONAL DATA PROTECTION NOTICE

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

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

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

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

Module 6

6-50

Notes:

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

## Status of Application – Page I (cont'd)

3. **File identification**
- a. Requesting Central Authority file reference number: \_\_\_\_\_
  - b. Family name(s) of applicant: \_\_\_\_\_
  - c. Family name(s) of the person(s) for whom maintenance is sought or payable: \_\_\_\_\_  
\_\_\_\_\_
  - d. Family name(s) of debtor: \_\_\_\_\_
4. **Status of the application for modification of a decision for maintenance in the Requested State**
- a. ☐ On \_\_\_\_\_ (dd/mm/yyyy) the application has been sent to the competent authority responsible for modification (name) \_\_\_\_\_  
(address) \_\_\_\_\_  
(reference number) \_\_\_\_\_

Module 6

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### Notes:

Section 3 of the form provides information that identifies the relevant application.

Section 4 informs the requesting Central Authority about the current status of the application. You can use item (a) to list the date the order was registered for modification. Keep in mind that the “competent authority” in the United States in this context is the tribunal.

## Status of Application – Page 2

- b. ☐ On or by \_\_\_\_\_ (dd/mm/yyyy) the competent authority is due to issue a decision
- c. ☐ On \_\_\_\_\_ (dd/mm/yyyy) the competent authority issued a decision modifying a decision for maintenance (☐ decision attached for information purposes only; ☐ service or notice of the decision has been effected on the applicant (☐ certificate of service\* attached if applicable); ☐ service or notice of the decision will be effected on the applicant; ☐ statement of enforceability attached; ☐ statement of proper notice attached)
- d. ☐ On \_\_\_\_\_ (dd/mm/yyyy) the competent authority has decided against modifying a decision for maintenance (☐ decision attached for information purposes only; ☐ service or notice of the decision has been effected on the applicant (☐ certificate of service\* attached if applicable); ☐ service or notice of the decision will be effected on the applicant)
- e. ☐ On \_\_\_\_\_ (dd/mm/yyyy) the respondent has lodged a challenge or an appeal against the decision modifying the decision for maintenance
- f. ☐ On \_\_\_\_\_ (dd/mm/yyyy) the decision to modify a decision for maintenance is final
- g. ☐ Application is still pending before the Central Authority

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### Notes:

Items (c) and (d) apply if the tribunal has made a decision regarding the Application for Modification. Notice that item (c) has tick boxes indicating whether a Statement of Enforceability or Statement of Proper Notice is attached. The requesting Central Authority may need those documents in order for the modified order to be recognized and enforced in the requesting State or a different Contracting State. The documentation received with the Application for Modification of a Decision, or follow-up communication from the requesting State, will indicate if there are any special requirements in this regard.

The other tick boxes are self-explanatory.

## Status of Application – Page 2 (cont'd)

5. ☐ The following steps have been taken (past):
- a. ☐ ☐ Debtor / ☐ creditor located
  - b. ☐ ☐ Debtor / ☐ creditor contacted for settlement
  - c. ☐ Voluntary payment secured (no enforcement measures were necessary)  
(☐ documentation attached if applicable)
  - d. ☐ Information concerning the financial circumstances of the  
☐ debtor / ☐ creditor gathered
  - e. ☐ Assets of the debtor located
  - f. ☐ Enforcement and other measures initiated
    - ☐ Provisional measures
    - ☐ Wage withholding
    - ☐ Garnishment from bank account or other sources
    - ☐ Deductions from social security payments
    - ☐ Lien on or forced sale of property
    - ☐ Tax refund withholding
    - ☐ Withholding or attachment of pension benefits
    - ☐ Credit bureau reporting
    - ☐ Denial, suspension or revocation of licenses or passport
    - ☐ Mediation, conciliation or similar processes
    - ☐ Seizure of lottery or gambling winnings
    - ☐ Prohibition from leaving the requested State
    - ☐ Incarceration
    - ☐ Other: \_\_\_\_\_
  - g. ☐ Payments were secured (enforcement measures were necessary)
  - h. ☐ Record of payments made by the debtor as of \_\_\_\_\_  
(dd/mm/yyyy) attached
  - i. ☐ Other: \_\_\_\_\_

### Notes:

Section 5 lists steps that have already been taken. The space marked “Other” is an appropriate place to say that a notice of registration has been sent to the respondent.

## Status of Application – Page 3

6. ☐ The following steps are being taken (present):
- a. ☐ Locating the ☐ debtor / ☐ creditor
  - b. ☐ Contacting the ☐ debtor / ☐ creditor for settlement
  - c. ☐ Securing voluntary payment (no enforcement measures are necessary)
  - d. ☐ Gathering of information concerning the financial circumstances of the ☐ debtor / ☐ creditor
  - e. ☐ Locating the assets of the debtor
  - f. ☐ Initiating enforcement measures
  - g. ☐ Securing payments (enforcement measures are necessary)
  - h. ☐ Other: \_\_\_\_\_
7. ☐ The following steps will be taken (future):
- a. ☐ ☐ Debtor / ☐ creditor to be located
  - b. ☐ ☐ Debtor / ☐ creditor to be contacted for settlement
  - c. ☐ Voluntary payment to be sought (no enforcement measures will be necessary)
  - d. ☐ Information to be gathered concerning the financial circumstances of the ☐ debtor / ☐ creditor
  - e. ☐ Assets of the debtor to be located
  - f. ☐ Enforcement measures to be initiated
  - g. ☐ Payments to be sought (enforcement measures will be necessary)
  - h. ☐ Other: \_\_\_\_\_

### Notes:

Section 6 notes steps that are currently being taken, and Section 7 has tick boxes for steps that will be taken in the future.

## Status of Application – Page 3 (cont'd)

8. ☐ Please provide the following additional information and / or documentation:  
\_\_\_\_\_
9. ☐ 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)
10. ☐ The competent authority has refused to modify the decision for the following reason(s):
- a. ☐ Application contrary to Article 18
  - b. ☐ Other requirements of the Convention not fulfilled
  - c. ☐ Debtor / ☐ creditor not located in the requested State
  - d. ☐ Other: \_\_\_\_\_
- Name: \_\_\_\_\_ (in block letters)      Date: \_\_\_\_\_ (dd/mm/yyyy)  
 Authorised representative of the Central Authority

Module 6

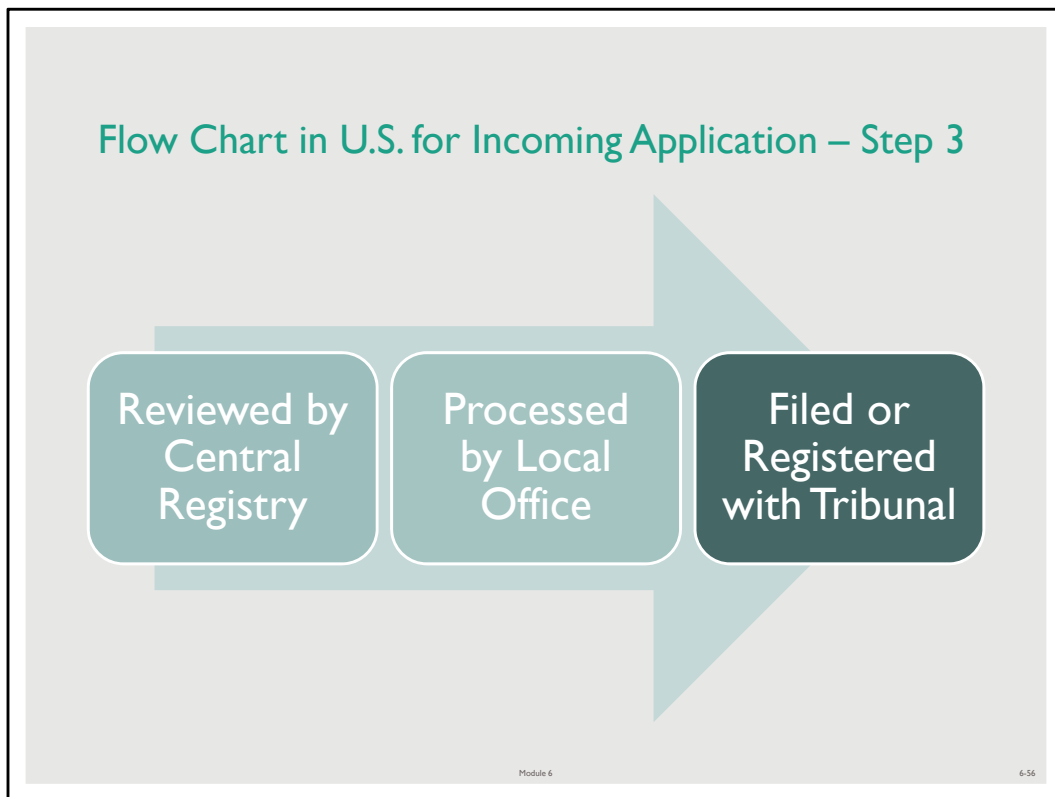
6-55

### Notes:

Check the tick box for Section 9 if you, as the requested Central Authority, are refusing to process the application for one of two reasons. The first is that the requesting Central Authority did not produce the documents or information you had requested within the required time period. The second is the rare situation that you have determined that the requirements of the Convention are manifestly not fulfilled. In that circumstance, you must provide the reasons for that decision.

If the tribunal has refused to modify the decision, please note the reason in Section 10.

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



Notes:

Upon completion of its review of the application, the child support agency should use its laws and procedures to act on the Convention application for modification. Whether that means the agency will file a domestic action or register the order under UIFSA will depend on the tribunal that issued the order.



## Procedure – Agency

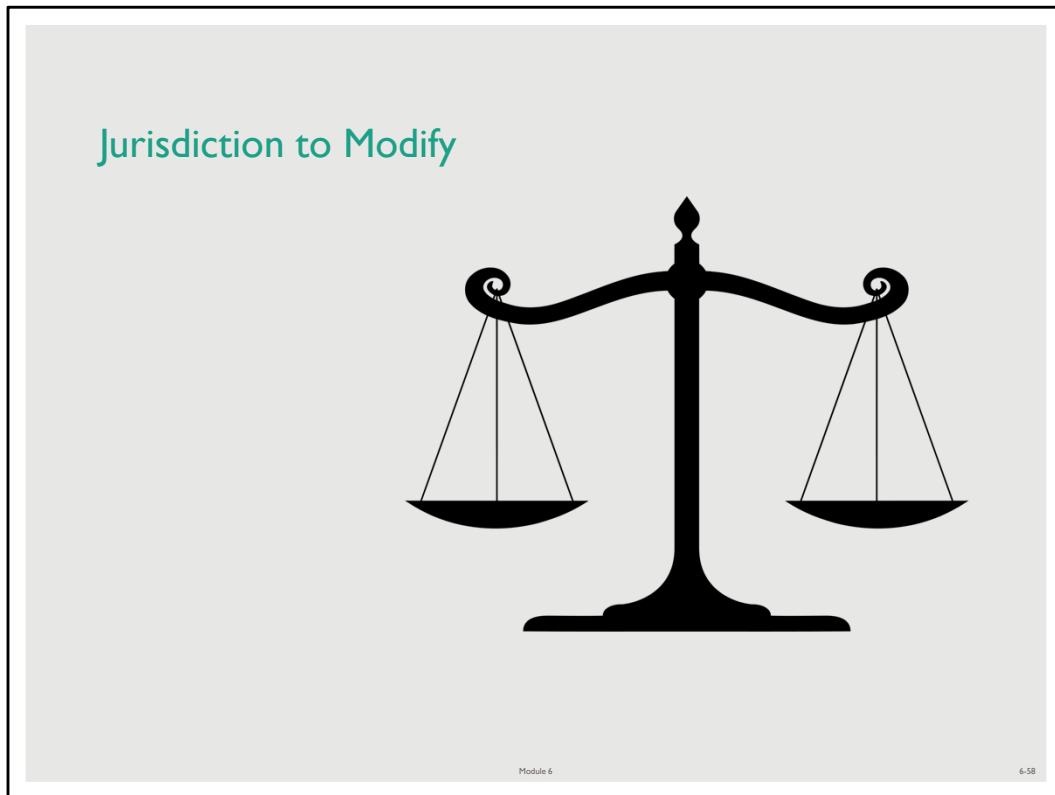
- Modification of support order issued by tribunal
  - Registration not necessary
- Modification of support order issued by tribunal of another U.S. state
  - Registration under Sections 609 – 611 of UIFSA (2008)
- Modification of foreign support order issued by non-Convention country
  - Registration under Sections 615 – 616 of UIFSA (2008)
- Modification of foreign support order issued by Convention country
  - Registration under Article 7

Module 6

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### Notes:

As this slide notes, the procedure for modifying an order issued by a tribunal in the requested State does not require registration of the underlying order. It will be handled as a modification of any other order issued by that state. If the order was issued by a tribunal of another state or a non-Convention country, the agency should register the order for modification using Article 6 of UIFSA. If the order was issued by a Convention country, the agency should register the order for recognition and modification using Article 7 of UIFSA. The applicable law will govern notice requirements.




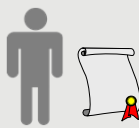


Notes:




In order to modify an order, the tribunal must have personal jurisdiction over the parties. It also must have subject matter jurisdiction. The next slides focus on what happens when the tribunal acts on the application. The tribunal will be conducting some of the same review we talked about the caseworker doing.

## Modification of Order Issued by Responding State – Tribunal


- Does tribunal have continuing, exclusive jurisdiction to modify its order under Section 205 of UIFSA (2008)?
  - Tribunal issued controlling order; obligee, obligor, or child resides in state








- Tribunal issued controlling order; regardless of parties' current residence, parties consent that tribunal may continue to exercise its jurisdiction to modify

Consent



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### Notes:

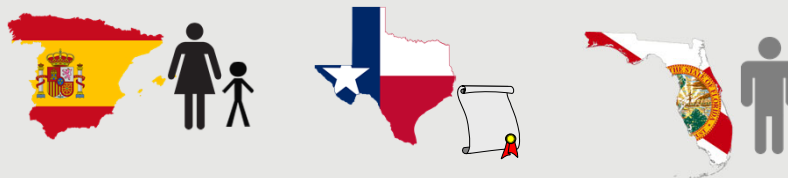
Assuming the tribunal has personal jurisdiction over the respondent, the other fundamental issue is whether it has jurisdiction under UIFSA to modify the order.

If the order was issued by the state where the tribunal is located, the tribunal has continuing, exclusive jurisdiction to modify its order if Section 205 of UIFSA is met. As depicted by this slide, a tribunal has CEJ to modify its order if one of the parties or child resides in the state. In the top example, the obligor resides in Texas, so Texas has CEJ to modify its order.

A tribunal also has CEJ, regardless of where the parties currently reside, if the parties consent in a record or in open court that the tribunal may continue to exercise its modification jurisdiction. So in the slide's lower example, although no one now lives in Texas, a tribunal in Texas would have CEJ to modify its order if both the obligee and obligor had consented for Texas to continue to exercise its jurisdiction to modify.

## Modification of Order Issued by Responding State – Tribunal (cont'd)

- If tribunal lacks CEJ, does tribunal have continuing jurisdiction to modify its order under Section 611(f) of UIFSA (2008)?
  - One party resides outside U.S.
  - One party resides in another U.S. state
  - Not exclusive modification jurisdiction



Module 6

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### Notes:

Even if the tribunal lacks CEJ, it may have **continuing** jurisdiction to modify its order under Section 611(f) of UIFSA (2008). As discussed earlier, that section authorizes a tribunal to modify its order if one party resides outside the United States and one party resides in another U.S. state. Consent by the parties is not required. Nor does it matter whether it's the petitioner or respondent who lives outside of the United States.

In the case of a Convention application, one party by definition resides outside the United States. As depicted in this slide, Texas will have continuing jurisdiction to modify its order because the applicant is outside the United States and the obligor continues to live in the United States.

As the prior slide and this slide illustrate, the state in the U.S. that issued the controlling support order will always have jurisdiction to modify it when one party lives outside of the United States. The distinction is that under the prior example, the jurisdiction to modify is exclusive. In this slide example, the jurisdiction to modify is not exclusive. The party residing outside the U.S. has the option to pursue a modification in the state where the other party currently resides.

## Modification of Foreign Support Order Issued by Non-Convention Country – Tribunal

- Does tribunal have jurisdiction to modify foreign order under Section 615 of UIFSA (2008)?
  - Foreign country lacks or refuses to exercise jurisdiction to modify its order pursuant to its laws
  - Residence of petitioner does not matter so long as tribunal has personal jurisdiction over parties
  - No consent by parties needed
- New modified order becomes controlling order with regard to other U.S. states

Module 6

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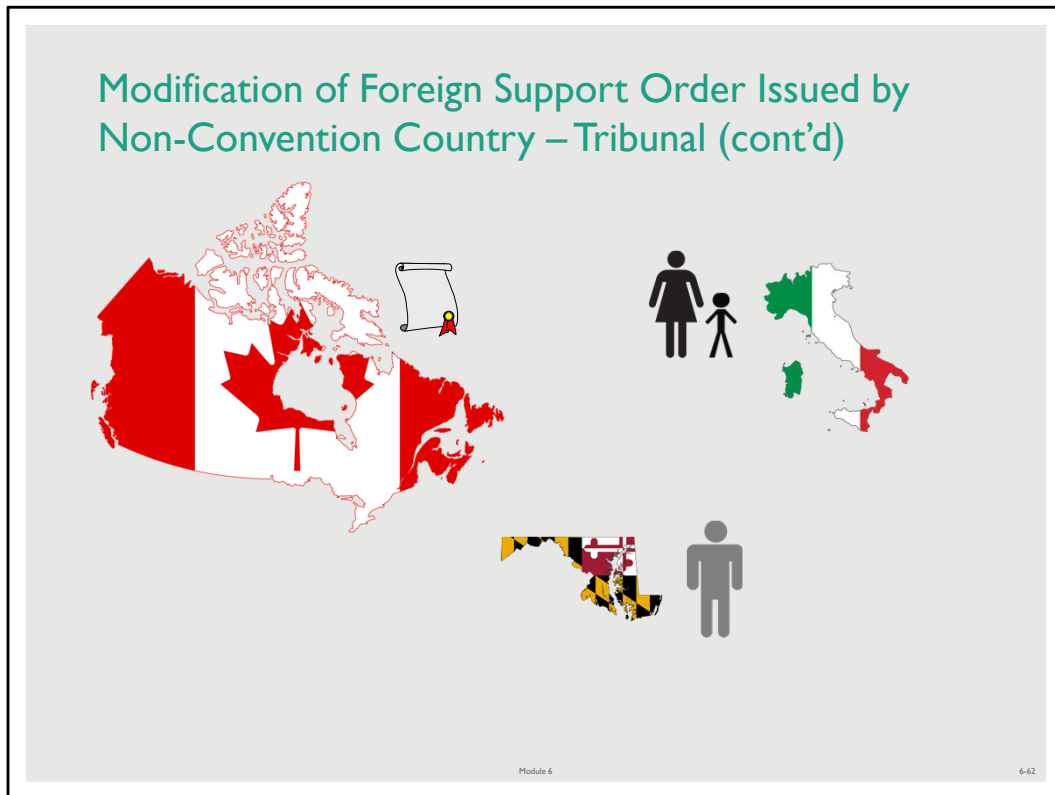
### Notes:

If the order was issued by a non-Convention country, the tribunal has jurisdiction to modify the order if Section 615 of UIFSA is met.

That section has two important requirements. First, the order must be issued by a country that meets UIFSA's definition of a "foreign country." Under Section 102, that means a foreign reciprocating country under a federal bilateral agreement, a country that has established a reciprocal arrangement with the registering U.S. state, or a country that has enacted a law or established support procedures that are substantially similar to UIFSA. A foreign country also includes a Convention country but modification of a Convention order is governed by Article 7, not Article 6.

The second requirement is that the foreign issuing tribunal lacks or refuses to exercise jurisdiction to modify its order. The example given in the Comment to that section is "the conundrum posed when an obligor has moved to the responding state from the issuing country and the law of that country requires both parties to be physically present at a hearing before the tribunal" in order to modify the support order. In that circumstance, the foreign issuing tribunal is unable to exercise jurisdiction to modify under its law. UIFSA does not define what evidence is needed for the U.S. tribunal to make the determination that the foreign issuing tribunal lacks or refuses to exercise its modification jurisdiction. It may be useful for the tribunals to communicate with each other, under UIFSA Section 317, rather than rely on representations of one or more of the parties. Section 317 authorizes a tribunal to communicate with a foreign tribunal about its laws, the legal effect of an order, and the status of a proceeding.

The Comment to Section 615 also emphasizes that the ability of a U.S. tribunal to modify when the foreign country refuses to exercise its jurisdiction should be invoked with circumspection "as there may be a cogent reason for such refusal." That is consistent with the Convention's Explanatory Report. The Explanatory Report notes that because Convention applications are subject to the jurisdictional rules of the requested State, it is possible that in certain circumstances one of the Convention modification applications available to a creditor under the Convention may not be available under the requested State's law.



Notes:

This slide illustrates the application of UIFSA Section 615. In this example, the requesting Central Authority in Italy, which is a Convention country, has transmitted to Maryland a Convention application requesting modification of a Canadian support order. Canada is not a Convention country. Therefore, when registering the order, the Maryland child support agency should follow Article 6 of UIFSA, not Article 7.

In determining whether it has jurisdiction to modify the order, the Maryland tribunal must be satisfied that the requirements of Section 615 are met. It is appropriate for the tribunal to communicate with the tribunal in the appropriate province in Canada to learn whether, under applicable Canadian law, the province lacks or refuses to exercise jurisdiction to modify its order.

## Modification of Foreign Support Order Issued by Convention Country – Tribunal

- If obligee still resides in foreign country that issued Convention order, does tribunal have jurisdiction under Section 711 of UIFSA (2008)?
  - Oblige submits to jurisdiction of tribunal or
  - Foreign tribunal lacks or refuses to exercise jurisdiction to modify its order or issue a new order

Module 6

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### Notes:

If the order was issued by a Convention country, the U.S. tribunal has jurisdiction to modify the order so long as it has personal jurisdiction over the respondent and there is no violation of Section 711 of UIFSA.

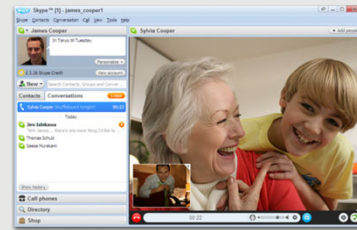
Section 711 prohibits modification of a Convention child support order if the obligee remains a resident of the foreign country that issued the order. There are two exceptions. The first is if the obligee submits to the jurisdiction of the U.S. tribunal, either expressly or by defending on the merits of the case without objecting to the tribunal's jurisdiction at the first available opportunity. The second exception is if the foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order under its internal law. The example provided in the Convention's Explanatory Report is if the State of origin is not able to exercise jurisdiction to modify its decision because its laws require the debtor to reside in the forum for modification proceedings to be brought. This second exception is **not** talking about a refusal to modify because there is no merit to the modification request.

By definition, if the Convention applicant is the obligee, the first exception is met; the obligee is submitting to the tribunal's jurisdiction by requesting relief. If the obligor is the applicant, the tribunal is precluded from modifying the order unless one of the two exceptions is met. As we discussed earlier in the context of Section 615, the U.S. tribunal is authorized to communicate with the issuing Convention country to determine whether the foreign tribunal lacks or refuses to exercise jurisdiction to modify its order.

Note that there is no prohibition on modification if the **obligor** remains a resident of the foreign country that issued the order. The prohibition only applies if the obligee remains a resident. Thus, under the Convention, the obligee is free to seek a modification in another forum notwithstanding the fact that the obligor remains in the issuing country.

## Admissibility of Evidence – Tribunal

- Section 316, UIFSA (2008)
  - Physical presence of a nonresident party may not be required
  - Electronic transmission of documents permitted
  - Tribunal **must** permit a nonresident witness or party to testify by telephone, audiovisual means, or other electronic means



Module 6

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### Notes:

Section 316 of UIFSA (2008) will govern the admissibility of evidence. Under that section, the tribunal cannot require the physical presence of the nonresident applicant. The tribunal must allow the electronic transmission of documents. Additionally, the tribunal must permit a nonresident witness or party to testify by telephone, audiovisual means, or other electronic means. Keep in mind that in international cases, there will be time zone and translation issues, as well as resource issues. We will discuss these in more detail during Module 8.



## Admissibility of Evidence – Tribunal (cont'd)

- Section 317, UIFSA (2008)
  - Tribunal may communicate with a tribunal **outside the state** to obtain information about
    - Laws
    - Legal effect of tribunal's order
    - Status of a proceeding
- Section 318, UIFSA (2008)
  - Tribunal may request tribunal **outside the state** to assist with discovery
  - Upon request, tribunal may compel a person over which it has jurisdiction to respond to a discovery order issued by a tribunal **outside the state**

Module 6

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### Notes:

Sections 317 and 318 of UIFSA (2008) also apply.

Section 317 explicitly authorizes a tribunal to communicate with a tribunal of another state, foreign country, or a foreign nation that does not meet UIFSA's definition of a foreign country.

Section 318 is similarly broad, authorizing a tribunal to help a tribunal of another state, foreign country, or foreign nation with the discovery process. Discovery is a pre-trial procedure in a lawsuit in which each party can obtain evidence from the other party by such means as a request for answers to interrogatories or a request for production of documents.

## No Modification Because Convention Order Not Recognized

- Section 711(b):

If the U.S. tribunal does not modify the Convention child support order because the order is not recognized, Section 708(c) of UIFSA applies.

- Depending on reason order was not recognized, tribunal may be required to allow a reasonable time to request the establishment of a new Convention order.

Module 6

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### Notes:

If the Convention applicant seeks modification of a Convention order, and the U.S. tribunal does not modify the order because it did not recognize the order, Section 711(b) comes into play. It directs the tribunal to Section 708(c) of UIFSA. Section 708(c) provides that if the order is not recognized for one of three reasons, then the tribunal must allow a reasonable time for the party to request the establishment of a new Convention order. We discussed Section 708 at length during Modules 3 and 4.

## Applicable Law

- Requirements
  - Law of forum
- Child support guidelines
  - Law of forum
- Nonmodifiable terms
  - Law of U.S. state that issued the order



Module 6

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### Notes:

Regardless of what state or country issued the support order, the tribunal will apply its state's laws and defenses regarding the availability of modification. If the tribunal modifies the order, it will do so according to the child support guidelines in its state.

If the order was issued by another U.S. state, Section 611 of UIFSA provides that a tribunal may not modify any aspect of a child support order that may not be modified under the law of the issuing state. That means the law of the issuing state determines whether the duration of the support obligation may be modified.

Because Section 611 is specific to state support orders, the Comment to UIFSA Section 616 provides that presumptively the general law of a state regarding modification of a child support order will apply to modification of a foreign support order.

## Modification of Arrears

- Some Convention countries consider cancellation of support arrears as an appropriate request in a modification application
- Modification of arrears is not permitted under U.S. law
  - 42 U.S.C. § 666(a)(9) (“Bradley amendment”)
    - Arrears become vested once due
    - No modification for period prior to filing of modification petition and notice to the opposing party
- Arrears cannot be cancelled but state programs to forgive state-owed arrears under certain circumstances are permissible

Module 6

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### Notes:

You may receive a Convention application for modification when what the applicant seeks is modification of arrears. Although some Convention countries allow cancellation of support arrears through a modification action, that is not the case in the United States. Under federal law, support arrears are vested judgments in favor of the obligee and retroactive modification, prior to the date of notice of the petition to modify, is prohibited.

Modification of arrears is different from arrears management programs that many states offer. Under these programs, states may cancel interest or a portion of state-owed arrears if the obligor complies with certain requirements.



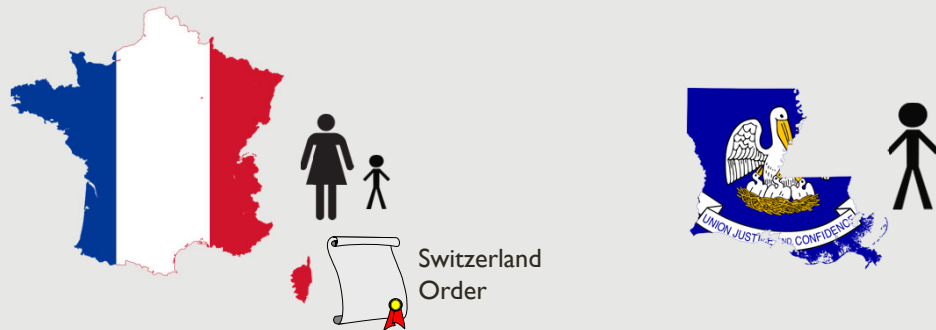
Notes:

If the U.S. tribunal modifies the order, this modified order constitutes a Convention order. Should the obligee need to enforce this order in a different Convention country, the obligee may transmit the order along with a Convention Article 10 application for recognition and enforcement to the Convention country. Similarly, if the modification reduces or suspends the obligor's support obligation, the obligor may register the order in the Convention country that originally issued the order for recognition and enforcement.

## Case Scenario – Incoming Application

The Central Authority in France has forwarded a Convention application to Louisiana on behalf of a creditor, requesting modification of an order issued by Switzerland. The application includes the Convention Transmittal form, the text of the order, and the Financial Circumstances Form.

What steps should the Louisiana Central Registry take?



### Notes:

Let's use a case scenario to review the information we've discussed and to highlight some implementation issues.

The Central Authority in France has forwarded to Louisiana an application on behalf of a French creditor who wants modification of an order issued by Switzerland. In addition to the application, the French Central Authority has included the required Transmittal form, the text of the order – original language and translation, and the Convention Financial Circumstances Form.

What steps should the Louisiana Central Registry take?

[After allowing time for the participants to think about the appropriate answer, the trainer or moderator should identify the steps the Central Registry should take. The expanded trainer notes include additional information, including responses to each question below.]

- Review the application.
  - Is the application from a Central Authority in a Contracting State?
  - Is the application within the Convention scope?
  - Is Louisiana an appropriate forum for modification under UIFSA?
  - Is the application complete?
- Send the requesting Central Authority in France an acknowledgment using the required Convention form. Identify any needed documents. Such documents may include information needed to satisfy UIFSA Section 615. Depending on state requirements, such documents may also include the intergovernmental Letter of Transmittal Requesting Registration, the Convention Statement of Enforceability, and the Convention Statement of Proper Notice if the Switzerland order was issued without an appearance by, or representation of, the debtor. If Louisiana requires a Statement of Enforceability and Statement of Proper Notice, they must be completed by a competent authority in Switzerland – the country that issued the order.
- Forward the application and supporting documents to the local child support agency for registration and modification. Registration should be under Article 6 of UIFSA because it is a non-Convention foreign support order.]

## Case Scenario – Incoming Application (cont'd)

The local child support agency registers the order for modification. Notice of registration is sent to the respondent. The respondent does not respond within the 20 day contest period.

What are the next steps?

- The registration will be confirmed and the Switzerland order recognized as enforceable.
- The Louisiana tribunal must determine whether it has modification jurisdiction.
- If it determines it does have jurisdiction, it will use the financial information provided about the parties to apply Louisiana support guidelines and issue a modified order.
- The local child support agency should send a Status Report to the requesting Central Authority in France, along with a copy of the modified order. If requested by the French Central Authority, it should also include a Statement of Proper Notice and Statement of Enforceability so that the requesting Central Authority can send the modified order to Switzerland for recognition and enforcement.

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### Notes:

Assume the local child support agency has registered the foreign support order for modification. Notice of registration is sent to the respondent, who does not timely challenge the registration.

What are the next steps?

[After allowing time for the participants to think about the appropriate answer, the trainer or moderator should identify the next steps of the tribunal and the local child support agency:

- The registration will be confirmed and the Switzerland order recognized as enforceable.
- The Louisiana tribunal must determine whether it has modification jurisdiction. If needed, it can seek information from the tribunal in Switzerland under Section 317 of UIFSA.
- If it determines it does have jurisdiction, the tribunal will use financial information provided about the parties to apply Louisiana support guidelines and issue a modified order.
- The local child support agency should send a Status Report to the requesting Central Authority in France, along with a copy of the modified order. If requested by the French Central Authority, it should also include a Statement of Proper Notice and Statement of Enforceability so that the requesting Central Authority can send the modified order to Switzerland for recognition and enforcement.]



## QUESTIONS or FEEDBACK?

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

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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 an incoming Application to Modify a Support Decision. The next module will discuss an outgoing Application to Modify a Support Decision.

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.