

# 2000 Compliance Report

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## **2000 Report on Compliance with the Hague Abduction Convention**

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*Response to Section 2803 of Public Law 105-277, (Foreign Affairs Reform and Restructuring Act of 1998 ), as amended by Section 202 of Public Law 106-113 (The Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act for Fiscal years 2000 and 2001)*

### **INTRODUCTION:**

As mandated by Section 2803 of Public Law 105-277, (Foreign Affairs Reform and Restructuring Act of 1998), as amended by Section 202 of Public Law 106-113 (The Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act for Fiscal Years 2000 and 2001), the following is a report on compliance by signatory countries with the Hague Convention on the Civil Aspects of International Child Abduction (the Convention), done at The Hague on October 25, 1980.

As required, this report includes discussion of unresolved applications for the return of children to the United States filed through the U.S. Central Authority. It is important to note that under the Convention, return applications may also be filed either directly with the Central Authority of the state where the child is located or with the foreign court with jurisdiction to hear the return request. The left-behind parent may pursue return without involving the U.S. Central Authority. In these circumstances, the U.S. Central Authority may never know about such a request and its disposition. Thus this report cannot give a complete picture of the outcome of all Hague applications for the return of children to the United States.

It also should be noted that the U.S. Central Authority considers a Hague application to be "filed" on the date on which the application is forwarded by the U.S. Central Authority to the appropriate foreign Central Authority, rather than the date of the initial receipt of the application by the U.S. Central Authority. This is because in many cases supplementary materials must be obtained from the applicants before the application is considered complete and can be forwarded. Where this occurs, every effort is made to do so expeditiously.

With regard to the term "unresolved," the November 17, 1999 Conference Report on H.R. 3194 noted that the Department's previous Compliance Report:

failed to provide information consistent with the intent of the Congress to have a full accounting of cases of violations of, and a listing of countries that are non-compliant with, the Convention. Specifically, the report's finding that there are only 58 cases unresolved after 18 months, which

fails to mention the country involved, renders the report almost useless. While stipulating that this listing of unresolved cases does not include those cases considered closed by the U.S. government, the report fails to include the criteria by which the decision to close a case is made.

The Department takes this opportunity to clarify any confusion that may arise from the use of the word "resolved" and the Department's decision to report as "resolved" cases that are determined by the U.S. Central Authority to be "closed" as Hague cases or "inactive." As in other signatory countries, the U.S. Central Authority closes or inactivates Hague cases for a variety of reasons, including: return of child; parental reconciliation; withdrawal of request for assistance; inability to contact the requesting parent after numerous attempts; exhaustion of all judicial remedies pursuant to the Convention; or access rights granted and enforced. In all of these cases, regardless of the outcome, no further proceedings pursuant to the Hague Convention are anticipated. Considering these cases "resolved" and closing them as Hague Convention cases is consistent with the practices of other Convention signatories.

Regrettably, the exhaustion of all judicial remedies pursuant to the Convention may result in a case which is "closed" under the terms of the Convention, but in a resolution that is unsatisfactory to the left-behind parent. The resolution of the case may or may not have been consistent with the Convention's requirements, independent of whether the left-behind parent is satisfied. Even when the Hague aspects of a case have been closed, however, the U.S. Central Authority stands ready to maintain a non-Hague case to provide assistance to the left-behind parent by facilitating access (which may be sought under or independently of the Convention), reporting on the welfare of the child, or assisting the parent to achieve a more satisfactory solution. When the foreign court decision on the Hague aspects of a case indicates a lack of understanding or consideration of the Convention's provisions, the U.S. Department of State registers its concern and dissatisfaction with the decision through the foreign Central Authority or diplomatic channels. In several recent cases, additional U.S. government interest has been manifested by the U.S. Central Authority, U.S. Ambassadors and Assistant Secretaries of State, as well as both the President and Secretary of State.

The U.S. Central Authority may open a Hague case based on a parent expressing concern about his/her child abroad, without requiring that a Hague application be filed or complete. The U.S. Central Authority will forward to other Central Authorities incomplete applications lacking critical supporting documents and inform parents that, while other Central Authorities are often unable to process the case without complete documentation, they may be able to make limited preliminary inquiries while parents are gathering the required documents. Thus, a Hague case may be "open" even if no Hague application has been "filed." This further complicates reporting efforts on compliance, since an opened case may be resolved without an application ever being filed. The Department is naturally pleased if a case can be resolved in its earliest stages, even before an actual application need be filed.

Annexed to this report is a list by country of the cases unresolved for more than 18 months, as required in the November 17, 1999, Conference Report. Information that might identify a case to the abducting parent, or to others, has been removed to protect the privacy of the child and applicant

parent. Separately, in various places in the text of this report, certain illustrative cases are used to more fully address questions of compliance with the Convention. For the most part, these examples occurred outside the reporting period and are not, therefore, listed in the annex.

The November 17, 1999 Conference Report on H.R. 3194 also notes that:

The new information that the Congress is requesting is intended to highlight the probability that an abducted, or wrongfully retained, child can be reasonably expected to be returned from a country that is a party to the Hague Convention based on its past record of compliance, and whether access to the child, either through the orders of that country's courts, or through U.S. court orders, has been enforced by the government in the past.

This report identifies specific areas and cases in which signatory countries have not met the Convention's goals or in which the Convention has not operated to achieve a satisfactory result for left-behind parents in the United States. The U.S. Department of State has taken steps in the past year to promote better information sharing and more consistent practices among signatory countries. The Department hosted in September 2000 a judicial conference that gathered judges and other high level officials from six common law countries and observers from 23 other nations to discuss how to foster consistency in interpreting and implementing the Convention. The Department of State is also developing a more efficient and reliable means of tracking information about international parental abduction cases. This new case management tracking system will allow collection of better information and statistics on specific country performance and abduction factors. It is hoped that, as the system is perfected, future Compliance Reports under Section 2803 will contain increasingly comprehensive information.

In addition to applications for the return of children, this report also discusses applications for access to children. While the 1980 Convention did not treat in depth questions of parental access and thus is less specific about terms of access than terms of return, the Department of State recognizes the importance of children having open and meaningful access to both parents. Last month's conference devoted considerable attention to access issues. The Department will pursue access in every appropriate fora, including the upcoming March 2001 quadrennial meeting on the Hague Convention.

#### **RESPONSE TO SECTION 2803(a):**

**Section 2803(a)(1)** requests "the number of applications for the return of children submitted by applicants in the United States to the Central Authority for the United States that remain unresolved more than 18 months after the date of filing."

Taking into account the above clarifications, as of July 31, 2000, there were 30 applications that remained unresolved 18 months after the date of filing with the relevant foreign Central Authority.

**Section 2803 (a)(2)** requests "a list of the countries to which children in unresolved applications described in paragraph (1) are alleged to have been abducted, are being wrongfully retained in violation of United States court orders, or which have failed to comply with any of their obligations under such Convention with respect to applications for the return of children, access to children, or both, submitted by applicants in the United States."

The 30 applications identified above for the return of children that remain unresolved, 18 months after the date of filing, as of July 31, 2000, pertain to nine countries: Australia, Bahamas, Canada, Colombia, Mexico, Panama, Poland, Spain, and Switzerland. The extent to which these countries and others appear to present additional issues of compliance under the Hague Convention is discussed further in Sections (a)(3), (a)(4) and (a)(6), below.

In considering the question of compliance and court orders, it should be noted that, while most Hague cases involve a custody right by court order or exercise of law, a custody or other court order is not a requirement for filing a Hague application. The recognition of rights of custody and access under the law of other signatory countries is a goal of the Convention, but the Convention does not itself require enforcement of foreign custody or visitation orders by states party. The U.S. Central Authority does not, therefore (and cannot fully) record and monitor whether foreign countries recognize U.S. custody or other court orders. The Department recognizes that this information, systemically collected, could prove useful to further efforts and will undertake to do so whenever possible. When fully developed, the new case management tracking system, previously described in this report, may enable the U.S. Central Authority to provide better information in the future about wrongful retention of children in violation of United States court orders.

**Section 2803 (a)(3)** requests "a list of the countries that have demonstrated a pattern of noncompliance with the obligations of the Convention with respect to applications for the return of children, access to children, or both, submitted by applicants in the United States to the Central Authority for the United States."

There are many factors involved in implementing the provisions of the Convention, not least because the executive, legislative and judicial branches of each state party have important and varying roles. A country may thus perform well in some areas and poorly in others. The Department of State, building on recommendations of an inter-agency working group on international parental child abduction, has identified the elements involved in implementing the provisions of the Convention and has used these as factors for evaluating country performance. The elements are: the existence and functioning of implementing legislation, Central Authority performance, judicial performance, and enforcement of orders. "Implementing legislation" can be evaluated as to whether, after ratification of the Convention, implementing legislation has been enacted that enables the executive and judicial branches to carry out their Convention responsibilities. "Central Authority performance" involves the speed of processing applications; procedures for assisting left-behind parents in obtaining knowledgeable, affordable legal assistance; judicial education or resource programs; responsiveness to U.S. Central Authority and left-behind parent inquiries; and success in promptly locating abducted children. "Judicial performance" comprises the timeliness of first hearings and subsequent appeals and whether courts apply the

Convention and its articles appropriately . "Enforcement of orders" involves the prompt enforcement of civil court orders by civil or police authorities and the existence and effectiveness of sanctions compelling compliance with orders. Specific instances of failure to enforce orders since April 1999 are addressed in section (a) (6) below.

This report identifies those countries that the Department of State has found to have demonstrated a pattern of noncompliance or that, despite a small number of cases, have such systemic problems that the Department believes a larger volume of cases would demonstrate continued noncompliance constituting a pattern. In addition, the Department recognizes that countries may demonstrate varying levels of commitment to and effort in meeting their obligations under the Convention. The Department considers that countries listed as noncompliant are not taking effective steps to address deficiencies.

As discussed further below, the Department of State considers Austria, Honduras, Mauritius, and Panama to be noncompliant using this standard, and Germany, Mexico and Sweden to be not fully compliant. The Department of State has also identified several countries of concern which, while not having demonstrated a pattern of noncompliance, have inadequately addressed some aspects of their obligations under the Hague Convention. These countries are Colombia, Poland, and Switzerland.

### **Noncompliant Countries**

**AUSTRIA:** Austria was identified as noncompliant in the Department's previous Compliance Report to Congress because of delays in case processing which the Department believed reflected a lack of understanding by the Austrian judiciary of the Convention and indifference to the importance of expeditiously handling cases. This suggested the need for the Austrian Central Authority to better meet its Convention obligation under Article 7 to provide information about the Convention to the judiciary. In addition, Hague court orders were neither enforced adequately, nor were sanctions applied against an abducting parent who defied court orders. The Department's concerns about Austrian compliance continue, despite assurances that Austria's Central Authority has undertaken measures to educate the judiciary. Bilateral exchanges at high levels with the Austrian Government have produced a more forthcoming stance by the Central Authority. Whether this will produce satisfactory results remains in question. In particular, the Department clearly differs with the Austrian Government on interpretation of Article 13 of the Hague Convention, which addresses protection of the abducted child. The Department notes considerable efforts by Ambassador Hall and Secretary of State Albright to raise our concerns at the highest levels of the Austrian Government.

One particular case suggests that the previously cited problems remain systemic. In this case, Austrian courts to the highest court ordered the return of the child to the United States. The taking parent appealed the enforcement of the return order. The courts then determined that the Austrian return order should not be enforced because the delays in the case had caused the child to become settled in Austria. After the Austrian court denied the child's return to the United States, the left-behind parent sought access rights under the Hague Convention. The courts finally granted very limited access in Austria. It is not yet clear whether a new, more expansive access order will be

granted and, if granted, will be effective in promoting the child's access to both parents. The Department of State notes that, at the time of the writing of this report, Austria's Minister of Justice Boehmdorfer has offered to assist the parties in this case to seek a resolution that will allow both parents to participate more fully in the life of their child. The United States is encouraged by the Minister's initiative and hopes that it will succeed.

**HONDURAS:** Honduras was cited as noncompliant in the previous Compliance Report to Congress. Since that time, there has been no change and the Honduran government has taken no actions with regard to applications for assistance pursuant to the Convention. Honduras acceded to the Convention on March 1, 1994. On July 1, 1996, the Honduran government notified The Hague that it had designated its Junta Nacional de Bienestar Social, now known as the Instituto Hondureno de La Ninez y la Familia, as the Central Authority for the Convention in Honduras. The Honduran executive branch, however, has never submitted the Convention to the Honduran legislature for ratification. Hague Convention records state that the Convention entered into force bilaterally between the U.S. and Honduras on June 1, 1994. The government of Honduras, however, has not submitted domestic legislation to implement the provisions of the Convention in effect between the United States and Honduras. Since June 1994, the U.S. Central Authority has attempted to deliver to Honduras four Hague return applications on which the Honduran Government has taken no action. In August 2000, the U.S. Ambassador met with the Honduran Foreign Minister and expressed his concerns about Honduras not recognizing its own accession to the Convention.

**MAURITIUS:** Mauritius was cited in the previous Compliance Report to Congress because it had not taken the necessary steps to properly implement the Convention. Although Mauritius passed implementing legislation in July 2000, local law still requires the President's signature and publication in the official gazette before it enters into force. In addition, this legislation does not include a provision making it applicable retroactively. Consequently, it is uncertain whether Mauritian courts will apply the law to two outstanding cases involving U.S. citizens that have not been handled in accordance with the provisions of the Convention, notwithstanding that they arose after the Convention entered into force between Mauritius and the United States. To date, Mauritian courts have ruled that the absence of implementing legislation has made the Convention inapplicable in Mauritius even though Mauritius has been a party to the Convention since 1993. The Department notes that recent elections in Mauritius may result in a change of decision-makers whose views on this issue may differ from those of the previous Administration. The Department, through its Chief of Mission, will continue to vigorously represent our views. The Department further notes the participation of an observer from the Government of Mauritius to our recent Judicial Conference and hopes such participation may also result in some possible movement forward.

There are two outstanding U.S. cases that have been presented to the Mauritian Central Authority. The Central Authority refused to accept them as Hague cases. In the first case, the Mauritian court rejected return of the child. This rejection was upheld in the appeals court, and the Privy Council refused to hear the case further. The Department and the U.S. Embassy continue to pursue this case. The government of Mauritius is holding the second U.S. case pending the outcome of the first case.

**PANAMA:** The U.S. has received conflicting indications from Panamanian authorities as to whether the Panamanian Government believes the Convention is or is not in force. The Convention entered into force between the United States and Panama in 1994. Since then, nine Hague return applications have been filed by left-behind parents in the United States. In only one case was a child returned pursuant to orders under the Convention.

The Panamanian Government has not adopted implementing legislation clarifying the role of the Central Authority vis-a-vis the judicial system. Without such legislation, the Panamanian code of family justice takes precedence over the Convention. There is also an apparent lack of understanding among the Panamanian judiciary about the Convention, suggesting the need for judicial education. In January 2000, a Panamanian superior court overturned a lower court ruling of "international restitution" on the basis of appellant's arguments that included an incorrect claim the Convention was not in force between the United States and Panama at the time of the child's removal, and that cited the absence of a child custody order at the time of removal (not a prerequisite for Hague compliance).

The Department and U.S. Embassy officials have raised problems with the Convention in bilateral and other meetings with the Secretary General of the Panamanian Foreign Ministry, including the May 2000 bilateral meeting on social issues. The U.S. Embassy has engaged high level Panamanian officials in discussion on better implementation of the Convention. The Department of State is encouraged by these sessions and that the Panamanian Central Authority has begun conducting training on the Convention for family court judges. The Department of State notes that the Panamanian Central Authority has recognized that there is no linkage between Hague Convention compliance and negotiations on a bilateral child support arrangement, which Panama seeks in order to compel U.S. service members formerly stationed in Panama, as well as other U.S. citizens, to pay child support in accordance with Panamanian court decisions.

### **Countries That Are Not Fully Compliant**

**GERMANY:** The President and Secretary of State have raised the issue of international parental child abduction with their German counterparts. As a result, a binational working group of experts on this issue is conducting ongoing discussions and developing a specific list of actions to take to improve the situation. German authorities have been forthcoming in sharing views and information with the United States. For instance, German authorities recently confirmed that the number of courts authorized to hear Hague Convention cases is being significantly reduced in an effort to encourage greater judicial familiarity and expertise in Hague cases. The Department of State finds these developments to be promising, but is unable to find Germany fully compliant until there is concrete progress in addressing the problems discussed below.

There has been a lack of understanding among the German judiciary about the Convention, and a reluctance in the German Central Authority to provide the judiciary with explanatory materials about effective implementation of the Convention. In a number of cases in Germany there has been an unconscionably broad use of the Convention's exceptions to return. Parents seeking return of their abducted children are sometimes asked to prove that return would not harm the child, even though

the Convention places the burden of proof on the abducting parent. German courts have often used a traditional "best interests of the child" analysis to justify refusing to return children, thereby wrongly addressing those issues as if they were custody issues, while asserting that non-return is on the basis of Article 13b (grave risk of psychological or physical harm). The central point of the Convention is that it is the country of habitual residence, not the country to which the child has been abducted, that is the appropriate venue to make a judgment about the child's best interests and custody. The wishes of children as young as five years old have been given excessive consideration in German courts, despite the Convention's requirement that the child must have "attained an age and degree of maturity at which it is appropriate to take account of its views." In other cases, courts have denied the return of abducted children because of evidence provided by individuals with an interest in the case. Left-behind parents also often have difficulty obtaining effective legal counsel to represent them in German courts.

In access proceedings under Article 21 of the Convention, some German court orders do not provide for children to have a meaningful relationship with both their parents and both their cultures. Access is often limited and conditional to a point of causing emotional stress to both parents and children. Even when access orders are issued by the courts, the systemic failure to enforce contempt of court sanctions allows abducting parents to resist enforcement of orders indefinitely.

To illustrate, in one case that is outside the reporting period, the abducting parent took the child to Germany in 1996. The left-behind parent filed for the return of the child. Shortly thereafter, the lower German court ordered the return of the child to the United States. The abducting parent appealed the decision. The German judge took testimony from an interested party at face value and reversed the return decision.

The left-behind parent then requested access rights, which were ordered by both the lower and higher courts. The abducting parent failed to comply with the orders. Finally, in May 2000, the abducting parent allowed the left-behind parent to see the child for the first time since 1996. The left-behind parent hopes to be able to see the child regularly but, without sanctions for failure to comply with court orders, the abducting parent remains able to deny access.

In another case illustrative of German attitudes, which is only partially a Hague case, a German citizen abducting parent took two children from the United States to Germany in July 1992. In August 1992, the children were placed in the custody of the German Youth Agency and subsequently placed in foster care. The German authorities did not notify the Embassy that two American citizen children were facing difficulties in Germany. The American citizen parent began to seek legal means to regain the custody of the children. In March 1995, the local German court determined that the children were to remain with the German foster parents. It further said that if the American parent were successful in establishing a close relationship with the children, they would be returned to him. In July 1995, the U.S. Embassy requested the assistance of the German Foreign Ministry in returning the children to the U.S. The American citizen parent recently filed an application for access to his children under the Hague Convention. Through the recently established German-American Bi-National Working Group, the U.S. is vigorously working to pursue the reunification of the American father and the children.



**MEXICO:** Mexico was listed in the previous Compliance Report to Congress as noncompliant with its responsibilities under the Convention. While systemic problems continue and a large number of cases remain unresolved, Mexico has shown impressive efforts to better meet its Convention responsibilities. Mexican and U.S. Central Authority officials have met four times to discuss better procedures for dealing with cases, resulting in better and more frequent communication and case updates. The Department of State is further encouraged by recent discussions with the Mexican Central Authority regarding plans by the Mexican foreign ministry to allocate additional resources to the program.

Twenty-five of the 34 cases listed in the previous Compliance Report have been closed, with approximately one-third resulting in the return of the children to the United States. There have been ten Hague court hearings since Fall 1999, with all children except one returned to the U.S. In one case, children were returned to the United States only six months after the abduction. In addition, there have been voluntary returns in more than 30 cases, with the existence of a pending Hague case a factor in the voluntary return decision. Once a child has been located, the taking parent must be notified of the hearing date. Mexico's new procedure of taking children into custody at that time has been very effective in ensuring that the taking parent does not go into hiding with the children.

Progress has occurred primarily in cases recently filed with the Mexican Central Authority. The six cases raised by the U.S. delegation in the Binational Commission meetings illustrate the delays in cases when the location of the child is not known and/or an *amparo* appeal (a provision of the Mexican Constitution where a claim is made that a civil right has been violated) is filed. There has been progress in one of those cases.

Mexico has no implementing legislation integrating the Convention into the Mexican legal system. This lack of a legal structure facilitating the Convention's operation is a major obstacle to the Convention's effective implementation in Mexico.

Most cases go a year or more without resolution. The Central Authority does not have law enforcement powers and must rely on federal and state police to locate children. Mexican law enforcement agencies do not consistently undertake serious efforts to locate parentally abducted children. In addition, the *amparo* has been abused by taking parents to block Hague proceedings indefinitely.

These concerns were raised at the 1999 Binational Commission (BNC) meeting, the 1999 follow-up meeting to the BNC, and the 2000 BNC meeting.

**SWEDEN:** Sweden was cited in the previous Compliance Report as noncompliant. Progress has been made in resolving cases and returning children and the Central Authority has been increasingly cooperative. However, the Department of State remains concerned about the commitment of Swedish authorities to act promptly to locate children and enforce return and access orders issued under the Convention. The U.S. Ambassador to Sweden met with Swedish justice officials and appeared on Swedish television to press the U.S. interest in prompt action on Hague cases. In one case, a child was located in Sweden and returned to the United States, but only after a lengthy delay and despite

initial assurances by Swedish authorities that the child was not in Sweden. In another case, after a lengthy period with no progress, Swedish authorities assisted the U.S. Embassy and U.S. law enforcement in a multi-country search that resulted in a child's return to the U.S. from a third country.

One older case continues, nevertheless, to illustrate the potential for disputes over interpretation of the Hague Convention and enforcement of custody orders, which the convention does not address. The Regeringsrätten, the Supreme Administrative Court in Sweden, denied a petition by an American parent for the return of a child to the United States. Return would have been required under an existing U.S. joint custody order that included a consensual agreement that the United States would remain the child's habitual residence and that a U.S. court would maintain continuing and exclusive jurisdiction to resolve all future custody issues, but that allowed the Swedish parent to take the child to Sweden for a two-year period. The Swedish parent filed a petition in a Swedish court seeking to establish sole custody of the child and refused to return the child to the parent in the United States in August 1995, as agreed to in the U.S. custody order. The U.S. parent filed a petition under the Convention with the Swedish Central Authority. Although the lower courts in Sweden ordered the child's return to the United States, the Regeringsrätten found that Sweden had become the child's place of habitual residence, stating that a determination of habitual residence is a finding of fact that cannot be legally agreed upon in advance. The Department protested to the Swedish Ministry of Foreign Affairs that the failure to recognize the United States as the habitual residence was inconsistent with the goals of the Convention and with the fact that the United States was, in fact, the habitual residence when the custody dispute arose. The child has never been returned to the United States. The applicant in this case subsequently obtained a Swedish court order for unsupervised access, but enforcement of the order depends on the acquiescence of the abducting parent who as of the time of this report has not permitted access.

The lack of effective measures in the Swedish judicial system to grant and enforce access rights compounds the negative consequences for the left-behind parent of a judicial decision not to return a child under the Convention. Swedish courts appear reluctant even to consider permitting access in the United States, in spite of the fact that judicial arrangements could be made in the United States to help ensure the return of a child to Sweden. In the absence of contempt of court sanctions, the abducting parent can, in any case, effectively disregard court ordered access.

Senior officials of the Swedish foreign ministry have visited the United States to meet with the U.S. Central Authority and members of Congress to discuss U.S. concerns on Sweden's implementation of the Convention. Despite the resolution of several long-outstanding cases, the failure to grant and enforce access rights, and the lack of effective contempt-of-court sanctions in access cases, and instances where Swedish courts refuse to honor U.S. court orders even when both parents have agreed to a U.S. venue for custody determinations, are areas for continuing concern .

### **Countries of Concern**

**COLOMBIA:** Colombian courts frequently request a home study of the left-behind parent in the United States before ordering a child's return to the United States. Such inquiries go to the merits of custody

and are inappropriate for consideration in the context of a Hague proceeding, and are properly left to the courts of the country of habitual residence, as per Convention Article 16. A Hague Convention case is not a child custody case but a mechanism to return a child to his or her country of habitual residence so that the courts there may decide contested custody issues. In addition, the U.S. Central Authority often has difficulty reaching the Colombian Central Authority and in receiving responses to routine inquiries.

**POLAND:** The Polish Central Authority is extremely cooperative and responsive in its dealings with the U.S. Central Authority. However, the U.S. Central Authority has informed the Polish Central Authority of concerns that the Polish judiciary is not fulfilling its obligations under the Convention.

Hague cases are sometimes not handled expeditiously. Unless there is a voluntary return, children normally remain in Poland during the entire appeals process, which usually takes a minimum of two years. In addition, in almost every Hague case, Polish courts require the left-behind parent to undergo psychological testing, and in many cases have also requested home studies of left-behind parents. Such inquiries go to the merits of custody and are thus inappropriate for consideration in the context of a Hague proceeding, and are properly left to the courts of the country of habitual residence, as per Convention Article 16. Enforcement of Hague decisions is also problematic, as there is no entity charged with enforcement of Hague rulings. Because these are civil matters, police will not intervene to enforce Hague orders.

**SWITZERLAND:** Switzerland is a federal country with powerful cantons. Authorities at the federal level, including the Swiss Central Authority, are cooperative and responsive, but there are problems with cantonal-level governments, courts and child welfare agencies, which have favored the Swiss parent in some international parental abduction cases. While federal authorities understand and take the Hague Convention seriously, there is a reluctance to intervene to enforce U.S. court orders that are in opposition to Swiss (federal or cantonal) court decisions.

In the specific case cited in section (a)(6) below, the Swiss federal court ruled that the child must be returned to the left-behind parent in the United States, and the cantonal court of original jurisdiction rejected the taking parent's appeal of this decision. When the taking parent moved to another canton and jurisdiction was transferred to the new place of residence, this new canton refused to implement the federal court order. In addition, the cantonal court recently ordered a psychological examination of the child. The examination gave considerable weight to statements made by the eight-year-old child, and concluded that return of the child would cause grave psychological harm because the child had by then become integrated in Switzerland. The court has not yet made a ruling subsequent to the psychological examination. As a result of such delays it has been four years since filing of the Hague application for return.

The above-referenced case was raised by the Charge d'Affaires with the highest Swiss non-elected children's issues official in October 1999. The Embassy is preparing to approach cantonal authorities directly. The Embassy maintains ongoing close contacts with the Swiss Central Authority on children's issues.

**Section 2803 (a)(4)** requests "detailed information on each unresolved case described in paragraph (1) and on actions taken by the Department of State to resolve each such case, including the specific actions taken by the United States chief of mission in the country to which the child is alleged to have been abducted." The information requested under this section is attached in Attachment A.

**Section 2803 (a)(5)** requests "information on efforts by the Department of State to encourage other countries to become signatories to the Convention." Working for greater foreign participation in multi-lateral treaties, such as the Hague Convention, is a strategic goal in the FY 1999-2000 Performance Plan of the Bureau of Consular Affairs. The Department avails itself of appropriate opportunities that arise in bilateral contacts to persuade other countries not party to the Convention of the advantages that would derive from ratification or accession. The Assistant Secretary for Consular Affairs routinely raises the Convention in talks with foreign officials on other bilateral consular matters. The Director of the Office of Children's Issues described the advantages of accession to the Convention in an address before the Consular Corps of Washington. The Department maintains a library of talking points and materials for its overseas posts to use in explaining to foreign governments the advantages of adhering to the Convention. The Department and its overseas posts have worked with the following countries in the past year to encourage accession, ratification, or passage of implementing legislation: Costa Rica, El Salvador, Ghana, Guatemala, Japan, Lithuania, Nicaragua, Panama, Peru, and Trinidad. Subsequently, Trinidad acceded to the Convention and Peru's legislature ratified the Convention.

**Section 2803 (a)(6)** requests "a list of the countries that are parties to the Convention in which, during the reporting period, parents who have been left-behind in the United States have not been able to secure prompt enforcement of a final return or access order under a Hague proceeding, of a United States custody, access, or visitation order, or of an access or visitation order by authorities in the country concerned, due to the absence of a prompt and effective method for enforcement of civil court orders, the absence of a doctrine of comity, or other factors."

The reporting period is considered as the period from the date of submission of the last report on April 30, 1999 until July 30, 2000. The information provided is that available to the U.S Central Authority within these dates.

**CANADA:** In one case, local Tribal police refused to enforce a Provincial court order for return of a child.

**GERMANY:** Orders for parental access are sometimes not enforced due to a lack of effective sanctions for failure to comply with orders.

**ISRAEL:** Orders for return have not been enforced due to difficulty in locating the child and taking parent. In several cases, orders for return have been overturned on appeal or not executed because of provisions in the orders requiring guarantees regarding the taking parent's immigration and employment status upon return to the U.S. with the child.

**SPAIN:** In several cases, orders for return have not been enforced because local law enforcement officials have not been aggressive in locating the children.

**SWITZERLAND:** Federal court orders for return and access must be enforced by local officials. In one significant case, local officials have failed to enforce an order for return issued by the federal courts.

**Section 2803 (a)(7)** requests "a description of the efforts of the Secretary of State to encourage the parties to the Convention to facilitate the work of nongovernmental organizations within their countries that assist parents seeking the return of children under the Convention." The Department of State works closely with the National Center for Missing and Exploited Children (NCMEC) through a cooperative agreement and through collaborative efforts in areas not covered by the agreement. The Department has offered to assist the International Center for Missing and Exploited Children (ICMEC) as it expands its overseas presence and work. The Department and ICMEC will continue to explore ways in which the Department can be supportive of ICMEC's work, while ensuring that the ICMEC meets its goal of preserving its identity and integrity as a nongovernmental organization.

## **Attachment A**

LIST OF NUMBER OF APPLICATIONS FOR THE RETURN OF CHILDREN SUBMITTED BY UNITED STATES CITIZENS TO THE CENTRAL AUTHORITY FOR THE UNITED STATES THAT REMAIN UNRESOLVED MORE THAN 18 MONTHS AFTER THE DATE OF FILING.

\*\*The following acronyms are used throughout:

CI - Office of Children's Issues

CA - Foreign Central Authority

LBP - Left-behind parent

TP - Taking parent

Please note that the case summaries below do not include records of Department of State and overseas posts' frequent, continual conversations and meetings with LBP's.

### **AUSTRALIA: CASE 1**

Months Open: 60

Return or Access: Return

Date of abduction or wrongful retention: 12 Jan 95

Date Hague application filed: 19 Jun 95

Has child been located? Yes

Date and results of first court hearing of Hague case:

Feb 96 - Court ordered return.  
Nov 96 - Australian pick-up warrant issued.

Date and results of subsequent appeals:

Jan 98 - Request to file appeal made by TP.  
Feb 99 - Full court of Australian Family Court upheld return order.  
Mar 99 - TP applied to full bench of Family Court for certificate allowing appeal to Australian high court.  
Dec 99 - Australian high court dismissed TP's appeal against order for return.

Actions taken by the Department of State to resolve the case:

Jan 98 - CA notified CI that child located. Arrangements made to pick up child.  
See above for court hearings during this time period.  
Feb 98 to Aug 99 - Letters of protest to CA.  
Mar 99 - Assistant Secretary of State raised case with Australian counterpart.  
Sep 99 - Letter from CI Director to CA's principal legal officer.  
Sep 99 to Feb 00 - Strenuous efforts to locate LBP. LBP informed several times of need to provide signed agreement to undertakings in original order for return.

Actions taken by the Chief of Mission: None

## **BAHAMAS: CASE 1**

Months Open: 56  
Return or Access: Return  
Date of abduction or wrongful retention: 04 Nov 95  
Date Hague application filed: 04 Dec 95  
Has child been located? Yes

Actions taken by the Department of State to resolve the case:

Dec 95 - Embassy requests updates from CA; no response.  
May 96 - Embassy welfare/whereabouts visit.  
Sep 96 - Jul 97 Continued numerous attempts to contact CA; no response.  
Jul 97 - Embassy welfare/whereabouts visit attempted. Embassy sought MFA assistance in gaining consular access.  
Aug 97 - Embassy welfare/whereabouts visit.  
Dec 98 to May 99 - Embassy's requests for updates from CA unanswered.  
May 99 - Embassy contacted Bahamian public prosecutor's office.  
Jun 99 - CI contacted U.S. law enforcement. Embassy discussed extradition for parental kidnapping

charge with Bahamian Attorney General's office.

Dec 99 - CI contacted U.S. law enforcement re extradition.

Mar 00 - Conference call (CI, DOJ, LBP) to discuss extradition. Embassy contacted public Bahamian prosecutor's office.

Mar 00 - Ambassador sent diplomatic note asking for action on case.

Apr 00 - Embassy requested meeting with Deputy Attorney General to follow up on diplomatic note.

Apr 00 - Embassy reported official Ministry of Foreign Affairs/Attorney General response "to ensure that these matters are actively pursued and satisfactorily resolved."

Actions taken by the Chief of Mission: 13 Mar 00 diplomatic note requesting action with this and other long-standing case.

## **BAHAMAS: CASE 2**

Months Open: 26

Return or Access: Return

Date of abduction or wrongful retention: 24 May 97

Date Hague application filed: 01 May 98

Has child been located? Located, but missing again in early 2000.

Date and results of first court hearing of Hague case:

Sep 99 - Supreme Court requested a report from Bahamian social services and U.S. social services. CA only notified CI of court's decision in Apr 00.

Actions taken by the State Department to resolve the case:

Nov 98 - CI sent follow-up fax asking for status.

Dec 98 - CI forwarded documents from CA to LBP for signature.

Sep 99 - When CI called LBP's attorney for update, learned case scheduled for hearing.

Oct 99 to Apr 00 - Embassy repeatedly sought information from CA on court decision; received no answer.

Mar 00 - Ambassador sent diplomatic note asking for action on case.

APR 00 - Embassy requested meeting with Deputy Attorney General to follow up on diplomatic note.

Apr 00 - Embassy reported official Ministry of Foreign Affairs/Attorney General response "to ensure that these matters are actively pursued and satisfactorily resolved."

Jun 00 - CI requested update from Embassy. Child and TP now missing. Bahamian social services working to locate them.

Jul 00 - CI/Embassy emails, LBP to Embassy for meeting with Consul General.

Actions taken by the Chief of Mission: 13 Mar 00 diplomatic note requesting action with this and other long-standing case.

## **CANADA: CASE 1**

Months Open: 56

Return or Access: Return

Date of abduction or wrongful retention: 20 Oct 95

Date Hague application filed: 23 Oct 95

Has child been located? Yes

Actions taken by the Department of State to resolve the case:

Dec 95 - Application sent to CA by local District Attorney.

Mar 97 - CI informed that Superior Court had ordered the children's return to the U.S. but that tribal police on Indian Reserve refused to comply with the court order.

Jul 00 - CA reported that the case had been settled and was awaiting submission of agreement to the court.

Actions taken by the Chief of Mission: None.

## **COLOMBIA: CASE 1**

Months Open: 33

Return or Access: Return

Date of abduction or wrongful retention: 01 Sep 97

Date Hague application filed: 25 Sep 97

Has child been located? Yes

Date and results of first court hearing of Hague case:

Sep 99 - Court ordered return to U.S. Police to enforce the order should the TP not surrender child. Problem due to national strike/riots in Colombia and need for passport from Embassy without transportation within the country or outbound flights.

Dates and results of subsequent appeals:

Sep 99 - Family court magistrate suspended Hague return order, in response to TP appeal. Child to remain in Colombia and new magistrate to decide the case. Sep 99 to Mar 00 - Series of appeals. TP's petitions for custody denied. Court suspended LBP's case for 4-5 months for a review period, as requested by TP.

Actions taken by the State Department to resolve the case:

Note: CI has been actively involved with law enforcement efforts from early on, developing strategies and sharing information.



Mar, Apr 98 - After several unsuccessful attempts to fax CA, using several fax numbers, to confirm order for home study of LBP, mailed update request. Express-mailed update request hard copy along with others to LBP.

Jul to Aug 98 - CA forwarded Article 13b home study via NCMEC. CI contacted social service organizations to help arrange home study.

Aug 98 - FedExed update letter to CA.

Sep 98 - FedExed home study and translation to Embassy for delivery to CA.

Mar 99 - Received letters from CA, stating Hague proceedings were resumed after being interrupted by the January earthquake

See above for court proceedings during this time period.

Actions taken by Chief of Mission: None.

### **MEXICO: CASE 1**

Months open: 73

Return or access: Return.

Date of abduction or wrongful retention: 07 May 93

Date Hague application filed: 12 May 94 (faxed; originals mailed 13 May 94)

Has child been located? Yes

Date child was located (if location problematic or delayed): 07 Aug 96

Date and results of first court hearing of Hague case:

Oct 6-10, 1997 - Hearing scheduled but not held. Reason for postponement/cancellation not provided.

Actions taken by the Department of State to resolve the case:

Jul 94 - Submitted additional documentation to CA.

Nov 94 - CA requested original documents and address/location information.

Dec 94 - Notified CA that LBP was obtaining documents and address on Hague application was accurate.

Mar 95 - CA requested original documents and information on current status of divorce/custody proceedings. Requested documentation from LBP.

Jul 96 - Query to CA re status of case; no response.

Jul 96 - Welfare/whereabouts visit requested to confirm possible location of children. Embassy requested local child protective services (cps) to conduct visit.

Aug 96 - Cps reported location and well-being of children; information sent to LBP; location confirmed to CA.

Jul 97 - Query to CA re status of case; no response.

Aug 97 - Requested CA have cps do another welfare/whereabouts visit; CA requested cps visit.

Aug 97 - Provided CA information regarding children's names and TP location.

Sept 97 - Query to CA re cps visit.

Sept 97 - Requested Embassy raise issue of non-responsiveness with CA.  
Oct 97 - Repeated attempts with CA to find out results of hearing; CA informed CI no hearing had taken place.  
Apr 98, Jun 98 - Query to CA re status of case; no response.  
Oct 98 - CA reported that children had been located and "actions are being taken" for return to U.S.  
Feb 99, Jul 99 - Query to CA re status of case; no response.  
Sept 99 - Query to CA re status of case; CA needed to check with state court re status; no further response.  
Jan 00 - Discussed welfare/whereabouts with LBP.  
Feb 00 - Embassy requested to conduct visit and not refer it to cps; initial difficulty in locating children.  
Apr 00 - Welfare/whereabouts visit conducted; reported to LBP. Relatives possibly open to returning children to U.S. without court order.  
Jun 00 - Embassy requested to pursue discussions with relatives re return of children.

Actions taken by the Chief of Mission: None.

## **MEXICO: CASE 2**

Months open: 57  
Return or access: Return  
Date of abduction or wrongful retention: 09 Sep 95  
Date Hague application filed: 20 Sep 95  
Has child been located? No

Actions taken by the Department of State to resolve the case:

Sep 95 - Hague application filed directly with CA by LBP.  
Sep 95 - Memo to CA requesting immediate action to locate.  
Oct 95 - Additional material from LBP forwarded to CA.  
Oct 95 - CA inquired re CI policy on direct CA-LBP communication; advised there was no objection.  
Nov 95 - LBP requested that Hague application be withdrawn; CA notified that application was withdrawn.  
Feb 96 - Forwarded additional location information to CA, per LBP request.  
Mar 96 - Query to CA re status of case; no response.  
May 96 - Material from LBP forwarded to CA per LBP request.  
May 96 to Jul 96 - CI notified CA re status of U.S. state court actions.  
Feb 97 - LBP requested that Hague case be reinstated.  
Feb 97 - CA notified re local suit; CI requested reactivation of Hague and suspension of suit. Suit suspended.  
Aug 97 - CA requested to have child protective services conduct welfare check; child not located.  
Aug 97 - Discussed case with FBI.  
Sept 97, Oct 97, Jan 98 - Query to CA re status of case, no response.

Feb 98 - Met with CA and discussed lack of progress.  
Apr 98 to Jan 99 - 7 queries to CA re status of case; no response.  
Mar 99, Apr 99 - Requested CA to facilitate LBP access to child.  
May 99 - Called CA to discuss case. CA does not have location information, cannot try to negotiate access.  
May 99 - Assistant Secretary of State includes case in summary of problem cases presented at Binational meeting.  
Jun 99 - Query to CA re status of case; provided information on possible location; no response.  
Jul 99 - Embassy requested to conduct welfare/whereabouts visit.  
Jul 99 - Relative met consular officials; agreed to consider asking TP re consular access.  
Aug 99 - Welfare/whereabouts visit by consular officer in courthouse. Relative refused to provide direct contact information or address.  
Aug 99 - Foreign Ministry responded to case summary presented by Assistant Secretary of State, reporting that case at standstill until child located.  
Sept 99 - Assistant Secretary of State discussed case with counterparts at Binational meeting.  
Sept 99 to Dec 99 - Monthly attempt to contact relative for further visits/information.  
Feb 00 - Contacted International Red Cross, per LBP request, to inquire re possible assistance.  
Mar 00 - Discussed case with CA; attempts to locate on going; CA provided police report re unsuccessful attempts to contact family.  
Mar 00 - Provided LBP with information re court structure and sample of Hague decision.  
Jun 00 - Case again raised by Assistant Secretary of State at Binational meeting.  
Jul 00 - Provided CA with new address information and clarification re LBP's parental rights.

Actions taken by the Chief of Mission: None

### **MEXICO: CASE 3**

Months open: 55

Return or Access: Return

Date of abduction or wrongful retention: Jul 95

Date Hague application filed: 14 Nov 95

Has child been located? No

Date and results of first court hearing of Hague case:

May 96 - Court ordered return, absent appearance of TP and children at the hearing.

Date and results of subsequent appeals:

Nov 96 - Appeal filed, on Constitutional grounds, against President and Foreign Ministry (FM).

Mar 97 - Appeal denied as there were no grounds to file against defendants.

Mar 97 - Denial appeal appealed to Supreme Court.

Jun 98 - Supreme Court remanded Constitutional case to originating federal court for reconsideration

due to technical errors.

Jul 98\* - TP attempted to add new information/points of appeal to case in addition to technical corrections before it was sent back to Supreme Court; request denied.

Sept 98\* - Appeal filed on denial of request to add information to case.

\* Dates approximate; information obtained by CI in Nov 98.

If court ordered return/access, was order enforced?

May 96 - Order not enforced, as TP and children were not located.

Nov 96 - When TP and children were located, TP served with order and pick-up of children attempted; appeal filed to block return.

List of actions taken by the Department of State to resolve the case:

Nov 95 - CA requested translations and documents.

Dec 95 - Notified CA that TP being held in jail in U.S. requested expediting of case.

Dec 95 - Translations of documents sent to CA.

Jan 96 - Query to CA re status of case; no response.

Mar 96 - Query to CA re possible court date; case already sent to judge, no date.

-----See above for court hearings during this time period.

Jul 96, Oct 96 - Query to CA re status; no response.

-----See above for court hearings during this time period.

Dec 96 - Consulate requested to conduct welfare/whereabouts visit; could not locate children.

-----See above for court hearings during this time period.

Jan 98 - Query to CA re case status; no response.

Feb 98 - Consulate requested to conduct welfare/whereabouts visit; after extensive efforts, unable to locate.

Jun 98 - Consulate requested to determine status of case in courts and to conduct welfare/whereabouts visit.

-----See above for court hearings during this time period.

Jun 98 - Letter to Hague Permanent Bureau (HPB) re attempts to question constitutionality of Hague accession.

Jun 98 - HPB reported its attempts to intercede with CA.

Jul 98 - Query to CA re status of case; no response.

Jul 98 - Consulate reported all attempts to do welfare/whereabouts, including seeking assistance from state authorities, failed; family adamant that visit will not occur.

Sept 98 - Consulate began processing diplomatic note re denial of consular access (emphasis on Vienna Convention and bilateral consular convention).

Nov 98 - Diplomatic note sent to Foreign Ministry (FM).

Nov 98 - FM sent diplomatic note to CA for appropriate action; CA sent request for access to state judge.

Apr 99 - Query to CA re case status; no judicial ruling on request for access.

May 99 - Assistant Secretary of State includes case in summary of problem cases presented at Binational meeting.

Aug 99 - Foreign Ministry (FM) responded to case summaries presented by Assistant Secretary of State. Reported that case at standstill until appeal is resolved and children located. FM had concluded that it would have to sue TP in court to obtain consular access to children.

Sept 99 - Assistant Secretary of State discussed case with counterparts at Binational meeting.

Oct 99 - Requested that consulate request visit by child protective services (cps) staff since unable to obtain consular access.

Dec 99 - Called CA re status of FM suit for consular access; brief had been prepared, sent to judge.

Feb 00 - Case discussed with supervisor of CA director; discussed alternatives if suit for consular access was not successful.

Mar 00 - Consulate sent formal request to cps for visit.

Mar 00 - Requested CA supervisor to provide synopsis of where Hague case stands in court.

Jun 00 - Case again raised by Assistant Secretary of State at Binational meeting.

Jun 00 - Cps considers case closed due to reports that family no longer in country.

Actions taken by the Chief of Mission:

Nov 96 - Chief of Mission requested that consular officer express his direct interest in case to CA.

Nov 98 - Diplomatic note sent to Foreign Ministry requesting assistance in obtaining consular access to children.

#### **MEXICO: CASE 4**

Months open: 46

Return or access: Return

Date of abduction or wrongful retention: 18 Oct 95

Date Hague application filed: 09 Aug 96

Has child been located? No

Actions taken by the Department of State to resolve the case:

Note: Throughout case, CI has maintained contact with FBI, discussing case and developing locating strategies as appropriate.

Jul 97 - CA requested additional documents; documents sent.

Oct 97 - Query to CA re case status; no response.

Jan 98 - Query to CA re case status, especially location efforts; no response.

Mar 98 - Query to CA re status of case; provided information on possible location; no response.

Apr 98 - Requested Consulate and FBI assistance in locating.

Jul 98 - Consulate reported that attempts to locate unsuccessful.

Jul 98 - CA requested additional information to assist in location; provided all information available.

Oct 98 - CA again requested additional information to assist in locating; informed no new information

existed.

Mar 00 - Discussed with LBP; agreed to keep Hague case active.

Mar 00 - Discussed case with CA; no new information re location.

Actions taken by the Chief of Mission: None

#### **MEXICO: CASE 5**

Months Open: 44

Return or Access: Return

Date of abduction or wrongful retention: 09 Jan 96

Date Hague application filed: 31 Oct 96

Has child been located? Yes

Actions taken by the State Department to resolve the case:

Aug 97 - Confirmed for CA that LBP was still interested in pursuing return case; reported to LBP that CA needed additional documents.

Sept 97 - Provided confirmed location information to CA.

Sept 97 - Reminded LBP of CA need for documents. LBP declined Embassy welfare/whereabouts visit.

Jan 98 - Query to CA re status of case; no response.

Jan 98 - Reminded LBP that CA needed documents or would close case.

Mar 98 - Notified CA that LBP was attempting to get documents; requested that case file be kept open.

Mar 98 - Sent documents to CA.

Jul 98, Sep 98, Jan 99, Apr 99 Queried CA re status of case; no response.

Jun 99 - CA fax requested "original documents."

Jun 99 - Query to CA asking specifically which documents needed; no response.

Sept 99 - Inquired again which documents needed; CA responded would inform what is needed.

Nov 99 - LBP requested welfare/whereabouts visit; Embassy requested local child protective services (cps) to conduct visit.

Jan 00 - Inquired status of welfare/whereabouts visit; very remote site, local cps still making arrangements.

Feb 00 - Sent welfare/whereabouts report to LBP.

Mar 00 - Query to CA re what documents still needed; CA responded they had no original documents, but thought they might have been sent to state court and would confirm.

Actions taken by the Chief of Mission: None.

#### **MEXICO: CASE 6**

Months open: 44

Return or access: Return

Date of abduction or wrongful retention: 26 Jun 96

Date Hague application filed: 01 Nov 96

Has child been located? No

Actions taken by the Department of State to resolve the case:

Jan 97 - Application with original signature forwarded to CA.

Mar 97 - Query to CA re case status; CA indicated case had not been received; application re-submitted.

Aug 97 - CA requested documents and translations. Embassy delivered material.

Jan 98 - Query to CA on case status. CA requested certified documents; informed CA that these documents had already been submitted.

Mar 98 - LBP notified that additional document may be needed.

Apr 98 - Query to CA on case status; no response.

Oct 98 - CA again requested certified documents, stating they had received only photocopies.

Oct 98 - Certified copy of documents requested from LBP.

Apr 99, Jun 99 - Query to CA on case status; no response.

Nov 99 - Reminded LBP of need for certified copy of documents. Requested Embassy conduct welfare/whereabouts to confirm location.

Dec 99 - Embassy reported that child protective services (cps) attempted welfare/whereabouts, but family not at location provided.

Dec 99 - Welfare/whereabouts request passed to another consular district.

Dec 99 - Discussed other possible leads re location with LBP.

Apr 00 - Requested LBP provide additional information as discussed; no response.

Actions taken by the Chief of Mission: None

## **MEXICO: CASE 7**

Months open: 40

Return or access: Originally for return, LBP changed to access Nov 99.

Date of abduction or wrongful retention: 31 Jul 96

Date Hague application filed: 03 Mar 97

Has child been located? Yes

Date and results of first court hearing of Hague case:

Aug 97 - Hearing held. Judge stated would order return upon pick-up of children; order not signed.

Dates and results of subsequent appeals:

Aug 97 - TP filed appeal blocking pick-up and further CA action.

Oct 97 -Hearing held on appeal.

Nov 97 -Appeal denied; TP and children cannot be located.

Dec 97 - TP and children located, hearing held on return. Judge stated order for return would be issued upon pick-up of children.

Dec 97 - TP filed appeal blocking pick-up and any action from judge.

Actions taken by the Department of State to resolve the case:

Note: Throughout May 97 - Mar 99, CI worked with FBI and Embassy Legal Attaché on location and law enforcement support for LBP.

-----See above for court hearings during this time period.

Aug 97 - CA informed CI that LBP could pursue directly in court. CI informed LBP of option available and need for attorney.

Sept 97 - Query to CA re status of case; no response.

Mar 98 - LBP requested visitation (in foreign country) while appeal in progress; no response.

Jun 98 - CI requested CA that, notwithstanding the appeal, case be heard expeditiously as per Hague Convention.

Jun 98 - Embassy requested to conduct welfare/whereabouts visit; Embassy reported that child protective services (cps) approval required for visit.

Jul 98 - Query to CA re status of case. Requested CA ask cps to authorize consular visit; no response.

Jul 98 - Embassy attempted welfare/whereabouts visit.

Sept 98 - Query to CA re status of case; no response.

Sept 98 - Welfare/whereabouts visit conducted by Embassy at lawyer's office.

Oct 98 - Spoke with CA re status of case. CA reported that parents were willing to sign agreement re visits with conditions.

Oct 98 - LBP spoke with Embassy re Sep 98 welfare/whereabouts visit; asked Embassy to follow-up on possible access arrangements.

Nov 98 to Dec 98 - CI and Embassy facilitate delivery of LBP's holiday gifts.

Jan 99 - Called CA re case status; no response.

Jan 99 - Embassy conducted welfare/whereabouts visit at lawyer's office.

Feb 99 - Request to CA for case status update; nothing new.

Apr 99 - Embassy requested to conduct welfare/whereabouts visit in the home and convey LBP's continued interest.

May 99 - Assistant Secretary of State included case in summary of problem cases presented at Binational meeting.

May 99 - Letter requesting LBP visitation with children sent to CA by NGO; no response.

Aug 99 - Welfare/whereabouts visit conducted in attorney's office.

Aug 99 - Discussed case with LBP; confirmed LBP's goals re access rather than return.

Aug 99 - Foreign Ministry responded to case summary presented by Assistant Secretary of State, reporting that case at standstill until lawsuit and appeal are resolved.

Sept 99 - CA indicated that despite the lawsuit and appeal, it could get involved in the access case.

Sept 99 - Assistant Secretary of State discussed case with counterparts at Binational meeting.

Nov 99 - Official notification of conversion of case from return to access sent to CA.



Feb 00 - Query to CA re case status; told Director would contact with update; no contact.  
Mar 00 - Query to CA re case status; legal briefs had been prepared and case had gone to judge.  
Mar 00 - Contacted supervisor of CA; agreed that case ought to move forward quickly as access case; would investigate delays.  
Apr 00 - CA notified CI that judge had ruled that appeal had been denied and judge now reviewing briefs.  
Jun 00 - Case again raised by Assistant Secretary of State at Binational meeting.

Actions taken by the Chief of Mission: None

### **MEXICO: CASE 8**

Months open: 36  
Return or access: Return  
Date of abduction or wrongful retention: 01 Aug 93  
Date Hague application filed: 23 Jun 97  
Has child been located? Yes

Actions taken by the Department of State to resolve the case:

May 97 - LBP first contacted CI; discussed case.  
Jun 97 - Partially completed Hague application filed with CA .  
Jul 97 - LBP notified of documents still needed .  
Sept 97, Dec 97 - LBP requested to submit required documents.  
Dec 97 - Query to CA re status of case; requested CA keep file open even though incomplete; no response  
Feb 98, Jun 98 - Query to CA re status of case; no response.  
Aug 98 - Received additional documents from LBP; translations still needed.  
Sept 98 - Query to CA re status of case; no response.  
Sept 98 - Received additional documents from LBP.  
Oct 98 - Additional documents submitted to CA.  
Nov 98 - Received translations from LBP; sent to CA.  
Nov 98 - Sent new location information to CA.  
Nov 98 - Query to CA re status of case; no response.  
Mar 99 - Query to CA re status of case; responded with need for additional documents and translations.  
Mar 99 - CA told that documents requested had already been sent, but copies were re-sent.  
May 99 - Assistant Secretary of State included case in summary of problem cases presented at Binational meeting.  
Aug 99 - Foreign Ministry responded to case summaries presented by Assistant Secretary of State, reporting that case at standstill until original documentation submitted.  
Aug 99 - Requested CA to notify as to documents still needed; response included same list as that sent Mar 99, plus one additional document.

Aug 99 - LBP asked to provide documents as requested.  
Sept 99 - Assistant Secretary of State discussed case with counterparts at Binational meeting.  
Sept 99 - LBP submitted requested documentation; sent to CA.  
Sept 99 - Confirmed with CA that file was complete.  
Mar 00 - Query to CA re status of case; being processed by CA for submission to court.  
Jun 00 - Case again raised by Assistant Secretary of State at Binational meeting.

Actions taken by the Chief of Mission: None

#### **MEXICO: CASE 9**

Months Open: 36  
Return or Access: Return.  
Date of abduction or wrongful retention: 21 Mar 97  
Date Hague application filed: 23 Jun 97  
Has child been located? No

Actions taken by the Department of State to resolve the case:

Jul 97 - Query to CA to verify receipt of original documents.  
Aug 97 - CA responded that original documents had not been received, only copies.  
Aug 97 - Documents sent to CA; notice remainder will be sent.  
Oct 97 - CA requested state law on custody and translation.  
Nov 97 - Sent requested material to CA.  
Feb 98 - Information sent to CA re possible location.  
Jan 98 - CA requested documents.  
Feb 98 - Material sent; reported translation would be sent.  
Mar 98 - Sent translation to CA; notified CA that this should complete all required documentation; sent additional information re possible location.  
Jul 98 - Query to CA re status of case; no response.  
Oct 98 - Query to CA re status of case; CA again requested translations.  
Nov 98 - Sent translations to CA.  
Mar 99 - CA again requested translation and clearer photograph of TP.  
Apr 99 - Sent CA packet including copies of all material sent to CA from Mar 98 to Mar 99.  
Nov 99 - CA requested certified copy custody order and translations.  
Jan 00 - Court order received from LBP and sent to CA.  
Mar 00 - Discussed case with CA; location of child not yet confirmed.

Actions taken by the Chief of Mission: None.

#### **MEXICO: CASE 10**

Months open: 32

Return or access: Return

Date of abduction or wrongful retention: 28 Feb 96

Date Hague application filed: 27 Oct 97

Has child been located? Yes

Date and results of first court hearing of Hague case:

Jun 98 - Hague hearing held. Return denied, apparently due to lack of exercise of custody rights.

Dates and results of subsequent appeals:

Jul 98 - Ruling appealed.

Feb 99 - Appeal won; court ordered remand to lower court for re-hearing because child did not have own legal representation.

Mar 99 - Appealed the remand to lower court; direct order of return of child to U.S. requested.

Feb 00 - Appeal lost; case remanded to lower court to be re-heard once child appointed separate legal representation.

Actions taken by the Department of State to resolve the case:

Aug 96 - Partial Hague application sent to CA.

Mar 97 - CA requested translation of documents.

Apr 97 - Translation of some documents sent to CA.

Jun 97 - Query to CA re status of case; provided list of documents needed to complete file.

Jul 97 - Notified LBP of documents needed.

Aug 97 - Query to CA re status of case; case had been forwarded to state court; CA requested to contact state to determine status.

Aug 97 - CA reported that court needed missing documents.

Oct 97 - Required documents sent to CA to send to court.

Jan 98 - Informed CA that LBP was going to be in country.

Mar 98 - LBP reported that state officials still needed documents sent to CA in Oct 97; re-sent documents.

-----See above for court hearings during this time period.

Jul 98 - Consulate provided LBP with lawyer's list.

Sept 99 - Consulate requested to conduct welfare/whereabouts. Reports and photos sent to LBP.

Nov 99 - CI and Consulate facilitated visit by LBP with child and communication with TP.

Mar 00 - Discussed case with CA; CA requested psychological evaluation.

Apr 00 - Provided LBP with state-level contacts in law enforcement.

Actions taken by the Chief of Mission: None

**MEXICO: CASE 11**

Months open: 30

Return or access: Return

Date of abduction or wrongful retention: 08 May 97

Date Hague application filed: 17 Dec 97

Has child been located? Yes, but now missing.

Actions taken by the Department of State to resolve the case:

Note: CI has been actively involved with law enforcement efforts from early 1999 to date, developing strategies, and sharing information.

Jul 97 - LBP contacted CI re abduction; options discussed.

Sept 97 - Advised LBP to get Article XV determination if Hague application to be pursued.

Nov 97 - Passport hold placed.

Nov 97 - Query to foreign immigration.

Dec 97 - Hague application filed with CA, including Article XV determination.

Feb 98 - Query to CA re status of case, indicating potential flight risk of TP; no response.

Mar 98 - Forwarded information from LBP to consular agent.

Jun 98 - Foreign embassy confirmed, in response to congressional interest, that CA had sent case to appropriate court.

Jun 98 - Query to CA re status of case; no response.

Jun 98 - Request consular agent to confirm submission of case to court.

Jul 98 - Consular agent reported that case had not been sent to court; confirmed that it was still at CA.

Jul 98 - Query to CA re status of case, seeking clarification of conflicting information. CA informed CI that case had been sent to court; judicial authorities were seeking to confirm location; CA agreed to request immediate pick-up of child when located.

Jul 98 - CA requested additional documents.

Aug 98 - CA informed CI that prosecutors had agreed to hasten the processing of the case.

Aug 98 - Additional documents forwarded to CA.

Sept 98 - Queries to CA re status of case; no response.

Oct 98 - Discussed status with CA; again stated case would be dealt with as quickly as possible.

Oct 98 - CA reported that judicial police had not been able to locate.

Nov 98 - Provided CA with all location information available.

Dec 98 - Case moved to family court, accurate address determined.

Dec 98 - Officials attempted to pick-up child, family had gone.

Jan 99, Mar 99 - Query to CA re case status; no response.

May 99 - Case included in summary of problem cases presented by Assistant Secretary of State at Binational meeting.

Jul 99 - Query to CA re case status; child not located.

Aug 99 - Foreign Ministry responded to case summaries presented Assistant Secretary of State; reported that case at standstill until child is located.

Sept 99 - Case discussed by Assistant Secretary of State with counterparts at Binational meeting.

Mar 00 - Discussed case with CA; no progress in locating despite efforts of federal and judicial police.  
Jun 00 - Case again raised by Assistant Secretary of State at Binational meeting.

Actions taken by the Chief of Mission: None

#### **MEXICO: CASE 12**

Months open: 29

Return or access: return

Date of abduction or wrongful retention: 02 Dec 97

Date Hague application filed: 31 Jan 98

Has child been located? No

Actions taken by the Department of State to resolve the case:

Jan 98 - Information re options provided to LBP.

Jan 98 - Hague application filed with CA by county District Attorney's office.

Mar 98 - Spoke with DA's office re case; DA's office told by CA that case had gone to judge.

Apr 98 - Query to CA re case status and whether it has been sent to court; no response.

May 98 - CA notified that scheduled pick-up order for child did not occur; requested translations; request forwarded to DA's office.

Jun 98 - CA notified DA's office child not at stated address.

Aug 98 - Query to CA re case status of case; no response.

Sept 98 - Discussed case with CA; alternative address provided.

Oct 98 - CI notified by CA police attempting to locate child.

Nov 98 - Notified CA likely location of TP and child on specific day.

Jan 99 - Query to CA re case status of case; no response.

May 99 - Assistant Secretary of State included case in summary of problem cases presented at Binational meeting.

Aug 99 - Foreign Ministry responded to case summaries presented by Assistant Secretary of State, reporting that case at standstill until original documentation submitted.

Aug 99 - Met with LBP to discuss status of case; what can be done to pressure re locating.

Sept 99 - CA requested to conduct after hours search at possible address; agreed to do so.

Sept 99 - Assistant Secretary of State discussed case with counterparts at Binational meeting.

Oct 99 - CA reported unable to locate child.

Nov 99 - Discussion with CA re location efforts.

Dec 99 - CA reported unable to locate child.

Jun 00 - Case again raised by Assistant Secretary of State at Binational meeting.

Actions taken by the Chief of Mission: None

#### **MEXICO: CASE 13**

Months open: 28

Return or access: Return

Date of abduction or wrongful retention: 11 Jan 98

Date Hague application filed: 24 Feb 98

Has child been located? No

Date and results of first court hearing of Hague case:

Apr 98 - Judge ordered federal police to locate.

Date and results of subsequent appeals:

May 98 - Judge ordered judicial police to assist in location efforts.

Jul 98 - TP notified re Hague application and pending hearing.

Jul 98 - TP filed appeal blocking actions of CA.

Actions taken by the Department of State to resolve the case:

Note: Throughout Feb 98 - Oct 98, CI worked with local police, FBI and Embassy Legal Attaché.

Feb 98 - Contacted by congressional office re abduction; information sent to LBP.

Feb 98 - Discussed case with local police and FBI re filing criminal charges.

Mar 98 - Foreign embassy called CI re case; foreign embassy responding to U.S. congressional interest.

Mar 98 - CA sent case to judge.

Apr 98 - CI notified by CA that TP and child not at address.

Jun 98 - Discussed case with Hague Permanent Bureau representative re LBP complaint. Permanent Bureau asked CA for assurance that case was being handled in accordance with Hague procedures.

Jun 98 - CI sent CA new information on possible location of child.

Jul 98 - Consulate requested to attempt welfare/whereabouts.

Jul 98 - Query re case status sent to CA; no response.

Aug 98 - Law enforcement reported child may have been located, informed CA; also reports that TP filed some "papers"; query to CA re papers filed and case status.

Sept 98 - Query to CA re case status; no response.

Oct 98 - Discussed case with CA; told of above court sequence for first time.

Oct 98 - CA notified CI of inability to locate child; CI sent query as to how that is possible with recent judicial action by TP.

Nov 98 - LBP asked Embassy to request welfare/whereabouts visit.

Mar 99 - Welfare/whereabouts visit refused by relative.

Jan 99 - Called CA for case status report; no answer.

May 99 - Called CA to discuss case.

May 99 - Case included in summary of problem cases presented by Assistant Secretary of State at Binational meeting.

Jun 99 - Forwarded updated location information to CA.  
Aug 99 - Foreign Ministry responded to case summaries presented by Assistant Secretary of State; reported that case at standstill until appeal is resolved.  
Sept 99 - Case discussed by Assistant Secretary of State with counterparts at Binational meeting.  
Feb 00 - Updated location information passed to CA. LBP declined attempt at welfare/whereabouts.  
Mar 00 - Discussed case with supervisor of CA director.  
Jun 00 - Case again raised by Assistant Secretary of Binational meeting.

Actions taken by the Chief of Mission: None

#### **MEXICO: CASE 14**

Months open: 24  
Return or access: Return  
Date of abduction or wrongful retention: 09 Feb 97  
Date Hague application filed: 28 Jun 98  
Has child been located? No

Actions taken by the Department of State to resolve the case:

Jun 97 - Received Hague application, without supporting documents, from county District Attorney (DA)'s office.  
Jul 97, Sept 97, Apr 98 - Contacted DA re additional documents needed.  
Jun 98 - Received complete application; filed with CA.  
Jul 99 - Confirmed with DA's office that no new information re location or case status was available.  
Nov 99 - Provided CA new information re aliases and additional information re possible location.  
Mar 00 - Query to CA re status of case; location still unconfirmed.

Actions taken by the Chief of Mission: None

#### **MEXICO: CASE 15**

Months open: 23  
Return or access: Return  
Date of abduction or wrongful retention: 23 May 98  
Date Hague application filed: 13 Jul 98  
Has child been located? Yes

Actions taken by the Department of State to resolve the case:

Jul 98 - Filed Hague application (submitted by county District Attorney's office) with CA.  
Jul 98 - Provided CA new location information from LBP.  
Oct 98 - Query to CA re status of case; no response.

Jan 99 - Case submitted to court. Court requested notarized copies of documents from DA's office; submitted.

Feb 99 - Court asked DA's office for proof of signature of foreign authority that had signed Hague treaty.

Mar 99 - Protested to CA re Jan and Feb requests from court as being outside scope of Hague requirements; requested CA inform judge as to appropriate procedures. No response.

Jul 99, Sept 99 - Query to CA re status of case; no response.

Mar 00 - Query to CA re status of case. Case with judge; no progress noted.

Actions taken by the Chief of Mission: None

#### **MEXICO: CASE 16**

Months open: 23

Return or access: Return

Date of abduction or wrongful retention: 01 Aug 96

Date Hague application filed: 30 Jul 98

Has child been located? No

Actions taken by the Department of State to resolve the case:

May 98 - CI provided information to LBP on options available, including possible problems with Hague application

Jul 98 - Hague application filed with CA.

Nov 98 - CA requested additional documents.

Jan 99 - Documents sent to CA. Case status update requested; no response.

Apr 99, Jul 99 - Query to CA re status of case; no response.

Sept 99 - Discussed case with CA; unable to locate.

Oct 99 - Request from LBP for welfare/whereabouts visit sent to Consulate.

Nov 99 - Consulate attempted welfare/whereabouts visit based on information from LBP; unable to locate.

Jan 00 - Consulate attempts to locate unsuccessful.

Mar 00 - Discussed case with CA; child not located.

Apr 00, Jun 00, Jul 00 - Consulate attempts to locate unsuccessful.

Actions taken by the Chief of Mission: None

#### **MEXICO: CASE 17**

Months open: 22

Return or access: Return

Date of abduction or wrongful retention 07 Mar 97



Date Hague application filed: 03 Aug 98

Has child been located? No

Actions taken by the Department of State to resolve the case:

Dec 98 - Query to CA re status of case; no response.

Mar 99 - CA requested additional documents.

Apr 99 - Sent requested material to CA.

Jun 99 - Query to CA re status of case; no response.

Jul 99 - CA requested certified copies and translations.

Aug 99 - Informed CA documents had been requested from LBP; sent interim copies.

Oct 99 - Query to CA re status of case; child not located.

Dec 99 - Referred LBP to law enforcement.

Mar 00 - Query to CA re status of case; child not located.

Apr 00 - Reminded LBP of need for certified documents to complete file.

Actions taken by the Chief of Mission: None

#### **MEXICO: CASE 18**

Months open: 20

Return or access: Return

Date of abduction or wrongful retention: 02 Feb 97

Date Hague application filed: 28 Oct 98

Has child been located: No

Date and results of first court hearing of Hague case:

Apr 99 - Hearing scheduled; per LBP request, postponed until May 99.

Jun 99 - No decision made. TP did not appear in court with child due to problem with pick-up of child prior to hearing.

Date and results of subsequent appeals:

Aug 99 - TP filed appeal against further court action; CA and CI not notified by judge until Feb 00.

Actions taken by the Department of State to resolve the case:

Aug 98 - LBP contacted Consulate re conducting a welfare/whereabouts visit.

Oct 98 - LBP filed Hague application with CA via state District Attorney (DA) 's office.

Jan 99 - Served as liaison between LBP and DA's office.

Jan 99 - Assisted LBP in arranging visitation with TP; monitored first visit; TP agreed to weekly visitation.

Feb 99 - Consulate and LBP discussed alternative court methods to proceed with case.  
Mar 99 - Discussed with DA ways to move case forward.  
Mar 99 - CA informed CI that case had been sent to state court; LBP notified.  
Mar 99 - Per LBP, TP cut off visitation; discussed alternative.  
Apr 99 - CA notified CI hearing to be held 4/99; LBP notified.  
-----See above for sequence of court hearings during this time period.  
Jul 99 - Query to CA re status of case; no response.  
Jul 99 - Query to CA for clarification of issues raised in hearing (pick-up of children and qualifications of judge); no response.  
Oct 99 - Query to CA re status; child not located. Asked re issues raised in Jul faxes; CA discussed pick-up order problem with judge.  
Feb 00 - CA notified DA's office that appeal was filed against the case in Aug 99; judge just notified CA.  
Mar 00 - Discussed appeal with DA's office.  
Jul 00 - Agreed to LBP's request re welfare/whereabouts visit by Embassy.

Actions taken by the Chief of Mission: None

#### **PANAMA: CASE 1**

Months Open: 22  
Return or Access: Return  
Date of abduction or wrongful retention: 14 Aug 98  
Date Hague application filed: 31 Aug 98  
Has child been located? Yes

Date and results of first court hearing of Hague case:

Nov 98 - Hearing scheduled. Postponed until Jan 99 because court did not obtain a translator.

Date and results of subsequent appeals:

Apr 99 - Lower court ordered child's return to U.S.  
Apr 99 - Government ministry, former employer of TP, appealed decision on behalf of TP.  
Jan 00 - Superior court overruled the lower court decision, denying the return.

Actions taken by the Department of State to resolve the case:

Nov 98 - CA notified CI of 11/27 hearing date.  
Jan 99 - Asked CA for results of the hearing.  
-----See above for court hearings during this time period.  
Feb 00 - Embassy and LBP met with CA.

Feb 00 to present - Embassy continued to express concerns about case with Ministry of Foreign Affairs.

Actions taken by the Chief of Mission: None

**POLAND: CASE 1**

Months open: 20

Return or access: return

Date of abduction or wrongful retention: 28 Aug 98

Date Hague application filed: 01 Oct 98

Has child been located? Yes

Date of and results of first court hearing of Hague case:

Jan 99 - Hearing scheduled January 6. Postponed to January 29. Postponed to March 1 pending psychological examination of both parents.

Mar 99 - March 1 hearing postponed to March 24 because LBP not available for psychological exam.

Mar 99 - Court denied return.

Date and results of subsequent appeals:

Jun 99 - Lower court decision repealed; court must re-examine case.

Sep 99 - Hearing scheduled. Postponed to Nov 99 pending psychological exam of LBP

Jan 00 - At hearing, both parents agreed to suspend Hague proceedings pending negotiations. One child returned to U.S. with LBP.

Actions taken by the Department of State to resolve the case:

Oct 98 to Jan 00 - Many faxes to CA urging expeditious scheduling. Obtained information for LBP on enforcing negotiated settlement in Poland. Urged LBP to comply with Poland's requirement for obtaining Polish passport for child, allowing child's exit.

Actions taken by the Chief of Mission: None.

**POLAND: CASE 2**

Months Open: 18

Return or Access: Return

Date of abduction or wrongful retention: 24 Aug 98

Date Hague application filed: 15 Jan 99

Has child been located? Yes

Date and results of first court hearing of Hague case:

Mar 99, Jun 99 - Application for return denied.

Dates and results of subsequent appeals:

(Date unknown) - Appeal filed.

Oct 99 - Appeals hearing scheduled.

Jan 00 - CA notified CI that appeals court upheld lower court denial of return.

Actions taken by the Department of State to resolve the case:

Jul, Aug, Sept 99 - Faxes CA, calling their attention to error in Polish translation of the Convention. No response.

Oct 99 - Called the error in translation to the attention of the Hague Permanent Bureau.

April 00 - Asked LBP if appeal would be filed with Supreme Court; no response.

Nov 99 - CA acknowledges error in translation and initiates correction.

Actions taken by Chief of Mission: None.

#### **SPAIN: CASE 1**

Months Open: 60

Return or Access: Return

Date of abduction or wrongful retention: 01 Mar 95

Date Hague application filed: 12 Jun 95

Has child been located? Yes

Date and results of first court hearing of Hague case:

Feb 96 - Lower court ordered return.

Date and results of subsequent appeals:

Jun 96 - Appeals court upheld decision for return made by lower court.

Jul 99 - TP's most recent motion to vacate judgement rejected. Order to return has not been enforced.

Actions taken by the Department of State to resolve the case:

Jun 95 to Jul 99 - Requested status update from CA on efforts to locate child. CI and Embassy provided information regarding whereabouts, in order for pick up to be accomplished per court's order.

Actions taken by the Chief of Mission: None.

#### **SPAIN: CASE 2**

Months Open: 50

Return or Access: Originally application for return. Request by LBP directly to CA to convert to application for access in Jun 99.

Date of abduction or wrongful retention: 21 Nov 95

Date Hague application filed: 05 Apr 96

Has child been located? Yes

Date and results of first court hearing of Hague case:

Sep 97 - CI notified by CA that lower court denied return.

Date and results of subsequent appeals:

Jul 99 - Appeals court upheld lower court decision.

Actions taken by the Department of State to resolve the case:

Mar 97 - LBP submitted Spanish translations of documents.

Jun 99 - After application for return was denied, LBP contacted CA to request application be converted to application for access. CA requested formal application accompanied by access proposal.

Jun 00 - Application received by CI and forwarded to CA.

#### **SWITZERLAND: CASE 1**

Months open: 45

Return or Access: Return

Date of abduction or wrongful retention: Sep 96

Date Hague application filed: 01 Oct 96

Has child been located? Yes.

Date and results of first court hearing of Hague case:

Jul 97 - Court ordered return to U.S.

Date and results of subsequent appeals:

Jul 97 to present - Numerous appeals and decisions in federal and cantonal courts. No resolution.

List of actions taken by the Department of State to resolve the case:

May 97 - Sent status check request to CA.

Jul 97 - Faxed inquiry to CA, asking whether TP aware of return order. CA responded TP's attorney of town but will check when attorney returns.

Aug 97 - CA provided TP's response to LBP concerns. CA reported TP lost appeal; return order valid.

Aug 97 - CI forwarded to CA LBP's questions about picking up child.  
Sep 97 - CA requested information on a U.S. court proceeding  
Sep 97 - CA faxed status report; working with local law enforcement on return.  
Oct 97 - CA reported LBP pick up unsuccessful.  
Oct 97 - CA reported LBP's attorney working with local law enforcement. CA also spoke to local officials about Hague and custody issues. CA requested information re post-return situation in U.S.  
Jul, Aug 98 - Requested updates. CA responded appeal pending, therefore no execution of order.  
Oct 98 - Fax to CA requesting update.  
Oct 98 - Received fax from CA advising that Supreme Court rejected TP's appeal and decided in LBP's favor. Question now is enforcement.  
Nov 98 - Faxed CA asking for update on progress and timing of enforcement.  
Nov 98 - CA faxed status report; LBP motion to declare return decree. enforceable and order measures to enforce will be filed in local court.  
Dec 98 - CI requested information from CA about obstacles to judicial action.  
Dec 98 - CA reported case settled but arrangements are needed to ensure the child's safe return. Concerned whether LBP would travel to pick up child.  
Jan 99 - CI conveyed LBP's concerns about traveling again.  
Feb 99 - Faxed CA asking about LBP's travel. Also inquired whether judge in enforcement case had withdrawn because of conflict of interest.  
Mar 99 - Jurisdiction transferred to different court.  
Jun 99 - CI requests update on enforcement of return order. CA responds.  
Aug 99 - CI requests update.  
Sep 99 - CA informs CI that court ordered child's examination by psychiatrist.  
Sep 99 to Jul 00 - CA and CI communicate; no change in case status.  
Jul 00 - Court receives expert opinion that child not be returned to U.S.

Actions taken by Chief of Mission: In October 1999, Charge d'Affaires raised case in meeting with highest non-elected children's issues official.