1999 Compliance Report

1999 Report on Compliance with the Hague Abduction Convention

INTRODUCTION:

As mandated by Section 2803 of Public Law 105-277 (Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1998), the following is a report on compliance by signatory countries with the Hague Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25,1980 (the Convention).

Section 2803(aXl) mandates that this report Include the "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 filings" A clarification should be made with regard to whether the applications were filed by United States citizens. The Convention does not address nationality and it is not a requirement that a parent be a United States citizen to file an application with the United Stites Central Authority. In many cases noncitizen parents have applied under the Convention for return of their child(ren) who may pr may not be U.S. citizens. The United States Central Authority does not have a tracking system that classifies individuals based on citizenship. This report, therefore, pertains to applications filed by citizen and noncitizen parents.

As required, this report includes discussion of unresolved applications filed with 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 the above circumstances, the U.S. Central Authority may never know about such a request and its disposition. Additionally, it should be noted that the cases covered by this report include applications for return of a child to the United States (outgoing cases) as well as those for return of a child from the United States to another state party (incoming cases). It should be noted that, with regard to outgoing cases, the term "filing" is interpreted to mean the act of sending the application to the Central Authority of the appropriate country. The U.S. Central Authority considers the filing date to be the date on which an application is forwarded to the appropriate Central Authority, rather than the date of initial receipt of an application, because in many cases supplementary materials must be obtained from the applicants before the applications are considered complete. On incoming cases the date that an application is received by the U.S. Central Authority and entered into the case tracking system is used for the "date of filing".
With regard to the turn "unresolved," it must be understood that cases that are determined by the U.S. Ceniral Authority to be 4"closed" are considere4 resolved and, therefore, not included in this report.

RESPONSE TO SECTION 2803(a):

Section 2803(a)(l): Taking into account the above clarifications, there are currently 56 outgoing applications and 28 incoming applications that remain unresolved 18 months after the date of filing.

Section 2803(a)(2): The following is a list of countries, which have applications that remain unresolved 18 months after the date of filing: Australia, Austria, Bahamas, Chile, Colombia, Ecuador, France, Germany, Israel, Mexico, Panama, Poland, Spain, Sweden, Switzerland, United States.

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 fir the return of children submitted by United States citizens to the Central Authority for the United States." The term "pattern of noncompliance" could be interpreted to refer only to those countries from which U.S. applicants have been unable to obtain required assistance over an extended period of time. However, such a narrow interpretation seems inconsistent with the purpose of this report. In order more fully to inform Congress of the noncompliance that exists with regard to the Convention, a more inclusive interpretation is appropriate. This report therefore identifies those countries that the Department has found to be in violation of their obligation under the Convention, or about whose implementation of the Convention the Department has expressed serious concerns, irrespective of the number of applicants concerned or the period of time involved. Specifically, Austria, Honduras, Mauritius, Mexico and Sweden are considered by the Department of State to be noncompliant using this standard.

AUSTRIA: The Department delivered a formal diplomatic note in November 1998, raising the issue of apparent lack of understanding among the Austrian judiciary about the aims of the Convention and, consequently, questions as to whether the Austrian Central Authority has adequately undertaken to educate the Austrian judiciary about the Convention generally, and, in particular, about she necessity for expeditious handling of cases filed under the Convention. Additionally, the U.S. Central Authority for the Convention and a representative from the Office of the Legal Adviser met with the Austrian Central Authority in March 1999 to discuss the issue of Austria''s compliance with the Convention.

HONDURAS: Honduras has been a party to the Hague Convention since June 1, 1994. However, the Honduran government states that there was an error in their domestic proceedings during the ratification and that the Convention has neither been approved by the Honduran congress nor ordered to be published in their public record as required by Honduran law. Therefore, it has taken no action with regard to applications for assistance pursuant to the Convention. In January 1999, the Department of State contacted the Permanent Bureau of the Hague Conference on Private International Law, for clarification of Honduras''s status under the Convention, and instructed our embassy in Honduras to contact the Honduran Central Authority to reiterate our position that the Convention is in force and to ask what actions their government is taking to comply with their obligations under the Convention.

MAURITIUS: Mauritius deposited a declaration of accession to the Convention on March 23,1993 and the United States accepted the accession on July 16,1993. However, In an October 1998 decision by the Mauritian Supreme Court involving an application under the Convention filed by an applicant from the

U.S., tie court stated that the Convention "is not part of our law and that this court is not bound to give effect to its provisions." The U.S. Central Authority requested assistance from the Hagu Conference Permanent Bureau and sent a letter to the Attorney General''s office in Mauritius stating that, since the government of Mauritius had deposited its letter of accession to the Convention with the Netherlands Ministry of Foreign Affairs and the U.S. government had accepted the accession of Mauritius, the Convention is in force between the two countries. The letter requested that the Central Authority of Mauritius take ail appropriate steps to ensure the proper implementation of the Convention. Subsequently, the Department delivered a diplomatic note to the Mauritian Ministry of Foreign Affairs and International Trade, reiterating the points made by the U.S. Central Authority end requesting the Ministry to respond. The Attorney General of Mauritius recently met with the U.S. Ambassador and Indicated that the State Law Office had originally briefed the court wit incorrect information and has made subsequent "interventions" to advise the court that the Convention is in force for Mauritius.

MEXICO: In view of the large number of unresolved applications for return of children from Mexico, 33 of the 56, the Department considers Mexico to have demonstrated a pattern of noncompliance with the obligations of the Convention. Ongoing efforts by the Department of State to address Mexico''s lack of compliance include: a meeting of the Director of the Office of Children''s Issues and the Mexican Central Authority in May 1997; attendance in January 1998 of a representative of the U.S. Central Authority at a binational meeting on child abduction organized by California''s Attorney General''s office and the Mexican Consulate in San Diego; a November 1998 meeting involving a representative of the United States Central Authority, the Mexican Central Authority and Mexican Foreign Ministry officials.

SWEDEN: The Department has determined that Sweden is in violation of its obligations under the Convention based on a demonstrated pattern of noncompliance with regard to its obligation under Article 7 of the Convention to take all appropriate measures to discover the whereabouts of children wrongfully removed to or retained in Sweden. The Department of State sent a diplomatic note to the Swedish Foreign Ministry in July 1998, objecting to the lack of compliance with Article 7 of the Convention, and requesting urgent remedial action. More recently, the United States Central Authority and a representative from the Office of the Legal Adviser met with the Swedish Central Authority and a representative of the Swedish tax authority in March 1999 to reiterate the concern of the U.S. regarding Sweden''s lack of compliance with its obligations under the Convention, particularly its obligation under Article 7.

Furthermore, the Regeringsratten Supreme Administrative Court denied the return of a child to the United States notwithstanding an existing U.S. custody order which included a consensual agreement that the state in the U.S. would remain the place of the child''s habitual residence and the U.S. State court would maintain continuing and exclusive jurisdiction to resolve all future custody issues. When the abducting parent refused to return the child to the left behind parent as agreed to in the U.S. State custody order, the left-behind parent filed a petition under the Convention directly with the Swedish Central Authority. Although the lower courts in Sweden ordered the child''s return to the United States, the Regeringsratten found that Sweden was the child''s place of habitual residence, based on the holding that a determination of habitual residence is a finding of fact that cannot be legally agreed upon in advance. In response to the decision, the Department delivered a diplomatic note to the Swedish Ministry of Foreign Affairs stating

that the United States considers Sweden to be in violation of its obligations under the Hague Convention by failing appropriately to respect the original U.S. State court order.

Section 2803(a)(4): The information requested under this section is attached. Details relating to unresolved applications for return of children from other countries are found in Attachment A; details relating to unresolved applications for return of children from the United States are in Attachment B. Any information (e.g. names, country, actions taken by an applicant parent, etc.) that might identify a case to the abducting parent, or to others, has been removed to protect the children and applicant parents.

Section 2803(a)(5) requests information on efforts by the Department of State to encourage other countries to become parties to the Convention. In July 1997, the Department requested posts in all countries not party to the Convention to approach the host government to urge ratification or accession as appropriate. The Department requested posts to invite the host governments to consider the advantages of adherence to the Convention, noting the strong commitment that the United States has to increasing the number of states party to the Convention. In December 1997, the Department followed up the original demarche instructions with a country-specific approach, targeted at those conies whose accession to the Convention the Department judged would be most useful and effective: Brazil, Peru, the Philippines, Russia, India, Costa Rica, El Salvador, and the Dominican Republic. The Department also generally avails itself of appropriate opportunities that arise in bilateral contacts to persuade countries not party to the Convention of the advantages that would be derived from ratification or accession.

ATTACHMENT "A" OUTGOING CASES UNRESOLVED AFTER 18 MONTHS

Case #1: Application sent to foreign Central Authority in June 1995. In February 1996, a Court ordered the child"s return. The taking parent and child disappeared, and in November 1996, a pick-up warrant for the child was issued. During the next 13 months, the Office of Children"s Issues (CI) remained in frequent telephone and telefax contact with the applicant Three telefax inquiries were sent to the foreign Central Authority asking for status reports. These were copied to the applicant In January 1998, the foreign Central Authority notified CI that the child had been picked up and was in the care of the child welfare authorities. The applicant was notified. Arrangements were made for him to travel to pick up the child. CI alerted the US. Embassy/Consulate that the applicant might need assistance in obtaining a passport for the child. In January 1998, the foreign Central Authority notified CI that the applicant should not travel. The case has been in litigation ever since.

The original order for return specified the applicant would pay return airfares for the taking parent and the child. Additional conditions for return were added by the foreign Central Authority. In January 1998, CI sent a letter of protest to the foreign Central Authority. In February 1998 the Court upheld the original Order for return, but imposed further conditions on the applicant CI contacted the U.S. Embassy/Consulate to coordinate visa issuance for the taking parent. The taking parent lodged various appeals and CI has been in constant communication with the foreign Central Authority, the applicant, and the U.S. Embassy/Consulate. CI responded to two congressional inquiries on behalf of the applicant. In February 1999, a Full Court upheld the return order. In March 1999, the taking parent applied to the Court

for permission to appeal to the High Court. The Court reserved its decision and gave no indication of when a decision might be expected.

Because of the conditions for return that are not in the spirit of the Convention in general and in this case in particular, CI raised the matter with the foreign Embassy in Washington in January 1998. The Assistant Secretary for Consular Affairs raised the issue with her counterpart in the foreign government and CI has also discussed the matter with the First Secretary of the Hague Conference on Private International Law.

Case #2: Application sent to the foreign Central Authority in December 1995. A hearing was held in the Supreme Court in May 1996. In September 1996, CI called the foreign Central Authority for a status report on the case. The call was not returned. Later that month, CI spoke with the applicant. Although she did not have an attorney in the foreign country, she was in contact with the U.S. Embassy/Consulate. In September 1996, CI tied unsuccessfully to learn the status of the case. In June 1997, the Embassy of the foreign country sent a letter to the applicant stating that a court ordered the child to remain in the foreign country pending a hearing on the custody case. In August 1997, the U.S. Embassy/Consulate reported on a welfare and whereabouts visit with the child that was forwarded to the applicant. In November 1998, CI spoke with the applicant. She went to the foreign country to see the child because the father had consented to a visit only to renege on his promise. She told CI that she would go again in December and would let us know her itinerary. In December 1998, the U.S. Embassy/Consulate asked CI for the applicant"s address in the U.S. Apparently the father was getting divorced from his second wife. There was a possibility that the child would be placed with social services. The U.S. Embassy/Consulate wanted to pass this information to the applicant and sent a letter to her last known address. To date the applicant has not responded to the letter nor has she contacted CI about returning to the foreign country.

Case #3: Applications for the return of two children were sent to the foreign Central Authority in November 1996. The Central Authority responded that they had received the applications directly from the applicant father, and judicial proceedings had started in October 1996. The applicant asked the Court for social reports to be done on both parents. To date, the applicant has not supplied his own social report. The applicant traveled to the foreign country in March 1999, with plans to meet with the foreign Central Authority. CI requested that he contact us upon his return to the United States in early April.

Case #4: Application sent to the foreign Central Authority in August 1997. The case was forwarded to the local court, whereupon the taking parent fled. The child was located by law enforcement authorities in another jurisdiction within the foreign country in December 1998. Application was forwarded to the new jurisdiction for action in January 1999. CI requested a status report in March 1999.

Case #5: Application sent to the foreign Central Authority in September 1997. The parents tried unsuccessfully to reach an agreement before the application was presented to the court, which delayed processing. In March 1998, applicant reported that the foreign Central Authority requested a social study of the applicant’s home pursuant to Article 7(d) of the Convention. The request for the study did not arrive at CI until late June 1998. The study was completed in late August 1998 and forwarded to the U.S. Embassy/Consulate for delivery to the foreign Central Authority in September 1998. In December 1998, the applicant reported that the foreign court was preparing to rule on custody, a violation of Article 16 of

the Convention. In January 1999, in response to CI''s protest to the foreign Central Authority, CI received word from the foreign Central Authority that custody proceedings had been held in abeyance so that a ruling could be obtained vis-a-vis the Hague application. CI requested a status update from the foreign Central Authority, and is awaiting a reply.

Case #6: Application sent to the foreign Central Authority in July 1997. The child was not located until sometime after September 1998. In February 1999, CI received a request from the foreign Central Authority for a social study of applicant at his home, pursuant to Article 7(d) of the Convention. A copy of the request and a translation of same have been forwarded to the applicant. To date, the applicant has not responded.

Case #7: Application sent to the foreign Central Authority in February 1995. In April 1995, CI resent the application packet to the foreign Central Authority. In May 1995, CI sent a status update request to the foreign Central Authority. At the same time, CI requested that the U.S. Embassy/Consulate deliver a diplomatic note to the foreign government, requesting verification of the Central Authority''s location and address, and verification of receipt of this and other cases. There is no record of a response. CI made repeated unsuccessful inquiries until May 1997, when the foreign Central Authority informed CI that the application had been submitted to the appropriate court where it was being heard. In a May 1998 letter, the foreign Central Authority reported — that the had been sent to the appropriate court. In response to a request for further information sent via the U.S. Embassy/Consulate in September 1998, the foreign Central Authority provided a copy of the same letter. Repeated requests for further information and updates, through direct channels, through the U.S. Embassy/Consulate, and a request made through the of the foreign government in Washington DC, have gone unanswered. The US Embassy/Consulate contacted the foreign Central Authority in March 1999, and is waiting for a reply.

Case #8: Application and foreign language translation sent to foreign Central Authority in October 1995. In November 1995, CI enlisted the aid of the U.S. Embassy/Consulate to confirm receipt of application. After repeated attempts by CI and the U.S. Embassy/Consulate to contact the foreign Central Authority, including preparations for a demarche, in May 1996, the foreign Central Authority wrote that the application had been submitted to the appropriate court where they were waiting for foreign language translations. Repeated follow-up inquiries by CI went unanswered until May 1997, when the foreign Central Authority reported that the application had been sent to the appropriate court. In May 1998, in response to CI''s continued inquiries, the foreign Central Authority reported again that the case had been submitted to the court. In response to a request for further information sent via the U.S. Embassy/Consulate in September 1998, the foreign Central Authority provided a copy of the same letter. Repeated requests for further information and updates, through direct channels, through the U.S. Embassy/Consulate, and a request made through the Embassy of the foreign government Washington DC, have gone unanswered. The U.S. Embassy/Consulate was finally able to contact the Central Authority in March 1999, and is waiting for a reply.

Case #9: Application for the return to the United States of two children sent to the foreign Central Authority in February 1996. In May 1996, a return order was issued by the foreign court. The return has

been stayed pending completion of the taking parent''s appeal. The foreign Central Authority has requested a legal analysis of a U.S. court order that may grant custodial rights to the taking parent.

Case #10: Application sent to the foreign Central Authority in January 1997. In July 1997, the foreign court ordered the return of the child, The case was appealed by the taking parent and the applicant was granted legal aid by the government of the foreign country to enable him to present his case at the appeal hearing. In December 1997, the appeals court upheld the return order. The applicant was asked by the foreign Central Authority to work with his attorney to enforce the return order. In early 1998, the applicant told CI that he had given his attorney permission to negotiate with the taking parent for enforcement of the return order. CI has made repeated, unsuccessful attempts to contact the applicant since June 1998. Due to the lack of contact, the foreign Central Authority closed the case in November 1998. CI asked the foreign Central Authority to retain the file in the event that new information becomes available.

CI finally reached the applicant in March 1999 and asked about his intentions. He said he received our correspondence but did not have the resources to go to the foreign country and get his child. He also noted poor communication with his foreign attorney. He is now prepared to pursue the case — if it is possible. We are contacting the foreign Central Authority to ask if they will reopen the case.

Case #11: Application for the return of two children sent to foreign Central Authority in May 1997. When the parents were divorced in November 1995, the mother was given primary custody of the children and the father had visitation rights. The mother took the children to the foreign country without the father''s permission in March 1997. After considerable delay caused by the foreign court''s requirements to document the living of the father, the court hearing on the Hague Convention return request took place in May 1998. Soon thereafter the court issued its decision to dismiss the application for return of the children, based on perceived risks to the children as permitted by Article 13 (b) of the Convention. The court said the return of the children would mean that mother and children would be separated and that this was an ''unreasonable'' situation for children six and three years old, respectively. The court added that the mother had been the central person in the children''s lives since mid-1994, and that the personal and financial situation of the mother was better in the foreign country. The decision was appealed by the applicant and preparations for the appeal hearing were nearing conclusion at the end of March 1999.

Case #12: Application sent to the foreign Central Authority in May 1994. The location of the taking parent and child has never been confirmed. In spite of multiple reports that the taking parent and child are in the foreign country, Interpol in the foreign country maintains that there is no record of the taking parent and child''s having entered that country. CI maintains contact with the applicant; the case remains open at his request

Case #13: Application sent to the foreign Central Authority in April 1997. An order for return was rendered in August 1997. A request for appeal was filed, and the district court scheduled a hearing for September 1997. In January 1998, CI requested an explanation for the court''s delay in rendering an opinion. In late January 1998, CI was informed that the taking parent filed new facts with the court that claimed the non-immigrant visa issued to the taking parent by the U.S. Embassy/Consulate would expire in a few months. She could be forced to return to the foreign country and be separated from her child if the U.S. custody

case had not been completed. It was argued that a forced separation would expose the child to a grave risk of psychological harm under Article 13(b). Additionally, the court raised the possibility of a defense under Article 20. The court issued a decision, requesting the foreign Central Authority''s opinion on this matter. In February 1998, the foreign Central Authority responded in writing to the defenses raised by the taking parent and the court, and expressed general dissatisfaction with the court''s attempt to set pre-conditions on the child''s return. The foreign Central Authority filed its opinion with the court in February 1998. The opinion was based upon extensive correspondence and communication with the foreign Central Authority, CI, and United States Immigration and Naturalization Service.

In April1998, in accordance with Article 11, CI requested that the foreign Central Authority provide the reasons for the court''s delay in rendering a judgment. CI''s letter was forwarded to the court. However, before reaching a decision on the appeal, the court accepted a second request from the applicant''s attorney to introduce new facts. Facts claimed were as follows: the U.S. Embassy/Consulate denied the taking parent''s request that her 6month non-immigrant visa be extended to a 10-year validity. Subsequent to being told by the taking parent that she would seek employment while in the U.S. during custody proceedings, the U.S. Embassy/Consulate canceled her 6-month visa. The court requested anther opinion from the foreign Central Authority, which was filed in June 1998. Prior to rendering a decision, the court adjourned for summer recess. In July 1998, CI informed the foreign Central Authority about the new procedures available under the Significant Public Benefit Parole, a procedure that denial of a non-immigrant visa to a taking parent. In July 1998, the applicant''s attorney requested the court to give a judgment in this matter.

In October 1998, CI sent another Article 1l request asking the court to provide reasons for the continued delay. There has been no response to date. CI was informed that a decision would be rendered by early November 1998 and a hearing would follow in mid-November. In December 1998, the court issued its judgment on the appeal filed by the taking parent, and a majority of the judges allowed the appeal. In late December 1998, the applicant''s attorney filed a request in the Supreme Court of the foreign country for leave to appeal the district court judgment. The request was granted and a hearing was set for February 1999. Lacking time to complete the claims of the taking parent, the court requested that the taking parent’s attorney file a written summation by February 1999.

Subsequently, the taking parent retained another attorney, who filed a request in the Supreme Court for a hearing to present his claims orally, as opposed to in writing. The request was granted. The applicant''s attorney requested that the hearing take place on an urgent basis and recognizing the importance of rendering a decision in this case, the Supreme Court of the foreign country set a hearing for April 1999.

Case #14: Application sent to the foreign Central Authority in July 1996. The location of the taking parent and child has never been determined. The contact phone number and local address provided to the foreign Central Authority by the applicant have not yielded any contact. The case remains open at the request of the applicant. The foreign Central Authority will resume efforts to locate the child, if the applicant can provide new information. CI remains in contact with the applicant and the maternal family in the United States.

Case #15: Application sent to the foreign Central Authority in November 1994. In September 1997, the court denied the request, and the applicant filed a request to appeal the decision. Since that date, at the request of the applicant and CI, the local social welfare department has conducted several welfare visits with the child. The reports on the visits are forwarded to the applicant. Although CI has encouraged the applicant to set a hearing date for his appeal, as of April 1999, he has not contacted the court. CI and the foreign Central Authority have cautioned the applicant that unless he agrees to a hearing in the near future, a determination might be made by either Central Authority that he has abandoned his application under the Hague Convention.

Case #16: Applications for two children sent to the foreign Central Authority in October 1996. CI sent the applicant a letter in August 1997, requesting information since her last contact with the office. Applicant responded by phone in September 1997, reconfirming her interest in the Hague process. She stated that the children''s uncle had seen them at Christmas in 1996 and returned with pictures for the mother. The applicant also stated that she would send a certified copy of her U.S. custody orders to CI. CI sent an update request to the foreign Central Authority in September 1997. The applicant wrote to her former in-laws immediately thereafter, and also sent a letter to CL The custody orders promised earlier were not included with that letter. In January 1998, CI wrote to the applicant again, requesting the certified custody orders. The applicant responded by letter in late January 1998 to the effect that she did not actually have full custody of her children. She was still in the process of obtaining such orders. CI requested an update on the case from the foreign Central Authority in March 1998 and spoke with the applicant by phone on March 11. In that conversation, the applicant stated that she had filed for full custody of her children, and that the taking parent had 30 days in which to respond. CI sent two more follow-up requests for information to the foreign Central Authority in July and September 1998. In November 1998, CI wrote to the applicant informing her of our recent update requests to the foreign Central Authority. She responded in December 1998, saying that the children have been calling and writing her behind their father''s and grandmother''s backs. The children are reportedly afraid of the taking parent and want to return to the U.S. The foreign Central Authority has not provided further updates.

Case #17: Applications for three children sent to Central Authority in June 1997. The eldest child has turned 16; therefore the Hague Convention no longer applies. These cases had White House interest, as the applicant spoke personally with President Clinton during his May 1998 trip to Houston. In June 1998, CI informed the foreign Central Authority of this fact, hoping it would make a difference. It didn''t. In November 1998, the foreign Central Authority mailed CI a request for additional documents, all of which had been sent to the foreign Central Authority twice previously. CI faxed a long letter to the foreign Central Authority in January 1999, requesting an update on this case. There has been no response. Phone messages left with foreign Central Authority in January and February 1999 have gone unanswered.

Case #18: Application sent to the foreign Central Authority in July 1997. The applicant lost his Hague case in court in September 1998 and appealed this decision. That appeal is still pending. Applicant contacted CI again in January 1999, but has not responded since to any of CI''s calls.

Case #19: Application sent to the foreign Central Authority in June 1997. At the request of the foreign Central Authority, CI forwarded a duplicate copy of the foreign language translation of the application in November 1998. The applicant calls CI about once a month. In March 1999, the foreign Central Authority sent CI a fax, requesting yet again a foreign language translation of the Hague application, as well as a clearer photograph of the taking parent CI complied with this request, but noted to the foreign Central Authority that this was the third time the translated application had been submitted.

Case #20: Application for two children sent to the foreign Central Authority in May 1994. In mid-1996, the U.S. Embassy/Consulate asked the local social services agency to conduct a welfare visit with the children. The agency reported that the children were being well cared for by their grandparents. The Embassy/Consulate sent this report to the applicant. In August 1997, CI asked the foreign Central Authority for an update on the Hague case. The Central Authority stated that it needed to inquire with social services agency, which was handling the case. CI followed-up twice in September 1997, finally hearing in early October 1997 that a court hearing was scheduled for the following week. That hearing was then postponed indefinitely. In April 1998, CI asked the foreign Central Authority by letter for an update. CI sent another faxed request for an update to the foreign Central Authority in June 1998. In October 1998, CI received a fax from the foreign Central Authority stating that federal law enforcement authorities had located the children and that "actions are being taken in order to restitute the children." Five months later and despite numerous attempts, CI has not yet been able to get clarification from the foreign Central Authority on precisely what this means.

Case #21: Application sent to the foreign Central Authority in August 1997. The foreign Central Authority initially rejected this case because the child was removed from the applicant"s home in May 1989, prior to the entry-into-force of the Convention between the two countries. CI protested that determination on the grounds that no international border was crossed until probably September 1996—well after the Convention was in force. The foreign Central Authority has not responded to or acknowledged this contention. From the outset, CI has had close, continuing contact with the applicant. In March 1999, the applicant requested a welfare and whereabouts visit with his daughter. CI has sent a request for such a visit to the U.S. Embassy/Consulate.

Case #22: Application sent to the foreign Central Authority in December 1995, prior to confirmation that the child was actually in the country. In September 1997, the applicant provided CI information regarding the taking parent"s bank accounts in the foreign country. This information was immediately given to the foreign Central Authority. In April 1998, the taking parent filed for custody in the foreign country. CI asked the foreign Central Authority to get the custody proceedings halted under Article 16 pending a resolution of the Hague case; this was done. In January 1999, CI received a fax from the foreign Central Authority stating that they had filed the Hague application with the court. The taking parent has filed an appeal that her constitutional rights had been violated. This particular type of appeal blocks further government action. It is important to note that the minor will turn 16 in October 1999, at which time the Hague Convention will no longer apply.

Case #23: Application sent to the foreign Central Authority in June 1995. The applicant has been arrested in the foreign country at least once over the past five years trying to remove his son from the country. CI

maintains contact with the applicant. In October 1998, CI received a fax from the foreign Central Authority stating that it had requested an update from the authorities in the local jurisdiction but were still awaiting a response. CI''s follow-up fax to the foreign Central Authority in January 1999 has gone unanswered.

Case #24: Application sent to the foreign Central Authority in September 1995. The county District Attorney''s office in the U.S. went to court in May 1996 to strip the applicant of his parental rights. In July 1996, the applicant regained these rights through an appeal and a change of venue. Once it was clearly established that the applicant did, in fact, have custodial rights, CI began again pressing the foreign Central Authority for the child''s return. The child has never been definitively located in the foreign country, which has hindered everyone''s efforts to secure his return. In January 1998, CI received and responded to a Congressional inquiry on this case. From then until July 1998, the applicant maintained contact with CI; there was no subsequent contact for over six months. In March 1999, CI received a call from a private investigator hired by the applicant. The investigator stated that the applicant is now interested in pursuing access to his son. CI has approached the foreign Central Authority and requested its assistance in facilitating negotiations between the parties. As of April 1999, CI is still awaiting a response from the foreign Central Authority.

Case #25: Application sent to the foreign Central Authority in September 1993. This child was abducted by her father in April 1993, and the applicant''s subsequent request for custody in the U.S. was granted. The county District Attorney''s office requested CI''s assistance in filing an application for the child''s return under the Hague Convention. In October 1993, CI notified the foreign Central Authority that the taking parent had been arrested in the U.S. on parental abduction charges and drug-related charges. In November 1993, the foreign Central Authority informed CI that the foreign court was ready to issue a pick-up order for the child. However, the Central Authority had difficulty locating the child, and no return order was either issued or enforced. In September 1997, CI called the applicant''s mother (the child''s maternal grandmother) for an update. The applicant had been imprisoned and was due to be released in January 1998. CI faxed requests for updates to the foreign Central Authority in September 1997 and three additional times in 1998. To date, there has been no response. The child is still in the foreign country, and the applicant wishes the case to remain open.

Case #26: Application sent to the foreign Central Authority in June 1996. In January 1997, CI faxed the foreign Central Authority a request for an update. In February 1997, the applicant''s U.S. lawyer sent CI a copy of an order issued by the foreign court for the child''s return. That order was not enforced because the taking parent refused to give up the child or disclose her location. The taking parent then filed a constitutional appeal blocking enforcement of the order. In August 1997, CI received a Congressional inquiry. A written request to the foreign Central Authority for information CI might provide to the Congressman elicited a vague reply that the application was sent in July 1996 to the local social services agency for further processing. CI subsequently requested updates in September and October 1997; both went unanswered. In October 1997, the applicant traveled to the foreign country to oversee the Hague case as she felt the foreign Central Authority was not being helpful. In January 1998, the applicant called CI from the foreign country and stated that the court was about to issue a second order for return, and had requested a new certified copy of her U.S. custody order. This was provided by the applicant''s attorney and submitted to the foreign Central Authority via CI in February 1998. In March 1998, the taking

parent disappeared with the child before the order could be enforced. The applicant returned to the U.S. without her daughter. Subsequent attempts by CI in August and December 1998 and March 1999 to obtain updates from the foreign Central Authority on the search for the child remain unanswered.

Case #27: Application sent to the foreign Central Authority in January 1997, although several required documents were missing. Most of the remaining documents were faxed to the foreign Central Authority in July 1997. The original documents were hand-delivered to the Central Authority by an officer of the U.S. Embassy/Consulate in September 1997. The file was finally completed by the applicant in February 1998. Subsequent requests to the foreign Central Authority for updates in August and December 1998 have gone unanswered. The applicant has similarly failed to respond to written correspondence from CI over this same period. CI''s most recent letter to the applicant was in March 1999, after CI staff saw the child''s picture on a missing children''s website on the Internet. CI is still awaiting a response from the applicant.

Case#28: Applications for two children sent to the foreign Central Authority in August 1993. One child was returned voluntarily in March 1994. In September 1994, the foreign Central Authority informed CI that a court was scheduled to enforce a pick-up order for the other child. This did not occur. In August 1997, a new CI case officer assigned to the case sent the applicant a letter, requesting an update. The applicant responded by phone in September 1997 to say that she was still interested in the return of her son. In late September 1997, CI faxed the foreign Central Authority with an update request. CI sent subsequent update requests in January, April and June 1998. Applicant was out of contact with CI during this period. In November 1998, CI wrote to the applicant, who responded by phone in January. 1999. At that time, the applicant stated that she does not want to divorce the taking parent or otherwise "rock the boat" although she is still interested in her son''s return. Later that day, CI again sent an update request to the foreign Central Authority. To date, there has been no response.

Case #29: Application sent to the foreign Central Authority in June 1996. In February 1997, the foreign Central Authority sent a fax to CI, asking whether the file should remain open. CI responded in February 1997 that the case should remain open. CI contacted the applicant''s U.S. attorney in August 1997 and the foreign Central Authority m September 1997, requesting updates from both. The foreign Central Authority responded by fax in October 1997 that a foreign language translation of the parents'' divorce decree was still required. In late October 1997, CI received a Congressional inquiry and responded the same day. Also in October 1997, CI forwarded a copy of the translated version of the divorce decree to the foreign Central Authority. Nevertheless, in early February 1998, the foreign Central Authority included a request for this same document in a list of outstanding cases hand-delivered to a CI officer at a conference in the U.S. CI provided a faxed version of this document the following week. In March 1998, CI requested an update from the foreign Central Authority; this request was never answered. In November 1998, CI provided the foreign Central Authority a list of several possible addresses of the child in the foreign country, including possible places of work of the taking parent. In March 1999, the foreign Central Authority sent CI a list of cases for which documents were still outstanding. This case was included. In March 1999, CI
sent a complete copy of the entire file to the foreign Central Authority via Federal Express. To date, the foreign Central Authority has not acknowledged receipt of this package.

Case #30: Application sent to the foreign Central Authority in November 1995. In May 1997, the applicant sent a letter to CI, requesting an update. In July 1997, CI sent a letter to the applicant and informed her that a number of documents appeared to be missing from the file. In August 1997, CI sent a follow-up letter to the applicant, who then called CI in September 1997. She provided the documents, which were then sent to the foreign Central Authority in September 1997, thus completing the file. CI requested an update in January 1998; the foreign Central Authority responded two days later that it was still awaiting the original documents. In February 1998, CI spoke with the applicant''s legal representative in the U.S. and conveyed this information from the foreign Central Authority. In March 1998, CI wrote to the legal representative and responded to numerous faxed questions about the validity of U.S. custody orders in the foreign country. In July 1998, the foreign Central Authority sent CI a fax in which it stated that several documents were still not included in the file, and requested the child''s exact location in the foreign country. CI responded in July 1998 with the information that had already been provided on at least two prior occasions. The foreign Central Authority sent yet another request for the missing documents in October 1998. CI called the applicant in November 1998 and explained the situation. CI sent an update request to the foreign Central Authority in February 1999, but no response has been received.

Case #31: Applications for two children sent to the foreign Central Authority in March 1997. The children had been retained in the foreign country since 1989, before the Convention was in force. The foreign Central Authority nevertheless accepted the case, and informed CI in April 1997 that it had forwarded the applications to the local social services agency for further processing. CI requested and received photographs from the applicant in July 1997 and sent them to the foreign Central Authority. On four separate occasions between July and November 1997, CI requested updates from the foreign Central Authority. None was ever received. In November 1997, CI discussed the case with a sheriff''s detective in the applicant''s hometown and faxed him copies of laws related to international parental kidnapping. In December 1997, CI requested that the U.S. Embassy/Consulate conduct a welfare and whereabouts visit with the children. Consular officers were unable to conduct such a visit as the family would not give permission. CI sent the foreign Central Authority faxed requests for updates in January, April and June 1998. No responses were received. In July 1998, CI sent a request to the U.S. Embassy/Consulate to attempt another welfare visit. Such a visit did take place in July 1998, at which time the children were found to be happy and healthy. The child wrote a letter for the applicant which the Embassy/Consulate then transmitted back to the applicant via CI. In October 1998, the foreign Central Authority sent CI a fax, stating that they were still awaiting an update on the case from the social services agency. In December 1998, the applicant traveled to the foreign country to visit her children at Christmas. Arrangements for her hotel were facilitated by the US. Embassy/Consulate. However, the children and their father had already left on a Christmas vacation trip when the mother arrived, so she did not get to see them. CI has maintained regular contact with the applicant since her return to the United States.

Case #32: Application sent to the foreign Central Authority in September 1997 and hand-delivered by an officer of the U.S. Embassy/Consulate in September 1997. The child''s location is completely unknown, and it has never even been confirmed that she is actually in the foreign country. The applicant believes she is, however, because the taking parent lived in the foreign country previously, speaks the language, and has two adult children and two grandchildren nearby. CI requested updates on the foreign government''s search for this child in January, April and June 1998. In June 1998, the foreign Central

Authority requested additional information the child''s whereabouts, which neither CI nor the applicant was able to provide. In August 1998, CI contacted the U.S. law enforcement agency investigating the case in the hope that it had additional information. It did not. The foreign Central Authority repeated its request for the child''s location in October 1998. CI responded that no such information was available, and asked the foreign government to continue its search for the child.

Case #33: Applications for two children sent to the foreign Central Authority in June 1997. The application was missing a number of documents, however, so CI contacted the applicant in writing in July, August, September and December 1997. CI requested updates from the foreign Central Authority in December 1997 and in February and June 1998. In August 1998, CI responded to a Congressional inquiry, informing the staffer of CI''s previous attempts to contact the applicant. The applicant subsequently sent the missing documents, which CI forwarded to the foreign Central Authority in October 1998. In November 1998, the applicant provided information that the children had moved to a different location. CI immediately provided this information to the foreign Central Authority in November 1998 and again in March 1999. In response to a March 1999 request by the foreign Central Authority, CI again forwarded all additional documents to the foreign Central Authority in March 1999.

Case #34: Applications for two children sent to the foreign Central Authority in October 1996. The foreign Central Authority has presented the case to a court, but the taking parent has filed repeated constitutional appeals blocking further action. In December 1997, the applicant traveled to the foreign country for a court hearing, but the taking parent filed another appeal before enforcement could be effected. CI is in very frequent telephonic and e-mail contact with the applicant. The U.S. Embassy/Consulate in the foreign country has conducted two welfare and whereabouts visits, one in September 1998 and one in January 1999. Neither visit was conducted at the children''s home and the consular officer was not permitted by the taking parent to mention the applicant. On both occasions, the consular officer found the children to be healthy and happy. In April 1999, the applicant sent CI an e-mail stating that she will be writing letters to both foreign government and U.S. officials to push for a visit since she has not seen her sons in nearly three years. The foreign Central Authority has told her that if she tries to compel visitation, she will have to "give up" her applications for her sons'' return.

Case #35: Application sent to the foreign Central Authority in June 1996. Some documents were initially missing, but the file was completed by the applicant in August 1997. The foreign Central Authority sent a fax in October 1998 informing CI that it was awaiting a status update from the social services agency. CI followed-up in March 1999 to see if they had yet received that update and to request clarification as to why the file was with the social services agency, when that agency is not usually involved directly in the Hague process. Since the applicant had not been heard from since April 1998, CI sent her a letter in March 1999 informing her of our latest inquiries to the foreign Central Authority and asking whether there have been new developments on her end. In late March 1999, the applicant left a voicemail message with her new address and telephone number, but no other information.

Case #36: Application sent to the foreign Central Authority in March 1997. In September 1997, CI sent follow-up inquiries to both the foreign Central Authority and the U.S. county District Attorney''s office. (The latter had assisted the applicant in preparing her application.) CI sent a follow-up letter to the D.A. in

January 1998, and a request to the foreign Central Authority in January 1998. CI telephoned the D.A.''s office in November 1998 to inquire if the applicant wished to pursue the case. Au investigator with that office stated that the applicant is still interested in pursuing her child''s return via the Hague Convention. In November 1998, CI sent another update request to the foreign Central Authority. To date, there has been no response.

Case #37: Applications for two children sent to the foreign Central Authority in September 1994. CI asked for the foreign Central Authority''s confirmation of receipt of the file in November 1994; the foreign Central Authority responded two days later with a request for a number of additional documents. The applicant was informed of this request in an April 1995 letter. There appears to have been no contact between CI and the applicant or between CI and the foreign Central Authority for over two years, until a new CI officer sent the applicant a letter in September 1997. In October 1997, the applicant responded by phone that the taking parent allows him to speak with his children on the phone and to exchange gifts and photos. The applicant also stated that he was considering a proposal from the taking parent that she would voluntarily return the children in exchange for an apartment furniture and a car for her upon her return to the United States. This information was conveyed to the foreign Central Authority in a fax from CI that same day. CI sent the foreign Central Authority follow-up requests for an update in February and July 1998. The foreign Central Authority did not respond to either. In August 1998, in response to a letter from CI, the applicant called and said that he and the taking parent were negotiating for the return of the children in June 1999, but that he wanted to keep the Hague case open as leverage. In October 1998, the foreign Central Authority sent a fax to CI, stating that on four previous occasions they had requested documents that would complete the file (specifically, a translation of a U.S. court order), and that no proceeding could be initiated until the file was complete. In November 1998, CI sent the applicant an e-mail, informing him of the foreign Central Authority''s latest request. The applicant called back later in November 1998 and stated that he had already provided these translations, but that he had not retained copies. CI sent the foreign Central Authority a fax to this effect that same day. The foreign Central Authority had not responded to this assertion by March 1999, so CI sent another fax.

Case #38: Applications for two children sent to the foreign Central Authority in July 1997. The applicant in this case was extremely pro-active during the latter part of 1997 and into the beginning of 1998. CI has not heard from her since February 1998. CI wrote to the applicant in November 1998 to find out the current status of her case. That letter was returned, and the applicant was no longer at the phone number CI has on file. The state Attorney General''s office called CI in February 1999 on a number of cases and stated with regard to this one that there was a possible voluntary return being negotiated/facilitated by the foreign Central Authority. Since CI is not able to get in touch with the applicant directly, CI faxed the foreign Central Authority in February 1999 for confirmation. To date, CI has received no response.

Case #39: Applications for three children sent to the foreign Central Authority in September 1997. In late April 1998, eighteen months after the abduction, the taking parent offered to return the two eldest children to the applicant if she (the applicant) would relinquish her rights to the baby; she said no. In May l998, the taking parent offered to return all three children, no strings attached, but said that the applicant would have to travel to the foreign country to get them. The U.S. Embassy/Consulate arranged for a retired Consular Agent living in the foreign country to accompany the applicant on her first meeting with the

taking parent and the children. Over the next few days, the applicant was permitted to see the children for extended periods, but never alone. The taking parent had signed legal papers in the foreign county giving up his rights to the children and allowing the applicant to take them back to the U.S. However, local social services agency personnel refused to force the children to go with the applicant if they objected. Only the oldest child agreed to leave. The two younger children cried every time their father left the room - "proof," the father said, that they should not be forcibly returned. Ultimately, the applicant departed with the eldest child, but only after signing documents stating formally that she was in no way abandoning the other two children. The taking parent subsequently took these two remaining children into hiding, and has not been heard from since. The local social services agency attempted to ascertain their whereabouts from the paternal grandmother, who claimed not to know where they were. A copy of the social services agency report was provided to the applicant via CI in January 1999. Follow-up conversations with both the U.S. Embassy/Consulate and the applicant''s attorney in the U.S. have yielded no additional information.

Case #40: Application sent to the foreign Central Authority in April 1996. Although there is no paper record in the file, it appears that the foreign Central Authority informed CI in late 1996 or early 1997 that several required documents were missing. In February 1997, CI asked the foreign Central Authority to clarify which documents were missing. The foreign Central Authority did not respond, so CI sent three follow-up requests in July and August 1997. In January 1998, the applicant''s father (the child''s grandfather) called CI and stated that there had been a dispute in the foreign country over the appropriate jurisdiction where the application should be filed. According to the grandfather, a state judge had refused to take the case because it was a treaty matter and therefore the responsibility of the federal courts. The federal court intern refused to hear the case because it was a family court issue, and thus within the purview of the states. Attempts to get the foreign Central Authority to intervene and/or clarify this issue with the relevant judges have been for naught. CI sent faxes to this effect in January, April and September 1998, and again in March 1999, all without response. In addition, and despite CI''s repeated attempts at contact CI last heard from the applicant in January 1998.

Case #41: Applications for two children sent to the foreign Central Authority in November 1994. The applicant expressed serious concerns about his children''s welfare. CI advised the foreign Central Authority of this in January 1995. In March and again in June 1995, the foreign Central Authority requested copies of the U.S. custody and visitation agreements, although these had been included in the original application package. CI responded in June 1995 by pointing out that the documents had been sent previously. There was then no communication on this case for nearly two years, until the applicant again contacted CI in March 1997 asking for information. CI followed up with a request to the foreign Central Authority in March 1997. In April 1997, the foreign Central Authority sent CI a fax stating that the case had been forwarded to the Superior Court for review. CI passed this information to the applicant CI requested further updates from the foreign Central Authority in October 1997 and in January, April and June 1998. CI also sent a letter to the applicant. In April 1998, asking for an update due to the amount of time that had passed since our last communication with him. In April 1998, a case manager from the National Center for Missing and Exploited Children (NCMEC) informed CI that the taking parent and possibly the children had returned voluntarily to the U.S., but that the applicant was still being denied access. Subsequent attempts by CI to contact the applicant have been unsuccessful. In October 1998, the foreign Central Authority sent CI a fax stating it would provide an update as soon as one was received

from the Superior Court - an indication that the foreign Central Authority, at least, still considers the case open. In March 1999, CI requested another update from the foreign Central Authority that remains unanswered. In March 1999, NCMEC contacted CI again and stated that it does appear the taking parent and children are in the U.S. However, CI is keeping the case open until there is official confirmation that the children are back in the U.S.

Case #42: Application sent to the foreign Central Authority in January 1995. It is unclear what occurred during the following three years, as the file was apparently misplaced. CI became aware of the case in March 1998, when a county District Attorney''s office called CI for an update. CI obtained complete copies of the D.A.''s file and that of the National Center for Missing and Exploited Children, and forwarded a copy of this reconstructed file to the foreign Central Authority in May 1998. At the same time, CI requested an update on the status of the case. CI has made subsequent inquiries in August and November 1998, and in March 1999. To date, no responses have been received from the foreign Central Authority.

Case #43: Applications for two children completed in January 1996. Throughout early 1996, the applicant wrote repeatedly to CI, pleading her case. In February 1997, CI sent a fax to the foreign Central Authority stating that the case should be kept open. The foreign Central Authority next contacted CI in mid-August 1997 to inquire whether the applicant was still interested in pursuing her Hague case. CI sent a letter to the applicant posing this question in August 1997. That same day, CI sent pictures of the children and certified copies of their birth certificates to the foreign Central Authority. Copies of these documents were again hand-delivered to the foreign Central Authority by an official of the U.S. Embassy/Consulate in September 1997. In January 1998, during a meeting on the Hague Convention in the U.S., an official of the foreign Central Authority requested a translation into the foreign language of the U.S. State custody code. In late February 1998, the applicant sent a written response to CI''s letter of the previous August providing an update and assuring CI that she wanted her case to remain open. CI wrote back in March 1998, informing the applicant of the foreign Central Authority''s most recent request. Since CI had not heard back from her, CI wrote again in September 1998. The applicant responded in writing in December 1998. In her letter, she asked us to place her children''s case on "inactive" status for the time being. She is concerned that her former husband will be scared into moving the children even deeper into the foreign country if faced with further legal action.

Case #44: Applications for two children sent to the foreign Central Authority in November 1995. The applicant has won his Hague case at every level of the foreign country judiciary. However, all orders for return have been appealed and/or unenforced. The taking parent over three years has instituted series of constitutional appeals. The latest calls into question the very legality of the Hague Convention itself under the constitution of the foreign country. The foreign country''s Supreme Court has yet to issue a ruling on this point. Meanwhile, the U.S. Embassy/Consulate has tried, unsuccessfully, to gain access to the children, whom the taking parent and her family continue to keep hidden. The foreign government authorities have been similarly unable to learn the children''s whereabouts. In November 1998, the U.S. Embassy/Consulate transmitted a diplomatic note to the foreign government regarding this case. Specifically, the note raised the issue of consular access as provided for under the Vienna Convention on Consular Relations. CI is in regular contact with the applicant.

Case #45: Applications for two children sent to the foreign Central Authority in October 1996. In March 1997, CI sent copies of the applications and all supporting documentation to the foreign Central Authority for a second time as requested. In August 1997, CI sent copies of the English and foreign language versions of the custody orders, as well as photographs of the children and the taking parent, for a third time. These were also hand-delivered to the foreign Central Authority by an officer of the U.S. Embassy/Consulate in September 1997. In January 1998, CI requested an update on the case from the foreign Central Authority. In March 1998, CI wrote to the applicant to inform him of these developments. CI sent another update request to the foreign Central Authority and another letter to the applicant, both in April 1998. In that second letter, CI provided the applicant a blank "Privacy Act Waiver" form to fill out if he so desired the applicant returned the completed form but provided no additional information. CI sent another update request to the foreign Central Authority in June 1998. In October 1998, the foreign Central Authority responded to our series of inquiries, and requested that CI and/or the applicant provide the original or certified copies of the custody orders, which had been previously sent four times. CI responded in writing to the foreign Central Authority in November 1998 that the applicant was not able to provide this document without significant effort, and that the foreign Central Authority should therefore inform CI immediately if it was absolutely necessary. To date, the foreign Central Authority has not responded.

Case #46: Applications for three children sent to the foreign Central Authority in August 1996. Nearly a year later, in July 1997, the foreign Central Authority faxed a request to CI for photographs of the children and the taking parent, copies of the divorce decree and custody orders, and the children''s birth certificates. CI sent these to the foreign Central Authority, noting it was the second time this was being done. In October 1997, CI wrote to the applicant seeking basic update information. CI then sent an update request to the foreign Central Authority in January 1998. In March 1998, the applicant telephoned CI for any new information. The applicant also stated that he had information indicating a possible location of the children. CI passed this lead to the foreign Central Authority that same day and sent a telegram in April 1998 to the U.S. Embassy/Consulate, requesting a welfare and whereabouts check. The Embassy/Consulate thoroughly investigated the leads, but came up with nothing. Additionally, the information was passed to the FBI based on reports that the children''s stepfather (who is traveling/living with them in the foreign country) is wanted on charges in the U.S. unrelated to the children''s abduction. In June 1998, CI sent a second welfare and whereabouts request to the Embassy/ Consulate. That office responded in July 1998 that although their first search had been unsuccessful, they were continuing to investigate conservatively so as not to scare the taking parent deeper into hiding. Later in July 1998, CI put the applicant in contact with another applicant parent in his hometown, so they might serve as a support system and mutual source of information for each other. In October 1998, the foreign Central Authority sent CI a request for further information on the location of the children. CI informed the foreign Central Authority that their location remains unknown.

Case #47: Application sent to the foreign Central Authority in October 1996. In February 1997, CI provided a copy of the State law concerning custody, as requested by the foreign Central Authority. In August 1997, CI wrote to the applicant for any new information. In September 1997, the applicant called CI and stated that she was able to speak with her child by phone in July, but that the child''s stepmother had beaten the child when she found the child talking to the applicant. The applicant said the taking parent is actually in the U.S., and that the child lives in the foreign country with the stepmother. CI

conveyed all of this information to the foreign Central Authority in a fax the same day. In late January 1998, the foreign Central Authority requested a new certified copy of the child's birth certificate. CI informed the applicant in writing of this request. In March 1998, CI received a call from an FBI agent who had been working with the applicant on her case. CI officer explained the foreign Central Authority"s most recent request. The FBI agent said she would facilitate obtaining the new birth certificate. In November 1998, this same FBI Agent called CI to inform us that the taking parent had approached the applicant regarding a possible voluntary return. A follow-up call to the agent in March 1999 did not get returned.

Case #48: Applications for two children sent to the foreign Central Authority in September 1997. In March 1998, the applicant was granted custody of her children in the U.S. In July 1998, the foreign Central Authority requested a certified copy and foreign language translation of a previous custody order, which had been issued in 1996. This same document had been provided to the foreign Central Authority in September 1997. However, the foreign Central Authority repeated this request in October 1998, and CI sent the document a second time in November 1998. In November 1998, CI sent a letter to the applicant seeking confirmation that she remained interested in the return of her children. The applicant telephoned CI in December 1998, and stated that she was still interested. In February 1999, CI sent a faxed request for an update to the foreign Central Authority; that office has not yet responded.

Case #49: Application sent to the foreign Central Authority in July 1995. The foreign Central Authority acknowledged receipt of the application in a July 1995 letter. CI was informed that the children were in the foreign country and that the case would be presented to the courts. A copy of the letter was sent to the applicant in August 1995 so he could forward it to his attorney. In April1997, CI sent the applicant a letter asking if his attorney had resolved the case. In May 1997, the applicant called to say his attorney was still working on the case. In a subsequent telephone conversation in September 1997, the applicant told CI that he was still working directly with his attorney in the foreign county rather than working with CI or the foreign Central Authority. A March 1999 letter from the foreign Central Authority informed CI that the appropriate court was still carrying on the process. That court had last been in touch with the foreign Central Authority by letter in February 1998, when it asked for some additional information pertaining to the case from the foreign Central Authority.

Case #50: Application sent to the foreign Central Authority in June 1997. The child was taken to the foreign county for a visit by her mother, who died before they could return. The child is in the physical custody of the maternal grandmother. In March 1998, the appropriate court ordered the child returned to the applicant. The case was appealed and the order for return upheld in September 1998. The case is now before the Supreme Court of the foreign country and a hearing is scheduled in April 1999. CI has requested periodic status reports from the foreign Central Authority during the entire process and stays in constant contact with the left-behind parent by telephone and telefax. CI also arranged for the applicant with the U.S. Embassy/Consulate during his three trips to the foreign county.

Case #51: Application sent to the foreign Central Authority in May 1997. The case is currently before the court. The applicant has been slow in responding to requests by the foreign Central Authority for additional documentation.

Case #52: Application sent to the foreign Central Authority in January 1996. The appropriate court denied the application in March 1997 based on the fact that the child had been in the foreign country for more than a year. The applicant/mother appealed that decision. A date for the appeal hearing has not been set although CI has periodically asked the foreign Central Authority when we can expect the appeal to be heard.

Case #53: Application sent to the foreign Central Authority in June 1995. The court issued an order for return in February 1996. The order has not been enforced because the local law enforcement authorities claim they cannot locate the taking parent and child. The applicant, the U.S. Embassy/Consulate, and CI have informed the foreign Central Authority on numerous occasions that the taking parent and child are residing with the maternal grandparents. The foreign Central Authority states that they cannot force the grandparents to reveal the whereabouts of the taking parent and child under the laws of the foreign county, even though the court has issued a pick-up order for the child. The applicant hired a private investigator who served divorce papers on the taking parent at the grandparents'' residence in February 1999. This was reported to the foreign Central Authority. The investigator reports that the taking parent subsequently disappeared from that address.

Case #54: Application sent to the foreign Central Authority in March 1997 and the left-behind parent went to the foreign county. The foreign court would not accept the Hague application until May 1997 when the applicant proved that the child''s habitual residence was in the United States rather than in the foreign county. The applicant hired an attorney in the foreign county to pursue the case and the first hearing was scheduled for November 1997. The court ordered the return of the child in June 1998. The taking parent appealed the decision. In February 1999, the appeals court denied the taking parent''s appeal. CI is trying to locate the applicant through his attorney to make arrangements for the return of the child.

Case #55: Application sent to the foreign Central Authority in December 1996. The child was abducted September 1996 by the mother and her new foreign citizen husband. At the time of the abduction, the mother was the legal custodian and the father was the physical custodian with full visitation rights under the laws in two states. Foreign country law enforcement authorities were unable to locate the taking parent and child. In the summer of 1997 the local court, contrary to Article 7(a) of the Hague Convention that instructs Central Authorities to locate the child, instructed the applicant to prove the child was in the foreign country or the case would be closed. The applicant hired private investigators to find his child in order to keep his Hague case open. It was found that
public information about the taking parent and the child was "secrecy protected" by the local tax authorities. The foreign Central Authority first denied and then later admitted that secrecy protection was in place.

In April 1998, the court of appeals ruled that there was sufficient evidence that the child was in the foreign county and ordered the local court to proceed with the case. In June 1998, the local court ruled that the child should be returned to the U.S. The applicant''s foreign attorney was later informed that, at the request of the taking parent''s attorney, the foreign Central Authority had turned over almost the complete case file to the taking parent''s attorney. This included documents concerning the applicant''s attempts to locate his child as well as foreign law enforcement authority correspondence on their attempts to find the

child. The release of these documents called into question whether or not anyone had reviewed the documents for their relevance to the Hague proceedings or to determine if these documents would provide the taking parent with information that would assist her in continuing to hide from the law enforcement authorities. CI was subsequently told that no items had been released that showed the applicant''s investigative efforts. The applicant then identified one of the documents on the list that did just that.

In view of the difficulties faced by the applicant and the consequent drawn-out nature of the case, the Department of State sent a diplomatic note to the foreign government in July 1998 outlining the problems and requesting urgent remedial action. In October 1998, the court of appeals upheld the June return order. The taking parent was not present for the hearing, but was represented by her attorney. The return order has not been enforced because the taking parent and child have not yet been located.

The Department of State and the U.S. Embassy/Consulate officials have continued to press the foreign government to use every way possible to locate the taking parent and child and report on those efforts to the Department. CI and a representative of the Office of the Legal Adviser visited the, foreign county in early March 1999 to raise our concerns directly with the foreign Central Authority.

Case #56: Application sent to the foreign Central Authority in October 1996. The child was abducted by her mother in September 1996. In November 1996, an initial court decision refused to return the child based on Article 13 of the Hague Convention. The applicant successfully appealed this decision and in March 1997 the child was ordered returned to the U.S. The taking parent appealed this decision, but the appeals court turned her down in April 1998. Enforcement of the court order was subsequently suspended when the taking parent appealed to the highest court in the foreign country. This court rejected the appeal in September 1998 and decided in favor of the applicant. Before the child could be returned to the applicant, she was removed by the taking parent to another jurisdiction in the same foreign country. The case was then sent to a court in the new jurisdiction for execution of the return order. The foreign Central Authority, responding to inquiries by CI, said the case is being prolonged by the need to make the best arrangements for the return of the child.

The most recent development is the withdrawal of the presiding judge in the case because of conflict of interest. The next steps involve the appointment of a new judge and the reinstitution of judicial proceedings for enforcement. This case was discussed in a meeting in March 1999 among CI, a representative of the Office of the Legal Adviser, and the foreign Central Authority.

ATTACHMENT "B" INCOMING CASES UNRESOLVED AFTER 18 MONTHS

Case #1: Application received by NCMEC (National Center for Missing and Exploited Children) in November 1995. In April 1998, the return was denied based on residency in the U.S. The applicant''s pro bono attorney appealed the decision in June 1998. A hearing was scheduled for October 1998. As of January 1999, the case was still standing for an appeal. The applicant''s attorney is waiting for a decision from the court of appeals.

Case #2: Application received by NCMBC in September 1995. The U.S. District Attorney''s Office is handling this case. As of March 1999, the D.A.’s office was still preparing motions for the judge.

Case #3: Applications received by NCMEC in September 1997. The location of the taking parent and children is unknown. A CASD (Case Analysis and Support Division) search has been done and NCMBC has requested assistance from three of its Clearinghouses as requested by the applicant. In April 1998, the children were placed on NCMEC''s Internet website. In June 1998, the applicant expressed the thought the children might be in Canada, but in February 1999, the applicant and his U.S. attorney conveyed their belief that the children are in the U.S. Another CASD search was conducted in February 1999, but none of the results indicated the taking parent was living in the U.S. In February 1999, a request was sent to CASD to conduct an American Student List search for the children.

Case #4: Application received by NCMEC in January 1996. A case status report has been requested from the applicant''s attorney.

Case #5: Application received by NCMEC in June 1997. The location of the child was known in June 1997, and an attorney for the applicant was secured in July 1997. In August 1997, the applicant came to the U.S. to see his children. The taking parent said the children were not at the residence. The applicant informed NCMEC that the children were in Italy and the case was closed in August 1997. In September 1997, the case was reopened. In February 1998, local law enforcement authorities informed NCMEC that the taking parent and the children were in the Philippines. The applicant doubted this information and asked NCMEC to keep the case open. In March 1998, the children were placed on NCMEC''s Internet website. In August 1998, the applicant reported he was trying to get Interpol involved. Through the help of CASD, and two of NCMEC''s clearinghouses, the location of the children in the United States was confirmed in December 1998. In January 1999, the foreign Central Authority and the applicant were informed of the children''s location by mail and asked how NCMEC should proceed (i.e., did the applicant want the same attorney he had in 1997 or a new one, etc.). There has been no response as of April 1999.

Case #6: Application received by NCMBC in January 1997. The child was abducted from the foreign country to the U.S. in 1995 by the father and a Hague application for return was filed by the applicant. However, before the Hague hearing could be held, the applicant took the child back to the foreign country. The U.S. court subsequently denied the child''s return under Hague Convention. The father then exercised visitation rights with the child in the foreign country. The applicant obtained custody of the child in the foreign country between 1995 and January 1997, when the father took the child back to the United States. In September 1997, the U.S. court denied the applicant''s petition for return of the child. The applicant participated in U.S. custody proceedings between September 1997 and August 1998. The foreign Central Authority asked NCMEC for assistance under Convention for access to the child and the applicant was able to visit the child in U.S. under supervision during custody proceedings. In August 1998, the applicant was granted full custody of the child and an order allowing her to return with the child to the foreign country was issued by court. However, the taking parent did not appear with child at final custody hearing, and their location is currently unknown. The case is officially registered in NCMBC''s Missing Children''s Division and assigned to a NCMBC case manger. The child''s photograph is on NCMEC''s website and was recently featured on ADVO cards. (The ADVO "Have You Seen Me?" cards

are produced by a direct mail company and reach approximately 79 million homes.) The case manager submitted the case to America''s Most Wanted television program for public airing, but so far, there is no interest from the producers. The FBI is assisting in this matter as there is a warrant for the taking parent''s arrest. NCMEC updated the foreign Central Authority in January 1999 and included a copy of the child''s ADVO card.

Case #7: Application received by NCMEC in November 1996. In January 1997, the children were located and an order for return was issued. The children did return to the foreign country and the applicant obtained a custody order for the children in the foreign court. In May 1997, the taking parent again removed the children from the foreign country to an unknown location. There is a hold on future issuance of U.S. passports to the children and Interpol has issued a look-out for them. In July 1997, Diplomatic Security began an investigation of possible U.S. passport fraud. The case has been sent to five NCMEC clearinghouses, the appropriate Port Authority and the state FBI office. Two FPLS (Federal Parent Locator Service) and American Student List searches have been conducted. Recently, the case was reviewed by NCMBC''s Project Alert. The Army contact reviewed a possible lead for the taking parent, but as of April 1999, the taking parent could not be traced to the Army. Several CASD searches have been run at NCMEC and the taking parent''s address has been researched on the Internet. The children are listed in NCIC (the National Crime Information Center) based on a local arrest warrant issued for the taking parent on July 29, 1997. NCMEC asked the applicant for permission to place the children''s photographs on NCMEC''s website. The applicant is hesitant because of the flight risk, but he will keep this option open. In February 1999, NCMEC discussed the case with a representative of the foreign county''s Ministry of Justice (who is assigned to the Embassy of the foreign country) and with a representative of the Office of International Affairs at the Department of Justice in Washington, D.C. There is a current arrest warrant issued against taking parent in the foreign country. The foreign representative has a copy of the arrest warrant and will discuss the possibility of an extradition request with his counterparts in foreign Central Authority.

Case #8: Application received by NCMEC in October 1995. The child''s location is unknown. Searches have been done by three of NCMEC''s clearinghouses, CASD and the Alumni Association of the taking parent''s U.S. alma mater. INS has been contacted and American Student List is currently being searched. Interpol in Washington, D.C. has no record of either the
taking parent or the child entering the U.S.

Case #9: Application received by NCMEC in December 1996. Through the CASD report, NCMEC confirmed the location of the children. In April 1997, a pro bono legal counsel was obtained. In December 1997, the attorney informed NCMEC that the applicant had not reimbursed him for out-of-pocket expenses. According to the attorney, the applicant requested that he hire a private investigator to verify the children''s location, but did not want to pursue action through the Hague Convention. In late January 1998, NCMEC asked the foreign Central Authority if the applicant wished to pursue case under the Hague Convention. In late February 1998, the foreign Central Authority informed NCMEC that the children were no longer at the original location. NCMEC took steps to relocate the children. Through CASD searches and assistance from the clearinghouse, NCMEC relocated the children in July 1998 and requested the foreign Central Authority to submit the applicant''s legal aid forms. The Loans were

received in September 1998, but they were not filled out correctly. The correct forms were received in February 1999. NCMEC is now searching for a new pro bono attorney to represent the applicant.

Case #10: Application received by NCMEC in February 1997. In spite of CASD, clearinghouse, and American Student List searches, the child has not been located. In January 1999, with the applicant''s permission, NCMEC also began working with Child Watch of North America. Interpol has a "trace and locate" on the child. In February 1999, NCMEC ran another
CASD search and sent another request for an American Student List Search.

Case #11: Application received by NCMEC in September 1995. In June 1996, the child was located and NCMEC secured a pro bono attorney for the applicant. In February 1998, the applicant''s U.S. attorney informed NCMEC that she was no longer willing to represent applicant. The attorney said she had tried to work out a settlement proposal on the applicant''s behalf giving the applicant access rights in the foreign country. The applicant never responded to her proposal or telephone calls. NCMEC asked the applicant''s U.S. attorney on several occasions to clarify what happened to the Hague petition for return and when the applicant decided to pursue access rights. In April 1998, the attorney informed NCMEC that she learned the taking parent had obtained an earlier custody order in another jurisdiction. The attorney advised the applicant that the judge would probably not order the child''s return and they tried to work out access trough negotiation. In late April 1998, NCMEC informed the foreign Central Authority of the reasons for the attorney''s resignation and asked if applicant wished to pursue a case for return or access. The foreign Central Authority replied that the applicant was not responding to its letters. As of June 1998, the foreign Central Authority still had no news from the applicant. In February 1999, NCMBC asked if the foreign Central Authority if the applicant still wished to pursue his application under Hague Convention.

Case #12: Application received by NCMEC in June 1997. The abducting grandmother moved several times and the child was not located until November 1998. A pro bono attorney has now been obtained for the applicant.

Case #13: Application received by NCMBC in September 1997. The child was not located until mid-1998. An attorney was retained by the applicant. The attorney and the applicant have not communicated well with each other.

Case #14: Application received by NCMEC in May 1996. The location of the child is unknown. The child''s picture is on the NCMEC website but NCMBC has never had any significant leads in this matter. The child is listed in NCIC, and Interpol has a "trace and locate" notice.

Case #15: Application received by NCMEC in August 1997. The child''s location was known, and an attorney was secured in September 1997. The Hague hearing was held in January 1998 and the judge ordered the child returned to the foreign country within 90 days. The taking parent appealed the decision. Since November 1998, NCMEC has left several phone messages and faxes for attorney handling the case, but she has not responded. In January 1999, NCMEC sent a fax to the foreign Central Authority asking if the applicant has been in touch with his U.S. attorney. In addition, NCMEC spoke with the clerk of the appeals court who reported that the case was transferred to the state Supreme Court. A hearing

was scheduled in March 1999. After hearing the case, the justices will hand down a written opinion, most likely after April 1999.

Case #16: Application received by NCMEC in May 1996. After numerous requests to the foreign Central Authority for location information, in June 1998, NCMBC confirmed the child''s location. Since June 1998, NCMEC has sent several requests for legal aid forms to the applicant. In November 1998, the foreign Central Authority forwarded a letter from the applicant''s attorney in the foreign country informing NCMEC that his client refuses to fill out NCMEC''s standard legal aid form. The applicant feels this is just a delaying tactic. NCMEC faxed the foreign Central Authority and informed them that without the completed legal assistance questionnaire, NCMBC will only assist the applicant to find a paid attorney. NCMEC also informed the foreign Central Authority that it will send a voluntary access letter to the taking parent should the applicant desire this action to be taken. Neither the foreign Central Authority nor the applicant has responded.

Case #17: Application received by NCMEC in September 1995. The child has not been located.

Case #18: Application received by NCMEC in February 1996. In March 1999, the applicant''8 attorney informed NCMEC that the children might be back in the foreign country. NCMEC is verifying that information with the foreign Central Authority.

Case #19: Application received by NCMEC in March 1997. The child has not been located. NCMEC is placing the child on its Internet website.

Case #20: Application received by NCMEC in June 1997. The child was not located until February 1999. The legal process is underway.

Case #21: Application received by NCMEC in April 1996. The legal process is underway.

Case #22: Application received by NCMEC in March 1997. The children were finally located and the legal process is underway.

Case #23: Application received by NCMEC in September 1997. The child has not been located. The child''s photograph is being placed on NCMEC''s Internet website.

Case #24: Application received by NCMEC in September 1997. The child was located and a pro bono attorney was secured for the applicant. The attorney stated that the applicant does not have a Hague case because she submitted to the local court jurisdiction for over a year. The applicant does not agree with the attorney''s opinion and has requested a second pro bono attorney, which NCMEC cannot provide for her. The applicant is pursuing legal aid in her home country. If she is successful, she will then hire her own attorney.

Case #25: Application received by NCMEC in March 1997. The location of the child is unknown, and the child might not even be in the U.S. Interpol has a "trace and locate" notice and NEMEC has placed the child''s photo on its Internet website.

Case #26: Application received by NCMEC in December 1994. The location of the child is unknown. The child''s picture is on NCMEC''s Internet website. NCMEC is trying to verify a reported location.

Case #27: Application received by NCMEC in March 1996. At the time of filing, the location of the taking parent and child was unknown. In April 1998, a NCMEC clearinghouse confirmed the child was registered in school. NCMEC located a pro bono attorney to represent the applicant. However, the applicant has not been proactive about contacting the attorney.

Case #28: Application received by NCMEC in January 1996. The child has been located and the applicant has a private attorney. The legal process is underway.