

2002-2003 Compliance Report

2002-2003 Report on Compliance with the Hague Abduction Convention

INTRODUCTION:

Parental child abduction is a tragedy. When a child is abducted across international borders, the difficulties are compounded for everyone involved. The Department of State considers international parental child abduction, as well as the welfare and protection of U.S. citizen children taken overseas, to be important, serious matters. We place the highest priority on the welfare of children who have been victimized by international abductions.

For some parents, an important tool in seeking the return of their child is the Hague Convention on the Civil Aspects of International Child Abduction. The United States was a major force in preparing and negotiating the Hague Convention, which was finalized in 1980, and incorporated into U.S. law and brought into force for the United States on July 1, 1988. Today, the Convention is in force between the United States and 51 other countries. The Convention applies to wrongful removals or retentions that occurred on or after the date the treaty came into force between those two countries. The dates vary for each country and more countries are considering signing on to the Convention all the time. The U.S. has actively encouraged countries to sign the Convention, recognizing its potential effectiveness not just in resolving cases of international parental child abduction, but in deterring future abductions.

As originally 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 Department of State submits the following report on compliance by signatory countries with the Hague Convention on the Civil Aspects of International Child Abduction (referred to throughout this Report as "the Convention"), done at The Hague on October 25, 1980. Previous such reports were completed in April 1999, September 2000, and April 2001. (An informal version of the report was prepared in April 2002, despite the lack of implementing legislation. This report incorporates that version and updates the information regarding cases remaining outstanding for more than 18 months. Specific cases covered in the present report remained unresolved as of September 30, 2002.

This report reviews the status of implementation of the Convention by countries recognized by the United States (currently 51) as parties to the Convention. It specifically cites those countries where implementation of the Convention has proven problematic, for reasons specific to each country and to varying degrees. It also discusses unresolved applications filed through the U.S. Central Authority for

the return of children to the United States. Under the Convention, return and access 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 a 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 may 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." This is a technical designation, and does not necessarily mean an end to the Department's involvement in seeking a resolution. Like other signatory countries, the U.S. Central Authority closes or inactivates Hague cases for a variety of reasons. These include: return of child; parental reconciliation; withdrawal of request for assistance; inability to contact the requesting parent after numerous attempts over a two-year period; 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 Convention are anticipated. Considering these cases "resolved" and closing them as Convention cases is consistent with the practice of other Convention signatories. More specifically, we will close a Hague case if the circumstances definitively require it, such as the return of a child or upon the specific request of the parent. We will "inactivate" a case when, in the absence of such definitive circumstances, the facts of the case do not allow, or the parent does not permit, a further reasonable pursuit of aspects of the case. Two years after inactivation, and in the absence of further relevant initiatives by the left-behind parent, the case will be closed.

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 U.S. and 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 a 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 may register its concern and dissatisfaction with the decision through the Foreign Central Authority or diplomatic channels. The Secretary of State, other senior Department officials and U.S. Ambassadors have raised international parental child abduction issues and specific cases with foreign government officials.

Annexed to this report is a list by country of the cases unresolved for more than 18 months as of September 30, 2002. 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.

This report identifies specific countries and cases in which parties to the Convention have not met its 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. As noted in our 2001 report, at the March 2001 quadrennial Special Commission meeting to study the operation of the 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 the applications for the return of children, this report also discusses applications for access to children. While the Convention does 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 forum, including at the March 2001 Special Commission.

The reporting period is considered as the period from April 30, 2001 until September 30, 2002. The information provided is that available to the U.S. Central Authority within these dates. In some instances, updates are provided to include important developments subsequent to September 30, 2002.

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 September 30, 2002, there were 48 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 the 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 48 applications identified above that remain unresolved 18 months after the date of filing, as of September 30, 2002, involve fifteen countries: Australia, Belgium, Colombia, Ecuador, Germany, Honduras, Ireland, Israel, Mauritius, Mexico, Panama, Poland, South Africa, Spain and Zimbabwe. The extent to which these countries and others appear to present additional, systemic issues of compliance under the 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 most Hague cases are premised on a parent’s shared custody rights by operation of law, typically shared custody under state law by virtue of being husband and wife. A court order is not a requirement for filing a Hague application. Moreover, while the existence of rights of custody in the country of habitual residence at the time of an abduction is a requirement for filing under the Convention, the Convention itself does not address the question of enforcement of such custody rights in other countries. The Convention requires that foreign countries recognize U.S. custody rights to the extent that such rights provide the basis for application and the rationale for return. Adjudication of cases under the Convention by foreign courts should only take into consideration whether the child was wrongfully removed from the country of habitual residence or wrongfully retained abroad.

Section 2803 (a)(3) requests “a list of countries that have demonstrated a pattern of noncompliance with the obligations of the Convention with respect to the applications for the return of children, access to children, or both, submitted by applicants in the United States to the Central Authority of 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 party country 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, it has the force of law enabling 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 the U.S. Central Authority and left-behind parent inquiries; and success in promptly locating abducted children. "Judicial performance" comprises the timeliness of first hearing 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 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, Mexico and Panama to be noncompliant using this standard, and Switzerland 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, and Spain.

A word about Sweden: Sweden was listed in our first compliance report in 1999 as a non-compliant country. In the 2001 report, we placed Sweden in the category of countries of concern with regard to implementation of the Convention. The last report reflected, in our view, the extent to which Sweden had been responsive to the concerns raised in the initial report. Sweden's implementation of the Convention over the last year, including the court-ordered and enforced return of a child to the United States, indicated continued progress toward full compliance with the Convention. We therefore have not listed Sweden in any of the categories of non-compliance in this report. While we hope this progress indicates a firm commitment to the Convention's principles, we will monitor closely Sweden's actions in each new case, and will continue to seek resolution of long-standing cases of concern.

Noncompliant Countries

AUSTRIA

Austria has been identified as noncompliant in all the Department's previous Compliance Reports based on one particularly significant case. This case exemplifies the delays in case processing that the Department believes reflect 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 in the case noted

above were neither enforced adequately, nor were sanctions applied against the abducting parent who defied court orders.

The Department's concerns about Austrian compliance continue. While we have received assurances that Austria's Central Authority has undertaken measures to educate the judiciary, we have not seen any examples of such educational efforts. As noted in last year's report, the Ministry of Justice was working on legislation that would reorganize court responsibilities for international child abduction cases. The aim of this reorganization would be to allow judges in fewer courts to gain more experience in child abduction cases. The concentration of jurisdiction in a limited number of courts would be part of a broader reform of the "Ausserstreitverfahren" which covers special legal proceedings used in family law matters and certain other civil law matters. We are encouraged by this initiative and see it as a potential positive first step toward more effective implementation of the Convention in Austria. The Ministry advised the Department that this proposed legislation, which would restrict Hague hearings to 16 district courts instead of the current 200 available district courts, would be submitted to Parliament by the middle of 2002. As of September 2002, the draft bill was still under review and had not reached Parliament. The Austrian government was dissolved and future submission of the bill to the Cabinet/Council of Ministers and to Parliament will require approval of the Minister of Justice after a new government is formed.

The Department clearly differs with the Austrian Government on interpretation of Article 13 of the Convention, which addresses protection of the abducted child. The particular case noted above, which has been discussed in previous reports, suggests that the previously cited problems remain systemic. In this case, Austrian courts at every level up to the Supreme 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 Convention. The courts finally granted very limited access in Austria. Recent court decisions in the case, relying on the opinion of one child psychologist who has been consulted by the court throughout the case, continue to maintain strict supervision of any visits and prohibit consideration of any visit by the child to the United States.

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 would allow both parents to participate more fully in the life of their child. This attempt at mediation did not succeed because it depended on the volition of the abducting parent. In May 2001 Secretary Powell raised this case with the Austrian Foreign Minister.

Secretary Powell met with Rep. Chabot (R-OH) on June 27, 2002, to discuss this case. The Secretary then followed up with a telephone call to the Austrian Foreign Minister on June 28. On July 1, 2002, the U.S. Ambassador to Austria met with the Austrian Minister of Justice. At the conclusion of this meeting, the Minister said he was committed to contacting the taking parent to seek conditions or guarantees that might possibly lead to a compromise for unsupervised visitation. Unfortunately, the

abducting parent rebuffed the Minister's efforts. The taking parent's attorney rejected any and all offers and guarantees from the left-behind parent and criticized both the U.S. and Austrian governments for their intervention in the matter. The Justice Minister stated that he was not in a position to assist further in the matter. The Department appreciates the willingness of Austrian Government officials to address the issue, but believes a satisfactory resolution still requires concrete legislative action. (Note: Although outside the reporting dates for this report, Assistant Secretary for Consular Affairs Maura Harty raised this case with the Austrian Ambassador to Washington on January 14, 2003 to reiterate the Department's concerns, and intends to travel to Austria to pursue the matter further in Spring 2003.)

The case referred to above is not listed in Attachment "A" as one of the cases unresolved after 18 months. The Department believes such a listing would be misleading because, while we do not agree with the court decisions, the case has been resolved in the sense that the judiciary has completed its action. The Department continues to encourage the Austrian government to draw lessons from the experience gained in this case to both make structural changes in the Convention implementation process and to address the inequities in the case in question.

HONDURAS

Honduras was cited as non-compliant in previous compliance reports. Since last year's report (April 2001), the Honduran Ministry of Foreign Affairs has notified the Embassy by letter on July 31, 2001, that the Government of Honduras agrees that the Convention is indeed in effect between Honduras and the United States and that the Honduran Children and Family Institute (IHNFA) has been designated as the Honduran Central Authority.

Consular officers met with representatives of IHNFA in October 2001, and presented them with copies of two outstanding Hague applications. The applications had previously been rejected by the Honduran authorities on the grounds that the June 1994 Honduran accession to the Convention had not been ratified.

One application was submitted in September 1994 and the other in April 1998. The older case was resolved in September 2002, not through the Hague, but through the extradition of the taking grandparent to the state of Texas. For the extradition, the FBI had the cooperation of Honduran law enforcement authorities who turned the child over to Texas Social Services personnel accompanying FBI officers handling the case. IHNFA was not involved with the transfer. In the 1998 case, the IHNFA has not addressed the question of the return of the child but has, at the request of the Embassy, made a visit to the child, and a report on the child's well-being has been provided to the left-behind parent.

IHNFA officials were unfamiliar with procedures under the Convention. The removal of Honduras from the list of non-compliant countries awaits concrete actions to resolve in a manner consistent with its Convention obligations, the 1998 case and future cases that might occur.

MAURITIUS

In previous reports, Mauritius was cited as a non-compliant country 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. The U.S. Central Authority submitted two cases (one in June 1998 and the second in February 1999) to the Mauritian Central Authority after Mauritius became party to the Convention, but before implementing legislation was passed in 2000. By September 2002, neither case had yet had a hearing under the Convention. The United States believes the accession of Mauritius to the Convention obligated it to process cases that arose after the accession.

The Office of Children's Issues was informed in June 2002 that the Mauritian government was requesting additional forms of documentation from both left-behind parents. The requested documents were forwarded and in November 2002, the U.S. Embassy in Port Louis informed the Office of Children's Issues that the Ministry of Women's and Children's Issues (the Mauritian Central Authority or "CA") had initiated action on both pending cases. The CA has requested a hearing with the Supreme Court. The Supreme Court announced that on January 15, 2003, it will set trial dates for the two long-standing cases. The Department of State and the Embassy in Mauritius are following these cases closely and communicating with the Mauritian government regarding next steps. The removal of Mauritius from the category of non-compliant countries will require concrete action to resolve these and any future cases in a manner consistent with Mauritius' Convention obligations.

MEXICO

Mexico remains the destination country of the greatest number of children parentally abducted from the United States. In the 2000 and 2001 reports Mexico was listed as "not fully compliant" due to its serious efforts to better meet its Convention responsibilities. Mexico's performance since the 2001 report, however, has deteriorated significantly, to the point that Mexico is now non-compliant.

Systemic problems continue to delay resolution of cases. These problems include: the Mexican Central Authority's lack of adequate resources, the lack of implementing legislation integrating the Convention into the Mexican legal system, and an apparent lack of understanding of the Convention among the judiciary.

The lack of resources including personnel resulted in difficulties in communication between the Office of Children's Issues in the Bureau of Consular Affairs, which acts as the United States Central Authority (USCA), and the Mexican Central Authority (MCA). Communication began to improve in May 2002 when monthly meetings to discuss cases began between the MCA and the consular section at the United States Embassy in Mexico.

Lack of resources may have contributed to the increase in the number of cases still active more than 18 months after filing with the MCA. In the present report there are 29 Mexican cases in this category compared with 18 in the 2001 Report.

The lack of implementing legislation integrating the Convention into the Mexican legal system remains a problem. The amparo (a special appeal claiming a violation of constitutional rights) has been used by taking parents to block Hague proceedings indefinitely. Six cases still active 18 months after filing had one or more amparos and 3 of those cases currently have amparos pending. One of the four cases resolved through the Convention process since the 2001 Report was published resulted in the denial of a return by the Mexican Supreme Court because six years had passed while the taking parent filed successive amparos after the original judge ordered the children returned.

In addition, the Mexican court's ability to reconsider the facts at any stage of the proceeding is a major area of concern and highlights the effect the lack of implementing legislation integrating the Convention into the Mexican legal system has had on the Convention's effectiveness. In one long-standing case, the taking parent is raising again, now that the case has been returned to the trial court after appeal, defenses already adjudicated and rejected in the original trial proceeding.

Another systemic problem is the apparent lack of understanding of the Convention's purpose and intent by many judges. The Convention was not designed to address underlying custody issues. Those were meant to be dealt with by the courts in the country of the child's habitual residence, after the child has been returned. However, as noted above, the lack of implementing legislation has allowed judges to apply Mexican procedural and custody law in Hague cases to deny return when the only issues the court is supposed to examine are: (a) whether the child was "habitually resident" in another Hague state prior to the abduction or illegal retention; (b) whether the left-behind parent had some form of custodial rights at the time; and (c) whether those rights were being exercised.

The USCA has raised these issues with the MCA and the Embassy of Mexico in on-going meetings and conversations since the 2001 Report. The Assistant Secretary for Consular Affairs raised the issue of implementation of the Convention in a letter to the Mexican Ambassador in March 2002. In response, the MCA acknowledged the need to improve its implementation of the Convention but other than improved communication no significant change has occurred. The Assistant Secretary for Consular Affairs raised our concerns about the implementation of the Convention in Mexico at the Binational Commission meetings in November 2002. The Binational Working Group agreed to work together to ensure passage of implementing legislation and to promote judicial training aimed at improving compliance with the Convention. A group of Mexican judges and Central Authority officials visited Washington in December 2002 for a U.S. Government-arranged program focused on familiarization with Hague implementation in the U.S.

PANAMA

The Convention entered into force between the United States and Panama in 1994. Since then, nine Hague applications have been filed by left-behind parents in the United States to request their

children's return from Panama. As of September 30, 2002, in only one case was a child returned pursuant to orders under the Convention. Of the rest, four were made inactive because of no contact from the left-behind parent; three saw voluntary returns; and one remained active and unresolved (See Attachment A) until the children returned to the U.S. in November 2002.

The main reason for this situation was the lack of legislation making the Convention part of domestic law in Panama. Without the legislation, the Panamanian code of family justice took precedence, and decisions of the Superior Minor's Court could not be appealed to a higher court. The Foreign Ministry, which serves as the Central Authority, could not intervene in the lower court's decisions.

In November 2001, Panama passed implementing legislation for the Convention. The Department acknowledges the importance of this step and hopes that it will lead to full implementation of Panama's Convention responsibilities. Throughout 2002, U.S. Embassy officials continued to meet with high-level officials of the Panamanian Foreign Ministry and the Panamanian judicial branch to press for progress in Convention implementation and speedy resolution of cases. Embassy officials underlined that Panama's performance in carrying out its Convention obligations could affect progress on negotiating other bilateral or international treaties in which Panama has an interest. In May 2002, Panama designated a special judge to hear the one outstanding case and future Hague cases. The outstanding case was particularly egregious and the judge was instructed to decide it in accordance with the Convention. On September 11, 2002, the judge ordered the return of the children to the U.S. in the outstanding case. The children had not yet been returned to the U.S. by the reporting period's end, but were returned to the U.S. in late 2002.

The removal of Panama from the category of non-compliant countries will require further evidence of Panama's commitment to resolve cases in a manner consistent with Panama's Convention responsibilities.

Countries that are Not Fully Compliant

SWITZERLAND

Switzerland was listed in the 2001 Compliance report as a country of concern. Actions taken during the last year by the Swiss judiciary have been contrary to the Convention. These actions have made their own argument for placing Switzerland in the category of countries that are not fully compliant with the Convention.

Switzerland has a federal system of government with powerful cantons. Authorities at the federal level, including the Swiss Central Authority, are cooperative and responsive, but there are problems with the cantonal-level governments, courts and child welfare agencies, which have favored the Swiss parent in some parental abduction cases. 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. The Coordination Offices have not to our knowledge been involved in any cases concerning U.S. citizens abducted to Switzerland. We are therefore unable to assess their effectiveness in improving the implementation of the Convention in Switzerland.

In one case, a Swiss federal court ordered the return of a child 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. Subsequently the taking parent moved to another canton that refused to enforce the return order. In addition, the cantonal court in the new jurisdiction 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 U.S. Charge d'Affaires and the Consul General 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 U.S. Ambassador and Consul General delivered a demarche in this case to the Minister of Justice. On September 13, 2001, the Swiss Federal Court upheld the refusal of the cantonal court to enforce the return order. The Federal Court regards the ruling as final and one that cannot be appealed. The Federal Court stated in its decision that enforcement is purely a question of Swiss national law separate from the Convention. On February 26, 2002, the U.S. Ambassador delivered a diplomatic note to the Minister of Foreign Affairs that expressed deep concern that the Federal Court decision was inconsistent with the Convention, and questioned Switzerland's ability to enforce a court order and implement a return under the Convention. On June 5, 2002, in response to the February diplomatic note, the Swiss Central Authority indicated that the Swiss Federal Court decision in this case did not set any substantive precedent that would preclude lower courts from ordering enforcement of a Hague return order.

Based on the actions taken in this case, it appears that a taking parent can resist enforcement of a return order by moving to another canton to relitigate issues already considered and decided by a Hague order. The Department views the inability to date of the Swiss legal system to prevent such relitigation and require mutual recognition and enforcement of federal and cantonal orders for return as inconsistent with Switzerland's obligations under the Convention. For this reason, the Department has placed Switzerland in the category of countries not fully compliant with the Convention. The decision suggests a systemic problem in the Swiss judiciary that can lead to decisions that contravene the intent of the Convention.

As noted in a similar case in Austria, the particular case noted above is not listed in the attachment as one of the cases unresolved after 18 months. While we strongly disagree with the outcome of this case, the Swiss judicial process is complete. We believe inclusion in the attachment would be misleading to Congress since, unlike other cases on this list, a final decision has been made in the Swiss courts.

Countries of Concern

THE BAHAMAS

In our April 2001 report, The Bahamas was listed as a Country of Concern. Despite recent action taken to move long-outstanding cases forward through the courts, we do not believe that The Bahamas' performance has improved. The judicial and administrative authorities continue to fail to act expeditiously in proceedings for the return of the child as required by Article 11. There are currently no open cases for The Bahamas. The case that was open previously for over five years has been resolved in court and the Supreme Court ordered the child to remain in The Bahamas with the taking parent. The other case mentioned in the 2001 Compliance Report that was open for three years has also been resolved in the courts with the court finding return to the U.S. was not required under the Convention. A case opened in December 2001 has been closed at the left-behind parent's request.

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.

COLOMBIA

As noted in previous reports, Colombian courts frequently request a home study of left-behind parents 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 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. Over the last year there has been no evidence of substantial positive change in Colombia's implementation of the Convention.

GERMANY

As noted in the 2001 Compliance Report, in mid-2000, President Clinton and Secretary of State Albright raised the issue of international parental child abduction with their German counterparts. As a result, a binational working group of experts was formed to discuss ways to improve implementation of the Convention. The group has met ten times to discuss systemic and case-specific problems. German authorities have been forthcoming in sharing views and information with the United States, and have taken concrete steps to improve their implementation of the Convention. Hague cases for return are now being heard in a more timely manner, and the number of decisions that are inconsistent with the Convention have decreased considerably. This is due in large part to the

consolidation of courts that have authority to hear these cases, judicial training seminars in 2001 for Hague judges, and the active involvement of the German Central Authority.

While there have been relatively few applications in Germany for access under Article 21, in the past German courts often entered orders which did not provide for a meaningful relationship to develop with both parents and both cultures. Ordered access was so limited and conditional that it caused inordinate financial stress to the applicant parent, and emotional stress to both parents and children. In the binational working group's discussions, we have encouraged Germany to realize the distinct set of circumstances that these transatlantic access cases bring, and that orders for access should be written in such a way that child's right to know both parents will be maximized and the attendant stress minimized.

One case of particular concern is not mentioned in Annex A because the left-behind parent never filed a Hague application. However, it is illustrative of problems U.S. parents may face obtaining access to and maintaining a positive parent-child relationship with their children who remain in Germany. In this case, the left-behind parent has been separated from his children for over 10 years.

In 1992, the taking parent informed the left-behind parent that she and the children were in Germany and would not return to the U.S. Approximately two months later the taking parent was admitted to a German psychiatric clinic. She requested the German Youth Authorities place the children in foster care. The taking parent and German authorities did not inform the left-behind parent or U.S. authorities of these developments.

In January 1993, the taking parent returned to the United States, leaving the children in Germany with foster parents. The taking parent refused to divulge the location of the children to the left-behind parent. In September 1993, the left-behind parent discovered that the children were in German Youth Authority custody, living with foster parents.

In January 1994, the taking parent and left-behind parent were legally divorced in New York. The court awarded full custody of the children to the left-behind parent with the consent of the taking parent. In April 1994, the Supreme Court of New York ordered the immediate return of the children. Shortly thereafter the left-behind parent traveled to Germany and spent a few weeks seeking physical custody of the children. The matter was pursued as a German civil court case.

In 1995, the German lower court ruled the immediate separation of the children from their foster parents and return to the U.S. would cause severe psychological damage. The court recommended the left-behind parent first become reacquainted with his children as a precondition for returning with them to the U.S. The left-behind parent returned to Germany and stayed for approximately one month, but was unable to reestablish a relationship with them to the satisfaction of the German court. The lower court ruled the children were to remain in Germany with their foster parents.

The left-behind parent filed an appeal with the county court in Konstanz, Germany. The appeal was denied in June 1995. As part of the appeal, the taking parent had requested the children be returned

to the left-behind parent in the U.S. The court ruled that the children (then aged 4 and 5) objected to a return to the U.S. and that their return would cause them psychological damage. The court awarded no specific visitation rights to the left-behind parent. A subsequent appeal to the Federal Constitutional Court was also rejected. The children continue to live with foster parents in Germany to this date.

Since 1995, the left-behind parent and left-behind grandparent in this case have continued to pursue the matter in order to re-establish a relationship with the children. Despite concerted efforts to work with U.S. Embassy and local officials, repeated obstacles have prevented them establishing a positive relationship with the children. U.S. officials in Germany have traveled extensively to meet with German officials in Konstanz, Bonn and Berlin. Consular officers and staff have worked closely with German authorities and the left-behind parent to assist in arranging visits with the children. U.S. Mission Germany officials met with Ministry of Justice and German CA officials in June 2001 and again in February 2002 to discuss the issue and the case psychologist's recommendations for resolving the case. A psychologist continues to work with all parties involved and therapy with the children continues. Whether any progress has been made will be revealed when the left-behind parent travels to Germany to attempt another visit with the children. A visit is planned for early 2003.

Despite improvements in Germany's overall implementation of the Convention, a serious problem with enforcement of court orders still exists. At present, even a parent with a German court order for the child's return to the U.S. or for access to that child in Germany cannot get the order enforced. As a consequence, the taking parent is all too often able to determine the case outcome simply by defying German court orders. Until this situation changes, fulfillment of the Convention's objectives in Germany will likely remain problematic.

POLAND

The Polish Central Authority has continued to improve its cooperation and responsiveness in dealings with the U.S. Central Authority. The U.S. Central Authority does have areas of concern, primarily focused on the lower court decisions which involve custodial issues in Hague proceedings, inappropriate use of Article 13 (b) and decided lack of enforcement of return orders.

Aside from recent legislation that formalized the enforcement process, there is no specific legislation that implements the Convention in Poland. Unless there is a voluntary return, children normally remain in Poland during the entire Hague process, which often takes two years or more. There is a perception by left-behind fathers that there is a gender bias in favor of mothers when they are taking parents. Even though enforcement legislation has been passed, there appears to be reluctance on the part of officials to follow through with enforcement.

We have seen some improvements during the past year. Initial hearings are scheduled more promptly. Courts seem to be less inclined to insist on psychological profiles of both parents although allowing witnesses to attest to parenting skills is still common. Requests made to the Central Authority

for case status reports are answered promptly and copies of court decisions are now provided in almost every case.

There has been on-going dialogue between the Polish Consul General and the Office of Children's Issues Director in Washington, D.C. and U.S. Embassy officials and Ministry of Justice officials in Warsaw. These discussions have focused on mutual problems and possible resolutions in processing both incoming and outgoing Hague cases. Furthermore, there is a better understanding of specific difficulties.

SPAIN

There are currently 3 open cases of children from the United States abducted to or retained in Spain. Communication with the Spanish Central Authority has been sporadic, though several children have been returned from Spain to the United States in the past year through the Convention process. In one long-standing case, a 1996 order for return from the Spanish courts has never been enforced due to an apparent inability on the part of Spanish authorities to locate the child. An attempt by the father to negotiate a return through attorneys in mid-2002 collapsed, and the Spanish authorities have reported no progress in the case.

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 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 18 months to encourage accession, ratification, or passage of implementing legislation: Brazil, Costa Rica, El Salvador, Estonia, Fiji, Guatemala, Latvia, Lithuania, Malta, Moldova, Nicaragua, Palau, Paraguay, Peru, Thailand, Trinidad and Tobago, Uruguay and Uzbekistan. Of this group, Brazil, Costa Rica, El Salvador, Fiji, Malta, Moldova, Paraguay, Trinidad and Tobago, Uruguay and Uzbekistan had acceded to the Convention before the reporting period but the U.S. had not yet accepted their accession by the reporting period's end. During the reporting period, Estonia, Latvia, Nicaragua and Peru acceded to the Convention; the U.S. has not yet accepted their accession. 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 the 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.”

Enforcement Problems

GERMANY

As noted above, despite improvements in Germany’s overall implementation of the Convention, a serious problem with enforcement of court orders still exists. At present, even a parent with a German court order under the Convention for the child’s return to the U.S., or for access to that child in Germany, frequently cannot get the order enforced in Germany. As a consequence, the taking parent is all too often able to determine the case’s outcome simply by defying German court orders. Until this situation changes, fulfillment of the Convention’s objectives in Germany will likely remain problematic.

ISRAEL

The Israeli Central Authority has been cooperative and responsive in its dealing with the U.S. Central Authority. However, in several cases, orders for return have not been executed because of provisions (undertakings) in the orders requiring guarantees regarding the taking parents’ immigration or employment status upon return to the U.S. with the child. Additionally, an inability to locate the child and taking parent has resulted in non-enforcement of orders of return.

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

Local officials must enforce court orders for return and access. In one significant case, local officials have failed to enforce an order for return issued by the federal courts. This refusal was upheld by the Swiss Federal Court in a decision that cannot be appealed.

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 non-governmental organizations within their countries that assist parents seeking the return of children under the Convention.”

Efforts in this particular area are carried out under the auspices and direction of the Secretary of State by the Office of Children’s Issues in the Department of State. One significant problem is the paucity of non-governmental organizations in Hague countries that assist parents seeking the return of children

under the Convention. There is also the general reluctance of domestic organizations abroad to put themselves in the position of arguing for the return of their citizen children to another country, especially in the face of conflicting claims that are not easily settled outside a legal framework. We believe that most non-governmental organizations abroad accept the fact that their countries have given responsibility to governmental central authorities as the most effective means to assist parents with the return of their children. At the same time, there do exist non-governmental organizations, such as International Social Services (ISS) that work with central authorities under the Convention to facilitate the return of children. In one recent case, at the initiative of the U.S. Central Authority, the Swedish branch of ISS arranged a court-ordered return to the U.S. and escorted the child because the left-behind father was not able to go to Sweden.

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 the Department of State's and overseas posts' frequent continual conversations and meetings with Left-behind parents (LBP's).

AUSTRALIA

The use of "undertakings" in Australian court decisions has declined steadily over the past three years.

Date of abduction/ retention: January 12, 1995

Date Hague application filed: June 19, 1995

Has child been located: Yes

In February 1996 the Australian Family Court ordered the return of the child. Rather than comply with the return order, the taking parent went into hiding. The Australian authorities issued a pick-up warrant in November 1996 and in January 1998, the taking parent and child were located. The taking parent immediately applied to file an appeal of the return order, which was ultimately denied by the Australian High Court in December 1999. The original return order included an extensive list of "undertakings" or conditions for return. Negotiations regarding the undertakings have involved both parents, the Australian and U.S. Central Authorities, and higher level contacts in both the Australian

and U.S. governments (i.e. Assistant Secretary of State for Consular Affairs Mary Ryan and her Australian counterpart). Unfortunately, there have been several extended time periods where the LBP has been unreachable (due to moves with no forwarding address; disconnected telephone numbers, etc.) or he has not responded to repeated requests for certain documents. CI case officer has been unable to contact LBP by phone or mail since October 2001.

Action taken by Chief of Mission: None

BELGIUM

Date of Abduction: Sometime between October and December 1999. Exact date is disputed.

Date Hague application filed: May 31, 2000

Has child been located: Yes

In August 2000, a consular officer from the U.S. Embassy in Brussels met with the Belgian Central Authority to protest the delay in processing the application for the children's return. On August 18, 2000, the Central Authority requested in writing clarification of several factual issues in the Hague case. CI forwarded this to the left-behind parent for response. Additional items were provided to the Central Authority on October 21, 2000.

On January 3, 2001, CI requested clarification from the Central Authority on the status of the application and requested that the Central Authority promptly proceed with the case. The Central Authority indicated that they had not forwarded the application to the prosecuting attorney because the taking parent had alleged that she was a victim of domestic violence by the LBP. CI reminded the Central Authority that they were obligated under the Hague Convention to proceed with the case in a timely fashion and were not to consider the merits of a custody case. On April 6, 2001, the Central Authority confirmed that the Hague application had been transmitted to competent judicial authorities.

A Consular Officer at the U.S. Embassy in Brussels conducted a welfare and whereabouts visit with the children on April 30, 2001. On May 23 and June 20, 2001, CI contacted the Belgian Central Authority requesting a hearing date. On June 26, 2001, the Central Authority informed CI that a hearing was set for June 29, 2001. On July 9, 2001, the Central Authority informed CI that the hearing had been postponed to July 13, 2001, at the request of the taking parent. On July 29, the court ruled that the children had been wrongfully removed from the U.S. However, since they were in Belgium for more than one year, the court ordered a social survey to be conducted within 6 months to determine whether the children had become resettled in Belgium.

On August 22, 2001, CI protested this ruling to the Central Authority since the Hague application had been forwarded to the Central Authority in a timely manner. On November 26, 2001, a consular officer with the U.S. Embassy Brussels met with the Central Authority to protest the delay in the case. The Central Authority acknowledged their responsibility for the delay and assured the consular officer that a new director had been appointed and the case would be handled expeditiously. On December 11, 2001, the consular officer attended a meeting between the Central Authority, the prosecuting

attorney, and the left-behind parent's attorney to work out a strategy on how to proceed. A hearing was held on February 1, 2002, on the issue of whether the children have become resettled in Belgium. A consular assistant from the U.S. Embassy in Brussels attended the hearing.

On March 18, 2002, the court affirmed the July 2001 order and scheduled the case for hearing on October 7, 2002. In May 2002, the LBP traveled to Belgium to meet with the Belgian official conducting the social investigation ordered by the court in July.

The hearing scheduled for October 7, 2002, was postponed several times and eventually took place on December 23, 2002. A consular assistant from the U.S. Embassy in Brussels attended the hearing. The court is expected to make a final decision on January 20, 2003.

Actions taken by Chief of Mission: Principal action delegated to consular chief and consular staff who have attended hearings and worked with the Belgian Central Authority and the left-behind parent.

COLOMBIA

Date of abduction: August 23, 1998

Date Hague application filed: March 11, 1999

Has child been located: Yes

The case has been in litigation for years. The child was ordered returned in March 2000, but the decision was reversed in October 2000, upon appeal. The Embassy and CI have approached Colombian authorities at various times on behalf of the LBP. In February 2001, the Embassy sent a diplomatic note to the Government of Colombia on the case. The note was answered ten months later (December 2001) with the information that the appeal, pending before the Constitutional Court since May 2001, had not been reviewed. In May 2002, the Colombian Constitutional Court ruled that the case for restitution of the child should be heard in the Bogota Civil Circuit Court. The Bogota Ninth Civil Circuit Court referred the case to a lower court. Since February 2001, the Embassy has sent four additional diplomatic notes on this case urging its swift completion in compliance with Colombian commitments under the Hague Convention. The Embassy's most recent note was forwarded in November 2002.

Actions taken by the Chief of Mission: Five diplomatic notes sent since February 2001 and, on January 13, 2003, the Ambassador met with the Foreign Minister to discuss the case.

ECUADOR

Date of Abduction/ Retention: August 12, 1990

Date Hague application filed for Access: April 14, 1993

Has child been located: Yes

Over the years, CI and consular officers at post have tried to contact the Ecuadorian Central Authority (ECA) numerous times on this access case. It should be noted, however, that this request for access was filed after Ecuador's accession to the Convention but the child was actually removed from the U.S. before the Convention was in effect between the U.S. and Ecuador.

In March 1994 and October 1998, post attempted welfare visits to the child. Both times the mother met the consular officer without the child. In May 1999, the Office Director of the U.S. Central Authority sent a letter inquiring about all outstanding cases submitted to the ECA, and attached a copy of the 1993 application in this case. In January 2000, CI faxed a copy of the May 1999 letter and attached application to the ECA. To date there is no record of a reply from the ECA. CI wrote to the LBP in May and July of 2000 and spoke to him in September 2000 at which time he said he was unhappy about the work being done on his case. In March and April of 2002, CI left word for the LBP several times. In April 2002, the LBP returned the calls and said he would fax a request for another welfare visit, but has not done so.

Actions taken by the Chief of Mission: None has been requested by the LBP.

GERMANY CASE 1

Date of Abduction or wrongful retention: July 17, 2000

Date Hague application filed: December 12, 2000

Has child been located: Yes

The child could not be located from the time he was taken to Germany in July 2000 until June 2001. Once located, the Hague case moved to the court quickly. The left-behind parent won the return of his child to the U.S. in both lower and appellate courts. The left-behind parent attempted to pick up his son for their return to the U.S. but did not get the assistance needed from local officials. The taking parent went into hiding with the child.

Through a German attorney, the left-behind parent pursued kidnapping charges against the taking parent. The left-behind parent hired a private investigator to locate the taking parent and the child. In early 2002, the taking parent and child were located and the taking parent detained by police and told to "check in " on a regular basis.

The child is still in Germany with the taking parent. The last visit the left-behind parent had with the child was in July 2002, however, the left-behind parent has still been unsuccessful in securing the child's return.

Actions taken by Chief of Mission: This Hague case was handled by the respective Central Authorities, and post was not informed of it, until October 2002, at the German-American Working Group meeting. The Ambassador hosted a gathering at his house in October 2002 for American and German participants in the U.S./German Working Group meeting at which this case was discussed.

GERMANY CASE 2

Date of Abduction or wrongful retention: August 1993

Date Hague application filed: December 12, 2000

Have children been located: Yes

The left-behind parent has sought access to his children for the past 8 years through the German courts. The First Family Division of the Higher Regional Court of Frankfurt-am-Main granted the left-behind parent visitation rights on both March 13, 2000, and September 3, 2002. However, the left-behind parent has had no contact with the children because the taking parent refuses to comply with the court order. The German court has imposed a monetary penalty and restricted the custody rights of the taking parent.

U.S. Consulate General Frankfurt had extensive contact with the left-behind parent and local authorities regarding this case during the period January 1997-1998. Consular section staff made three attempts to conduct welfare and whereabouts visits with the children in March, August and September 1997. In addition, the consular section contacted the German court and youth authorities on behalf of the left-behind parent. CI instructed U.S. Consulate General Frankfurt to conduct an additional welfare and whereabouts visit in June 2002, on behalf of the left-behind parent. CI later withdrew the instruction and the visit was not conducted. The left-behind parent has not directly contacted the U.S. Consulate General since May 1998. CI continues to monitor the case. The U.S./German Working group last raised this case in October 2002.

Actions taken by Chief of Mission: In early 2000, the Ambassador directed that the DCM and consular section make a demarche to the German Ministry of Justice on behalf of American left-behind parents whose children were living in Germany. This case was among those mentioned as part of the demarche. In May 2000, the Secretary of State asked the German Foreign Minister to investigate the issue of German Hague Convention compliance. In June 2000, the President discussed the non-return of American children from Germany with the German Chancellor. Since that date, at the Ambassador's direction, the Embassy has participated in all U.S.-German Working Group meetings held in Germany and one in Washington. This case has been raised at each of those meetings. At the last Germany meeting of the Working Group in October 2002, the Ambassador personally hosted all of the German and American members of the group at his residence. The Embassy, at the Ambassador's direction, is in regular (at times daily) contact with the Children's Task Force of the German Ministry of Justice on both individual cases such as this one, as well as procedural and legal issues.

On a programmatic level, the Public Affairs section of the Embassy organized and carried out at the Ambassador's direction an International Visitor Program for German family law justice in 2001 and 2002, to acquaint them with U.S. practices in children's issues and family law.

GERMANY CASE 3

Date of Abduction or wrongful retention: 1998

Date of Hague application filed: July 1998

Has child been located: Yes

Parents divorced in 1997. In April 1998, the parents were given joint legal custody with the taking parent having primary physical custody. The taking parent took the child to Germany in 1998 and did not return him as agreed. In October 1998, the German court dismissed the Hague application for return. The lower court's decision was sustained by the appeals court in January 1999.

In April 2000, the left-behind parent was stopped at an airport in Paris as he left the plane with his child. Police took the child and after 8 hours of holding the left-behind parent, the authorities released him without charges being brought against him.

The left-behind parent has filed a Hague application under Article 21 for access. The German Central Authority agreed to draft the motion with input from the left-behind parent and represent the left-behind parent in court. However, the left-behind parent was not satisfied with the draft motion because he felt it contained inaccuracies.

The US Consulate in Munich has handled this case since its inception. In the late 1990's when this case was first in court, the consular officer spent substantial time on the case, attending hearings, writing to the judge, speaking with attorneys representing both parties, and conducting welfare visits with the child. Currently the consular officer is in periodic contact with both parents, and makes regular welfare visits to the child on behalf of the left-behind parent.

Action taken by Chief of Mission and U.S. Embassy: In early 2000, the Ambassador directed that the DCM and consular section make a demarche to the German Ministry of Justice on behalf of American left-behind parents whose children were living in Germany. This case was among those mentioned as part of that demarche. In May 2000, the Secretary of State asked the German Foreign Minister to investigate the issue of German Convention compliance, including this case. In June 2000, the President discussed the non-return of American children from Germany with the German Chancellor. Since that date, at the Ambassador's request, the Embassy has participated in all U.S.-German Working Group meetings held in Germany and one in Washington. At the last Germany meeting of the Working Group in October 2002, the Ambassador personally hosted all of the German and American members of the Working Group at his residence. The US/German Working Group raised this case in their October 2002 meeting.

On a programmatic level, the Public Affairs section of the Embassy organized and carried out at the Ambassador's direction an International Visitor Program for German family law judges in 2001 and 2002, to acquaint them with U.S. practices in children's issues and family law.

HONDURAS

Date of abduction/retention: January 28, 1998

Date of Hague application filed: May 27, 1998

Has child been located: Yes

In September 1998, the Foreign Ministry informed the US Embassy that the case could not be accepted because of an error in Honduran government proceedings during the ratification of the Hague Convention. Since that time the Embassy has urged Honduras through meetings with officials in the Ministry of Foreign and by a diplomatic note of March 2000 to honor its obligations under the Convention. In July 2001, the Ministry of Foreign Affairs informed the Embassy that Honduras agrees that the Convention was in effect between Honduras and the United States. Consular officers at that time gave the Honduran Central Authority a copy of the May 1998 application and the Honduran Central Authority promised to look into the case. Other than making a visit in April 2002 to the home of the taking parent and reporting to the Embassy on the child's well being, the HCA has not taken any action on the case.

Actions by Chief of Mission: None requested at present by LBP.

IRELAND

Date of abduction/retention: July 1999

Date Hague application filed: November 15, 1999

Has child been located: No

Child was originally retained in November/December 1998. There was an order for return in July 1999, and the Irish law enforcement authorities confirmed that the taking parent and child did leave the jurisdiction. However, they never appeared for the U.S. court hearing and new Hague applications were filed in both the Republic of Ireland and Northern Ireland. CI, the Foreign Central Authorities and law enforcement have followed up on leads provided by the LBP to no avail. LBP has been encouraged to follow through with local law enforcement to obtain an Interpol notice.

Actions taken by Chief of Mission: None

ISRAEL

Date of abduction/retention: April 18, 1997

Date Hague application filed: October 6, 1997

Have children been located: No

On November 24, 1998, the court ordered that the children be returned to the U.S. On January 13, 1999, after attempts to locate the TP and/ or the children had failed, the Court issued another order instructing the police to locate the children. Unfortunately, efforts undertaken by police have also failed to locate the children.

The Office of Children's Issues (CI) has regular, ongoing contact with the LBP, U.S. law enforcement, the Foreign Central Authority (CA), and through the CA, contact with foreign law enforcement. In an effort to help the CA and foreign law enforcement locate the mother, CI and federal law enforcement provided them with the TP's Department of Motor Vehicles photograph. At the request of CI, the director of the CA has had several meetings with law enforcement officials regarding their efforts to locate the children. CA informed CI that search efforts had been expanded, but whereabouts of the children remain a mystery.

Actions taken by the Chief of Mission: None.

MAURITIUS CASE 1

Date of abduction or wrongful retention: December 4, 1998

Date Hague application filed: February 3, 1999

Has child been located: Yes

This is one of two cases in Mauritius where the application was filed after the country became a party to the Convention (October 1993) but before the country's legislative body incorporated the Convention into the law of Mauritius (October 2000). The Mauritian Central Authority (CA) said it could not accept the applications at the time because the Convention had not been incorporated into domestic law. In light of the passage of implementing legislation, and at the prompting of the Department and the Embassy, the Central Authority in Mauritius has said it believed it could bring the case before the Court in the hope of having it considered. The Department has been in communication with the applicant regarding the steps the CA would like him to take in order to move forward. In June 2002 the Mauritian government requested additional forms of documentation from the left-behind parent. The requested documents were delivered in October 2002. In November, the Mauritian State Law Office introduced a motion for the return of the children to the left-behind parent. At a subsequent hearing, the abducting parent objected to the motion, citing concern for the best interests of the children. The Court scheduled an initial hearing for January 2003.

Action taken by the Chief of Mission: The U.S. Embassy in Port Louis has been in regular contact with the left-behind parent and the CA. In May 2002, Embassy representatives met with senior officials of the Ministry of Women's Rights, Child Development and Family Welfare to discuss this case. In June 2002, Embassy officials met with the Assistant Secretary of the Ministry of Women's Rights, Child Development and Family Welfare to discuss how the Ministry could assist in ensuring effective implementation and application of the Convention.

MAURITIUS CASE 2

Date of abduction or wrongful retention: February 14, 1998

Date Hague application filed: June 9, 1998

Has child been located: Yes

This case is similar to the one noted above because it too was filed under the Convention between the time of accession and the passage of implementing legislation, and was therefore not processed. In June 2002 the Mauritian government requested additional forms of documentation from the left-behind parent. The requested documents were forwarded in September 2002. In November 2002, the Mauritian State Law Office introduced a motion to return the child to the left-behind parent. The Court scheduled a January 2003 hearing for the case. The abducting parent is expected to object to the child's return.

Actions taken by the Chief of Mission: The U.S. Embassy in Port Louis has assisted the left-behind parent to interface with Mauritian government officials throughout the case development. In May 2002, Embassy representatives met with senior officials of the Ministry of Women's Rights, Child Development and Family Welfare to raise the profile of this case and followed up a month later with discussions met with the Assistant Secretary of the Ministry of Women's Rights, Child Development and Family Welfare on improving the Ministry's effectiveness with respect to implementation and application of the Convention.

MEXICO CASE 1

Date of abduction or wrongful retention: November 22, 1993

Date Hague application filed: November 8, 1994

Has child been located: No

No action has occurred since the TP filed an amparo objecting to a Family Judge order that the child be taken into protective custody of social services pending the resolution of the case. The amparo was denied but the TP successfully evaded notice of the next hearing date and her whereabouts are unconfirmed. The LBP's first contact with the Department of State ("the Department") since 1999 was in August 2001. The TP's whereabouts were unknown until December 2001, when the LBP provided the Department of State with her address. The Department immediately forwarded that information to the Mexican Central Authority (MCA). The Department raised the status of this case with the Legal Advisor to the Embassy of Mexico in November 2001. The Department requested a status update from the MCA in July 2002, and was told the case would be forwarded to the courts when they returned from their July recess. In August 2002, the Department asked the National Center for Missing and Exploited Children to request an update on this case each time they spoke with the MCA on incoming Hague cases. In October 2002, the MCA reported that the case had been forwarded to the Baja California Presiding Judge. The MCA stated in response to a November 2002 request for an update that the case had not yet been assigned to a judge. The Bureau of Consular Affairs Senior Advisor George Lannon raised this case with the Government of Mexico (GOM) at the Binational Commission (BNC) meeting in Mexico City on November 26, 2002.

Actions taken by the Chief of Mission: The case was "inactive " from 1999 until August 2001. None requested since reactivation.

MEXICO CASE 2

Date of abduction or wrongful retention: May 24, 1994

Date Hague application filed: March 14, 1997

Has child been located: Yes

This case, like several others, was filed directly with the MCA by the Monterey County District Attorney's Office in California. The Department of State was asked to conduct a welfare and whereabouts visit in August 2001, after the FBI located the child in Mexico living with the TP's relatives. A welfare and whereabouts visit was conducted to visit the child and caretakers in October 2001, and has since facilitated the first telephone and mail contact between the LBP and child since the child was abducted. The State of California is pursuing criminal charges against the TP who resides illegally in the United States. No hearing date has ever been set even though the child's exact location, with his paternal aunt and uncle, has been known since he was abducted. Bureau of Consular Affairs Senior Advisor George Lannon raised this case with the GOM at the Binational Commission meeting in Mexico City on November 26, 2002.

Actions taken by the Chief of Mission: None requested by LBP.

MEXICO CASE 3

Date of abduction or wrongful retention: August 1, 1993

Date Hague application filed: June 23, 1997

Have children been located: Yes

This case has been delayed first by the LBP submitting an incomplete Hague application, then by the MCA's repeated requests for originals of documents and translations previously sent, and most recently because the court to which it was assigned cannot locate the file. Department forwarded the incomplete Hague application to the MCA in June 1997. The Department notified the LBP that the application was incomplete and what documents were needed to complete the application. Finally, in September 1999, the MCA acknowledged the application was complete. The Assistant Secretary for Consular Affairs discussed this case with her counterparts at the Binational Commission meetings in 1999 and 2000. The Department queried the MCA about this case in August and October 2001. The Department raised the status of this case with the Legal Advisor to the Embassy of Mexico in November 2001. The MCA advised the Department of State in February 2002 that the court had lost the file in 2000 and the MCA was preparing a certified copy of the application to send to the court. The copy was sent and the MCA reported the case had been assigned to a judge and asked on behalf of the court if the LBP would attend the hearing. The LBP is afraid to attend the hearing and has become so discouraged that she changed her request for return of the children to a request for access or visitation in October 2002. Bureau of Consular Affairs Senior Advisor George Lannon raised this case with the GOM at the Binational Commission meeting in Mexico City on November 26, 2002.

Actions taken by the Chief of Mission: The Chief of Mission raised this case at the Binational Commission meetings in 1999 and 2000 and with the Foreign Ministry Under Secretary in February 2001.

MEXICO CASE 4

Date of abduction or wrongful retention: February 28, 1996

Date Hague application filed: October 27, 1997

Has child been located: Yes

The court hearing this Hague case denied the application for return of the child in June 1998, apparently due to the LBP's lack of exercise of custodial rights. The decision was appealed by the LBP and in February 1999, the court ordered the case remanded for a re-hearing because the child was not represented by counsel. The LBP appealed this decision and asked the court to order the child be returned to the United States. That appeal was denied in February 2000.

The Department facilitated a visit by the LBP with the child and communication with the TP in November 1999. The Department has repeatedly asked the MCA for information regarding the appointment of counsel for the child, scheduling a psychological evaluation, and new hearing date. The Department raised the status of this case with the Legal Advisor to the Embassy of Mexico in November 2001. In February 2002, the MCA said they needed to speak with the LBP. The Department passed that request to the LBP. Bureau of Consular Affairs Senior Advisor George Lannon raised this case with the GOM at the Binational Commission meeting in Mexico City on November 26, 2002.

Actions taken by the Chief of Mission: The Chief of Mission discussed this case with the Foreign Ministry Under Secretary in February 2001.

MEXICO CASE 5

Date of abduction or wrongful retention: January 31, 1993

Date Hague application filed: March 3, 1997 (converted to access in 1999)

Have children been located: Yes

The TP filed an amparo as soon as he was served notice of the Hague hearing. The amparo was denied in November 1997 and the family court judge ordered the children returned. The TP filed an amparo appealing the return order in December 1997. No action was taken on the amparo in 1998 or 1999. The Hague process was stalled by a series of amparos filed by the TP, the last of which was denied in May 2000. In October 1999, the LBP changed her application for return of the children to an application for access because she believed it was not in the children's best interests to return to the United States after so much time had passed. The court hearing on the access application was postponed several times in 2001 because the father was not served or failed to appear. The TP then quit his job and disappeared. The MCA has been unable to locate him or the children.

The Department has made numerous attempts to conduct welfare and whereabouts visits on the children at the LBP's request since 1998. The TP has allowed only two, in July 1998 and January 1999. The Department asked the MCA for assistance in arranging visitation between the LBP and children

during the pendency of the amparo in November 1998. The MCA did not respond. We have been trying to work with the TP's attorney since August 2001 to arrange another welfare and whereabouts visit.

The Assistant Secretary for Consular Affairs discussed this case during the 1999 and 2000 Binational Commission meetings with Mexico. The Assistant Secretary also discussed the problems the delay caused by not locating abducted children in Mexico caused in child abduction cases with the Mexican delegation at The Hague in April 2001. The Department raised the status of this case with the Legal Advisor to the Embassy of Mexico in November 2001 and discussed this case at a meeting with the MCA in February 2002. Bureau of Consular Affairs Senior Advisor George Lannon raised this case with the GOM at the Binational Commission meeting in Mexico City on November 26, 2002.

Actions taken by the Chief of Mission: The Chief of Mission discussed this case with the Foreign Ministry Under Secretary in February 2001.

MEXICO CASE 6

Date of abduction or wrongful retention: August 15, 1997

Date Hague application filed: January 2, 1998

Have children been located: No

The Department advised the MCA in January 2001 of the address of the school the children attended but the MCA has been unable to locate the children. The Department moved the case to "inactive" status in March 2000, when neither CI nor the LBP's attorney could locate the LBP. The case was re-activated in 2001 after the LBP contacted CI. In July 2002, the LBP mother provided a new address, which CI forwarded to the MCA, and requested a welfare and whereabouts visit. The Department sought the assistance of the Mexican social services because of the allegations made by the LBP regarding the children's condition based on the LBP's observations during an unsuccessful attempt to recover the children. Mexican social services reported in July 2002 that neighbors said that the family had left for vacation elsewhere in Mexico. Embassy Mexico contacted Mexican social services in the two vacation destinations provided without success. In August 2002, Embassy officials attempted to locate the children at the address provided by the LBP mother and at the child's previous school. They found the house was vacant and learned the children had not been in school since the previous year. Embassy officials also contacted a relative who said the TP and children had moved after the LBP's visit. The relative would not disclose their current location or provide any other information or assistance.

The Department raised the status of this case with the Legal Advisor to the Embassy of Mexico in November 2001. Assistant Secretary for Consular Affairs Maura Harty raised our concerns about the number of cases unresolved more than 18 months after they were sent to the MCA at the Binational Commission meeting on November 26, 2002.

Actions taken by the Chief of Mission: None requested by LBP.

MEXICO CASE 7

Date of abduction or wrongful retention: January 11, 1998

Date Hague application filed: February 24, 1998

Has child been located: Yes

The state judge assigned this case initially refused to accept it. The judge claimed that the Convention was an international treaty and Convention cases should, therefore, be heard in federal, not state, court. There is no provision under Mexican law for family law cases to be heard in federal court, however, so the case was caught in an internal jurisdictional dispute. The MCA and the LBP's Mexican attorney eventually persuaded the judge that state courts have jurisdiction over Hague proceedings.

The Department worked with local police, FBI and the Embassy's Legal Attaché in 1998 to locate the child. The TP filed an amparo in July 1998 as soon as she received notice of the Hague proceeding. That appeal was denied in August 2000 and the Hague hearing held that same month. The court denied the application for return in October 2000 and the LBP appealed. In February 2001, the appeal was denied (non-return order upheld). The LBP filed a second-level appeal. That appeal was granted and the case remanded for a hearing based on limited issues. The new hearing was scheduled for January 2002 but has been postponed.

The Assistant Secretary of State for Consular Affairs raised this case at the May 1999, September 1999 and June 2000 Binational Commission meetings. The Department raised the status of this case with the Legal Advisor to the Embassy of Mexico in November 2001. At a meeting with the MCA on February 8, 2002, the Department raised the issue of the court's authority to raise anew issues dealt with at the first hearing at the request of the LBP. The new hearing has been postponed several times as the parties worked out various issues. The Department has remained in regular contact with the LBP, the LBP's attorney, and the MCA on this case. Bureau of Consular Affairs Senior Advisor George Lannon raised this case with the GOM at the Binational Commission meeting in Mexico City on November 26, 2002.

Actions taken by the Chief of Mission: Chief of Mission raised the case at Binational Commission meetings in May 1999, September 1999 and June 2000. Chief of Mission discussed case with Foreign Ministry Under Secretary in February 2001.

MEXICO CASE 8

Date of abduction or wrongful retention: September 18, 1993

Date Hague application filed: April 10, 1998

Have children been located: Yes

In August 1998, the MCA advised us that the court was in the process of setting a date for the Hague hearing and asked the Department if the LBP would be able to attend. After speaking with the LBP the Department advised the MCA that the LBP asked that the case be postponed until September 1998

when she would be able to travel to Mexico. The Department repeatedly asked the MCA if a hearing date had been set throughout 1998 and 1999. The Department moved the case to "inactive" status in late 1999 after all attempts to locate the LBP mother failed. The case was reactivated in November 2000, when the mother contacted the Department with her new address.

In July 2001 the LBP provided an address for the children and requested a welfare and whereabouts visit. A consular officer from the United States Embassy in Mexico conducted the requested visit in July 2001. A report of the visit was sent to the LBP in August 2001. Pictures were sent in September 2001, after the LBP provided her new address.

The LBP parent has had no contact with her children since their abduction in 1993. The children have forgotten what English they had at the time of abduction and the LBP does not speak Spanish. In August 2001, the Department offered to assist the LBP in re-establishing a connection with her children by passing letters, packages and mail to them and translating phone calls. The Department provided the MCA with the exact location of the children in August 2001. The Department raised the status of this case with the Legal Advisor to the Embassy of Mexico in November 2001. The Department raised this case with the MCA at a meeting on February 8, 2002, and again provided the children's address to the MCA. In September 2002, the MCA reported that the children could not be located. The Department advised the MCA that this response was unsatisfactory and we would be raising this case at a higher level. Bureau of Consular Affairs Senior Advisor George Lannon raised this case with the GOM at the Binational Commission meeting in Mexico City on November 26, 2002.

Actions taken by the Chief of Mission: None requested by LBP.

MEXICO CASE 9

Date of abduction or wrongful retention: May 23, 1998

Date Hague application filed: July 13, 1998

Have children been located: Yes

The Department provided new information regarding the children's whereabouts in July 1998 shortly after filing the applications. The Department received no response from the MCA to our query regarding the case in October 1998. The case was forwarded to court in January 1999. The court requested and the Department sent additional documentation in January 1999. The Department protested to the MCA in March 1999 that the information the court requested in February 1999 (proof of signature of the foreign authority that had signed the Hague treaty) was outside the scope of the Hague requirements. The Department has received no response to its repeated queries regarding the status of this case. The Department raised the status of this case with the Legal Advisor to the Embassy of Mexico in November 2001. The Department requested updated information in February, April and September 2002. In October 2002, the MCA reported the judge could not locate the children. The Department contacted the LBP who confirmed the children's address. On November 25, 2002, the MCA reported the court was in the process of scheduling a hearing date.

Actions taken by the Chief of Mission: The Chief of Mission discussed case with Foreign Ministry Under Secretary in February 2001.

MEXICO CASE 10

Date of abduction or wrongful retention: February 2, 1997

Date Hague application filed: October 28, 1998

Has child been located: Yes

The initial Hague hearing date was postponed from April 1999 to May 1999 at LBP request. The TP failed to appear with the child on the June 1999 court date and subsequently filed an amparo. The court failed to notify the MCA of the amparo until February 2000. No action has been taken on this amparo.

The Department liaises with the California District Attorney's office that is working directly with the LBP and the MCA. The Consulate assisted LBP in arranging visitation with child and monitored the first visit. Once a hearing date was set, the TP suspended weekly visitation that had been arranged for the LBP through the U.S. Consulate. The Department contacted the MCA in July 1999 and October 1999 requesting status updates. The Consulate attempted to contact the TP and the TP's attorney to arrange welfare and whereabouts visit in August 2000 and November 2000 and August 2001. The MCA received incorrect information in September 2001 that the child had been re-abducted to the United States. The Department immediately confirmed the child was not with the LBP and reported this back to the MCA requesting an immediate hearing date. The Department raised the status of this case with the Legal Advisor to the Embassy of Mexico in November 2001. The Department requested a status update from the MCA in February 2002. Bureau of Consular Affairs Senior Advisor George Lannon raised this case with the GOM at the Binational Commission meetings in Mexico City on November 26, 2002.

Actions taken by the Chief of Mission: The Chief of Mission discussed case with Foreign Ministry Under Secretary in February 2001.

MEXICO CASE 11

Date of abduction or wrongful retention: February 14, 1999

Date Hague application filed: February 19, 1999

Has child been located: Yes

This case, like several others, was filed directly with the MCA by the Santa Barbara District Attorney's Office in California. They work directly with the LBP and MCA and inform us of relevant actions in the case. Generally, no action is required or requested from the Department of State.

Actions taken by the Chief of Mission: None requested by LBP.

MEXICO CASE 12

Date of abduction or wrongful retention: December 15, 1998

Date Hague application filed: March 8, 1999

Has child been located: Yes

The Department worked with the LBP to locate the TP in Mexico in 1999 and 2000. The Consulate confirmed the work location of the TP in August 2000. The Department forwarded this information to the MCA the same month. The MCA, in response to repeated requests for case updates, reported in January 2002 that the case had been forwarded to the courts. Assistant Secretary for Consular Affairs Maura Harty raised our concerns about the number of cases unresolved more than 18 months after they were sent to the MCA at the Binational Commission meetings on November 26, 2002.

Actions taken by the Chief of Mission: The Chief of Mission discussed problems caused by not locating children with Foreign Ministry Under Secretary February 2001.

MEXICO CASE 13

Date of abduction or wrongful retention: January 10, 1994

Date Hague application filed: March 9, 1999

Has child been located: Yes

The LBP prepared her Hague application with the assistance of the Mexican Consulate General in Houston and continued to work directly with them and the MCA on her case. In November 1999, in response to a request from the Mexican Embassy for an update on the case, we queried the MCA. In April 2000, the MCA responded that the TP had filed an amparo against an order for return under the Hague Convention and that they would inform us of the results of the appeal. The MCA advised us in January 2002 the amparo was still pending.

Actions taken by the Chief of Mission: None requested by LBP.

MEXICO CASE 14

Date of abduction or wrongful retention: May 5, 1999

Date Hague application filed: August 28, 1999

Have children been located: Information not reported to CI

This case, like several others, was filed directly with the MCA by the San Diego District Attorney's Office in California. They work directly with the LBP and MCA and inform us of relevant actions in the case. Generally, no action is required or requested from the Department of State.

Actions taken by the Chief of Mission: None requested by LBP.

MEXICO CASE 15

Date of abduction or wrongful retention: December 1, 1997

Date Hague application filed: September 29, 1999

Have children been located: No

The MCA forwarded this case to the Presiding Judge of the state court in early 2000, even though the exact location of the TP and children was unknown. The Department forwarded a new address for the TP to the MCA in October 2002. The Department raised the status of this case with the Legal Advisor to the Embassy of Mexico in November 2001. At a meeting with the MCA in February 2002 the Department raised the problem caused in child abduction cases when children cannot be located by the court. Assistant Secretary for Consular Affairs Maura Harty raised our concerns about the number of cases unresolved more than 18 months after they were sent to the MCA at the Binational Commission meetings on November 26, 2002.

Actions taken by the Chief of Mission: The Chief of Mission discussed problems caused by not locating children with Foreign Ministry Under Secretary in February 2001.

MEXICO CASE 16

Date of abduction or wrongful retention: March 13, 1999

Date Hague application filed: November 12, 1999

Has child been located: No

In response to a Department request for a status update, the MCA reported in March 2000 that they were still preparing the case for forwarding to the courts. The MCA reported to the Department in 2001 that they were still unable to locate the child. On January 23, 2002, the MCA advised the Department that the file was missing a translation of the child's birth certificate. The Department immediately faxed the MCA a file copy of the translated birth certificate, which had been included with the original application.

The Department raised the status of this case with the Legal Advisor to the Embassy of Mexico in November 2001. At a meeting with the MCA in February 2002, the Department raised the problem caused in child abduction cases when children cannot be located by the court. In response to the Department's request for an update, the MCA reported the child had been located in September 2002. The MCA reported in October 2002 that the case had been dismissed because the TP claimed the parties were divorced on consent with custody awarded to the TP prior to the Hague application. The Department requested a copy of the divorce decree from the MCA and contacted the LBP parent who denied the allegation and provided supporting documentation. In November 2002, the MCA provided a copy of the decree and the Hague decision, which bases the dismissal on the alleged Mexican residence of the LBP. The Department forwarded this information to the LBP and is waiting for a response.

Actions taken by the Chief of Mission: The Chief of Mission discussed problems caused by not locating children with Foreign Ministry Under Secretary in February 2001.

MEXICO CASE 17

Date of abduction or wrongful retention: October 5, 1999

Date Hague application filed: December 2, 1999

Has child been located: Yes

In June 2000, the Department provided the TP's address to the MCA. The case was forwarded to the Presiding Judge in the state in which the child was located. The judge initially refused to take this case for the reasons discussed above in Mexico Case 7. While the jurisdictional issue was under review by the Mexican courts, the Department discussed alternate means of recovering the child including the efficacy of filing criminal charges against the TP who has entered the United States at least once with the child. The Department also worked with the Department of Justice to re-enter the child's name into the National Crime Information Center (NCIC) computer system in case the child returns to the United States again. Local police had taken the child's name out of the system once the TP and child were located in Mexico claiming that she was no longer "missing."

The jurisdictional issue was eventually resolved and this was the first Hague hearing to be scheduled in this Mexican State. Unfortunately the TP was alerted in advance and absconded with the child. After she failed to appear at three separate hearing dates between March and June 2001, the judge, in an unprecedented move in a Convention case, issued a warrant for her arrest. The Department discussed the status of the case and when the warrant might be executed in October 2001. The Department raised the status of this case with the Legal Advisor to the Embassy of Mexico in November 2001. At a meeting with the MCA in February 2002, the Department raised the problem caused in child abduction cases when children cannot be located by the court. The Department informed the MCA that the LBP had information that the child was still at the last known address and requested new attempts to serve the TP in November 2002. Assistant Secretary for Consular Affairs Maura Harty raised our concerns about the number of cases unresolved more than 18 months after they were sent to the MCA at the Binational Commission meetings on November 26, 2002.

Actions taken by the Chief of Mission: The Chief of Mission discussed problems caused by not locating children with the Foreign Ministry Under Secretary in February 2001.

MEXICO CASE 18

Date of abduction or wrongful retention: June 16, 1998

Date Hague application filed: Feb 21, 2000

Has child been located: No

The MCA forwarded this case to the courts in April 2000. The family judge was unable to locate the child at the address provided and requested through the MCA a new address or additional information

to help locate the child or TP. The Department forwarded this request to the LBP in October 2001. The Department raised the status of this case with the Legal Advisor to the Embassy of Mexico in November 2001. At a meeting with the MCA in February 2002, the Department raised the problem caused in child abduction cases when children cannot be located by the court. The MCA stated they were still unable to locate the child in response to the Department's request for an update in September 2002. Assistant Secretary for Consular Affairs Maura Harty raised our concerns about the number of cases unresolved more than 18 months after they were sent to the MCA at the Binational Commission meetings on November 26, 2002.

Actions taken by the Chief of Mission: The Chief of Mission discussed problems caused by not locating children with the Foreign Ministry Under Secretary in February 2001.

MEXICO CASE 19

Date of abduction or wrongful retention: June 10, 1999

Date Hague application filed: March 17, 2000

Have children been located: No

The MCA has taken no action on this case. They state they cannot locate the TP or children. The Consulate arranged a visit by the LBP and the children through a relative in March 2001. The Department queried the MCA on the status of this case in October 2001, and raised the status of this case with the Legal Advisor to the Embassy of Mexico in November 2001. At a meeting with the MCA in February 2002, the Department raised the problem caused in child abduction cases when children cannot be located by the court. Assistant Secretary for Consular Affairs Maura Harty raised our concerns about the number of cases unresolved more than 18 months after they were sent to the MCA at the Binational Commission meetings on November 26, 2002.

Actions taken by the Chief of Mission: The Chief of Mission discussed problems caused by not locating children with the Foreign Ministry Under Secretary in February 2001.

MEXICO CASE 20

Date of abduction or wrongful retention: January 30, 2000

Date Hague application filed: May 30, 2000

Has child been located: Yes

The state court in the Mexican state where the TP and child were living initially declined to accept any Convention cases claiming that the state court did not have jurisdiction. (See Mexico Case 7 above for a discussion of the issue). That issue was resolved in 2000 but a hearing was not scheduled until June 2001. The TP filed an amparo, which is still pending. The Department queried the MCA for a status report on the case in June and October 2001, and March and September 2002. The Department raised the status of this case with the Legal Advisor to the Embassy of Mexico in November 2001. At a meeting with the MCA in February 2002, the Department raised the problem caused in child abduction

cases by the amparo process. Assistant Secretary for Consular Affairs Maura Harty raised our concerns about the number of cases unresolved more than 18 months after they were sent to the MCA at the Binational Commission meetings on November 26, 2002.

Actions taken by the Chief of Mission: None requested by LBP.

MEXICO CASE 21

Date of abduction or wrongful retention: October 15, 1998

Date Hague application filed: July 14, 2000

Has child been located: No

This case, like several others, was filed directly with the MCA by the San Diego District Attorney's Office in California. They work directly with the LBP and MCA and inform us of relevant actions in the case. Generally, no action is required or requested from the Department of State. The Department passed to the District Attorney's Office a request from the MCA for a photograph of the TP in January 2002.

Actions taken by the Chief of Mission: None requested by LBP.

MEXICO CASE 22

Date of abduction or wrongful retention: November 27, 1998

Date Hague application filed: August 14, 2000

Has child been located: No

The MCA has been unable to locate the child in Mexico. The Department contacted the LBP requesting additional information that might help the MCA locate the child in August 2002.

The Department raised the status of this case with the Legal Advisor to the Embassy of Mexico in November 2001. At a meeting with the MCA in February 2002, the Department raised the problem caused in child abduction cases when children cannot be located by the court. Assistant Secretary for Consular Affairs Maura Harty raised our concerns about the number of cases unresolved more than 18 months after they were sent to the MCA at the Binational Commission meetings on November 26, 2002.

Actions taken by the Chief of Mission: None requested by LBP.

MEXICO CASE 23

Date of abduction or wrongful retention: March 17, 2000

Date Hague application filed: December 5, 2000

Has child been located: Yes

LBP is represented by privately retained counsel in Mexico and has not requested specific assistance from the Department. The Hague hearing was scheduled for May 29 but continued until July after the court could not locate the TP and children. According to the MCA the court believes the children are in another Mexican State and is returning the application to them for forwarding to the other State. Assistant Secretary for Consular Affairs Maura Harty raised our concerns about the number of cases unresolved more than 18 months after they were sent to the MCA at the Binational Commission meetings on November 26, 2002.

Actions taken by Chief of Mission: None requested by LBP.

MEXICO CASE 24

Date of abduction or wrongful retention: July 24, 2000

Date Hague application filed: December 5, 2000

Has child been located: Yes

The child's location (residing with a half-brother) has always been known. The child's mother passed away while in Mexico for medical treatment. The MCA rejected the case in November 2002, based on Mexican custody law pertaining to the death of a parent, even though the LBP/stepfather had legal guardianship at the time the child was allegedly illegally retained. The Department has contacted the LBP regarding the MCA's decision and is waiting for his decision before requesting the MCA reconsider their decision. This case was raised with the Mexican Embassy's Legal Attaché in November 2001.

The Department has also provided the LBP with attorney's lists, information on obtaining authentication of documents for use abroad, and information on the MCA's procedures. Consulate General Tijuana has made several welfare and whereabouts visits. Assistant Secretary for Consular Affairs Maura Harty raised our concerns about the number of cases unresolved more than 18 months after they were sent to the MCA at the Binational Commission meetings on November 26, 2002.

Actions taken by Chief of Mission: None requested by LBP.

MEXICO CASE 25

Date of abduction or wrongful retention: October 3, 2000

Date Hague application filed: January 22, 2001

Has child been located: No

The Hague application prepared for the case by the local Mexican Consulate remains incomplete. Neither the LBP nor the Mexican Consulate has responded to our request for the missing documents needed to complete the application.

Actions taken by Chief of Mission: None requested by LBP.

MEXICO CASE 26

Date of abduction or wrongful retention: July 1, 2000

Date Hague application filed: January 24, 2001

Has child been located: Yes

The Department requested a status update on this case in September 2001. When we received no response, we raised this case with the Mexican Embassy's Legal Attaché in November 2001. In April 2002, the MCA informed us that the case had been forward to the state court. Subsequently, the MCA reported that the local court had lost the file; the MCA certified a copy and sent it to the court on August 10, 2002. Assistant Secretary for Consular Affairs Maura Harty raised our concerns about the number of cases unresolved more than 18 months after they were sent to the MCA at the Binational Commission meetings on November 26, 2002.

Action taken by Chief of Mission: None Requested by LBP.

MEXICO CASE 27

Date of abduction or wrongful retention: August 4, 1999

Date Hague application filed: January 23, 2001

Has child been located: No

The MCA stated they were unable to locate the child in response to the Department's request for a status report in March 2001. The Department received no response to its request for updates in October and November 2001. The Department met with the MCA to discuss the communication problem and the status of cases in February 2002. After that meeting, the MCA forwarded the Hague application to the state court. The case was assigned to a judge in August 2002. In response to the Department's request for an update, the MCA reported in November 2002 that the judge was going to dismiss the case because the TP mother, using a prior custody order, claimed that the LBP had been the initial abductor and she was the legal custodian. The Department immediately contacted the LBP regarding these allegations and is working with him to rebut them. Assistant Secretary for Consular Affairs Maura Harty raised our concerns about the number of cases unresolved more than 18 months after they were sent to the MCA at the Binational Commission meetings on November 26, 2002.

Actions taken by Chief of Mission: None requested by LBP

MEXICO CASE 28

Date of abduction or wrongful retention: March 31, 2000

Date Hague application filed: January 24, 2001

Has child been located: No

The MCA did not respond to the Department's request for a status report on September 25, 2001. The Department discussed the problem in obtaining information from the MCA and asked for an update on this and all cases with the Mexican Embassy's Legal Attaché in November 2001. We received no response. The Department met with the MCA to discuss the lack of communication and need for status reports in February 2002. At that time the MCA reported that the application was incomplete but could not specify what was missing. On April 8, 2002, the MCA claimed that the Spanish translations of the birth certificates were missing. We replied that the original apostilled translations were submitted with the applications and faxed copies of the translated birth certificates from our files. Assistant Secretary for Consular Affairs Maura Harty raised our concerns about the number of cases unresolved more than 18 months after they were sent to the MCA at the Binational Commission meetings on November 26, 2002.

Actions taken by the Chief of Mission: None requested by LBP.

MEXICO CASE 29

Date of abduction or wrongful retention: February 9, 2000

Date Hague application filed: March 19, 2001

Has child been located: No

The LBP has been working directly with the MCA. The Department asked the Embassy in Mexico City to contact the maternal grandmother to determine if the TP and child are with her or if she knows where they are. The MCA sent the case to INTERPOL to assist in locating the child in July 2002. The MCA stated in response to our request for an update in September 2002 that they were still unable to locate the child or TP. Assistant Secretary for Consular Affairs Maura Harty raised our concerns about the number of cases unresolved more than 18 months after they were sent to the MCA at the Binational Commission meetings on November 26, 2002.

Actions taken by the Chief of Mission: None requested by LBP.

PANAMA

Date of Abduction (two children): August 1, 2000

Date Hague application filed: September 29, 2000

Have children been located: Yes

In December 2000, the original judicial decision under the Convention was for return, but the TP hid the children and succeeded in having the order overturned. The case remained in litigation until May of 2002, when Panamanian authorities designated a special judge to hear the case and decide it in accordance with the Convention. The judge ordered the return on September 11, 2002, but because of judicial delays the children were not returned until ten weeks later on November 22, 2002. The special judge was an important step, but the delay in enforcement of the order was troubling.

Actions taken by Chief of Mission: In meetings with Panamanian authorities, Acting Chief of Mission supported representations made by Consul General and other Embassy officials with Panamanian judicial and Foreign Ministry officials on the subject of compliance with the Convention.

POLAND

Date of abduction/wrongful retention: November 28, 1998

Hague filed: August 4, 1999

Have children been located: No

On March 28, 2001, the Gdansk Court of Justice denied the return of the two children. The left-behind parent appealed the decision, and on July 11, 2001, the Gdansk Court of Appeals overturned the lower Court decision and ordered the return of the children. On November 9, 2001, the taking parent was ordered to return the children to the left-behind parent within three days. At that time, the taking parent disappeared with the children, and they have been missing ever since. The left-behind parent traveled to Poland several times; employed the services of a private investigator and they both worked with the Polish regional prosecutor.

U.S. Embassy officials in Warsaw have repeatedly brought this case to the attention of the Central Authority, the Ministry of Justice and the head of the International Cooperation Office.

Action taken by the Chief of Mission: Diplomatic note in 2001; meeting with Minister of Justice in 2002.

SOUTH AFRICA

Date of abduction/wrongful retention: May 11, 1998

Date Hague application filed: December 20, 1998

Have children been located: Yes

The Office of Children's Issues made a number of requests to the South African Central Authority, but insufficient action has been taken by the CA to resolve this case. The left-behind parent has been told by his ex-father-in-law that it would not be safe for him to come to South Africa.

The Office of Children's Issues has communicated with the left-behind parent a number of times. CI is attempting to get visitation and access rights for the LBP to visit with the children.

Action taken by the Chief of Mission: None has been requested by the left-behind parent.

SPAIN CASE 1

Date of abduction/wrongful retention: July 1, 2000

Date Hague Application filed: October 16, 2000

Has child been located: No

While the Spanish Central Authority accepted the Hague application, no hearing date has ever been set and the case has not been processed due to the failure of the Spanish authorities to locate the child. Numerous attempts have been made by Embassy Madrid and the Consulates to locate the child, but all leads have proven fruitless. Interpol has also dispersed notices in the case. The Spanish Central Authority would now like to close the case.

Actions taken by the Chief of Mission: None

SPAIN CASE 2

Date of abduction/wrongful retention: March 01, 1995

Date Hague Application filed: June 12, 1995

Has child been located: Yes, but then subsequently disappeared.

A lower court ordered the child returned in February 1996, and an appeals court upheld the decision in 1996. In July 1999, a final motion to vacate the judgment was rejected but the order to return was not immediately enforced. From June 1995 through July 2001, repeated search orders have been issued by the Spanish Courts and continuous attempts were made by the Department of State and the left-behind parent to share possible leads as to the child's location with the local authorities. In July 2001, the left-behind parent was notified that the taking parent in Spain initiated divorce proceedings, which would include custody hearings. The Office of Children's Issues brought the conflict with the Hague order to the attention of the Spanish Central Authority, but no response was forthcoming. Subsequently, the taking parent has contacted the left-behind parent through her attorney, and two separate private attempts to negotiate the child's return have failed. An Interpol notice has been dispersed in connection with the case.

Actions taken by the Chief of Mission: None

SPAIN CASE 3

Date of abduction/wrongful retention: September 06, 2000

Date Hague Application filed: November 13, 2000

Has child been located: Yes

The Spanish Central Authority located the child almost immediately and a consular officer performed a welfare and whereabouts visit in November 2000, but when the Spanish Central Authority attempted to serve the taking parent for the hearing in March 2001, the child had been relocated. A second search was conducted and the mother was served in October 2001. Repeated State Department requests for notice of the court date went unanswered until January 2002, when the Spanish Central Authority informed the State Department that the hearing was postponed pending a psychological evaluation of the child. In March 2002, a June hearing date was set. As of September 13, 2002, the judge had not dictated a decision in the case. Neither the Department of State nor the left-behind parent has been able to obtain any further update from the Spanish Central Authority in this case.

Actions taken by the Chief of Mission: None

ZIMBABWE

Date of abduction/wrongful retention: August 8, 2000

Date Hague application filed: November 28, 2000

Has child been located: Yes

The Zimbabwe Central Authority (CA) acknowledged receipt of the application in a timely fashion. In January 2001, the CA was informed that the U.S. Embassy in Harare had seen the child and provided a possible contact address. In June 2001, the CA confirmed that they had located the child at the address provided. CI forwarded three requests for case status updates to the CA in July and August 2001. The CA replied that it was awaiting a response from the TP. The TP wrote to CI on October 11, 2001, but the letter was not received until December 17, 2001, due to mail processing delays. The U.S. Embassy requested a visit with the child. The TP complied and brought the child to the Embassy for a visit in February 2002, at which time the Consul photographed the child. The LBP received a report on the visit and photographs. The LBP has not been in contact with CI since that time; neither has the CA provided any progress report.

Actions taken by the Chief of Mission: Although the LBP has not requested any action, the Consul, acting under the authority of the Chief of Mission, has contacted the Zimbabwe Central Authority to request that appropriate action be taken in the case; the Consul has also offered to assist in contacting the TP, if necessary.

Supplemental Information

In the Statement of Managers accompanying FY 03 Omnibus Appropriations Bill P.L. 108-7, the Conference Committees on Appropriations directed the Department of State to provide additional information regarding international parental child abduction cases and the Department's efforts to combat the problem of international abduction. The Committees specifically cited four areas that required the Department's response:

"...to submit a report to the Committees on Appropriations which includes the following information: the country, location, and number of all known U.S. citizens under the age of 18 who have been abducted by a parent or relative as the result of a custody dispute and who are being held abroad in contravention of U.S. law or judicial orders;"

Attachment A is a count by country of open cases of which the Department of State Office of Children's Issues is aware regarding minor children abducted from the United States or wrongfully retained in a foreign country, who have not been returned to the U.S. These cases largely involve, but are not limited to, U.S. citizen children. As of May 31, 2003, the Office of Children's Issues was aware of 904 open

abduction cases and 156 access cases initiated by U.S.-based parents seeking a child's return or access to a child currently located in a foreign country. An abduction or access case involving multiple children in one family is only counted in this listing as a single case and therefore the number of children involved is actually somewhat higher than the total listed in Attachment A.

The Department is not always aware of international parental child abduction and access cases involving U.S. citizen and U.S. resident children taken from the United States to an overseas location. Parents are not obligated to inform the Department of State when they initiate inquiries and actions to seek the return of a child or international visitation and access rights. In countries that are not party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction ("Hague Abduction Convention"), legal remedies involve filings in foreign courts for which no Department of State or U.S. embassy intervention is required. Some parents attempt to settle disputes involving children through extra-judicial methods like mediation and reconciliation without requesting assistance or informing the Department. Parents or their representatives must establish contact with the Department of State's Office of Children's Issues in order for their child's case to be monitored and appropriate assistance provided. In countries that are parties to the Hague Abduction Convention, parents can request the assistance of the Department of State, acting in its role as U.S. Central Authority under the Convention, to initiate the Hague application process and forward their application for return or access to the Central Authority in the country where their child is located. U.S. Central Authority involvement is not, however, mandatory. Return and access applications may also be filed either directly with the Central Authority of the country where the child is located or with a foreign court. The foreign court or foreign Central Authority is not required to advise the Department of State that such applications have been filed without the Department's assistance.

This count of children who remain overseas only includes "open" cases. Open cases involve instances in which the left-behind parent has informed the Department of State's Office of Children's Issues that a child was abducted to or unlawfully retained abroad whether or not the parent has taken steps such as the filing of a Hague application to request the child's return. An open case is either "preliminary", "active" or "inactive." "Preliminary" cases include instances in which the parent has informed the Office of Children's Issues that a child has been abducted internationally but has not yet initiated steps, such as the filing of a Hague application, for the child's return or access to the child. "Active" is defined as a case of international abduction or access for which a final determination to grant or deny return or access has not been made and in which the parent and the Department maintain continued contact to move the case forward. A case changes from "active" to "inactive" when the facts of the case do not allow, or the parent does not permit, a further reasonable pursuit of the child's return or access to the child. A case that remains "inactive" for two years will be closed (and thus not included on the attached count) in the absence of further relevant initiatives by the left-behind parent. Cases that have become inactive or closed may be re-activated upon the left-behind parent's request if further action is warranted.

The general statistical reports used to obtain the counts listed in Attachment A were generated by the Department of State's international parental child abduction case tracking system. The open case counts involve, for the most part, American citizen children. However, the open cases reflected in Attachment A include cases of children who are not American citizens. This is because the Hague Abduction Convention (and corresponding U.S. law) applies to all children who were "habitually resident" in the

United States at the time of their abduction to or wrongful retention in another country party to the Convention. As part of its responsibilities as a party to the Hague Abduction Convention, the Department of State, acting in its role as U.S. Central Authority, facilitates the return of children from one Hague party country to their Hague country of habitual residence regardless of the child's nationality. The U.S. currently recognizes 52 other countries as parties with the United States to the Hague Abduction.

The country-by-country listing in Attachment A also includes separate totals for open international access cases involving children who continue to live abroad, often in contravention of U.S. custody orders, whose parents are residing in the United States and continue to have difficulty obtaining or exercising visitation with the child. Our currently available statistical reports do not distinguish between international access cases that involve contravention of U.S. custody orders and those in which no U.S. custody order exists. Thus, the counts include some access problems that do not involve violation of a U.S. court order.

As shown in Attachment A, the most common destination countries for children abducted from the United States are Mexico, Germany, Jordan, Japan, Egypt, Canada, India and the United Kingdom. The high number of international parental abduction cases involving children taken across the U.S.-Mexican border is also reflected in the Hague applications received from Mexico by the National Center for Missing and Exploited Children, which, on the Department of State's behalf and pursuant to U.S. law and corresponding federal regulations, facilitates processing of Hague applications regarding children abducted to the U.S. from other Hague party countries. Four countries (Germany, followed by Saudi Arabia, France and the United Kingdom) account for almost half of the current open international access cases in the Department's files.

The Statement of Managers also directed the Department to provide:

“a summary of actions taken by the Department of State to secure the repatriation of abducted American children; and a list of diplomatic measures, including treaties and agreements, that can be used to facilitate the repatriation of abducted American children.”

Diplomatic Initiatives and Actions taken to Secure the Repatriation of Abducted Children:

A. Working with parents:

When a United States citizen child is abducted abroad, the Department's Office of Children's Issues (CA/OCS/CI) works with United States embassies and consulates abroad to assist the child and left-behind parent in a number of ways. Despite the fact that children are taken across international borders, international child custody disputes remain fundamentally civil legal matters. If a child custody dispute cannot be settled amicably between the parties, it often must be resolved by judicial proceedings in the country where the child is located. Though the taking parent may also face criminal charges, pursuit of criminal legal remedies against the taking parent will not guarantee the return of the child.

Consular officers in the Office of Children's Issues and at our posts abroad are prohibited from acting as attorneys or providing legal advice. Instead, embassy and Department officers help parents by focusing

on providing general information resources and assisting parents to liaise with U.S. and foreign authorities. Each abduction officer in the Office of Children's Issues is assigned to monitor cases and assist parents regarding abductions to a specific set of countries.

Abduction officers are the primary point of contact for left-behind parents in the U.S. and act as a liaison with federal and state agencies, including law enforcement officials. They provide contact information regarding other organizations that can help parents deal with the trauma of the abduction. They can provide written information or direct parents and their attorneys to internet-based resources that set out the legal options for seeking return of the child to the United States. In cases where the Hague Abduction Convention applies, Office of Children's Issues officers assist parents in filing an application with foreign authorities in the country where the child is located for return of or access to the child. Abduction officers can also contact U.S. embassies and consulates abroad to attempt to locate, visit and report on the child's general welfare. They directly, or through liaison with consular officers in the country where the child is located, alert foreign authorities to any evidence of child abuse or neglect. They provide information to left-behind parents on the country to which the child was abducted, relating to its legal system, custody laws, and a list of local attorneys willing to accept American clients. Although they cannot directly intervene in foreign judicial proceedings, they can also inquire as to the status of judicial or administrative proceedings overseas and assist parents in contacting local officials in foreign countries or contact them on the parent's behalf. Abduction officers also provide information concerning how U.S. criminal warrants against an abducting parent, passport revocation, and requests for extradition from a foreign country may affect return of a child to the United States. In their work with left-behind parents, abduction officers in the Office of Children's Issues provide the informational tools parents can then use to determine their own best course of action according to the unique circumstances involved in their family" case.

The Office of Children's Issues also administers the Children's Passport Issuance Alert Program and advises parents how they can file a request to be contacted at any time application is made for a new U.S. passport for their child under 18 years of age.

B. Monitoring Hague Convention implementation and operation in other countries:

In countries that are parties to the Hague Abduction Convention, the Department's Office of Children's Issues works with our embassies to monitor foreign government processing of applications for returning children to the United States. The Office of Children's Issues maintains contact with parents, their attorneys and foreign Central Authorities to facilitate and track the progress of Hague applications for return through the foreign Central Authority and judicial system. When compliance problems appear, the Department makes our concerns about compliance known and, wherever possible, identifies and supports possible solutions.

For instance, in some countries, judges order the return of a child consistent with the Convention but lack the mechanisms to enforce their orders. In some other countries, judges either are not aware of their responsibilities under the Convention, or simply disregard them. The Office of Children's Issues has helped sponsor judicial training involving judges from the U.S. and other countries. The Department,

working in coordination with the National Center for Missing and Exploited Children, has also hosted groups of judges and other officials responsible for implementing the Hague Abduction Convention in their countries on visits that allow them to meet and talk to their counterparts about how the Convention is implemented in the U.S.

On the multilateral level, the Department's Office of Children's Issues continues to work, in collaboration with the National Center for Missing and Exploited Children, with the Hague Permanent Bureau on a "Good Practices" guide that will help both new and old Central Authorities establish common procedures and practices when handling Hague abduction and access cases. This will, we hope, foster greater consistency in how Central Authorities handle cases and prevent some of the start-up problems we have seen with new members to the Convention. Department officers regularly attend Hague Special Commission meetings to communicate U.S. concerns about the Convention's operation and the U.S. maintains an active role in developing standards for Hague Abduction Convention implementation.

In cases involving long judicial delays, the Office of Children's Issues requests status reports from the foreign Central Authority and may register concern if delays in processing return requests appear unwarranted. If a foreign court decides to deny a child's return to the United States, the court's decision is reviewed to determine whether the decision is consistent with the Convention. If the Department finds that the court's decision to deny return appears inconsistent with the Convention, or if a foreign court's decision to return a child is not enforced, the Office of Children's Issues contacts the foreign Central Authority to voice our concern that the provisions of the Convention are not being respected. If the foreign Central Authority is unable or unwilling to suggest a remedy to address our concern, the Office of Children's Issues works in coordination with the Department's Office of the Legal Adviser to provide embassy officials guidance on approaching the foreign government to communicate our continued concern. Senior Department officials also frequently raise international child abduction and access concerns in their meetings with foreign government officials.

The Department is taking an active approach in engaging foreign governments on the issue of international parental child abduction. We are emphasizing to foreign officials at the highest levels, both here in Washington and during consultations abroad, that children who have been abducted or wrongfully retained should be returned; that taking parents should not benefit from having committed a crime in the U.S.; that we need to work with their governments to find ways of returning children to the U.S.; and that when returning children is a problem, the bilateral relationship will suffer.

C. Identifying alternatives for working with non-Hague partner countries

The Department would like to see more countries become parties to the Hague Abduction Convention. We have spoken to a number of countries about signing on to the Convention and just recently accepted the accession of Malta, the 52nd country that we work with in the Hague Abduction Convention framework. However, in our view, countries that accede to the Convention should be prepared to meet fully the obligations they undertake when they become parties.

The Department evaluates whether a country's legal system would preclude implementation of Hague Abduction Convention responsibilities. Some countries have legal systems and practices that conflict with the basic principles and objectives of the Convention. In those instances where Hague membership and compliance are unlikely, we are examining the viability of alternative bilateral consular arrangements that could improve mediation and access assistance provided to parents but would fall short of the wide range of responsibilities Hague compliance would require. We have initiated discussions with several countries in the Middle East along these lines.

D. Coordinating with other U.S. agencies.

Even before the war on terrorism, the Department of State was working with other U.S. agencies to improve information sharing on cases involving international parental child abduction. In November 1998, a Senior Policy Group was established to coordinate policy and expedite appropriate reforms in federal responses to international parental child abduction.

The Senior Policy Group, comprising key high-level representatives from the Departments of Justice and State, established a joint Plan of Action in 1998 for nine major areas of action. These areas include establishing better information sharing and a more coordinated Federal response to international parental kidnapping; expanding diplomatic efforts to resolve international parental kidnapping cases and to educate the public about them; improving implementation of the Hague Convention; fostering more widespread and effective use of National Crime Information Center and Interpol to stop abductions in progress and to locate abducted children and abductors; strengthening passport issuance and revocation procedures and training border inspectors; expanding availability of resources to assist left-behind parents; seeking solutions to problems of parental access; providing education and training; and developing a database on international parental kidnapping cases. Considerable progress has been made in each of these areas since 1998. The Senior Policy Group continues to meet and guide interagency coordination efforts that improve government response to international child abduction.

On a monthly basis, a Working Group including representatives from the National Center for Missing and Exploited Children, the Departments of State and Justice, the FBI and Interpol, meet to share information about specific cases and their activities related to combating international parental child abduction.

Abduction officers in the Office of Children's Issues are in frequent contact with local, state and federal authorities related to their active caseloads. The Office of Children's Issues and the National Center for Missing and Exploited Children's International Division work together and share information about abduction cases that come to their attention.

E. Using tools to discourage and prevent abduction

The Child's Passport Issuance Alert Program is a passport lookout system with which custodial parents can register to alert U.S. passport issuing offices worldwide if a child's custody is in dispute or the parent fears someone will seek a passport for their minor child without their knowledge and consent. This lookout system strengthens safeguards built into the two-parent signature rule used since July 2001 for all

passport applications submitted for U.S. citizens under 14 years of age. The Child's Passport Issuance Alert Program and the two-parent signature rule do not prevent the child's use of a passport previously issued but can, when used together, prevent potential abductors from obtaining a new U.S. passport for a child. In some instances, the Alert Program has succeeded in locating children whose whereabouts were unknown and thus allowed the Department to work with the left-behind parent to seek the child's return.

U.S. Visa ineligibility Under section 212(a)(10)(C) of the Immigration and Nationality Act, foreign nationals who abduct or wrongfully retain, or assist in the abduction or wrongful retention of a U.S. citizen child, as well as certain of an abductor's relatives, may be inadmissible. The threat of not being able to travel to the United States can deter a potential abductor or encourage an abductor to return the child. Many foreign nationals value the contact and business, employment, social and other opportunities created by being able to travel to the United States. The law does not apply to U.S. citizens, including persons who are dual nationals. It requires that a sole custody order have been issued by a U.S. court, and that the abducted child is a U.S. citizen. It applies to the abductor(s); those who give safe haven or material assistance to an abductor; and also certain relatives of the abductor. It does not apply when the child is being held in a country the U.S. recognizes as a party to the Hague Abduction Convention, and no longer applies once the child turns 21 or marries. A foreign national's inadmissibility ends when the child is returned, although a waiver may be granted for certain limited purposes in order to allow a child's return (for example, the taking parent applies for a visa in order to bring the child back to the U.S.).

Treaties and Conventions Used in Work Related to International Parental Child Abduction

The Vienna Convention on Consular Relations provides a framework for U.S. embassy officials' efforts to protect U.S. citizen children overseas. The Vienna Convention provides for foreign embassies and consulates to visit and verify the welfare of their nationals. By exercising this authority, U.S. embassies and consulates can help left-behind parents maintain a connection to their U.S. citizen children through welfare/whereabouts visits conducted by embassy consular officers. In instances when parents overseas refuse to allow an embassy officer to conduct a welfare visit with an American citizen child, the embassy can request host government assistance in gaining the parent's agreement to the visit or, if that fails, to have host government authorities conduct the visit and provide a report to the U.S. embassy concerning the child's health and welfare.

The Hague Abduction Convention is a framework for recovering children abducted from one country to another. The Convention is currently in force between the United States and 52 treaty partners. Approximately 15 additional countries have acceded to the Convention but have not yet been accepted as partners by the United States. The Convention establishes that the best vehicle to resolve custodial issues is in the country of the child's "habitual residence." Therefore it involves jurisdiction and not custody. The Hague Abduction Convention establishes that habitual residence of the child before the child's removal is a key point of consideration, though not the sole determining factor, when a country's judicial authorities make the decision to grant or deny the return of a child under the articles of the Convention. The citizenship of the abducted child and parents is not an issue. The efficient and consistent application of the Hague Abduction Convention denies the taking parent any benefits from abducting the child.

The Hague Abduction Convention, when it works, works well. But the Convention is not uniformly applied in all jurisdictions. To avoid as much as possible such discrepancies in the processing of return requests filed by U.S.-resident parents, we do not automatically accept the accession of new parties. The United States, like all Hague Abduction Convention signatories, was obliged to accept the accession of original signatories. Each new country that now accedes to the Convention undergoes a review process, during which countries that are already Hague parties each have the right to evaluate whether they will accept the new member state. In our view, countries that sign and ratify the Convention should expect such scrutiny and be capable of and committed to meeting all of their Hague responsibilities when we agree to accept them as partners.

Open Abduction Cases by Country

Attachment A: Case Statistics			
Country	Open Abduction Cases	Open Access Cases	Total
Albania	1	0	1
Argentina	5	2	7
Australia	16	4	20
Austria	0	1	1
Bangladesh	4	0	4
Barbados	5	1	6
Belgium	2	0	2
Benin	1	0	1
Bolivia	4	0	4
Brazil	15	0	15
Bulgaria	3	0	3
Cameroon	2	0	2
Canada	29	3	32
Chile	8	1	9
China			
Mainland China	7	1	8
Hong Kong	5	0	5
Taiwan	4	0	4
Colombia	17	0	17
Costa Rica	17	0	17

Croatia	1	0	1
Czech Republic	2	1	3
Denmark	1	0	1
Dominican Republic	10	0	10
Ecuador	11	0	11
Egypt	33	0	33
El Salvador	6	0	6
Estonia	1	0	1
Finland	4	2	6
Former Yugoslav Rep	0	1	1
France	10	11	21
Gaza Strip	2	0	2
Germany	41	37	78
Ghana	10	1	11
Greece	6	1	7
Guatemala	16	0	16
Haiti	4	0	4
Honduras	8	0	8
Hungary	3	1	4
India	28	1	29
Indonesia	4	0	4
Iran	13	0	13
Iraq	2	0	2
Ireland	5	4	9
Israel	14	2	16
Italy	12	5	17
Ivory Coast	1	0	1
Jamaica	4	0	4
Japan	33	2	35
Jordan	34	4	38
Kazakhstan	1	0	1
Kenya	1	0	1
Korea	1	1	2

Kuwait	2	0	2
Lebanon	19	2	21
Lesotho	1	0	1
Liberia	1	0	1
Libya	2	1	3
Lithuania	0	1	1
Malawi	2	0	2
Malaysia	1	0	1
Mali	1	0	1
Mauritius	2	0	2
Mexico	154	5	159
Morocco	5	1	6
Netherlands	3	4	7
Nicaragua	3	0	3
Nigeria	17	0	17
Norway	4	3	7
Oman	0	1	1
Pakistan	14	1	15
Panama	9	0	9
Peru	8	0	8
Philippines	14	4	18
Poland	4	1	5
Portugal	0	1	1
Qatar	1	0	1
Romania	3	0	3
Russia	4	2	6
Saudi Arabia	16	13	29
Senegal	4	0	4
Singapore	2	0	2
Slovakia	2	0	2
Somalia	1	0	1
South Africa	8	0	8
Spain	13	3	16

Sri Lanka	1	0	1
Sudan	2	0	2
Sweden	7	4	11
Switzerland	6	5	11
Syria	17	2	19
Thailand	2	0	2
The Bahamas	3	1	4
Trinidad and Tobago	2	0	2
Tunisia	2	0	2
Turkey	10	2	12
Ukraine	7	0	7
United Arab Emirates	6	2	8
United Kingdom			
England and Wales	24	9	33
Northern Ireland	1	0	1
Scotland	2	0	2
Uzbekistan	1	0	1
Venezuela	9	1	10
Vietnam	1	0	1
West Bank	5	0	5
Yemen	4	0	4
Yugoslavia	2	0	2
Zambia	1	0	1
Zimbabwe	2	0	2
Grand Total	904	156	1060
Totals shown are as of May 31, 2003			