

The Hague Convention on the International Recovery of Child Support

For more than five years, the U.S. State Department and the federal Office of Child Support Enforcement participated in negotiations at The Hague on a new international treaty that will govern child support cases between ratifying countries. More than 60 countries were represented, as well as a number of non-governmental organizations. Negotiations concluded in November 2007. The result is The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. Among its accomplishments are:

- Detailed procedures for how Central Authorities must handle applications in child support cases, including time frames
- Simplified rules for the recognition and enforcement of existing support orders
- Cost-free services to creditors for the recognition and enforcement of child support orders
- Mandatory and recommended standardized forms
- A requirement that countries provide, at the time of ratification, general information about their child support laws and procedures, and specific information on the measures which have been taken to ensure compliance with certain Convention obligations.

On September 29, 2010, the United States took an important step toward ratification of the Convention. On that day, the U.S. Senate approved the Resolution of Advice and Consent regarding the Hague Convention.

What remains to be done before the United States can deposit its instrument of ratification?

First, Congress must pass federal legislation that implements the Convention in the United States. The Obama Administration is working with Congress to develop such legislation. Among other provisions addressing international cases, it will require states to enact UIFSA 2008 as a condition of receiving federal funds.

Why UIFSA 2008? The Uniform Interstate Family Support Act (UIFSA) was determined to be the most effective mechanism of integrating the Convention into state law. First promulgated seventeen years ago, UIFSA has been enacted in every state, pursuant to the requirements of 42 U.S.C. § 666(f). It is well understood by judges, lawyers, and child support professionals and already addresses some international child support matters. Acting on an expedited basis, the Uniform Law Commissioners convened a UIFSA Drafting Committee to develop amendments to UIFSA 2001, which would implement the requirements of the Hague Convention. The ULC Commissioners approved the UIFSA amendments in July 2008. The American Bar Association's House of Delegates approved UIFSA 2008 in February 2009.

Second, once Congress has passed implementing federal legislation, each of the 50 states plus the American Virgin Islands, Guam, Puerto Rico, and the District of Columbia must enact UIFSA 2008 by the effective date noted in the legislation. As of

February 2011, five states have enacted UIFSA 2008 with an effective date tied to the date the U.S. deposits its instrument of ratification with The Hague.

Third, the President of the United States must sign the instrument of ratification for the Treaty.

Finally, after all these activities are completed, the United States will be able to deposit its instrument of ratification with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, which is the depositary for the Treaty.

If at least one other country has deposited its instrument of ratification, acceptance or approval, the Convention will enter into force for the United States on the first day of the first month that is not less than three months after the date of the U.S. deposit. If the United States is the first country to deposit its instrument, the Convention will enter into force on the first day of the first month that is not less than three months after a second country deposits its instrument.

Once the U.S. ratifies the Convention, child support professionals will have a number of resources available to assist them in processing Convention cases. In addition to information accessible through OCSE's website (www.acf.hhs.gov/programs/cse), the Permanent Bureau has linked resources through its website at www.hcch.net. There is a Country Profile, which is an electronic template that countries may use to provide information about their support laws and procedures. There are mandatory and recommended standardized forms. There is also a Caseworker's Guide, which explains how the requesting country should complete each application under the Convention, and what a requested country is required to do in response to an application.