

# 2001 Compliance Report

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## **2001 Report on Compliance with the Hague Abduction Convention**

Submitted Pursuant to

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

April 2001

### **INTRODUCTION:**

As mandated by Section 2803 of Public Law 105-277, (Foreign Affairs Reform and Restructuring Act of 1998), as amended by Section 202 of Public Law 106-113 (The Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act for Fiscal Years 2000 and 2001), the following is a report on compliance by signatory countries with the Hague Convention on the Civil Aspects of International Child Abduction (the Convention), done at The Hague on October 25, 1980. Previous such reports were completed in April 1999 and September 2000.

This report discusses unresolved applications filed through the U.S. Central Authority for the return of children to the United States. 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 a foreign court with jurisdiction to hear the return request. The left-behind parent may pursue return without involving the U.S. Central Authority. In these circumstances, the U.S. Central Authority may never know about such a request and its disposition. Thus this report cannot give a complete picture of the outcome of all Hague applications for the return of children to the United States.

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

The U.S. Central Authority may open a Hague case based on a parent expressing concern about

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

As has been the practice in previous reports, the Department is reporting as "resolved" cases that are determined by the U.S. Central Authority to be "closed" as Hague cases or "inactive." Like other signatory countries, the U.S. Central Authority closes or inactivates Hague cases for a variety of reasons, including: return of child; parental reconciliation; withdrawal of request for assistance; inability to contact the requesting parent after numerous attempts; exhaustion of all judicial remedies pursuant to the Convention; or access rights granted and enforced. In all such cases, regardless of the outcome, no further proceedings pursuant to the Hague Convention are anticipated. Considering these cases "resolved" and closing them as Hague Convention cases is consistent with the practice of other Convention signatories.

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

Annexed to this report is a list by country of the cases unresolved for more than 18 months as of March 1, 2001. Information that might identify a case to the abducting parent, or to others, has been removed to protect the privacy of the child and the applicant parent. Separately, in various places in the text of this report, certain illustrative cases are used to more fully address questions of compliance with the Convention. For the most part, these examples occurred outside the reporting period and are not, therefore, listed in the annex.

This report identifies specific areas and cases in which signatory countries have not met the Convention's goals or in which the Convention has not operated to achieve a satisfactory result for left-behind parents in the United States. The U.S. Department of State has continued to take steps to

promote better information sharing and more consistent practices among signatory countries. At the March 2001 quadrennial Special Commission meeting to study the operation of the Hague Convention (the Special Commission), the U.S. delegation was a key participant in six days of intensive review and discussion of practices under the Convention. In addition, the U.S. delegation made full use of the opportunities presented by the Special Commission to address with every party state present systemic problems and difficult cases.

In addition to applications for the return of children, this report also discusses applications for access to children. While the Convention did not treat questions of parental access in depth and is less specific about terms of access than terms of return, the Department of State recognizes the importance of children having meaningful access to both parents. The Department has pursued access issues in every appropriate fora, including at the March 2001 Special Commission.

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

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

Taking into account the above clarifications, as of March 1, 2001, there were 29 applications that remained unresolved 18 months after the date of filing with the relevant foreign Central Authority.

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

The 29 applications identified above for the return of children that remain unresolved 18 months after the date of filing, as of March 1, 2001, pertain to eight countries: Australia, The Bahamas, Israel, Mexico, Poland, South Africa, Spain, and Switzerland. The extent to which these countries and others appear to present additional, systemic issues of compliance under the Hague Convention is discussed further in Sections (a)(3), (a)(4) and (a)(6), below.

In considering the question of compliance and court orders, it should be noted that, while most Hague cases are premised on custody rights established by a court order, a court order is not a requirement for filing a Hague application. Moreover, while the existence of rights of custody and access is a predicate of the Convention, the Convention does not itself require enforcement of foreign custody or visitation orders by states party. The U.S. Central Authority does not, therefore (and cannot fully) record and monitor whether foreign countries recognize U.S. custody or other court orders. The Department recognizes that this information, systematically collected, could prove useful and seeks to obtain it when possible. When fully developed, the Department of State's new case management

tracking system for international parental child abduction cases may enable the U.S. Central Authority to provide better information in the future about the recognition of United States court orders.

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

There are many factors involved in implementing the provisions of the Convention, not least because the executive, legislative and judicial branches of each state party have important and varying roles. A country may thus perform well in some areas and poorly in others. The Department of State, building on recommendations of an inter-agency working group on international parental child abduction, has identified the elements involved in implementing the provisions of the Convention and has used these as factors for evaluating country performance. The elements are: the existence and effectiveness of implementing legislation; Central Authority performance; judicial performance; and enforcement of orders. "Implementing legislation" can be evaluated as to whether, after ratification of the Convention, implementing legislation has been enacted that enables the executive and judicial branches to carry out their Convention responsibilities. "Central Authority performance" involves the speed of processing applications; procedures for assisting left-behind parents in obtaining knowledgeable, affordable legal assistance; judicial education or resource programs; responsiveness to U.S. Central Authority and left-behind parent inquiries; and success in promptly locating abducted children. "Judicial performance" comprises the timeliness of first hearings and subsequent appeals and whether courts apply the Convention and its articles appropriately. "Enforcement of orders" involves the prompt enforcement of civil court orders under the Convention by civil or police authorities and the existence and effectiveness of sanctions compelling compliance with orders. Specific instances of failure to enforce orders since September 2000 are addressed in section (a) (6) below.

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

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

### **Noncompliant Countries**

**AUSTRIA:** Austria was identified as noncompliant in the Department's previous Compliance Reports to Congress because of delays in case processing that the Department believed reflected a lack of understanding by the Austrian judiciary of the Convention and indifference to the importance of expeditiously handling cases. This suggested the need for the Austrian Central Authority to better meet its Convention obligation under Article 7 to provide information about the Convention to the judiciary. In addition, Hague court orders were neither enforced adequately, nor were sanctions applied against an abducting parent who defied court orders.

The Department's concerns about Austrian compliance continue, despite assurances that Austria's Central Authority has undertaken measures to educate the judiciary. Bilateral exchanges at high levels with the Austrian Government have produced a more forthcoming stance by the Central Authority. The Ministry of Justice is working on legislation that would reorganize court responsibilities for international child abduction cases. The Department is hopeful that these legislative reforms, when implemented, will improve the handling of Hague cases. Legislation passed in November 2000 may also encourage the recognition of joint custody orders and enhance access to both parents. Whether these developments will produce satisfactory results remains in question.

In particular, the Department clearly differs with the Austrian Government on interpretation of Article 13 of the Hague Convention, which addresses protection of the abducted child. One particular case, discussed in previous reports, suggests that the previously cited problems remain systemic. In this case, Austrian courts to the highest court ordered the return of the child to the United States. The taking parent appealed the enforcement of the return order. The courts then determined that the Austrian return order should not be enforced because the delays in the case had caused the child to become settled in Austria and return would cause psychological harm. After the Austrian court denied the child's return to the United States, the left-behind parent sought access rights under the Hague Convention. The courts finally granted very limited access in Austria. It is not yet clear whether new, more expansive access orders will be granted and, if granted, will be effective in promoting the child's access to both parents. The Department of State notes that Austria's Minister of Justice and Minister of Foreign Affairs attempted to assist the parties in this case to seek a resolution that will allow both parents to participate more fully in the life of their child. This attempt at mediation did not succeed, but the Department is encouraged that Austrian government officials have demonstrated a commitment to addressing the issues raised by this case.

The Department notes considerable efforts by Ambassador Hall and former Secretary of State Albright to raise our concerns at the highest levels of the Austrian Government. At the March 2001 Hague Special Commission, the Department's Assistant Secretary for Consular Affairs and head of the U.S. delegation raised this case and the systemic problems noted above with the Austrian delegation.

**HONDURAS:** Honduras was cited as noncompliant in the two previous Compliance Reports to Congress. Since that time, there has been no change. The Honduran government has taken no actions with regard to applications for assistance pursuant to the Convention nor has the Government of Honduras submitted domestic legislation to implement the provisions of the Convention in effect between the United States and Honduras.

Honduras acceded to the Convention on March 1, 1994. Hague Convention records state that the Convention entered into force bilaterally between the U.S. and Honduras on June 1, 1994. On July 1, 1996, the Honduran government notified The Hague that it had designated its Junta Nacional de Bienestar Social, now known as the Instituto Hondureño de La Niñez y la Familia (INHFA), as the Central Authority for the Convention in Honduras. Notwithstanding The Hague records, the Honduran executive branch and the INHFA continue to claim that their constitution requires the Honduran Congress to ratify the treaty prior to its being in force. On March 21, 2000, the U.S. Embassy in Honduras issued a Diplomatic Note to the Government of Honduras reiterating U.S. concerns about the implementation of the Treaty and requesting clarification as to what steps the Honduras was taking to enforce the Convention. In response, on October 11, 2000, the Honduran Ministry of Foreign Affairs forwarded the Convention to the President's Office for approval prior to the Foreign Ministry submitting it to the Congress for ratification. On November 30, 2000, the U.S. Ambassador to Honduras formally advised the Honduran Foreign Minister that by becoming a party to the Vienna Convention on the Law of Treaties in 1979, Honduras accepted the rules in Articles 26 and 27 that every treaty in force is binding upon the parties to it and must be performed by those parties in good faith, and that a state may not invoke the provisions of its internal law as justification for its failure to perform a treaty. The U.S. Ambassador asked how the Government of Honduras planned to rectify the supposed procedural omission and handle the four Hague return applications, filed pursuant to the Treaty since June 1994. Although the Honduran Foreign Minister expressed his concerns about Honduras not recognizing its own accession to the Convention, Honduras has not responded formally.

**MAURITIUS:** Mauritius was cited in the previous two Compliance Reports to Congress because it had not taken the necessary steps to properly implement the Convention. Mauritius became a party to the Convention in 1993, but only passed implementing legislation in July 2000. To date, Mauritius courts have not accepted two U.S. cases presented to the Mauritian Central Authority after Mauritius became party to the Convention.

In the first case, the Mauritian court rejected return of the child. This rejection was upheld in the appeals court, and the Privy Council refused to hear the case further. We understand that the Mauritius Attorney General's office plans to submit the Hague application in this case to the Supreme Court for reconsideration. The Department and the U.S. Embassy are continuing to follow this case. The government of Mauritius is holding the second U.S. case pending the outcome of the first. At the March 2001 Hague Special Commission, the U.S. delegation raised the cases and the systemic problems noted above with the Mauritius delegation.

**PANAMA:** Panama was cited as noncompliant in the two previous Compliance Reports to Congress. The Convention entered into force between the United States and Panama in 1994. Since then, nine Hague return applications have been filed by left-behind parents in the United States. In only one case was a child returned pursuant to orders under the Convention.

The Panamanian Government has not adopted implementing legislation clarifying the role of the Central Authority vis-a-vis the judicial system. Without such legislation, the Panamanian code of

family justice takes precedence over the Convention. There is also an apparent lack of understanding among the Panamanian judiciary about the Convention, suggesting the need for judicial education. In January 2000, a Panamanian superior court overturned a lower court ruling of "international restitution" on the basis of appellant's arguments that included an incorrect claim the Convention was not in force between the United States and Panama at the time of the child's removal, and that cited the absence of a child custody order at the time of removal (not a prerequisite for Hague compliance).

The Department acknowledges that the Panamanian government has made some efforts on this front. We note that the Government of Panama states that it has written implementing legislation for the Convention. We look forward to adoption and full implementation of that legislation, and remedying of the problems with existing cases. The Panamanian Central Authority has also begun conducting training on the Convention for family court judges.

The Department and U.S. Embassy officials have raised problems with the Convention in several bilateral and other meetings with high level officials of the Panamanian Foreign Ministry and the Panamanian judicial branch. The U.S. Embassy has engaged high level Panamanian officials in discussion on implementation of the Convention. At the March 2001 Hague Special Commission, the U.S. delegation raised the cases and the systemic problems noted above with the Panamanian delegation.

#### Countries That Are Not Fully Compliant

**MEXICO:** Mexico is the destination country of the greatest number of children parentally abducted from the United States. While systemic problems continue and a large number of cases remain unresolved, Mexico has shown impressive efforts to better meet its Convention responsibilities. As a result, it was moved from "noncompliant" status (1999 Report to Congress) to "not fully compliant" (2000 Report to Congress). Further progress has been shown since the last report; however, many cases remain unresolved 18 months after the filing of a Hague application. The September 2000 Compliance Report listed 18 such cases; twelve of these remain open. An additional six cases have been added to this report.

There remain several areas in which systemic problems appear to delay resolution of cases. Mexico has no implementing legislation integrating the Convention into the Mexican legal system. The Convention, therefore, is implemented under existing state family code and varies from state to state. This lack of a legal structure facilitating the Convention's operation is a major obstacle to the Convention's effective implementation in Mexico. Significant processing delays have occurred in at least two of the states. However, one of these states has recently notified the Mexican Central Authority that the primary judicial concern delaying cases has been resolved and has pledged to process cases more expeditiously. The Department is also encouraged by recent discussions with the Mexican Central Authority concerning plans for the development of implementing legislation.

Mexican law enforcement agencies have not consistently undertaken serious efforts to locate parentally abducted children. Location of the child remains undetermined for eight of the cases

included in the September 2000 Compliance Report and in all six of the cases added to this report. In June 2000, Mexico passed a law making familial child abduction a federal crime and forming a federal police unit charged with investigating crimes against children, including the location of missing children. These recent actions may result in improved efforts to locate children.

Although not a problem in recent cases, the amparo (a special appeal claiming a violation of constitutional rights) has been used by taking parents to block Hague proceedings indefinitely and remains a problem in at least three long-term cases. Other judicial delays, such as judges not scheduling hearings in a timely manner, also have affected prompt case resolution.

Several of the cases cited above, and the issue of implementation of the Convention in general, were raised at the Binational Commission meetings in 1999 and 2000 and by the Ambassador in a discussion with a Foreign Ministry Under Secretary in February 2001. In addition, on-going meetings between Mexican and U.S. Central Authority officials have resulted in better communication, case updates, and case resolutions. At the March 2001 Hague Special Commission, the Department's Assistant Secretary for Consular Affairs and head of the U.S. delegation raised the cases and the systemic problems noted above with the Mexican delegation.

### **Countries of Concern**

**THE BAHAMAS:** The judicial or administrative authorities fail to act expeditiously in proceedings for the return of the child as required by Article 11. There are three open cases, one open for over five years and another open for almost three years. Neither case has yet been brought to trial.

The Bahamian Central Authority is consistently non-responsive to inquiries and requests by the U.S. Central Authority as required pursuant to Article 7. The Bahamian Central Authority has also been non-responsive to repeated representations by the U.S. Embassy during the past year.

In an encouraging development, the Bahamas Central Authority and the Office of the Attorney General did respond quickly to a Hague application filed in February 2001. This case was resolved by the parents themselves in March without the need for a court hearing. At the March 2001 Hague Special Commission, the U.S. delegation raised the cases and the systemic problems noted above with the Bahamian delegation.

**COLOMBIA:** Colombian courts frequently request a home study of the left-behind parent in the United States before ordering a child's return to the United States. Such inquiries go to the merits of custody and are inappropriate for consideration in the context of a Hague proceeding, and are properly left to the courts of the country of habitual residence, as per Convention Article 16. A Hague Convention case is not a child custody case but a mechanism to return a child to his or her country of habitual residence so that the courts there may decide contested custody issues. In addition, the U.S. Central Authority often has difficulty reaching the Colombian Central Authority and in receiving responses to routine inquiries.

**GERMANY:** In mid-2000, the President and Secretary of State raised the issue of international parental child abduction with their German counterparts. As a result, a binational working group of experts on this issue is conducting discussions and developing a list of specific actions to take to improve the situation. German authorities have been forthcoming in sharing views and information with the United States. For instance, German authorities confirmed that in an effort to encourage greater judicial familiarity and expertise in Hague cases, the number of courts authorized to hear Hague Convention cases has been significantly reduced from over 600 to 24. In addition, since the beginning of bilateral discussions, the German government has introduced expedited procedures for handling Hague cases. In a further encouraging development, there have already been two seminars for German judges to discuss and clarify issues under the Convention. Since the last Report, the German government has made unusual and extensive efforts to assist a left-behind parent in a long-standing case to meet with his children and lay the basis for further progress.

Good progress has been made, and we hope that the ongoing training of judges who handle Hague convention cases will address our concerns in the following areas. In a number of past cases in Germany judges have made an overly broad use of the Convention's exceptions to return. Parents seeking return of their abducted children are sometimes asked to prove that return would not harm the child, even though the Convention places the burden of proof on the abducting parent. German courts have often used a traditional "best interests of the child" analysis to justify refusing to return children, thereby addressing those issues as if they were domestic custody issues while asserting that non-return is on the basis of Article 13(b) (grave risk of psychological or physical harm). In addition, the wishes of children as young as five years old have been given considerable consideration in German courts, despite the Convention's requirement that the child must have "attained an age and degree of maturity at which it is appropriate to take account of its views." In other cases, courts have denied the return of abducted children because of evidence provided by individuals who were interested parties in the case.

In a particularly difficult case, several years ago two American citizen children were taken from the United States to Germany by their German mother and placed in foster care there without the knowledge of their American citizen father who was in the United States. Following a lengthy search, the father finally located the children. Despite his many attempts to regain custody of them and bring them back to the United States, he was rebuffed at every turn by the German foster family, judiciary, and bureaucracy. Building on the personal intervention of former President Clinton, former Secretary Albright and efforts of the U.S./German binational working group, German officials recently facilitated the father's first meeting with the children in over five years.

We are encouraged, however, by the fact that over the last year, German courts have ordered an increasing number of returns under the Hague Convention, and the processing time for such cases has shortened considerably. The educational efforts recently undertaken by the Government of Germany to address these problems will require time to become fully effective. In most of these cases, the children have returned to the United States. This is indeed encouraging and indicates that the consolidation of courts handling Hague cases is having a positive effect. However, in at least one case, German authorities were unwilling to use reasonable measures to carry out a return order in the face

of resistance from the German family of the child. Effective enforcement of orders is an issue that must be addressed more directly by German courts.

In access proceedings under Article 21 of the Convention, some German court orders do not provide for children to have a meaningful relationship with both their parents and both their cultures. Access is sometimes limited and conditioned to the point of causing emotional stress to both parents and children. Even when the courts issue access orders, the systemic failure to enforce contempt of court sanctions allows abducting parents to resist enforcement of orders indefinitely. German Ministry of Justice officials have begun a consultative process to determine which steps may realistically be taken under German law to ensure better enforcement of court-ordered access. At the March 2001 Hague Special Commission, the Department's Assistant Secretary for Consular Affairs and head of the U.S. delegation raised the cases and the systemic problems noted above with the German delegation.

**POLAND:** The Polish Central Authority has been cooperative and responsive in its dealings with the U.S. Central Authority. However, the U.S. Central Authority has informed the Polish Central Authority of concerns that the Polish judiciary is not fulfilling its obligations under the Convention, in large measure because it considers issues related to custody in Hague proceedings, makes inappropriate use of Article 13 (b), and affords uncertain, uneven enforcement of orders.

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

There has been some progress in the past year. In October 2000, the U.S. Ambassador to Poland sent a letter to the Minister of Justice regarding our areas of concern. In response, the Ministry stated that Poland required no special implementing legislation due to the nature of the Polish legal system. Procedural legislation was implemented on July 1, 2000 whereby Hague cases may no longer be appealed beyond the Appeals Court (i.e., to the Supreme Court). The Ministry has not addressed our concern that there is no legal requirement for a higher court to hear Hague cases expeditiously, but stated there are changes pending in regulations governing Hague orders, which will simplify enforcement procedures. While a December 1999 Polish Supreme Court review pointed out that proving an Article 13(b) allegation is the responsibility of the taking parent, the Ministry advised us that the Supreme Court decision is not binding on judges adjudicating Hague cases.

Communication with the Central Authority continues to improve. The Central Authority has been responsive to our inquiries and helpful in explaining Hague procedures in Poland. We recently received a copy of a Hague court decision (already translated into English) for the first time in almost four years. The decision, while recognizing that the removal was wrongful, declares that the child is firmly resettled in Poland. There is also an assumption that returning the child to the United States would automatically preclude any exercise of custodial rights by the mother which would cause "grave risk to the child" under Article 13(b). At the March 2001 Hague Special Commission, the U.S. delegation raised the cases and the systemic problems noted above with the Polish delegation.

**SPAIN:** Lengthy delays in locating children mean that left-behind parents have difficulty filing Hague applications within one year of the child's abduction. Hague orders for return have not been enforced due to the apparent inability to locate children. The Department and the U.S. Embassy have addressed this issue with the Spanish Central Authority. Spanish authorities conferred with U.S. Embassy officials in March 2001 to provide an update on their efforts to locate children who have been ordered returned to the United States. At the March 2001 Hague Special Commission, the U.S. delegation raised the cases and the systemic problems noted above with the Spanish delegation.

**SWEDEN:** Sweden was cited in the 2000 Compliance Report as not fully compliant. Progress continues to be made in resolving cases and returning children and the Central Authority has been increasingly cooperative. However, the Department of State remains concerned about the commitment of Swedish authorities to act promptly to locate children and enforce return and access orders issued under the Convention.

As noted in the previous report, the U.S. Ambassador to Sweden met with Swedish justice officials and appeared on Swedish television to press the U.S. interest in prompt action on Hague cases. In one case, a child was located in Sweden and returned to the United States, but only after a lengthy delay and despite initial assurances by Swedish authorities that the child was not in Sweden.

One older case, discussed in previous reports, continues nevertheless to illustrate the potential for disputes over interpretation of the Hague Convention and enforcement of custody orders, which the convention does not address. The Regeringsrätten, the Supreme Administrative Court in Sweden, denied a petition by an American parent for the return of a child to the United States. Return would have been required under an existing U.S. joint custody order that included a consensual agreement that the United States would remain the child's habitual residence and that a U.S. court would maintain continuing and exclusive jurisdiction to resolve all future custody issues, but that allowed the Swedish parent to take the child to Sweden for a two-year period. The Swedish parent filed a petition in a Swedish court seeking to establish sole custody of the child and refused to return the child to the parent in the United States in August 1995, as agreed to in the U.S. custody order. The U.S. parent filed a petition under the Convention with the Swedish Central Authority. Although the lower courts in Sweden ordered the child's return to the United States, the Regeringsrätten found that Sweden had become the child's place of habitual residence, stating that a determination of habitual residence is a finding of fact that cannot be legally agreed upon in advance. The Department protested to the Swedish Ministry of Foreign Affairs that the failure to recognize the United States as the habitual

residence was inconsistent with the goals of the Convention and with the fact that the United States was, in fact, the habitual residence when the custody dispute arose. The child has never been returned to the United States. The applicant in this case subsequently obtained a Swedish court order for joint custody and unsupervised access, but enforcement of the order depends on the acquiescence of the Swedish parent who as of the time of this report has not permitted access.

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

Senior officials of the Swedish foreign ministry have visited the United States to meet with the U.S. Central Authority and members of Congress to discuss U.S. concerns on Sweden's implementation of the Convention. Despite the resolution of several long-standing cases, the failure to grant and enforce access rights, and the lack of effective contempt-of-court sanctions in access cases, and instances where Swedish courts refuse to honor U.S. court orders even when both parents have agreed to a U.S. venue for custody determinations, are areas for continuing concern. At the March 2001 Hague Special Commission, the Department's Assistant Secretary for Consular Affairs and head of the U.S. delegation raised the case and the systemic problems noted above with the Swedish delegation.

**SWITZERLAND:** Switzerland is a federal country with powerful cantons. Authorities at the federal level, including the Swiss Central Authority, are cooperative and responsive, but there are problems with cantonal-level governments, courts and child welfare agencies, which have favored the Swiss parent in some parental abduction cases. While federal authorities understand the Hague Convention and take it seriously, they are sometimes reluctant to intervene on behalf of U.S. court orders that are in opposition to Swiss federal or cantonal court decisions. In addition, the federal level will not intervene in an ongoing cantonal legal process supposedly based on new evidence, even if federal courts have already definitively ordered the return of a child. In November 2000, the Swiss Central Authority oversaw the establishment of Coordination Offices in each canton to improve federal-cantonal communication on international parental child abduction matters. While it is too early to determine the impact of these bodies on federal-cantonal cooperation, they clearly represent a step in the right direction.

In the specific case cited in section (a)(6) below, the Swiss federal court ruled that the child must be returned to the left-behind parent in the United States, and the cantonal court of original jurisdiction rejected the taking parent's appeal of this decision. When the taking parent moved to another canton and jurisdiction was transferred to the new place of residence, this new canton refused to implement the federal court order. In addition, the cantonal court ordered a psychological examination of the child. The examination gave considerable weight to statements made by the eight-year-old child, and concluded that return of the child would cause grave psychological harm because the child had by then become integrated in Switzerland.

The above-referenced case was raised by the Charge d'Affaires with the highest Swiss non-elected children's issues official in October 1999. The Embassy made a demarche to cantonal authorities. On November 14, 2000, the Ambassador and Consul General delivered a demarche in this case to the Minister of Justice. In March 2001, the Embassy learned that the Aargau cantonal court, which had been slated to rule on the left-behind parent's appeal of the canton's order of non-return, was likely to reach a decision in April 2001. The Embassy maintains ongoing close contacts with the Swiss Central Authority on children's issues.

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

Section 2803 (a)(5) requests "information on efforts by the Department of State to encourage other countries to become signatories to the Convention." The Department avails itself of appropriate opportunities that arise in bilateral contacts to persuade other countries not party to the Convention of the advantages that would derive from ratification or accession. The Assistant Secretary for Consular Affairs routinely raises the Convention in talks with foreign officials on other bilateral consular matters. The Department maintains a library of talking points and materials for its overseas posts to use in explaining to foreign governments the advantages of adhering to the Convention. The Department and its overseas posts have worked with the following countries in the past year to encourage accession, ratification, or passage of implementing legislation: Costa Rica, El Salvador, Ghana, Guatemala, Japan, Lithuania, Nicaragua, Panama, Peru, Thailand, and Trinidad and Tobago. Subsequently, El Salvador, Nicaragua, and Trinidad and Tobago acceded to the Convention. The Department is in the process of assessing the ability of these countries to comply with the Convention.

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

The reporting period is considered as the period from July 30, 2000 until March 1, 2001. The information provided is that available to the U.S Central Authority within these dates.

**GERMANY:** Orders for parental access are sometimes not enforced due to a lack of effective sanctions for failure to comply with orders. More recently, as noted above, a problem has arisen in one case with regard to enforcement of a return order.

**ISRAEL:** Orders for return have not been enforced due to difficulty in locating the child and taking parent. In several cases, orders for return have been overturned on appeal or not executed because of

provisions in the orders requiring guarantees regarding the taking parent's immigration and employment status upon return to the U.S. with the child.

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

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

Section 2803 (a)(7) requests "a description of the efforts of the Secretary of State to encourage the parties to the Convention to facilitate the work of nongovernmental organizations within their countries that assist parents seeking the return of children under the Convention." Because of the recent change in Administration, there have not been opportunities for the Secretary of State to engage in such efforts.

## **ATTACHMENT "A"**

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

\*\*The following acronyms are used throughout:

CI - Office of Children's Issues

CA - Foreign Central Authority

LBP - Left-behind parent

TP - Taking parent

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

### **AUSTRALIA**

Date of abduction or wrongful retention: 12 Jan 95

Date Hague application filed: 19 Jun 95

Has child been located? Yes

Date and results of first court hearing of Hague case:

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

Date and results of subsequent appeals:

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

Actions taken by the Department of State to resolve case:

Jan 98 CA notified CI that child located. Arrangements made to pick up child.  
----- See above for court hearings during this time period.

Feb 98 - Aug 99 Letters of protest to CA.  
Mar 99 Assistant Secretary of State raised case with Australian counterpart.  
Sep 99 Letter from CI Director to CA's principal legal officer.  
Sep 99-Feb 00 Strenuous efforts to locate LBP. LBP informed several times of need to provide signed agreement to undertakings in original order for return. LBP responds.  
Apr-Jun 00 CA writes with list of welfare concerns regarding child's return, CI attempts to contact LBP.  
Jul 00-Feb 01 CA correspondence with CA and LBP re conditions for TP and child's return.

Actions taken by the Chief of Mission: None

## **BAHAMAS CASE 1**

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

Actions taken by the Department of State to resolve case:

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

Dec 99 CI contacted U.S. law enforcement re extradition.  
Mar 00 Conference call (CI, DOJ, LBP) to discuss extradition. Embassy contacted public Bahamian prosecutor's office.  
Mar 00 Ambassador sent diplomatic note asking for action on case.  
Apr 00 Embassy requested meeting with Deputy Attorney General to follow up on diplomatic note.  
Apr 00 Embassy reported official Ministry of Foreign Affairs/Attorney General response "to ensure that these matters are actively pursued and satisfactorily resolved."  
Oct 00 Ambassador sent follow-up letter to Bahamian Foreign Minister and Attorney General.  
Nov 00 Letter from Consul General to Bahamian Director of Legal Affairs.  
Dec 00 Embassy sent Diplomatic Note 271 conveying contact information for US Central Authority and requesting similar information for Bahamian CA. No response to date.  
Dec 00 CI sent letter to CA advising of continuing interest in pursuit of Hague Return by LBP, and pointing out recent decisions by other common law countries on the Article 13 defense to return. CA has not begun Hague hearing process. CI forwarded to LBP copy of CA's letter to CI and information about defenses to Article 13.  
Feb 01 Ambassador met with newly appointed Attorney General for the Bahamas and asked for action on the long-standing cases. A letter reiterating these requests followed the meeting. The Attorney General promised to review both cases.

Actions taken by the Chief of Mission: 13 Mar 00 diplomatic note requesting action with this and other long-standing case. 3 Oct 00 letter sent by Ambassador. 4 Dec 00 diplomatic note requesting reliable contact information sent. 22 Feb 01 meeting with new Attorney General, letter from Ambassador.

## **BAHAMAS CASE 2**

Date of abduction or wrongful retention: 24 May 97  
Date Hague application filed: 01 May 98  
Has child been located? Located, but missing again in early 2000.  
Date and results of first court hearing of Hague case:

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

Actions taken by the State Department to resolve case:

Nov 98 CI sent follow-up fax asking for status.  
Dec 98 CI forwarded documents from CA to LBP for signature.  
Sep 99 When CI called LBP's attorney for update, learned case scheduled for hearing.  
Oct 99 - Apr 00 Embassy repeatedly sought information from CA on court decision; received no answer.  
Mar 00 Ambassador sent diplomatic note asking for action on case.  
APR 00 Embassy requested meeting with Deputy Attorney General to follow up on diplomatic note.

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

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

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

Oct 00 Ambassador sent follow-up letter to Bahamian Foreign Minister and Attorney General.

Nov 00 Letter from Consul General Ramotowski to Bahamian Director of Legal Affairs.

Dec 00 Embassy sent Diplomatic Note 271 conveying contact information for U.S. Central Authority and requesting similar information for Bahamian CA. No response to date.

Dec 00 CI sent letter to CA pointing out recent decisions by other common law countries on the Article 13 defense to return. CA has not begun Hague hearing process. CI forwarded to LBP's attorney of record information about defenses to Article 13.

Feb 01 Ambassador met with newly appointed Attorney General for The Bahamas and asked for action on the long-standing cases. A letter reiterating these requests followed the meeting. Attorney General promised to review both cases.

Actions taken by the Chief of Mission: 13 Mar 00 diplomatic note requesting action with this and other long-standing case. 3 Oct 00 letter sent by Ambassador. 4 Dec 00 diplomatic note requesting reliable contact information sent. 22 Feb 01 meeting with new Attorney General, letter from Ambassador.

## **ISRAEL CASE 1**

Date of abduction or wrongful retention: 18 Apr 97

Date Hague application filed: 06 Oct 97

Have children been located? No

Date and result of first court hearing of Hague case:

Jan 98 TP did not appear; hearing was adjourned until January 27, 1998.

Date and results of any subsequent hearings.

Jan 98 TP did not appear.

Feb 98 Court granted request from LBP; police ordered to locate children and bring them before the court; efforts to locate failed.

March 98 TP failed to appear. Attorney filed motion requesting permission subpoena relative; court denied request.

Apr 98 Attorney filed request for substitutional service, since location was still unknown.

Jul 98 Court held that service by publication in a daily newspaper would be allowed.

Nov 98 Court ordered children's return to U.S.

Jan 99 Court issued another order instructing the police to locate the children. Police failed to locate.

If Court ordered return/access, was order enforced?

November 98 Return Order cannot be enforced until the location of the children is known.

List actions taken by the State Department to resolve case:

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

Nov 97 CA facilitated information exchange between contacts between CA and LBP.

Dec 97 CI confirmed that attorney had filed "Stop Order" with court in Israel to prevent TP and children from departing Israel prior to hearing on Hague Convention Application. CI contacted LBP, stressed that ICA will not forward LBP's application without responses to Nov 97 request.

Jan 98 CI forwarded responses to ICA; application filed with court. Court ordered police to locate children; directed Chief Welfare Officer to assist police.

Mar 98 CA informed CI that TP failed to appear for hearing. Court ordered police to locate the children and bring them to court.

May-Jul 98 CI requested update from CA; CA provided information on efforts to locate TP.

Sep 98 CI requested post to attempt to locate children and conduct welfare visit.

Oct 98 CI contacted CA for update and requested summary translation of court decision. Post unable to locate children.

Nov 98 Court issued Order of Return, location still unknown.

Jul 99 CI met with CA in Jerusalem to discuss case.

Aug-Dec 99 CI discussions with CA and law enforcement on steps to locate TP and child.

Jan -Mar 00 CI requested status reports/updates from CA; facilitated law enforcement contacts.

Apr 00 CI worked with LBP and CA on travel plans for LBP if child and TP were located.

May 00 Location efforts failed.

Jun-Jul 00 CI contacted CA with legal inquiries from LBP and forwarded CA responses to LBP.

Jul-Aug 00 CI contacted CA for status of efforts to locate TP and children; reported to LBP.

Feb-Jun 99 CI contacts with law enforcement and CA.

Jul 99 CI met with ICA in Jerusalem to discuss case. CI faxed information to U.S. Embassy to assist in locating children.

Aug-Oct 99 CI contacts with LBP and CA regarding location efforts, possible criminal charges, and possible return arrangements.

Dec 99 CA notified CI criminal complaint filed and warrant issued.

Jan-Mar 00 CI requested and received status reports from CA.

Mar 00 CA informed CI that a special investigation unit was appointed to handle case. CI facilitated law enforcement contacts.

Apr-May 00 CI facilitated contacts between CA and LBP re possible location and reunification.

Jun 00 CI contacted CA with inquiry from LBP regarding enforcement in Israel of Writ of Habeas Corpus issued by U.S. court. CI forwarded response to LBP.

Jul 00 CI contacted CA for status of law enforcement efforts to locate TP and children; report received and status discussed with LBP.

Aug 00 CI contacted LBP with update on efforts to locate TP and children. CI contacted by law

enforcement.

Sep 00 CA informed CI about further local law enforcement efforts to locate children.

Oct 00 CI requested CA provide update on police efforts to locate children and if possible, to obtain a law enforcement point of contact for LBP.

Nov-Mar 01 CI assisted LBP efforts to locate photographs.

Jan 01 CI contacted CA for new information; police efforts continue but no leads on location.

Actions taken by the Chief of Mission: None.

## **ISRAEL CASE 2**

Date of abduction or wrongful retention 8 Apr 99

Date Hague application filed 13 Jun 99

Have children been located? Yes

Date and result of first court hearing of Hague case:

Feb 00 First Court Hearing: Allegations of physical abuse made by TP.

Date and results of subsequent hearings.

Mar 00 Preliminary finding - no wrongful taking.

Apr 00 Continuance granted.

May 00 LBP testified.

Jun 00 Arguments from both sides on wrongful taking

Jun 00 Court requests Art.15 determination.

Jun 00 Continuance granted.

Aug 00 Hearing: LBP testimony.

Sep 00 Hearing: TP testimony.

Mar 01 Summations heard.

Actions taken by the State Department to resolve case:

Jun -Sep 99 CI liaison with CA, LBP, U.S. District Attorney's office, and law enforcement re: Hague application, legal aid, children's location. CI contacted LBP again and requested proof regarding legal aid qualifications.

Oct -Dec 99 CA contacted CI regarding efforts to locate TP and children. CI coordinated efforts to obtain Israeli attorney for LBP and information on location of TP and child.

Jan - Apr 00 CI coordinated exchange of information between CA and U.S. local authorities regarding physical abuse allegations.

Apr 00 CI requested that CA contact court to seek permission for LBP filing an Art. 15.; court denied stating that LBP had to first prove wrongful taking.

May 00 CI submitted request to NCMEC for assistance regarding LBP's travel to Israel. CI contacted

CA regarding concerns that TP instituted stop order against LBP and court order re LBP child support.  
Jun 00 CI forwarded LBP request for phone contact with children. CA informed CI that Court request Art. 15 determination by June 26.

Jul - Oct 00 CI acted as liaison with U.S. and Israeli authorities re Art. 15 Determination. CA informed CI that Court scheduled 5 day hearing in August and requested LBP be present. CI coordinated arrangements, including funding, for LBP's August trip to Israel.

Nov -Dec 00 CI provided names of Hague experts and assisted authorities in Art. 15 proceedings.

Jan 01 CI forwarded to CA Art. 15 Determination from U.S. court

Feb 01 CA informed CI that Court set March 1 deadline for presenting summations.

Mar 01 CI contacted CA for update on case.

Actions taken by the Chief of Mission: None.

### **MEXICO CASE 1**

Date of abduction or wrongful retention: 07 May 93

Date Hague application filed: 13 May 94

Has child been located? Yes

Date child was located: 07 Aug 96

Date and results of first court hearing of Hague case:

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

Actions taken by the Department of State to resolve case:

Jul 94 Submitted additional documentation to CA.

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

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

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

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

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

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

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

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

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

Sep 97 Query to CA re cps visit.

Sep 97 Requested Embassy raise issue of non-responsiveness with CA.

Oct 97 Repeated attempts with CA to find out results of hearing; CA informed CI no hearing had taken place.

Apr 98, Jun 98 Query to CA re status of case; no response.  
Oct 98 CA reported that children had been located and "actions are being taken" for return to U.S.  
Feb 99, Jul 99  
Query to CA re status of case; no response.  
Sep 99 Query to CA re status of case; CA needed to check with state court re status; no further response.  
Jan 00 Discussed welfare/whereabouts with LBP .  
Feb 00 Embassy requested to conduct visit and not refer it to cps; initial difficulty in locating children.  
Apr 00 Welfare/whereabouts visit conducted; reported to LBP. Relatives possibly open to returning children to U.S. without court order.  
Jun 00 Embassy requested to pursue discussions with relatives re return of children.  
Jul 00 Query to CA re status of case; checking with state court re status.  
Aug 00 Embassy discussed voluntary return with relatives.  
Oct 00 Query to CA re status of case; no response received from state court.  
Oct 00 Embassy follow-up on earlier discussions with family; family now reluctant to consider.  
Dec 01 Embassy follow-up on earlier discussions with family.  
Jan 01 Query to CA re status of case; no response received from state court.

Actions taken by the Chief of Mission:

Feb 01 Chief of Mission discussed case with Foreign Ministry Under Secretary.

## **MEXICO CASE 2**

Date of abduction or wrongful retention: Jul 95

Date Hague application filed: 14 Nov 95

Has child been located? No

Date and results of first court hearing of Hague case:

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

Date and results of subsequent appeals:

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

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

Mar 97 Denial appeal appealed to Supreme Court.

Jun 98 Supreme Court remanded Constitutional case to originating federal court for reconsideration due to technical errors.

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

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

Dec 00\*\* Appeal (Mar 97) denied. TP immediately filed request that denial be reviewed, first step for higher court appeal of denial.

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

\*\* Date approximate; information obtained by CI in Feb 01.

If court ordered return/access, was order enforced?

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

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

Actions taken by the Department of State to resolve case:

Nov 95 CA requested translations and documents.

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

Dec 95 Translations of documents sent to CA.

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

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

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

Jul 96, Oct 96

Query to CA re status; no response.

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

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

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

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

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

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

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

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

Jun 98 HPB reported its attempts to intercede with CA.

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

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

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

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

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

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

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

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

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

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

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

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

Mar 00 Consulate sent formal request to cps for visit.

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

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

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

Jul 00 Requested assistance from US state Attorney General office to determine if children had actually been returned to US.

Jul 00 Requested CA determine court status of appeal; CA said they would check; no report received.

Sep 00 State Attorney General forwarded locate request to appropriate law enforcement agency.

Oct 00 Requested CA determine court status of appeal; appeal still in place against case, with no apparent progress in resolution.

Nov 00 Requested CA determine court status of appeal; CA said they would check; no report received.

Dec 00 Requested CA determine court status of appeal; appeal still in place against case.

Jan 01 Contacted LEGAT re possible attempts to locate children.

#### Actions taken by the Chief of Mission:

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

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

May 99 Chief of Mission and Assistant Secretary raised case at Binational meeting.

Sep 99 Chief of Mission and Assistant Secretary raised case at working group follow-up to Binational meeting.

Jun 99 Chief of Mission and Assistant Secretary raised case at Binational meeting.

Feb 01 Chief of Mission discussed case with Foreign Ministry Under Secretary.

### **MEXICO CASE 3**

Date of abduction or wrongful retention: 09 Jan 96

Date Hague application filed: 31 Oct 96

Has child been located? Yes

Actions taken by the Department of State to resolve case:

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

Sep 97 Provided confirmed location information to CA.

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

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

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

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

Mar 98 Sent documents to CA.

Jul 98, Sep 98, Jan 99, Apr 99

Queried CA re status of case; no response.

Jun 99 CA fax requested "original documents."

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

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

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

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

Feb 00 Sent welfare/whereabouts report to LBP.

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

Apr 00 Discussed alternate options for return with LBP.

May 00, Jul 00, Sep 00, Jan 01

Query to CA re what documents still needed; CA has had no response from state court.

Actions taken by the Chief of Mission:

Feb 01 Chief of Mission discussed case with Foreign Ministry Under Secretary.

#### **MEXICO CASE 4**

Date of abduction or wrongful retention: 21 Mar 97

Date Hague application filed: 23 Jun 97

Has child been located? No

Actions taken by the Department of State to resolve case:

Jul 97 Query to CA to verify receipt of documents.

Aug 97 CA responded original documents not received.

Aug 97 Documents sent to CA; notice remainder to follow.

Oct 97 CA requested state law on custody and translation.

Nov 97 Sent requested material to CA.

Feb 98 Information sent to CA re possible location.

Jan 98 CA requested documents.

Feb 98 Material sent; reported translation would be sent.

Mar 98 Sent translation to CA; notified CA that this should complete all required documentation; sent additional information re possible location.

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

Oct 98 Query to CA re status of case; CA again requested translations.

Nov 98 Sent translations to CA.

Mar 99 CA again requested translation and clearer photograph of TP.

Apr 99 Sent CA packet including copies of all material sent to CA from Mar 98 to Mar 99.

Nov 99 CA requested certified copy custody order and translations.

Jan 00 Court order received from LBP and sent to CA.

Mar 00, Jun 00, Sep 00

Discussed case with CA; location of child not yet confirmed.

Oct 00 LBP indicated more information re location might be available and could be sent to CI.

Nov 00, Jan 01

Requested additional location information from LBP.

Feb 01 Discussed case with CA; location of child not yet confirmed.

Actions taken by the Chief of Mission:

Feb 01 Chief of Mission discussed case with Foreign Ministry Under Secretary.

## **MEXICO CASE 5**

Date of abduction or wrongful retention: 01 Aug 93

Date Hague application filed: 23 Jun 97

Has child been located? No

Actions taken by the Department of State to resolve case:

May 97 BP first contacted CI; discussed case.

Jun 97 Partially completed Hague application filed with CA .

Jul 97 LBP notified of documents still needed.

Sep 97, Dec 97 LBP requested to submit required documents.

Dec 97 Query to CA re status of case; requested CA keep file open even though incomplete; no response

Feb 98, Jun 98

Query to CA re status of case; no response.

Aug 98 Received additional documents from LBP; translations still needed.

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

Sep 98 Received additional documents from LBP.

Oct 98 Additional documents submitted to CA.

Nov 98 Received translations from LBP; sent to CA.

Nov 98 Sent new location information to CA.

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

Mar 99 Query to CA re status of case; responded with need for additional documents and translations.

Mar 99 CA told that documents requested had already been sent, but copies were re-sent.  
May 99 Assistant Secretary of State included case in summary of problem cases presented at Binational meeting.  
Aug 99 Foreign Ministry responded to case summaries presented by Assistant Secretary of State, reporting that case at standstill until original documentation submitted.  
Aug 99 Requested CA to notify as to documents still needed; response included same list as that sent Mar 99, plus one additional document.  
Aug 99 LBP asked to provided documents as requested.  
Sep 99 Assistant Secretary of State discussed case with counterparts at Binational meeting.  
Sep 99 LBP submitted requested documentation; sent to CA.  
Sep 99 Confirmed with CA that file was complete.  
Mar 00 Query to CA re status of case; being processed by CA for submission to court.  
Jun 00 Case again raised by Assistant Secretary of State at Binational meeting.  
Jun 00 Additional information re location of children provided to CA.  
Aug 00 CA reported it was attempting to confirm location of children.  
Sep 00, Dec 00  
Query to CA re status of case; location of children not yet confirmed.

Actions taken by the Chief of Mission:

May 99 Chief of Mission and Assistant Secretary raised case at Binational meeting.  
Sep 99 Chief of Mission and Assistant Secretary raised case at working group follow-up to Binational meeting.  
Jun 99 Chief of Mission and Assistant Secretary raised case at Binational meeting.  
Feb 01 Chief of Mission discussed case with Foreign Ministry Under Secretary.

## **MEXICO CASE 6**

Date of abduction or wrongful retention: 28 Feb 96

Date Hague application filed: 27 Oct 97

Has child been located? Yes

Date and results of first court hearing of Hague case:

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

Dates and results of subsequent appeals:

Jul 98 Ruling appealed.

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

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

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

Actions taken by the Department of State to resolve case:

Aug 96 Partial Hague application sent to CA.

Mar 97 CA requested translation of documents.

Apr 97 Translation of some documents sent to CA.

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

Jul 97 Notified LBP of documents needed.

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

Aug 97 CA reported that court needed missing documents.

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

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

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

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

Jul 98 Consulate provided LBP with lawyer's list.

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

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

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

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

Jun 00 Discussed case with CA; state court has not moved forward with psychological evaluation or scheduling new hearing.

Oct 00 Discussed with LBP need for LBP's private attorney to work with court re scheduling new hearing date.

Nov 00, Jan 01

Discussed case with CA; state court has not moved forward with psychological evaluation or scheduling new hearing.

Actions taken by the Chief of Mission:

Feb 01 Chief of Mission discussed case with Foreign Ministry Under Secretary.

## **MEXICO CASE 7**

Date of abduction or wrongful retention: 02 Dec 97

Date Hague application filed: 31 Jan 98

Has child been located? No

Actions taken by the Department of State to resolve case:

Jan 98 Information re options provided to LBP.

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

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

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

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

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

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

Sep 98 Discussed case with CA; alternative address provided.

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

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

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

Feb 99 CA informed CI that case has been sent to a judge based on possible address, but no action can be taken by judge until location is confirmed.

Apr 99 Query to CA re case status; no response

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

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

Oct 99 CA reported unable to locate child.

Nov 99 Discussion with CA re location efforts.

Dec 99 CA reported unable to locate child.

Feb 00 LBP provided information on new possible location; information forwarded to CA.

Mar 00, Sep 00, Jan 01

CA reported unable to locate child.

Actions taken by the Chief of Mission:

Feb 01 Chief of Mission discussed case with Foreign Ministry Under Secretary.

## **MEXICO CASE 8**

Date of abduction or wrongful retention: 11 Jan 98

Date Hague application filed: 24 Feb 98

Has child been located? No

Date and results of first court hearing of Hague case:

Apr 98 Judge ordered federal police to locate.

Date and results of subsequent appeals:

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

Jul 98 TP notified re Hague application and pending hearing.

Jul 98 TP filed appeal blocking actions of CA.

Aug 00 Appeal denied and Hague hearing for return held.

Oct 00 Return denied; LBP filed appeal

Feb 01 Appeal denied (non-return order upheld); LBP filed second-level appeal

Actions taken by the Department of State to resolve case:

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

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

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

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

Mar 98 CA sent case to judge.

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

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

Jun 98 CI sent CA new information on child's possible location.

Jul 98 Consulate requested to attempt welfare/whereabouts visit.

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

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

Sep 98 Query to CA re case status; no response.

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

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

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

Mar 99 Welfare/whereabouts visit refused by relative.

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

May 99 Called CA to discuss case.

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

Jun 99 Forwarded updated location information to CA.

Aug 99 Foreign Ministry responded to case summaries presented by Assistant Secretary of State; reported that case at standstill until appeal is resolved.

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

Feb 00 Updated location information passed to CA. LBP declined attempt at welfare/whereabouts.

Mar 00 Discussed case with supervisor of CA director.

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

Jul 00 Worked with US state prosecutor to ensure that child remained in NCIC system.

----- See above for summary of court actions during the following period.

Aug 00 Discussed possible welfare visit by Embassy staff with LBP; LPB agreed that attempt should be made.

Aug 00 Notified LBP of plans for hearing on case; provided lawyer information; provided general information re court and legal system to LBP; welfare visit put on hold at request of LBP.

Aug 00 Discussed upcoming hearing with supervisor of CA.

Sep 00 Worked with LBP to determine documents requested by LBP's attorney and explained process re document authentication.

Oct 00 Discussed with LBP and attorney documentation of citizenship needed if return of child is ordered.

Dec 00 Worked with LBP to provided additional documents as requested by attorney.

Jan 01 Contacted CA supervisor to express continued interest in the case and a resolution in accord with Convention requirements.

Feb 01 Wrote to LBP's attorney to express continued interest in the case and a resolution in accord with Convention requirements.

Actions taken by the Chief of Mission:

May 99 Chief of Mission and Assistant Secretary raised case at Binational meeting.

Sep 99 Chief of Mission and Assistant Secretary raised case at working group follow-up to Binational meeting.

Jun 99 Chief of Mission and Assistant Secretary raised case at Binational meeting.

Feb 01 Chief of Mission discussed case with Foreign Ministry Under Secretary.

## **MEXICO CASE 9**

Date of abduction or wrongful retention: 09 Feb 97

Date Hague application filed: 28 Jun 98

Has child been located? No

Actions taken by the Department of State to resolve case:

Jun 97 Received Hague application, without supporting documents, from county District Attorney (DA)'s office.

Jul 97, Sep 97, Apr 98

Contacted DA re additional documents needed.

Jun 98 Received complete application; filed with CA.

Jul 99 Confirmed with DA's office that no new information re location or case status was available.

Nov 99 Provided CA new information re aliases and additional information re possible location.

Mar 00 Query to CA re status of case; location still unconfirmed.

Jun 00 Query to CA re status of case; location still unconfirmed.

Sep 00 CA informed CI that the Federal Police had not been able to locate children at the possible addresses provided and requested any additional location information available.

Oct 00 LBP and US District Attorney's office (working on case with LBP) contacted re any additional information; no response received.

Jan 01 Query to CA re status of case; location still unconfirmed.

Actions taken by the Chief of Mission:

Feb 01 Chief of Mission discussed case with Foreign Ministry Under Secretary.

#### **MEXICO CASE 10**

Date of abduction or wrongful retention: 23 May 98

Date Hague application filed: 13 Jul 98

Has child been located? Yes

Actions taken by the Department of State to resolve case:

Jul 98 Filed Hague application (submitted by county District Attorney's office) with CA.

Jul 98 Provided CA new location information from LBP.

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

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

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

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

Jul 99, Sep 99

Query to CA re status of case; no response.

Mar 00, Jul 00, Oct 00, Jan 01

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

Actions taken by the Chief of Mission:

Feb 01 Chief of Mission discussed case with Foreign Ministry Under Secretary.

#### **MEXICO CASE 11**

Date of abduction or wrongful retention: 01 Aug 96

Date Hague application filed: 30 Jul 98

Has child been located? No

Actions taken by the Department of State to resolve case:

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

Jul 98 Hague application filed with CA.

Nov 98 CA requested additional documents.

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

Apr 99, Jul 99

Query to CA re status of case; no response.

Sep 99 Discussed case with CA; unable to locate.  
Oct 99 Request from LBP for welfare/whereabouts visit sent to Consulate.  
Nov 99 Consulate attempted welfare/whereabouts visit based on information from LBP; unable to locate.  
Jan 00 Consulate attempts to locate unsuccessful.  
Mar 00 Discussed case with CA; child not located.  
Apr 00, Jun 00, Jul 00  
Consulate attempts to locate unsuccessful.  
Aug 00 Discussed case with CA; child not located.  
Sep 00 Consulate sent letter to possible business address connected to family to assist in locating child; no response  
Oct 00, Jan 01  
Discussed case with CA; child not located.

Actions taken by the Chief of Mission:

Feb 01 Chief of Mission discussed case with Foreign Ministry Under Secretary.

## **MEXICO CASE 12**

Date of abduction or wrongful retention: 02 Feb 97

Date Hague application filed: 28 Oct 98

Has child been located: No

Date and results of first court hearing of Hague case:

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

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

Date and results of subsequent appeals

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

Actions taken by the Department of State to resolve case:

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

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

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

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

Feb 99 Consulate and LBP discussed alternative court methods to proceed with case.

Mar 99 Discussed with DA ways to move case forward.

Mar 99 CA informed CI that case had been sent to state court; LBP notified.  
Mar 99 Per LBP, TP cut off visitation; discussed alternative.  
Apr 99 CA notified CI hearing to be held 4/99; LBP notified.  
----- See above for sequence of court hearings during this time period.  
Jul 99 Query to CA re status of case; no response.  
Jul 99 Query to CA for clarification of issues raised in hearing (pick-up of children and qualifications of judge); no response.  
Oct 99 Query to CA re status; child not located. Asked re issues raised in Jul faxes; CA discussed pick-up order problem with judge.  
Feb 00 CA notified DA's office that appeal was filed against case in Aug 99; judge just notified CA.  
Mar 00 Discussed appeal with DA's office.  
Jul 00 Discussed possible welfare/whereabouts visit by Consulate, if location can be determined; LBP agrees that visit should be made if possible.  
Aug 00 Consulate reported success in obtaining name of TP's attorney who had filed appeal in case; also reported that attempts to contact TP and locate child via this attorney were unsuccessful.  
Sep 00 Discussed status of appeal with CA; no change.  
Nov 00 Consulate again unsuccessful in attempts to locate child and conduct visit.  
Jan 00 Discussed status of appeal with CA; no change.

Actions taken by the Chief of Mission:

Feb 01 Chief of Mission discussed case with Foreign Ministry Under Secretary.

### **MEXICO CASE 13**

Date of abduction or wrongful retention: 25 Sep 98

Date Hague application filed: 04 Feb 99

Has child been located? No

Actions taken by the Department of State to resolve case:

Oct 98 LPB contacted CI to report child taken; information provided re options available.

Dec 98 Consulate requested to attempt welfare/whereabout visit.

Jan 99 Consulate reported attempts at welfare/whereabout visit via cps offices; no evidence of child or TP found at addresses provided; grandparents report that child and TP are in U.S.

Feb 99 Hague application forwarded to CA

Mar 99 CA requested additional documentation for Hague application; copies of requested documents sent.

Jun 99 Discussed additional location information, ways to get more information with LBP.

Oct 99 CA requested additional location information; none available to provide.

Jan 00 Requested CA to have federal police re-interview grandparents re location of child.

Apr 00 CA reported that no new information re location has been obtained by police.

Oct 00, Jan 01

CA queried re location of child; no new information.

Actions taken by the Chief of Mission:

Feb 01 Chief of Mission discussed problems caused by not locating child with Foreign Ministry Under Secretary.

#### **MEXICO CASE 14**

Date of abduction or wrongful retention: 27 Feb 97

Date Hague application filed: 19 Feb 99

Has child been located? No

Actions taken by the Department of State to resolve case:

Jun 99 CI contacted by District Attorney's office re Hague application they had filed directly with CA. [Note: DA's office to do follow-up work on case at their request; will involve CI as needed.]

Jul 99 CA queried re case status; no response.

Apr 00, Oct 00, Jan 01

CA queried re case status; children not located.

Actions taken by the Chief of Mission:

Feb 01 Chief of Mission discussed problems caused by not locating children with Foreign Ministry Under Secretary.

#### **MEXICO CASE 15**

Date of abduction or wrongful retention: 15 Dec 98

Date Hague application filed: 08 Mar 99

Has child been located? No

Actions taken by the Department of State to resolve case:

Feb 99 CI received fax of partial Hague application from LBP; contacted LBP and discussed requirements.

Mar 99 Hague application forwarded to CA.

Apr 99 Additional material forwarded to CA.

Jun 99 Forwarded to CA TP's new work location.

Jul 99 Consulate confirmed TP no longer working at reported place of employment.

Jul 99 Supplementary documentation for Hague application forwarded to CA.

Oct 99, Mar 00

CA queried re status; child not located.

Apr 00 Obtained possible location information from Consulate; forwarded to CA.  
Jun 00 Provided Apr 00 possible location information to state law enforcement officer per official request.  
Aug 00 Consulate confirmed TP still working at Apr 00 reported place of employment; information forwarded to CA.  
Nov 00, Feb 01  
CA queried re status; child not located.

Actions taken by the Chief of Mission:

Feb 01 Chief of Mission discussed problems caused by not locating child with Foreign Ministry Under Secretary.

### **MEXICO CASE 16**

Date of abduction or wrongful retention: 01 Sep 98  
Date Hague application filed: 03 May 99  
Has child been located? No

Actions taken by the Department of State to resolve case:

Apr 99 Received partial Hague application from LBP; contacted and discussed requirements.  
May 99 Discussed welfare/whereabouts visit with LBP; at his request, no visit will be attempted.  
Jun 99 CA queried re case status; no response.  
Oct 99 LBP reported that TP appeared at US court divorce/custody hearing, wanted TP intercepted on next entry into US; referred LBP to INS and law enforcement authorities.  
Oct 99, Jan 00, Mar 00  
CA queried re case status; children not located.  
Jun 00 Contacted CA re location information provided by LBP; CA reported that federal police have not confirmed the location of the children at the indicated addresses/houses.  
Aug 00 LBP confirmed first-hand knowledge of location of children; information forwarded to CA.  
Oct 00, Jan 01  
CA queried re case status; children not located.

Actions taken by the Chief of Mission:

Feb 01 Chief of Mission discussed problems caused by not locating children with Foreign Ministry Under Secretary.

### **MEXICO CASE 17**

Date of abduction or wrongful retention: 25 Jul 98

Date Hague application filed: 15 Jun 99

Has child been located? No

Actions taken by the Department of State to resolve case:

Feb 99 CI contacted by local police (PD) re wrongful removal of child; TP has left, grandparents have filed for custody of child; provided information re options.

Apr 99 Partial Hague application received; contacted PD and discussed requirements.

May 99 Contacted PD re need for translations of documents.

Jun 99 Completed application forwarded to CA.

Aug 99 State District Attorney contacted CI with additional information on child's family; information forwarded to CA.

Oct 99 Confirmed with CA that application complete; child not located.

Feb 00 LBP called re new possible location for child, provided phone number; number forwarded to CA.

Apr 00 CA queried re status of case; child not located.

Apr 00 New location information provided by LBP; forwarded to CA.

Jul 00, Oct 00, Jan 01

CA queried re status of case; child not located.

Actions taken by the Chief of Mission:

Feb 01 Chief of Mission discussed problems caused by not locating child with Foreign Ministry Under Secretary.

## **MEXICO CASE 18**

Date of abduction or wrongful retention: 10 Oct 98

Date Hague application filed: 17 May 99

Has child been located? No

Actions taken by the Department of State to resolve case:

Jun 99 CI contacted by District Attorney's office re Hague application they had filed directly with CA.

[Note: DA's office will do follow-up work on case at their request; will involve CI as needed.]

Jul 99 CA queried re case status; no response.

Apr 00, Oct 00, Jan 01

CA queried re case status; children not located.

Actions taken by the Chief of Mission:

Feb 01 Chief of Mission discussed problems caused by not locating child with Foreign Ministry Under Secretary.

### **POLAND CASE 1**

Date of abduction or wrongful retention: 24 Aug 98

Date Hague application filed: 15 Jan 99

Has child been located? Yes

Date and results of first court hearing of Hague case:

Mar 99, Jun 99 District Court denied application for return.

Dates and results of subsequent appeals:

(Date unknown) Appeal filed.

Oct 99 Appeals hearing scheduled.

Jan 00 Appeals court upheld lower court denial of return.

Sep 00 Supreme Court makes verbal ruling reversing January decision.

Jan 01 District Court hearing.

Actions taken by the Department of State to resolve case:

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

Oct 99 Called the error in translation to the attention of the Hague Permanent Bureau; CA acknowledges error and initiates correction.

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

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

Oct 00 CI requests status report from CA; CA provides information regarding January 20001 hearing.

Actions taken by Chief of Mission: None.

### **POLAND CASE 2**

Date of abduction or wrongful retention: Nov 98

Date Hague application filed: 3 Aug 99

Has child been located? Yes

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

Oct 99 Court of First Instance ordered return.

Date and results of subsequent appeals:

Apr 00 Appeals Court overturned Regional Court decision to return. Case returned to Regional Court for readjudication; next hearing on 6/00.

Mar 01 Hearing scheduled 01 Mar; rescheduled for 26 Mar.

Actions taken by the Department of State to resolve case:

Aug-Sep 99 Transmitted faxes between LPB and CA re status, selection of Polish attorney, hearings, Polish procedures and legislation.

Sep 99 CA fax requesting LBP confirm receipt of notification of hearing date.

Sep 99 CA fax conveying hearing results.

Dec 99 Fax from CA; TP has appealed decision; no court date set by Court of Appeals.

Feb 00 Fax from CA; Appeals Court hearing 3/8/00.

Feb 00 Fax from CA; hearing on 3/8 postponed; next hearing scheduled for 4/11/00.

May 00 Fax from CA re Appeals Court decision.

Jul 00 Fax from CA; Regional Court asking for "social situation" of children in U.S. Fax to CA asking what kind of information is needed and who should provide.

Jul 00 Faxed letter from LBP expressing frustration.

Jul 00 Fax from CA; request for home study or CI endorsement of neighbor's affidavits.

Oct 00 Forwarded CA response re neighbor affidavits to LBP.

Dec 00 Forwarded LBP affidavits and translations to CA.

Feb-Mar 01 Forwarded LBP correspondence re psychological testing to CA and Court.

Actions taken by the Chief of Mission: None.

## **SOUTH AFRICA**

Date of abduction or wrongful retention: 11 May 98

Date Hague application filed: 29 Dec 98

Has child been located? Yes

Date and results of first court hearing of Hague case:

No hearing scheduled.

Actions taken by the State Department to resolve case:

May 98 - present CI requested status and updates by fax and letter to CA. Discussed possible actions with local district attorney.

Mar 00 CI requests U.S. Embassy to approach CA on logistical deficiencies and implementing defects. CI spoken to District Attorney who promised to take legal action on case.

Actions taken by Chief of Mission: None.

## **SPAIN CASE 1**

Date of abduction or wrongful retention: 01 Mar 95

Date Hague application filed: 12 Jun 95

Has child been located? Yes (But subsequently missing)

Date and results of first court hearing of Hague case:

Feb 96 Lower court ordered return.

Date and results of subsequent appeals:

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

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

Actions taken by the Department of State to resolve case:

June 95 - Jan 01 Requested status update from CA on efforts to locate child. CI and Embassy provided information regarding whereabouts, in order for pick up to accomplished per court order.

Jan 01 Sent letter to CA asking for prompt action to resolve case. Noted failure of Spanish authorities to return child despite indications that mother's location known at various times in the past five years.

Feb-Mar 01 Post officials conferred with Spanish authorities to discuss stronger measures to locate child and enforce return order.

Actions taken by the Chief of Mission: None.

## **SPAIN CASE 2**

Date of abduction or wrongful retention: 08 Dec 96

Date Hague application filed: 29 Jan 97

Has child been located? Yes (But subsequently missing)

Date and results of first court hearing of Hague case:

May 98 Lower court denies petition for return.

Date and results of subsequent appeals:

Oct 99 Appeals court overturns lower court decision and ordered return.

Actions taken by the Department of State to resolve case:

Jan 97 - Oct 99 Assisted LBP in preparation and submission of Hague application. Followed up with CA, obtaining status updates on court proceedings and decisions. Provided LBP and CA with translation of key legal documents.

Oct 99 - July 00 CI and Embassy assisted LBP with coordination and arrangements to recover child

and return to the United States. (TP did not appear in Spanish Court for ordered Jul 7 2000 turnover of child.)

July 00 - Jan 01 Asked CA for status reports on attempts to locate child. CI case officer met in Washington DC with CA director to press for action on case and other unresolved Spain cases.

Jan 01 Sent letter to CA asking for prompt action to resolve case. Provided CA with LBP's best estimate of where child was located (Spanish police later reported TP and child not found at that location.)

Feb 01 U.S. Embassy officers met with CA regarding case.

Mar 01 Post officials conferred with Spanish authorities to discuss stronger measures to locate child and enforce return order.

Actions taken by the Chief of Mission: None.

## **SWITZERLAND**

Date of abduction or wrongful retention: Sep 96

Date Hague application filed: 01 Oct 96

Has child been located? Yes

Date and results of first court hearing of Hague case:

Jul 97 Court ordered return to U.S.

Date and results of subsequent appeals:

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

Mar 01 Embassy informed Aargau cantonal court, slated to rule on LBP's appeal of canton's order of non-return, likely to reach a decision in Apr 01.

Actions taken by the Department of State to resolve case:

May 97 Sent status check request to CA.

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

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

Aug 97 CI forwarded to CA LBP's questions about picking up child.

Sep 97 CA requested information on a U.S. court proceeding.

Sep 97 CA faxed status report; working with local law enforcement on return.

Oct 97 CA reported LBP pick up unsuccessful.

Oct 97 CA reported LBP's attorney working with local law enforcement. CA also spoke to local officials about Hague and custody issues. CA requested information re post-return situation in U.S.

Jul, Aug 98 Requested updates. CA responded appeal pending, therefore no execution of order.

Oct 98 Fax to CA requesting update.

Oct 98 Received fax from CA advising that Supreme Court rejected TP's appeal and decided in LBP's favor. Question now is enforcement.

Nov 98 Faxed CA asking for update on progress and timing of enforcement.

Nov 98 CA faxed status report; LBP motion to declare return decree enforceable and order measures to enforce will be filed in local court.

Dec 98 CI requested information from CA about obstacles to judicial action.

Dec 98 CA reported case settled but arrangements are needed to ensure the child's safe return. Concerned whether LBP would travel to pick up child.

Jan 99 CI conveyed LBP's concerns about traveling again.

Feb 99 Faxed CA asking about LBP's travel. Also inquired whether judge in enforcement case had withdrawn because of conflict of interest.

Mar 99 Jurisdiction transferred to different court.

Jun 99 CI requests update on enforcement of return order. CA responds.

Aug 99 CI requests update.

Sep 99 CA informs CI that court ordered child's examination by psychiatrist.

Sep 99 - Jul 00 CA and CI communicate; no change in case status.

Jul 00 Court receives expert opinion that child not be returned to U.S.

Nov 00 Swiss Court denies enforcement of return order. Applicant's lawyer appeals. Ambassador makes demarche.

Feb -Mar 01 Embassy requests hearing status from CA; ruling anticipated Apr 01.

Actions taken by Chief of Mission: In October 1999, Charge d'Affaires raised case with highest non-elected children's issues official. In November 2000, Ambassador and Consul General delivered demarche to Minister of Justice.