

**RAPPORT DU GROUPE DE TRAVAIL SUR LA COOPERATION ADMINISTRATIVE  
DE LA COMMISSION SPECIALE D'AVRIL 2005 SUR LE RECOUVREMENT INTERNATIONAL  
DES ALIMENTS ENVERS LES ENFANTS ET D'AUTRES MEMBRES DE LA FAMILLE**

*préparé par le Groupe de travail sur la coopération administrative  
qui s'est réuni en novembre 2004  
et janvier, février et mars 2005*

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**REPORT OF THE ADMINISTRATIVE CO-OPERATION WORKING GROUP  
OF THE SPECIAL COMMISSION OF APRIL 2005 ON THE INTERNATIONAL RECOVERY  
OF CHILD SUPPORT AND OTHER FORMS OF FAMILY MAINTENANCE**

*prepared by the Administrative Co-operation Working Group  
which met in November 2004, January,  
February and March 2005*

*Document préliminaire No 15 de mars 2005  
à l'intention de la Commission spéciale d'avril 2005  
sur le recouvrement international des aliments  
envers les enfants et d'autres membres de la famille*

*Preliminary Document No 15 of March 2005  
for the attention of the Special Commission of April 2005  
on the International Recovery of Child Support  
and other Forms of Family Maintenance*

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## TABLE OF CONTENTS

<b>PART I – REPORT OF THE ADMINISTRATIVE CO-OPERATION WORKING GROUP.....</b>	<b>2</b>
<b>PART II – REPORT OF THE COUNTRY PROFILE SUB-COMMITTEE.....</b>	<b>6</b>
<b>PART III – FORMS SUB-COMMITTEE REPORT .....</b>	<b>16</b>
<b>ANNEX 1 – APPLICATION FOR ESTABLISHMENT OF A DECISION FOR CHILD SUPPORT .....</b>	<b>23</b>
<b>ANNEX 2 – APPLICATION FOR RECOGNITION AND ENFORCEMENT.....</b>	<b>31</b>
<b>ANNEX 3 – ABSTRACT OF A DECISION.....</b>	<b>40</b>
<b>ANNEX 4 – CERTIFICATE OF ENFORCEABILITY OF A DECISION .....</b>	<b>44</b>
<b>ANNEX 5 – FINANCIAL CIRCUMSTANCES ADDENDUM .....</b>	<b>46</b>
<b>PART IV - REPORT OF THE MONITORING AND REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE CONVENTION SUB-COMMITTEE.....</b>	<b>52</b>

**PART I – REPORT OF THE ADMINISTRATIVE CO-OPERATION  
WORKING GROUP**

## REPORT OF THE ADMINISTRATIVE CO-OPERATION WORKING GROUP

**Australia (Co-convener), Belgium, Brazil, Canada, China, China (Hong Kong SAR), Costa Rica (Co-convener), Finland, Germany, Hungary (Co-convener), Japan, Netherlands, New Zealand, Switzerland, United Kingdom, United States of America (Co-convener), DIJuF, IAWJ and NCSEA**

### Introduction

1. At the Special Commission meeting of June 2004, the informal Administrative Co-operation Working Group became a fully constituted Hague Special Commission Working Group on the Operational Aspects of Administrative Co-operation. The Working Group's new role as a formal committee, assisted by the Permanent Bureau, with an expanded number of co-convenors and sub-committee co-chairs, is to support the work of, and to report formally to, the Special Commission.

2. During the 1999 and 2003 Special Commissions, experts agreed that "the international system for the recovery of child support and other forms of family maintenance is excessively complex and that provisions for administrative co-operation need to be overhauled and properly monitored".<sup>1</sup> The view has been supported that "the establishment of an effective system of administrative co-operation will be an essential, and perhaps the most important, element in the new instrument on the international recovery of maintenance".<sup>2</sup> Overall, the system should be capable of being cost effective, flexible and user-friendly, processing requests swiftly and should not impose obligations which are too burdensome.<sup>3</sup> The Administrative Co-operation Working Group works to support these objectives.

### Membership

3. Any Member State of the Hague Conference and any State or International Organisation invited to participate in the Special Commission on the International Recovery of Child Support and other Forms of Family Maintenance may take part in the work of the Working Group.

4. In October 2004, the Permanent Bureau, on behalf of the joint convenors of the Working Group, circulated a formal invitation to take part in the work of the Group to Member States of the Hague Conference, to other States and international organisations which had been invited to participate in the June 2004 Special Commission meeting, to the individuals who participated in that meeting, as well as to persons participating in the regional meeting of the Americas held in August 2003.

5. Approximately 60 individuals from 18 countries and organisations participated in this year's Administrative Co-operation Working Group.

### Goals

6. The Administrative Co-operation Working Group has two main goals:

- to improve administrative co-operation among those countries that handle international child support and other forms of family maintenance; and
- as appropriate, to develop possible recommendations on administrative co-operation for the Hague Special Commission meeting in April 2005.

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<sup>1</sup> 'Report on the first meeting of the Special Commission on the international recovery of child support and other forms of family maintenance (5-16 May 2003)', Prel. Doc. No 5 of October 2003, p. 15, drawn up for the attention of the Special Commission of June 2004.

<sup>2</sup> 'Towards a New Global Instrument on the International Recovery of Child Support and other Forms of Family Maintenance', Prel. Doc. No 3 of April 2003, Chapter II, pp. 8-9 and 13, drawn up for the attention of the Special Commission of June 2004.

<sup>3</sup> *Ibid.*, Chapter II, p. 13.

7. These goals are based on the assumption that improving administrative co-operation among countries is the key to improving international child support and other forms of family maintenance enforcement.

### **Structures**

8. The Administrative Co-operation Working Group is structured as a working group, and decisions are reached by group consensus. Members of the Hague Conference Permanent Bureau serve as facilitators, and Mary Helen Carlson (the United States of America), Maria Kurucz (Hungary), Jorge Aguilar Castillo (Costa Rica) and Jennifer Degeling (Australia) were appointed as co-convenors of the Working Group.

9. Sub-committees were utilised in order to focus on priority topics that were identified by the Working Group. The Sub-committees were made up of volunteers from the numerous States and International Organisations invited to participate in the Special Commission.

### **Working methods**

10. The Administrative Co-operation Working Group held teleconference calls between the 2004 and 2005 Special Commissions and also communicated via e-mail and a listserv. The Working Group extends its thanks to the United States Department of Health and Human Services for facilitating and providing financial support for this process. Sub-committees met more frequently, also by teleconference calls, individual listserv's and e-mail.

### **Activities**

11. The Administrative Co-operation Working Group met four times via teleconference; on 22 November 2004, 24 January 2005, 28 February 2005 and 14 March 2005. Meetings were in fact conducted in English though facilities were available on request for French and Spanish interpretation.

12. At the first call, the Administrative Co-operation Working Group prioritised three topics to focus on for the upcoming 2005 Special Commission: Country Profiles, Forms and the Monitoring and Review of the Operation and Implementation of the Convention.

13. The Country Profile Sub-committee was tasked with sharing "relevant country-specific information so that other countries can understand the administrative, operational and policy requirements for processing cases with that country".<sup>4</sup> These profiles can be useful for international case processing and exchanging information among interested parties. After extensive discussion, the country profile Sub-committee modified and shortened the country profile that was submitted to the 2004 Special Commission. The terminology of the revised draft Country Profile now mirrors the terminology used in the Convention.

14. The Forms Sub-committee of the Administrative Co-operation Working Group, whose work is, in accordance with a decision of the Special Commission, co-ordinated by the Permanent Bureau, prepared forms in order to facilitate the discussion by the Special Commission of Article 10 (Available Applications), Article 11 – Option 2 (Application contents – if mandatory forms exist) and Article 18(3) – including the Alternative proposal (Procedure on an Application for Recognition and Enforcement) of the Working Draft of a Convention on the International Recovery of Child Support and other Forms of Family Maintenance of January 2005. Two applications were developed for the purpose of Article 10. First, the Sub-committee developed an Application for Recognition and Enforcement of a decision made in a Contracting State (Article 10 *a*). Secondly, the Sub-committee developed an Application for Establishment of a Decision for Child Support in the

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<sup>4</sup> Work. Doc. No 5, p. 1.

Requested State that could be used either where there is no existing decision or where recognition and enforcement of a decision is not possible. In order to make this discussion as simple as possible it was decided to limit its scope for the moment to child support. The Sub-committee recommends that both the Application for Recognition and Enforcement and the Application for Establishment of a Decision for Child Support be mandatory.

15. The Monitoring and Review of the Operation and Implementation of the Convention Sub-committee was tasked with discussing issues related to post-Convention implementation. After much discussion, this Sub-committee has three proposals. First, the Sub-committee recommends the establishment of a standing committee that will provide ongoing post-Convention implementation assistance, to support the Permanent Bureau, as well as the opportunity for networking to improve co-operation among the Central Authorities. The Administrative Co-operation Working Group as a whole favours forming such a standing committee, ensuring in effect that the Administrative Co-operation Working Group will continue its work in a modified form after the Convention is concluded. Further consideration is being given to the question of the formal / informal status of the Committee and to an appropriate procedure by which the Standing Committee should be established. Second, the Sub-committee proposes developing a future Guide to Good Practice. Third, the Sub-committee recommends further discussion on data collection as a part of monitoring Convention implementation and performance.

16. The full reports of the three sub-committees follow. The work being carried out by the Administrative Co-operation Working Group and its Sub-committees should be regarded as work "in progress". The sub-committee reports contain many detailed suggestions, not all of which are necessarily supported by every member of the Sub-committee or of the Administrative Co-operation Working Group. However, the Working Group as a whole has reviewed the sub-committee reports and endorses their general directions, recognising the need for continuing work which will take into account any feedback and guidance from the Special Commission.

**PART II – REPORT OF THE COUNTRY PROFILE SUB-COMMITTEE**



## **REPORT OF THE COUNTRY PROFILE SUB-COMMITTEE**

### **(Administrative Co-operation Working Group)**

**Australia, Belgium, Canada (Co-Chair), Germany,  
United States of America and NCSEA (Co-Chair)**

#### **Introduction**

1. In 2004 this Sub-committee drafted a Country Profile that included relevant country-specific information so that other countries could understand the administrative, operational, and policy requirements for processing cases with that country. The work done by this Sub-committee was accomplished by e-mail and conference calls. A first Draft of the Country Profile was presented at the Special Commission held in June 2004.

2. Following the June 2004 meeting, Germany, Australia and Canada (Manitoba & Quebec) completed the draft country profile for their respective countries. These documents, along with the Country Profile distributed at the Special Commission last June, were circulated to the ACWG Sub-committee in December 2004 for comments. Several constructive comments and suggestions were made by the ACWG members during their conference calls regarding the length and substance of the draft document.

3. Four conference calls were held to discuss the content of the country profile to ensure that it contained useful and detailed information without being too long. It was decided that the document needed to be restructured and reformatted, combining various sections to make it understandable and easier to follow. The second Country Profile was drafted keeping in mind that it should be shorter, reflect the language of the draft convention, and be more user-friendly. This document was circulated among the countries for feedback on the country profile length, on the essential versus discretionary data, and on where and how data should be stored, displayed and updated.

4. Taking all comments and suggestions into consideration, the Sub-committee developed a second Country Profile that will be presented at the third Special Commission to be held April 2005. Although considerable progress has been made, the content of the Country Profile might be affected by the information requested in the forms package being developed by the Standard Forms and Procedures Sub-committee. Outstanding issues still need to be addressed, such as adding questions in the profile document to include information on legal aid and debtor protection rules and to decide what should be done about the information included in the optional section of the profile presented at the Special Commission in June 2004. The Sub-committee may want to consider having a timeframe to complete the Profile and an enforcement procedure to ensure compliance to the timeframe. It may also want to keep in mind that a form of the Country Profile could be used by countries that are prospective parties to the Convention. The Sub-committee also believes that we should explore the use of technology to ease the preparation and dissemination of the Country Profiles by such methods as the use of drop down lists for check-offs in answer to appropriate questions. By providing a list of possible, for example, enforcement measures, a Country's time in filling out the Profile would be considerably lessened. In order to make this discussion as simple as possible it was decided to limit its scope for the moment to child support. The Country Profile Sub-committee views the Country Profile as a "work-in-progress" that will need further refinement and discussion.

## COUNTRY PROFILE

Prepared for the Administrative Co-operation Working Group

<b>1. CENTRAL AUTHORITIES</b>	
<b>1.1 Central Authority to which communication may be addressed</b>	
1.1.1 Name	
1.1.2 Address	
1.1.3 Extent of functions	
1.1.4 Telephone	
1.1.5 Fax	
1.1.6 Electronic mail address	
1.1.7 Website	
1.1.8 Contact person(s)	
1.1.9 Languages	
<b>1.2 Other designated Central Authority (if applicable)</b>	
1.2.1 Name	
1.2.2 Address	
1.2.3 Extent of functions	
1.2.4 Telephone	
1.2.5 Fax	
1.2.6 Electronic mail address	
1.2.7 Website	
1.2.8 Contact person(s)	
1.2.9 Languages	
<b>1.3 Other designated Central Authority (if applicable)</b>	
1.3.1 Name	
1.3.2 Address	
1.3.3 Extent of functions	
1.3.4 Telephone	
1.3.5 Fax	
1.3.6 Electronic mail address	
1.3.7 Website	
1.3.8 Contact person(s)	
1.3.9 Languages	

<b>1.4 Payment Address (where payments should be sent)</b>	
1.4.1 Should payments be sent directly to the creditor or to a Central Authority?	
1.4.2 Name of creditor or Central Authority	
1.4.3 Address	
1.4.4 Telephone	
1.4.5 Fax	
1.4.6 Electronic mail address	
1.4.7 Website	
1.4.8 Contact person(s)	
1.4.9 In what form can the authority receive payments (e.g. cash, cheque, electronic funds transfer?)	
1.4.10 Can the authority receive electronic funds transfer? If so, please provide details.	
1.4.11 Other information about receiving payments?	

## **2. DECISIONS MADE IN YOUR STATE**

### **2.1 Overview of decisions made in your State**

2.1.1 What legislation applies to child maintenance decisions made in your State? Provide a website link if possible.	
2.1.2 Is a child maintenance decision made by a judicial authority or an administrative authority?	
2.1.3 When does a child maintenance decision normally end?	
2.1.4 What is the age of majority?	
2.1.5 Can child maintenance end prior to the age of majority? If yes, in what circumstances?	

2.1.6 Can child maintenance extend beyond the age of majority? If yes, in what circumstances?	
2.1.7 Is there a statute of limitations for establishing a child maintenance obligation? If yes, please explain?	
2.1.8 Is there a statute of limitations for establishing paternity? If yes, please explain.	
2.1.9 Can a child maintenance decision be made retrospectively? What is the earliest date from which a decision can apply, for example the date proceedings are initiated? Please explain any limitations.	
<b>2.2 Applications to establish a decision in your State</b>	
2.2.1 Can you accept an application to establish a decision against a debtor in your State from a creditor in another State?	
2.2.2 a) What information do you require <u>about the applicant</u> to accept an application to establish a decision?  b) What information may be of assistance <u>about the applicant</u> to accept an application to establish a decision?	a)
	b)
2.2.3 a) What information do you require <u>about the respondent</u> to accept an application to establish a decision?  b) What information may be of assistance <u>about the respondent</u> to accept an application to establish a decision?	a)
	b)
2.2.4 a) What information do you require <u>about the person for whom child maintenance is sought</u> to accept an application to establish a decision?  b) What information may be of assistance <u>about the person for whom child maintenance is sought</u> to accept an application to establish a decision?	a)
	b)
2.2.5 a) What information do you require <u>to establish parentage</u> if this is required for an application to establish a decision?  b) What information may be of assistance <u>to establish parentage</u> if this is required for an application to establish a decision?	a)
	b)

<p>2.2.6 a) What <u>other</u> information do you require to accept an application to establish a decision?</p> <p>b) What <u>other</u> information may be of assistance to accept an application to establish a decision?</p>	a)
<p>2.2.7 a) What <u>documents</u> do you require to accept an application to establish a decision? Please specify if any documents must be original and if certification is required for copies.</p> <p>b) What <u>documents</u> may be of assistance to accept an application to establish a decision? Please specify if any documents must be original and if certification is required for copies.</p>	b)
<p>[2.2.8 Do you have a standard form for an application to establish a decision? If yes, please attach a copy.]</p>	
<p>2.2.9 Please provide a short overview of the process that occurs when an application to establish a decision is received in your State. Please indicate which authority receives the case, where the application is sent for processing, and the steps that occur. The purpose of this question is to provide the caseworker in the requesting country a general understanding of the steps that will take place in working the case. Please include time frames.</p>	
<p><b>2.3 Modification of decisions made in your State</b></p>	
<p>2.3.1 In what circumstances can a child maintenance decision made in your State be modified? Please also include information about any automatic adjustment by indexation.</p>	
<p>2.3.2 What are the procedures to modify or adjust a child maintenance decision made in your State?</p>	
<p>2.3.3 Can the modification or adjustment be made retrospectively? Please specify the basis and any limitations.</p>	
<p>2.3.4 Can a child maintenance decision made in your State be modified or adjusted in your State after an application has been made to another State for recognition?</p>	
<p>2.3.5 If a child maintenance decision made in your State is modified by another State, do you recognise the modification? If no, please specify why.</p>	

<b>3. RECOGNITION OF DECISIONS IN YOUR STATE</b>	
<b>3.1 Overview of recognition of a decision in your State</b>	
3.1.1. What legislation applies to recognition and enforcement in your State? Provide a Web site link if possible.	
3.1.2 Is recognition and enforcement decided by an administrative authority or a judicial authority?	
<b>3.2 Applications for recognition of a decision in your State</b>	
3.2.1 a) What information do you require <u>about the creditor</u> to accept an application to recognise a decision?  b) What information would be of assistance <u>about the creditor</u> to accept an application to recognise a decision?	a)
	b)
3.2.2 a) What information do you require <u>about the debtor</u> to accept an application to recognise a decision?  b) What information would be of assistance <u>about the debtor</u> to accept an application to recognise a decision?	a)
	b)
3.2.3 a) What information do you require <u>about the person for whom child maintenance is sought</u> to accept an application to recognise a decision?  b) What information would be of assistance <u>about the person for whom child maintenance is sought</u> to accept an application to recognise a decision?	a)
	b)
3.2.4 a) What information do you require <u>about the decision</u> to accept an application to recognise a decision?  b) What information would be of assistance <u>about the decision</u> to accept an application to recognise a decision?	a)
	b)
3.2.5 a) What <u>other</u> information do you require to accept an application to recognise a decision?  b) What <u>other</u> information do you require to accept an application to recognise a decision?	a)
	b)
3.2.6 a) What <u>documents</u> do you require to accept an application to recognise a decision? Please specify if any documents must be original and if certification is required for copies.	a)

<p>certification is required for copies.</p> <p>b) What <u>documents</u> would be of assistance to accept an application to recognise a decision? Please specify if any documents must be original and if certification is required for copies.</p>	b)
3.2.7 Can you accept an application to recognise a decision for a prior period only (no ongoing / prospective support)?	
[3.2.8 Do you have a standard form for an application to recognise a decision? If yes, please attach a copy.] NB. Link to Forms Subcommittee.	
3.2.9 Please provide a short overview of the process that occurs when an application to recognise a decision is received in your State. Please indicate which authority receives the case, where the application is sent for processing and the steps that occur and what happens if recognition is contested. The purpose of this question is to provide the caseworker in the requesting country a general understanding of the steps that will take place in working the case. Please include time frames.	
<b>3.3 Modification of decisions subject to recognition</b>	
3.3.1 Can the debtor seek modification of a decision that is subject to recognition in your State?	
3.3.2 In what circumstances can the debtor seek a modification?	
3.3.3 What are the procedures for the modification?	
3.3.4 Can the modification be made retrospectively? Please specify the basis and any limitations.	
3.3.5 If the State of origin modifies a decision after you have recognised it, can you recognise the modification? Please specify any limitations and outline the key steps or requirements.	

<b>4. OTHER SERVICES</b>	
<b>4.1 Additional services and requirements for providing those services</b>	
4.1.1 Can you provide service of documents to a debtor or respondent resident in your State? If yes, please explain the process and specify what information or documents you require.	
4.1.2 Can you provide assistance to locate a debtor or respondent resident in your State? If yes, please explain the process and specify what information or documents you require.	
4.1.3 Can you provide financial information about a debtor or respondent resident in your State? If yes, please explain the process and specify what information or documents you require.	
4.1.4 Can you provide assistance with establishing parentage? If yes, please explain the process and specify what information or documents you require.	

<b>5. ENFORCEMENT INFORMATION</b>	
<b>5.1 General information about enforcement in your State</b>	
5.1.1 Is there a statute of limitations for enforcement of child maintenance? If so, please explain.	
5.1.2 What are your arrangements for sending payments you have collected back to the requesting State? Please specify the typical costs associated with this process.	
5.1.3 Please provide a short overview of the process that occurs when you enforce a decision. Please include timeframes.	
<b>5.2 Measures available for enforcement of child maintenance decisions</b>	
5.2.1 What methods are available for the enforcement of decisions?	

<b>6. OPTIONAL SECTION</b>	
<b>6.1 General information about enforcement in your State</b>	
6.1.1 What form may a child maintenance decision take (for example, periodic payments of money, lump sum, property transfer)?	



6.1.2 Who is eligible to benefit from a child maintenance decision?	
6.1.3 What is your definition of a “dependent” child for child maintenance purposes?	
6.1.4 Who is the creditor in a child maintenance matter?	
6.1.5 Is a ranking or a proportional distribution applied to creditors where there are several child maintenance obligations from different previous relationship?	
6.1.6 What can be included in a child maintenance decision? Please specify.	
6.1.7 What happens with a child maintenance claim under your insolvency laws? (For example, does it make a difference whether there is an order for child support or not?)	
6.1.8 Is it possible to collect interest on arrears in your State? Are there limitations? If yes please specify.	
6.1.9 Is there an automatic cost living adjustment applied to child maintenance orders?	
<b>6.2 Following recognition of a decision by another State</b>	
6.2.1 Following recognition of the child maintenance decision in the other State do you require notification of the recognition?	

<b>7. KEY TERMS</b>	
<b>7.1 Key terms that are used in your country (see Hague Conference website for definitions of terms: &lt; <a href="http://www.hcch.net">www.hcch.net</a> &gt; under “Work in Progress” -&gt; “Maintenance Obligations”</b>	
7.1.1 Custodial Parent (e.g. resident parent, creditor, payee, etc)	
7.1.2 Non-custodial parent (e.g. non-resident parent, debtor, payer, etc)	
7.1.3 Administrative or judicial authority	
7.1.4 Provisional Order	
7.1.5 Notary Public	
7.1.6 Certified Copy	
7.1.7 Other Key terms	

**PART III – FORMS SUB-COMMITTEE REPORT**

## FORMS SUB-COMMITTEE REPORT

### (Administrative Co-operation Working Group)

**Australia (Co-Chair), Canada, Costa Rica, France, Germany, Netherlands, United States of America, Spain, Sweden, DIJuF, IAWJ (Co-Chair) and NCSEA**

#### Introduction

1. The Forms Sub-committee of the Administrative Co-operation Working Group, under the coordination of the Permanent Bureau, prepared forms in order to facilitate the discussion by the Special Commission of Article 10 (Available Applications), Article 11 – Option 2 (Application contents – if mandatory forms exist) and Article 18(3) including the Alternative proposal (Procedure on an Application for Recognition and Enforcement) of the Working Draft of a Convention on the International Recovery of Child Support and other Forms of Family Maintenance (Prel. Doc. No 13 of January 2005). Two applications were developed for the purpose of Article 10.
2. First, the Sub-committee developed an Application for Recognition and Enforcement (ARE) of a decision made in a Contracting State (Article 10 *a*)). This form, in accordance with the alternative proposal under Article 18 would be accompanied by an Abstract of the Decision and a Certificate of Enforceability. Under the other proposal for Article 18(3) the form would be accompanied by an original of the maintenance decision or a copy certified and a Certificate of Enforceability.
3. Secondly, the Sub-committee developed an Application for Establishment of a Decision for Child Support (AEDCS) in the Requested State that could be used either where there is no existing decision or where recognition and enforcement of a decision is not possible (Article 10 *c*)) or is refused (Article 10 *d*)) - both of these later provisions of the Working draft being between square brackets. In order to make this discussion as simple as possible it was decided to limit its scope to child support; the Sub-committee found it difficult to provide in one single form all the possible basis for support for child(ren), spouse and other family relationships. The further discussion on spousal support and other forms of family maintenance has to continue at a later stage and, once agreed, a separate form could be developed or could eventually be combined with the first one.
4. Both Applications (*i.e.* ARE and AEDCS) have their own Acknowledgment – Progress Report Forms in which specific follow-ups have been identified, as necessary.
5. An Addendum dealing with the financial circumstances of both the creditor and the debtor (Article 11(2) *a*) – option 1) and which could in addition provide information regarding the location and the nature of the assets of the debtor (*i.e.* Article 11(2) *c*) – option 1) has been devised to accompany both Applications. At this point, the Addendum is multi-purpose as it could be used for legal aid entitlement, maintenance establishment (including calculation of quantum) and enforcement purposes. The Sub-committee also discussed a Model Decision.
6. All the Applications developed are self-explanatory and follow the language of the Working Draft. In this respect, items between square brackets usually reflect provisions of the Working Draft that are also between square brackets or ideas put forward by the Sub-committee which this Report will explain further. As the Applications are harmonised to the extent possible, some of these issues are sometimes common to all the forms.

7. The Applications have been, at this stage, developed separately in order to better identify their respective requirements and the documentation, mandatory or optional, that would accompany each form. This development is without prejudice to amalgamating the forms into one single form at a later stage, if this is possible and if this is the wish of the Special Commission. The forms have been prepared simultaneously in both French and English [and have been translated into Spanish]. At a later stage, the Sub-committee could also explore the possibility of developing bilingual forms (*i.e.* forms where two languages would appear on the same form).

### **Mandatory v. Recommended Forms**

8. The Sub-committee first reviewed a list of pros and cons with regard to the use of mandatory forms.

#### Mandatory Forms – Pros:

- The use of mandatory forms can help reduce uncertainty, costs and delays arising from documentary requirements and, in particular –
  - achieve clarity as to what documents are required in relation to a particular application;
  - reduce documentary requirements to a necessary minimum;
  - bring some degree of uniformity or consistency in the documentary requirements of different States.
- **Mandatory forms facilitate the presentation of information and provide the opportunity to summarise and list documents.**
- While mandatory forms cannot act as substitutes for required documents, they may reduce the need for full translations of the original documents.
- The familiarity of mandatory forms, even when translated into different languages, facilitates and speeds the handling of applications.
- Mandatory forms also highlight common or shared needs, rather than differences, between States.
- Mandatory forms allow the presentation of information in a uniform/consistent format for all Contracting States.
- Mandatory forms would stand out from other already existing forms.
- Mandatory Forms can be translated and used in a harmonised way in any language.
- Mandatory forms offer the most appropriate format towards the implementation of e-Applications on-line, available in different languages.
- Mandatory forms offer the most appropriate format towards the transfer of Applications information stored on databases (*e.g.* XML transfers)
- The potential benefits of standard forms in strengthening trust and co-operation, as well as in expediting applications, are such that efforts at standardisation should continue to be made.

#### Mandatory Forms – Cons:

- Forms have to comply with all the needs of the different legal systems.
- Amendments have to be carried through a formal process – See Article 11 (option 2), paragraphs 2-4, of the Working Draft Convention (Prel. Doc. No 13 of January 2005).

9. In the light of this review, **the Sub-committee recommends mandatory forms for both the Application for Recognition and Enforcement and the Application for Establishment of a Decision for Child Support.**

**Application for Recognition and Enforcement (ARE) and Application for Establishment of a Decision for Child Support (AEDCS)**

Confidentiality and personal data protection notice (cover page - ARE + AEDCS)

10. Both Applications (*i.e.*, ARE and AEDCS) include a confidentiality and personal data protection notice. **The Special Commission may want to consider the possibility of incorporating similar language under the General Provisions Chapter of the Working Draft.**

Reference numbers of Requesting and Requested Central Authorities (item 2 - ARE + AEDCS)

11. The possibility to devise a common international file reference number for all the applications was discussed by the Sub-committee. However, it was recommended to continue using the respective existing national reference systems of both the Requesting and Requested Central Authorities. It was outlined that these reference systems are usually in line with the existing governmental filing and archiving systems and are therefore very difficult to change.

Contact Details of the creditor / applicant and respondent (items 3 and 5 - ARE + AEDCS)

12. In preparing the forms the Sub-committee had a lengthy discussion in relation to the contact details of the creditor / applicant. In Article 11(1) *b*) and *c*) – option 1, it is stated that the names and addresses of both the creditor / applicant and respondent should appear in the forms. In this respect, members of the Sub-committee wondered why the address should appear unless it is for contact and follow-up purposes. Therefore, it was suggested providing for the possibility to add the telephone and e-mail address of both the creditor / applicant and respondent. Sub-committee members understand that under Article 9, where the assistance of a Central Authority is requested in relation to an application under Chapter III, that request shall be made through the Central Authority of the requesting State to the Central Authority of the Requested State. However, the Working Draft does not prevent the Central Authority of the Requested State to contact directly the creditor / applicant in order to collect additional information if necessary as it is done in practice in a good number of States. If this would be allowed, **the Special Commission may want to consider providing some mechanisms in the Working Draft to ensure that the Central Authority of the requesting State is kept informed of these contacts.**

Instrument under which the application is made (items 6 (ARE) and 7 (AEDCS))

13. With regard to the instruments under which the applications can be made, members of the Sub-committee suggested that both Applications (ARE and AEDCS) be limited to the new Convention on the International Recovery of Child Support and other Forms of Family Maintenance as these Applications could be mandatory forms. It was suggested to delete the references to other instruments multilateral or bilateral instruments or other bases. Some members of the Sub-committee indicated that these references to multilateral instruments, such as the Hague Conventions of 1958 and 1973 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations and the *New York Convention of 1956 on the Recovery Abroad of Maintenance*, or bilateral instruments or other bases could be helpful in relation to other instruments for which there would be no forms. As these new applications could be available in many languages in the future using the same forms for other instruments would be very useful and would certainly reduce the cost of translations. However, because the forms are meeting the requirements of the new treaty they may not be suited for any other treaty. In the light of these comments, it was suggested to put the reference to other multilateral and bilateral instruments and other bases between square brackets.

Legal aid / exemption from costs or expenses (items 7 (ARE) and 8 (AEDCS))

14. Both Applications include a statement indicating whether the creditor / applicant, according to the present situation, would qualify in the requesting State for legal aid or exemption from costs or expenses in maintenance proceedings. However, the issue of reciprocity in relation to legal aid / exemption from costs or expenses has not yet been discussed by the Special Commission. In this respect, **the Special Commission may want to consider the possibility of including in the Working Draft a provision dealing with such reciprocity issues.**

Bases for recognition and enforcement (item 9 - ARE)

15. For the purpose of Article 12(4) (Transmission, receipt and processing of applications and cases through Central Authorities) and Article 18(4) (Procedure on an application for recognition and enforcement) which are both to a great extent between square brackets and under which a Central Authority or competent authority could refuse an application, the Sub-committee considered including in the Application for Recognition and Enforcement the bases for recognition and enforcement listed under Article 15. However, some difficulties emerged. How should the requesting Central Authority identify in the application the bases of jurisdiction, that will satisfy the recognition requirements of the requested State, especially in relation to Article 15(1) *d*) "the factual circumstances". Even more so if the requesting Central Authority is not from the State of origin of the decision because the creditor would have established residence to a new State. In this respect, the Sub-committee prepared two options. The first option would invite the Central Authority to list in an open text the factual circumstances that would be applicable. The second option, which is far from being complete, would list as many factual circumstances as possible thus avoiding translation difficulties to the extent possible. **The Sub-committee suggests that this problem could be avoided if the decision is eventually taken by the Special Commission to limit the *ex officio* control exercised by the competent authorities in the requested State to the matters (or some of them) covered by Article 17.** In this case, the bases for recognition and enforcement (Article 15) could only become an issue if raised by the defendant in appeal proceedings. In such a case, the bases of recognition and enforcement could be listed in a separate form for an appeal application.

Documents enclosed with the Application (item 10 – ARE)

16. The alternative proposal to Article 18(3) *a*) is reflected in item 10. **If the Special Commission agrees to the use of a mandatory Form for Recognition and Enforcement (see item 9 above) and to the alternative proposal to Article 18(3) *a*) then the Abstract of the Decision would also be mandatory.** Sub-item 10.4 still has to be discussed (see below).

Abstract of the decision (item 10.2 - ARE)

17. The Abstract is rather simple as it covers only information regarding the decision, the remainder of the information being found in the Application for Recognition and Enforcement. The Abstract distinguishes between a judicial and an administrative authority on the one hand and between a decision, a settlement and an agreement on the other hand. As is done in the Application for Recognition and Enforcement, the Abstract provides for a statement to the effect that the conditions of Article 17 *e*) were met (*i.e.* "proper notice") as this evidence can either be found in a separate document or in the decision itself. Therefore the Abstract would have to make mention of it. Finally, the Abstract provides for a description of the terms of the decision for a number of persons and different time periods if necessary.

Certificate of enforceability (item 10.3 - ARE)

18. The Certificate of enforceability follows the same presentation as the Abstract of the decision except for the items regarding the terms of the decision. It provides that the decision is enforceable in the State of origin. The two forms are presented separately as the Authorities having the responsibility to issue them may be different.

Current statement of amounts paid and amounts due (item 10.5 - ARE)

19 **The Sub-committee recommends including in the Working Draft a provision requiring the mandatory production of a statement of current amounts paid and amounts due.**

Power of attorney (items 11.2 (ARE) and 12.2 (AEDCS))

20. The possibility to include a Power of attorney in both Applications is between square brackets as Article 37 of the Working Draft is also between square brackets.

Statement of continuing schooling (items 11.3 (ARE) and 12.3 (AEDCS))

21. **Members of the Sub-committee recommend that a statement of continuing schooling be included as an optional document in both forms.** In many States this document would be necessary where child support is sought for a child who is above a certain age, in most cases above 18 years of age, and in need of support. Members of the Sub-committee agreed that a certificate to that effect could be too cumbersome and that a statement in lieu would suffice.

**Acknowledgment – Progress Report Forms (ARE + AEDCS)**

22. This form, that is for both Applications (*i.e.* ARE and AEDCS), covers both the Acknowledgment and Progress Report as Article 12(3) of the Working Draft could be read without the terms between square brackets. The forms are harmonised to the extent possible. However, they differ with regard to the following steps taken and to be taken (items 6 and 7 – ARE and AEDCS) and the refusal to deal with an Application (item 9 – ARE). **In this respect, it is the view of the Sub-committee that the role of the requested Central Authority should be limited to a review in relation to form and should not encompass substance (see above, under bases for recognition and enforcement (*i.e.* Article 12(4))).**

**Financial circumstances addendum**

23. As mentioned earlier, the addendum is multi-purpose as it could be used for legal aid entitlement, maintenance quantum establishment and enforcement purposes. First, the information that could be found in the addendum could be useful where the creditor would be subject to a means and merit test for the provision of free legal assistance or representation (Article 13(3)). Secondly, the addendum would provide information necessary to assess the needs of the person seeking maintenance. Thirdly, the applicant could provide information in relation to the resources of the individual who owes or who is alleged to owe maintenance. Finally, similarly the applicant could provide information in relation to the assets of the debtor for enforcement purposes. It is to be understood that the information contained in this addendum would be in the form of a statement from the creditor. The information about the debtor's financial circumstances including assets could be either based on personal knowledge of the creditor or on information received from the requested State further to a request for specific measures (Article 7) made prior to the Application under Article 10.

24. At this point, the Sub-committee opted for a single form in relation to financial circumstances issues in order to provide for flexibility and to reduce as much as possible the number of forms. Thus, the addendum being multi-functional is rather comprehensive. However, it does not mean that it has to be filled in completely each time. The information needed for establishment purposes may be different than what is required for recognition and enforcement. In some States, where the recovery of maintenance is free of cost, it would not be required to provide information with regard to a legal aid means and merits test. Where maintenance quantum is established using guidelines, the type of information regarding the resources of the creditor and / or of the debtor could be different than in the case where guidelines are not used. In order to alleviate this difficulty the **Sub-committee would recommend using the country profiles in combination with the Financial Circumstances Addendum**. Each country profile could indicate in detail which parts of the Addendum are necessary for which purpose.

25. The Sub-committee considered the possibility to attach to the Financial Circumstances Addendum information concerning the cost of living in the respective States of the Creditor and the Debtor. **The Special Commission may want to consider whether the Working Draft should deal with this issue.**

### **Model Decision**

26. A model decision was presented to the Sub-committee. It was explained from the outset that the model decision would be for judges in the requested State to use instead of or in addition to (as the State wishes), any other order the judge would need to issue under domestic law. The advantages of that model decision for a requested State would be that the judge, who may not be familiar with the treaty requirements, has all he or she would need on the form to make certain that he or she considers and addresses each of the requirements of the Convention; and that it can be sent back to the requesting State and easily understood and conveyed to the applicant without need for translation. It was also indicated that maybe it would also be possible to use this model decision in case the judge in the requested State would be asked to establish, modify or vary an order. Finally, it was indicated that States of origin could use this model order when making an initial order meant for cross-border recognition and enforcement.

27. The group discussed the overall use of a model decision whether for States of origin or for requested States. The view was that such model decision could be useful. However, it would probably be quite challenging to make it a mandatory model decision. The view was that it would probably be feasible to develop a recommended model decision. **However, in the light of the priorities of the Sub-committee, which is to work on mandatory applications for the purpose of the Working Draft, it was decided to examine further a recommended model decision to be used by States of origin and requested States at a later stage if this is the wish of the Special Commission.**







**ANNEX 1 – APPLICATION FOR ESTABLISHMENT OF A DECISION FOR CHILD  
SUPPORT**

## Application for Establishment of a Decision for Child Support

### CONFIDENTIALITY AND PERSONAL DATA PROTECTION NOTICE

*Personal data gathered or transmitted shall be used only for the purposes for which they were gathered or transmitted. The authorities to whom information is transmitted shall ensure its confidentiality, in accordance with the law of their State.*

*An authority shall not disclose to the respondent or to the applicant information leading to the location of any party or child if to do so would, in its opinion, jeopardise the health, safety or liberty of a party or child. Nothing in this provision shall impede the gathering and transmitting of information between authorities.*

<b>1. Identity of the Requesting Authority</b>  a. Address  b.  c. Telefax  d. Telex  e. E-mail	<b>Identity of the Requested Authority (To be completed by the Requested Authority)</b>  Address   Telefax  Telex  E-mail
f. Contact person  g. Address  h. Language(s)  i.  j. Telefax  k. E-mail	Contact person  Address  Language(s)   Telefax  E-mail

**2. Reference numbers**

- a. Requesting Central Authority reference number \_\_\_\_\_
- b. Requested Central Authority reference number \_\_\_\_\_

*Convention on the International Recovery of Child Support and other Forms of Family Maintenance*

**3. Particulars of the Applicant**

- a. Full name: \_\_\_\_\_
- b. Date of birth: \_\_\_\_\_ (dd/mm/yyyy)
- c. Name of the representative: \_\_\_\_\_ (if applicable)
- [d. Contact information for the Applicant
- i.  Contact information for the Applicant is attached
- ii.  All contact with the Applicant by the Requested Central Authority shall be via the Requesting Central Authority]

**4. Particulars of the person(s) for whom maintenance is sought**

- a.  The person is the same as the Applicant named above  
Maintenance basis:  parentage,  *loco parentis*,  other family relationship
- b. i. Full name: \_\_\_\_\_  
Date of birth \_\_\_\_\_ (dd/mm/yyyy)  
Maintenance basis:  parentage,  *loco parentis*,  other family relationship
- ii. Full name \_\_\_\_\_  
Date of birth \_\_\_\_\_ (dd/mm/yyyy)  
Maintenance basis:  parentage,  *loco parentis*,  other family relationship
- iii. Full name \_\_\_\_\_  
Date of birth \_\_\_\_\_ (dd/mm/yyyy)  
Maintenance basis:  parentage,  *loco parentis*,  other family relationship
- [c.  If maintenance is sought for more than 3 persons, additional particulars are attached]

**5. Particulars and contact details (if known) of the Respondent**

- a. Full name: \_\_\_\_\_
- b. Date of birth: \_\_\_\_\_ (dd/mm/yyyy)
- c. National identification number: \_\_\_\_\_
- d. Residential address: \_\_\_\_\_  
\_\_\_\_\_
- e. Postal address: \_\_\_\_\_  
\_\_\_\_\_
- f. Telephone number: \_\_\_\_\_
- [g. E-mail address: \_\_\_\_\_]

*Convention on the International Recovery of Child Support and other Forms of Family Maintenance*

6. The following document(s) are attached to establish that the respondent has a legal duty to maintain the persons for whom maintenance is sought:

- Birth Certificate
- Marriage Certificate and date of separation
- Adoption Certificate
- Court order
- Statutory declaration
- Acknowledgement by Respondent
- Paternity test result
- Other evidence in accordance with the law of the Requested State

7. Bases for the application for establishment of a decision

Establishment of a decision is sought under:

- a.  *The Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on dd/mm/yyyy*
- i.  There is no existing decision
- ii.  Recognition and enforcement of an existing decision is not possible or has been refused in the requested state

- [b.  Other multilateral or bilateral instrument(s):

Name and date of the instrument(s):

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- c.  Other basis (e.g. comity, co-operation)

Please specify:

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8. Legal aid / exemption from costs or expenses is requested by the Applicant in the Requested State by reason of:

- [a.  According to the present situation, the Applicant and / or the person for whom maintenance is sought would qualify in the requesting State for legal aid or exemption from costs or expenses in maintenance proceedings]
- b.  The financial circumstances of the Applicant and / or the person for whom maintenance is sought (see attached Financial Circumstances Addendum)

*Convention on the International Recovery of Child Support and other Forms of Family Maintenance*

**9. Payments**

**a. Details for electronic transfer of payments (if applicable)**

**Name of the bank:** \_\_\_\_\_

**NBIC:<sup>1</sup>** \_\_\_\_\_

**SWIFT-Address:** \_\_\_\_\_

**IBAN:<sup>2</sup>** \_\_\_\_\_

**Account number:** \_\_\_\_\_

**Account name:** \_\_\_\_\_

**Reference number:** \_\_\_\_\_

**b. Details for payments by cheques (if applicable)**

**Cheque payable to:** \_\_\_\_\_

**Cheque to be sent to:** \_\_\_\_\_

**(address)** \_\_\_\_\_

\_\_\_\_\_

**Reference number:** \_\_\_\_\_

**10. Other documents attached to support the Application (translated where necessary into the language required by the Requested Central Authority):**

- Financial Circumstances Addendum providing a description of the financial circumstances of the Applicant and / or the person for whom maintenance is sought (for legal aid and establishment purposes) and the Applicant's description of the financial circumstances of the Respondent (for establishment and enforcement purposes)**
- Power of Attorney]**
- Statement of continuing schooling for each child for whom maintenance is payable**
- Document providing the information necessary to make appropriate calculations in case of a decision providing for automatic adjustment by indexation**

<sup>1</sup> National Bank Identification Code.

<sup>2</sup> International Bank Account Number.

*Convention on the International Recovery of Child Support and other Forms of Family Maintenance*

11. **Other matters to which the Requesting authority draws attention for the consideration of the Requested Authority:**

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**The documents included herewith are regular as to form, in accordance with the law of the State of the Applicant.**

**The requested Central Authority is required to [acknowledge receipt of the application promptly and,] within six weeks from the date of receipt of the application (see attached Acknowledgment), to inform the Central Authority of the requesting State what initial steps have been or will be taken to deal with the application and may request any further necessary documents and information. Within the same six-week period, the requested Central Authority is required to provide to the requesting Central Authority the name and contact details of the person or unit responsible for responding to inquiries regarding the progress of the application.**

**[If the requested Central Authority does not accept the application because it is manifest that the requirements of this Convention are not fulfilled [or that the application is otherwise not well founded], the requested Central Authority shall forthwith inform the requesting Central Authority of its reasons.]**

**Date:** \_\_\_\_\_

**Signature:** \_\_\_\_\_  
**Authorised representative of the Central Authority**

DRAFT

## **Acknowledgement – Progress Report**

**(Application for Establishment of a Decision for Child Support)**

<b>1. Identity of the Requesting Authority</b>  <b>a. Address</b>  <b>b. ☎</b>  <b>c. Telefax</b>  <b>d. Telex</b>  <b>e. E-mail</b>	<b>Identity of the Requested Authority (To be completed by the Requested Authority)</b>  <b>Address</b>  <b>☎</b>  <b>Telefax</b>  <b>Telex</b>  <b>E-mail</b>
<b>f. Contact person</b>  <b>g. Address</b>  <b>h. Language(s)</b>  <b>i. ☎</b>  <b>j. Telefax</b>  <b>k. E-mail</b>	<b>Contact person</b>  <b>Address</b>  <b>Language(s)</b>  <b>☎</b>  <b>Telefax</b>  <b>E-mail</b>

2. The undersigned Requested Central Authority has the honour to acknowledge receipt of your application, reference No \_\_\_\_\_ dated \_\_\_\_\_ (dd/mm/yyyy)
3. This application has been given reference No \_\_\_\_\_.
- [4.  The Requested Central Authority does not accept this application as it is manifest that  
 the requirements of the Convention are not fulfilled, [or  
 that the application is otherwise not well founded]  
 The reasons are set out in an attached document]
5.  The file is complete and is under consideration.
6.  The following steps have been taken:  
a.  Locating the respondent  
b.  Contact with the respondent for settlement  
c.  Action to establish a decision  
(if action completed, please attach a copy of the decision)  
d.  Voluntary payment  
e.  Gathering information concerning the financial circumstances of the debtor  
f.  Locating the assets of the debtor

*Convention on the International Recovery of Child Support and other Forms of Family Maintenance*

- g.  Enforcement action has been initiated
- h.  Appeal against the decision has been lodged
- i.  Payments have commenced
- j.  Other: \_\_\_\_\_

7.  The following steps will be taken:
- a.  Respondent to be located
  - b.  Respondent to be contacted for settlement
  - c.  Action to establish a decision to be sought
  - d.  Voluntary payment to be sought
  - e.  Information to be gathered concerning the financial circumstances of the debtor
  - f.  Assets of the debtor to be located
  - g.  Enforcement action to be initiated
  - h.  Appeal against the decision to be lodged
  - i.  Other: \_\_\_\_\_

8.  Additional information and documentation as specified hereunder is required:
- \_\_\_\_\_
- \_\_\_\_\_

The early provision of this additional information would facilitate completion of the establishment process.

The Receiving Agency requests that the Transmitting Agency inform it of any change in the status of the application.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Authorised representative of the Central Authority



**ANNEX 2 – APPLICATION FOR RECOGNITION AND ENFORCEMENT**





*Convention on the International Recovery of Child Support and other Forms of  
Family Maintenance*

## Application for Recognition and Enforcement

### CONFIDENTIALITY AND PERSONAL DATA PROTECTION NOTICE

*Personal data gathered or transmitted shall be used only for the purposes for which they were gathered or transmitted. The authorities to whom information is transmitted shall ensure its confidentiality, in accordance with the law of their State.*

*An authority shall not disclose to the respondent or to the applicant information leading to the location of any party or child if to do so would, in its opinion, jeopardise the health, safety or liberty of a party or child. Nothing in this provision shall impede the gathering and transmitting of information between authorities.*

<p><b>1. Identity of the Requesting Authority</b></p> <p>a. Address</p> <p>b. </p> <p>c. Telefax</p> <p>d. Telex</p> <p>e. E-mail</p>	<p><b>Identity of the Requested Authority (To be completed by the Requested Authority)</b></p> <p>Address</p> <p></p> <p>Telefax</p> <p>Telex</p> <p>E-mail</p>
<p><b>f. Contact person</b></p> <p>g. Address</p> <p>h. Language(s)</p> <p>i. </p> <p>j. Telefax</p> <p>k. E-mail</p>	<p><b>Contact person</b></p> <p>Address</p> <p>Language(s)</p> <p></p> <p>Telefax</p> <p>E-mail</p>

**2. Reference numbers**

Requesting Central Authority Reference Number: \_\_\_\_\_

Requested Central Authority Reference Number: \_\_\_\_\_

*Convention on the International Recovery of Child Support and other Forms of Family Maintenance*

**3. Particulars of the Creditor**

- a. Full name: \_\_\_\_\_
- b. Date of birth: \_\_\_\_\_ (dd/mm/yyyy)
- c. Name of the representative: \_\_\_\_\_ (if applicable)

**[d. Contact information for the Creditor**

- i.  Contact information for the Creditor is attached
- ii.  All contact with the creditor by the Requested Central Authority shall be via the Requesting Central Authority]

**4. Particulars of the person(s) for whom maintenance is paid**

- a.  The person is the same as the creditor named above
- b. i. Full name: \_\_\_\_\_  
Date of birth \_\_\_\_\_ (dd/mm/yyyy)
- ii. Full name \_\_\_\_\_  
Date of birth \_\_\_\_\_ (dd/mm/yyyy)
- iii. Full name \_\_\_\_\_  
Date of birth \_\_\_\_\_ (dd/mm/yyyy)
- [c.  If maintenance is sought for more than 3 persons, additional particulars are attached]

**5. Particulars and contact details (if known) of the Respondent**

- a. Full name: \_\_\_\_\_
- b. Date of birth: \_\_\_\_\_ (dd/mm/yyyy)
- c. National identification number: \_\_\_\_\_
- d. Residential address: \_\_\_\_\_  
\_\_\_\_\_
- e. Postal address: \_\_\_\_\_  
\_\_\_\_\_
- f. Telephone number: \_\_\_\_\_
- [g. E-mail address: \_\_\_\_\_]

**6. This request concerns:**

- a  An application for the recovery of maintenance based on an order or other judicial or administrative act. The recognition and / or enforcement is sought by reason of:
- the *Convention on the International Recovery of Child Support and Other Forms of Family Maintenance*, concluded at The Hague on dd/mm/yyyy;

*Convention on the International Recovery of Child Support and other Forms of  
Family Maintenance*

other multilateral or bilateral instrument(s) :

Name and date of the instrument(s) :

\_\_\_\_\_

other basis (e.g. comity, co-operation)

Please specify:

\_\_\_\_\_

*b*  An application for a partial recovery of maintenance covering [ ] interests, [ ] arrearages and [ ] future payments based on an order or other judicial or administrative act the recognition and / or enforcement of which is sought by reason of the instrument identified under 1.a.

*c*  If recognition and / or enforcement of the order or other judicial or administrative act is not possible, or is refused, please take appropriate measures to recover maintenance for the creditor, including the institution in your country of an action for maintenance.]

7. Legal aid / exemption from costs or expenses is sought by the Creditor in the requested State on the basis of the following information:

*a*  In the proceedings which established the maintenance obligation, the Creditor benefited from legal aid or exemption from costs or expenses.

*b*  According to the present situation, the Creditor would qualify in the requesting State for legal aid or exemption from costs or expenses in maintenance proceedings.]

*c*  A description of the financial circumstances of the Creditor for the purpose of legal aid as required by the requested State is attached.

8. Payments

a. Details for electronic transfer of payments (if applicable)

Name of the bank: \_\_\_\_\_

NBIC:<sup>1</sup> \_\_\_\_\_

SWIFT-address: \_\_\_\_\_

IBAN:<sup>2</sup> \_\_\_\_\_

Account number: \_\_\_\_\_

Account name: \_\_\_\_\_

Reference number: \_\_\_\_\_

<sup>1</sup> National Bank Identification Code.

<sup>2</sup> International Bank Account Number.

*Convention on the International Recovery of Child Support and other Forms of Family Maintenance*

**b. Details for payments by cheques (if applicable)**

Cheque payable to: \_\_\_\_\_

Cheque to be sent to: \_\_\_\_\_

(address) \_\_\_\_\_

\_\_\_\_\_

Reference number: \_\_\_\_\_

**[9. Bases for recognition and enforcement (please check all relevant lines)**

- the respondent was [habitually] resident in the State of origin at the time proceedings were instituted;
- the respondent has submitted to the jurisdiction either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity;
- the creditor was [habitually] resident in the State of origin at the time proceedings were instituted;

**[Option 1**

- the law of the State addressed would in similar [factual] circumstances confer or would have conferred jurisdiction on its authorities to make such a decision. Please identify all factual circumstances that apply: \_\_\_\_\_  
\_\_\_\_\_ ]

**[Option 2**

- the law of the State addressed would in similar [factual] circumstances confer or would have conferred jurisdiction on its authorities to make such a decision. Please check all known factual circumstances that apply:
  - the respondent was personally served with [citation, summons, notice] within the State of origin;
  - the respondent resided with the child in the State of origin;
  - the respondent resided in the State of origin and provided prenatal expenses or support for the child;
  - the child resides in the State of origin as a result of the acts or directives of the respondent;
  - the respondent engaged in sexual intercourse in the State of origin and the child may have been conceived by that act of intercourse;
  - Other factual circumstances: \_\_\_\_\_  
\_\_\_\_\_ ]

*Convention on the International Recovery of Child Support and other Forms of Family Maintenance*

- there has been agreement to the jurisdiction by the parties in writing or evidenced by writing;
- the maintenance decision was made by an authority exercising jurisdiction on a matter of personal status; or
- the child for whom the maintenance was ordered was [habitually] resident in the State of origin at the time proceedings were instituted].]
10. All the following documents are enclosed with this Application (translated where necessary into the language required by the Requested Central Authority):
- 1 Original of the maintenance decision or a copy certified by the competent authority in the State of origin.]
- [OR]
- 1 Abstract of the Decision certified by the competent authority in the State of origin in the form set out in the Annex to the Convention.]
- 2 Certificate from the Competent authority in the State of origin that the decision is enforceable [and, in the case of a decision by an administrative authority, that the requirements of Article 14(3) are met].
- 3 If not stated in the [Abstract] [Decision], a document establishing that the respondent had proper notice of the proceedings and an opportunity to be heard, or had proper notice of the decision and the opportunity to challenge it, where the respondent was not involved in the proceedings in the State of origin.
- 4 Current statement of amounts paid and amounts due.]
11. Enclosed additional relevant documentation where available (translated where necessary into the language required by the Requested Central Authority):
- 1 Financial Circumstances Addendum providing a description of the financial circumstances of the Creditor and / or the person for whom maintenance is sought (for legal aid) and the Applicant's description of the financial circumstances of the Respondent (for enforcement purposes).
- 2 Power of Attorney.]
- 3 Statement of continuing schooling for each child for whom maintenance is payable.
- 4 Document providing the information necessary to make appropriate calculations in case of a decision providing for automatic adjustment by indexation.
12. Other matters to which the Requesting Central Authority draws attention for the consideration of the Requested Central Authority:
- 
-

*Convention on the International Recovery of Child Support and other Forms of  
Family Maintenance*

The documents included herewith are regular as to form, in accordance with the law of the State of the Creditor.

The requested Central Authority is required to [acknowledge receipt of the application promptly and,] within six weeks from the date of receipt of the application (see attached Acknowledgment), to inform the Central Authority of the requesting State what initial steps have been or will be taken to deal with the application and may request any further necessary documents and information. Within the same six-week period, the requested Central Authority is required to provide to the requesting Central Authority the name and contact details of the person or unit responsible for responding to inquiries regarding the progress of the application.

[If the requested Central Authority does not accept the application because it is manifest that the requirements of this Convention are not fulfilled [or that the application is otherwise not well founded], the requested Central Authority shall forthwith inform the requesting Central Authority of its reasons.]





The Requesting Central Authority will promptly inform the Requested Central Authority of any variations in the level of maintenance liability that arises from a later decision or agreement between the parties, or from any other cause.

Date : \_\_\_\_\_

Signature : \_\_\_\_\_  
Authorised representative of the Central Authority

## Acknowledgement – Progress Report

(Application for Recognition and Enforcement)

<p><b>1. Identity of the Requesting Authority</b></p> <p>a. Address</p> <p>b. </p> <p>c. Telefax</p> <p>d. Telex</p> <p>e. E-mail</p>	<p><b>Identity of the Requested Authority</b> (To be completed by the Requested Authority)</p> <p>Address</p> <p></p> <p>Telefax</p> <p>Telex</p> <p>E-mail</p>
<p><b>f. Contact person</b></p> <p>g. Address</p> <p>h. Language(s)</p> <p>i. </p> <p>j. Telefax</p> <p>k. E-mail</p>	<p><b>Contact person</b></p> <p>Address</p> <p>Language(s)</p> <p></p> <p>Telefax</p> <p>E-mail</p>

2. The undersigned Requested Central Authority has the honour to acknowledge receipt of your application, reference No \_\_\_\_\_ dated \_\_\_\_\_ (dd/mm/yyyy)
3. This application has been given reference No \_\_\_\_\_.
- [4.  The Requested Central Authority does not accept this application as it is manifest that  
 the requirements of the Convention are not fulfilled, [or  
 that the application is otherwise not well founded]]
5.  The file is complete and is under consideration.
6.  The following steps have been taken:
- a.  Decision declared enforceable or registered for enforcement
  - b.  Debtor located
  - c.  Voluntary payment
  - d.  Gathering of information concerning the financial circumstances of the debtor
  - e.  Locating the assets of the debtor
  - f.  Enforcement action has been initiated
  - g.  An appeal against the declaration of enforceability or registration for enforcement has been lodged
  - h.  Payments have commenced
  - i.  Other: \_\_\_\_\_



*Convention on the International Recovery of Child Support and other Forms of Family Maintenance*

7.  The following steps will be taken:
- a.  Debtor to be located
  - b.  Decision to be declared enforceable or registered for enforcement
  - c.  Voluntary payment to be sought
  - d.  Information to be gathered concerning the financial circumstances of the debtor
  - e.  Assets of the debtor to be located
  - f.  Enforcement action to be initiated
  - g.  Appeal against the declaration of enforceability or registration for enforcement to be lodged
  - h.  Other: \_\_\_\_\_
8.  Additional information and documentation as specified hereunder is required:
- \_\_\_\_\_
- \_\_\_\_\_

The early provision of this additional information would facilitate completion of the recognition and enforcement process.

- [9.  The application has been examined and is being returned because the relief requested cannot be granted in the requested State for the following reasons:
- [a.  There are no bases for recognition and enforcement]
  - [b.  Recognition or enforcement of the decision is manifestly incompatible with the public policy ("*ordre public*") of the State addressed
  - [c.  The decision was obtained by fraud in connection with a matter of procedure]
  - d.  Proceedings between the same parties and having the same purpose are pending before an authority of the State addressed and those proceedings were the first to be instituted
  - e.  The decision is incompatible with a decision rendered between the same parties and having the same purpose, either in the State addressed or in another State, provided that this latter decision fulfils the conditions necessary for its recognition and enforcement in the State addressed
  - f.  The respondent did not have proper notice of the proceedings and an opportunity to be heard, or did not have proper notice of the decision and the opportunity to challenge it]

The Receiving Agency requests that the Transmitting Agency inform it of any change in the status of the application.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
 Authorised representative of the Central Authority

**ANNEX 3 – ABSTRACT OF A DECISION**

*Convention on the International Recovery of Child Support and other Forms of  
Family Maintenance*

## Abstract of a Decision

(Article 18(3) a)

1. **Name of the State of origin of the decision:** \_\_\_\_\_  
(identify territorial unit if applicable) \_\_\_\_\_
2. **Competent Authority issuing the Abstract**
- 2.1 **Name:** \_\_\_\_\_
- 2.2 **Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 2.3 **Telephone:** \_\_\_\_\_
- 2.4 **Fax:** \_\_\_\_\_
- 2.5 **E-mail:** \_\_\_\_\_
3. **The decision<sup>1</sup>**
- 3.1 **Type of authority:**  **Judicial Authority** or  **Administrative Authority<sup>2</sup>**
- 3.2 **Name and place of authority:** \_\_\_\_\_
- 3.3 **(address if applicable)** \_\_\_\_\_  
\_\_\_\_\_
- 3.4 **Type of decision:**  **decision**,  **settlement** or  **agreement**
- 3.5 **Date of the decision:** \_\_\_\_\_ (dd/mm/yyyy)
- 3.6 **Reference number of the decision:** \_\_\_\_\_
- 3.7 **Names of the parties to the decision:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<sup>1</sup> In accordance with Article 14 a) of the Convention, 'decision' means: i) a decision rendered by a judicial or administrative authority; ii) a settlement or agreement concluded before or approved by such authority.

<sup>2</sup> In accordance with Article 14 c) of the Convention, 'administrative authority' means a public body whose decisions, under the law of the State where it is established: i) may be subject of an appeal to or review by a judicial authority; and ii) have the same force and effect as a decision of a judicial authority on the same matter.

*Convention on the International Recovery of Child Support and other Forms of Family Maintenance*

**4. Participation of the debtor to the proceedings**

- The decision indicates that the debtor was involved in the proceedings in the State of origin
- The decision indicates that the debtor was not involved in the proceedings in the State of origin and that the debtor did have proper notice of the proceedings and an opportunity to be heard, or did have proper notice of the decision and the opportunity to challenge it.
- The decision does not indicate either of the above.<sup>1</sup>

**5. Terms of decision**

**5.1. Payment of support / maintenance**

Beginning (date: dd/mm/yyyy) \_\_\_\_\_ the Debtor shall pay support / maintenance in the amount of \_\_\_\_\_ (specify currency) per [ ] week; [ ] two weeks; [ ] month; [ ] quarter for the benefit of \_\_\_\_\_ (name and date of birth (dd/mm/yyyy) of the person entitled to support / maintenance).

**5.2. Payment of support / maintenance (for another person and / or period)**

Beginning (date: dd/mm/yyyy) \_\_\_\_\_ the Debtor shall pay support / maintenance in the amount of \_\_\_\_\_ (specify currency) per [ ] week; [ ] two weeks; [ ] month; [ ] quarter for the benefit of \_\_\_\_\_ (name and date of birth (dd/mm/yyyy) of the person entitled to support / maintenance).

**5.3. Payment of support / maintenance (for another person and / or period)**

Beginning (date: dd/mm/yyyy) \_\_\_\_\_ the Debtor shall pay support / maintenance in the amount of \_\_\_\_\_ (specify currency) per [ ] week; [ ] two weeks; [ ] month; [ ] quarter for the benefit of \_\_\_\_\_ (name and date of birth (dd/mm/yyyy) of the person entitled to support / maintenance).

**5.4. Payment of support / maintenance (for another person and / or period)**

Beginning (date: dd/mm/yyyy) \_\_\_\_\_ the Debtor shall pay support / maintenance in the amount of \_\_\_\_\_ (specify currency) per [ ] week; [ ] two weeks; [ ] month; [ ] quarter for the benefit of \_\_\_\_\_ (name and date of birth (dd/mm/yyyy) of the person entitled to support / maintenance).

**5.5. Arrears of support / maintenance set in the attached decision**

The total amount of arrears is in the amount of \_\_\_\_\_ (specify currency) as of (date: dd/mm/yyyy) \_\_\_\_\_

<sup>1</sup> Please note that in this case, the requested Central Authority should attach the document listed under item 10.3 of the Application for Recognition and Enforcement.

*Convention on the International Recovery of Child Support and other Forms of Family Maintenance*

The debtor shall pay arrearage by payments in the amount of \_\_\_\_\_ (specify currency) per [ ] week; [ ] two weeks; [ ] month; [ ] quarter beginning (date: dd/mm/yyyy) \_\_\_\_\_

The total amount of arrearage is to be paid by (date: dd/mm/yyyy) \_\_\_\_\_

**5.6. Others payments as provided in the decision**

- Payment of interest in the amount of \_\_\_\_\_ (specify currency)
  - Payment of health insurance (specify amount if applicable): \_\_\_\_\_
  - Payment of school fees (specify amount if applicable): \_\_\_\_\_
  - Other payments, arrangements or conditions (specify): \_\_\_\_\_
- 

**6. Indexation**

- A document providing information to calculate indexation is attached.
- The maintenance should be indexed every year by \_\_\_\_\_ %

**7. Effect of the decision**

This decision shall remain in effect:

- Until the child(ren) has (have) reached the age of: \_\_\_\_\_
- Until the child(ren) is (are) self-supporting
- Until the child(ren) has (have) completed school
- Unless and until it is changed or discontinued by further decision or by operation of law
- Other: \_\_\_\_\_

Abstract done at: \_\_\_\_\_ Date (dd/mm/yyyy): \_\_\_\_\_

Signature and / or Stamp: \_\_\_\_\_

Name of Certifying Official or Agency: \_\_\_\_\_

**ANNEX 4 – CERTIFICATE OF ENFORCEABILITY OF A DECISION**

## Certificate of Enforceability of a Decision

(Article 18(3) b)

1. Name of the State of origin of the decision: \_\_\_\_\_  
(identify territorial unit if applicable) \_\_\_\_\_

2. Competent Authority issuing the Certificate

2.1 Name: \_\_\_\_\_

2.3 Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2.3 Telephone: \_\_\_\_\_

2.4 Fax: \_\_\_\_\_

2.5 E-mail: \_\_\_\_\_

3. The decision<sup>1</sup>

3.1 Type of authority:  Judicial Authority or  Administrative Authority

3.2 Name and place of authority: \_\_\_\_\_

3.3 (address if applicable) \_\_\_\_\_  
\_\_\_\_\_

3.4 Type of decision:  decision,  settlement or  agreement

3.5 Date of the decision: \_\_\_\_\_ (dd/mm/yyyy)

3.6 Reference number of the decision: \_\_\_\_\_

3.7 Names of the parties to the decision: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The decision is enforceable in the State of origin against:

4.1 Name: \_\_\_\_\_

Certificate done at: \_\_\_\_\_ Date (dd/mm/yyyy): \_\_\_\_\_

Signature and / or Stamp: \_\_\_\_\_

Name of Certifying Official or Agency: \_\_\_\_\_  
\_\_\_\_\_

<sup>1</sup> In accordance with Article 14 a) of the Convention, 'decision' means: i) a decision rendered by a judicial or administrative authority; ii) a settlement or agreement concluded before or approved by such authority.

**ANNEX 5 – FINANCIAL CIRCUMSTANCES ADDENDUM**



*Convention on the International Recovery of Child support and other Forms of Family Maintenance*

## Financial Circumstances Addendum

### 1. Reference Information

Requesting Central Authority Reference No: \_\_\_\_\_

Requested Central Authority Reference No: \_\_\_\_\_

Full name of Debtor: \_\_\_\_\_

Full name of Creditor: \_\_\_\_\_

Full name of Child(ren) for:  
whom maintenance is sought \_\_\_\_\_

### 2. General Information about Creditor

#### A. Information about the Creditor

1. Home Address  [ ] Confirmed date (dd/mm/yyyy): _____	2. Social Security No National Identity No	3. Date of birth (dd/mm/yyyy)
4. Employer (name and address)  [ ] Confirmed date (dd/mm/yyyy): _____	5. Occupation, Trade or Profession	
	6. Highest Level of Education Attained	
7. Estimated Gross Monthly Earnings (specify currency)	8. Other Monthly Income (& source) (specify currency)	
9. Real or Personal Property (type)	10. (location and / or registration No)	
11. Real or Personal Property (type)	12. (location and / or registration No)	
13. Real or Personal Property (type)	14. (location and / or registration No)	
15. Real or Personal Property (type)	16. (location and / or registration No)	

#### B. Present Marital Status of Creditor

1. [ ] Married	2. [ ] Single	3. [ ] Living with Non-Marital Partner
4. [ ] Divorced	5. [ ] Separated	

**Convention on the International Recovery of Child support and other Forms of Family Maintenance**

**C. Information about current Spouse or Partner of Creditor**

1. Full name	2. Employed? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
3. Employer (name and address)	4. Estimated Gross Monthly Earnings (specify currency)
	5. Other Monthly Income (& source) (specify currency)

**D. Amount of Maintenance sought by the Creditor:** \_\_\_\_\_ (please specify currency)

**3. General Information about Debtor (if known)**

**A. Information about the Debtor (if known)**

1. Home Address  <input type="checkbox"/> Confirmed date (dd/mm/yyyy): _____	2. Social Security No National Identity No	3. Date of birth (dd/mm/yyyy)
4. Employer (name and address)  <input type="checkbox"/> Confirmed date (dd/mm/yyyy): _____	5. Occupation, Trade or Profession	
	6. Highest Level of Education Attained	
7. Estimated Gross Monthly Earnings (specify currency)	8. Other Monthly Income (& source) (specify currency)	

**B. Information concerning the assets of the Debtor (if known)**

Please specify the currency used to complete the following tables: \_\_\_\_\_

1. House – Market value: Ownership: <input type="checkbox"/> self <input type="checkbox"/> joint (specify): _____	2. (location and / or registration No)
3. Other real estate – Market value: Ownership: <input type="checkbox"/> self <input type="checkbox"/> joint (specify): _____	4. (location and / or registration No)
5. Motor vehicle – Market value: Ownership: <input type="checkbox"/> self <input type="checkbox"/> joint (specify): _____	6. (location and / or registration No)
7. Caravans/boats – Market value: Ownership: <input type="checkbox"/> self <input type="checkbox"/> joint (specify): _____	8. (location and / or registration No)
9. Furniture and household effects – Market value: Ownership: <input type="checkbox"/> self <input type="checkbox"/> joint (specify): _____	10. (location and description)
11. Secondary residence – Market value: Ownership: <input type="checkbox"/> self <input type="checkbox"/> joint (specify): _____	12. (location and description)
13. Saving accounts – Value:	14. (institution and account number)
15. Investment accounts – Value:	16. (institution and account number)
17. Cash on hand – Value:	18. (institution and account number)
19. Shares/bonds – Value:	20. (institution and account number)

**Convention on the International Recovery of Child support and other Forms of Family Maintenance**

21. Debentures – Value:	22. (institution and account number)
23. Life assurance – Value:	24. (institution and account number)

**C. Present Marital Status of Debtor (if known)**

1. <input type="checkbox"/> Married	2. <input type="checkbox"/> Single	3. <input type="checkbox"/> Living with Partner
4. <input type="checkbox"/> Divorced	5. <input type="checkbox"/> Separated	6. <input type="checkbox"/> Unknown

**D. Information about current Spouse or Partner of Debtor (if known)**

1. Full name	3. Employed? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
3. Employer (name and address)	4. Estimated Gross Monthly Earnings (specify currency)
	5. Other Monthly Income (& source) (specify currency)

The Debtor pays child support / maintenance for \_\_\_\_\_ (number of) persons.

**4. Medical Insurance**

1. Is debtor required by a maintenance decision to provide medical insurance for the child(ren)?  Yes  No

2. Is debtor required by a maintenance decision to provide medical insurance for the creditor?  Yes  No

3. Medical coverage for child(ren) for whom maintenance is sought and/or the creditor is provided by:

Coverage provided by:	For child(ren)	For Creditor	Creditor's Insurance Company:
Creditor	<input type="checkbox"/>	<input type="checkbox"/>	
Debtor	<input type="checkbox"/>	<input type="checkbox"/>	Policy No:
State Medicare	<input type="checkbox"/>	<input type="checkbox"/>	Debtor's Insurance Company:
Creditor's employer	<input type="checkbox"/>	<input type="checkbox"/>	Policy No:
Debtor's employer	<input type="checkbox"/>	<input type="checkbox"/>	Other Insurance Company:
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	
Unknown	<input type="checkbox"/>	<input type="checkbox"/>	
No coverage	<input type="checkbox"/>	<input type="checkbox"/>	Policy No:

**5. Statement of Income and Expenses, and Balance Sheet of the Creditor**

Please specify the currency used to complete the following tables: \_\_\_\_\_

**A. Gross income**

<input type="checkbox"/> Monthly <input type="checkbox"/> Annual	Creditor	Creditor's current spouse/partner	Child(ren) for whom maintenance is sought
Gross salary			
Commissions/tips			
Income from self-employment			
Family allowances			
Tax credit			
Unemployment insurance			

**Convention on the International Recovery of Child support and other Forms of Family Maintenance**

Support paid by third party			
Retirement pension			
Disability or other pension			
Interests and dividends			
Net rentals			
Other: _____			
Total:			

**B. Income deductions**

<input type="checkbox"/> Monthly <input type="checkbox"/> Annual	Creditor	Creditor's current spouse/partner	Child(ren) for whom maintenance is sought
National/Federal tax			
State/Province tax			
City/Local tax			
State pension plan			
Unemployment insurance premiums			
Retirement plan contributions			
Group Insurance premiums			
Medical Insurance			
Union dues			
Professional association fees			
Other: _____			
Total:			

**C. Creditor's expenses**

<input type="checkbox"/> Monthly <input type="checkbox"/> Annual	Creditor	Child(ren) for whom maintenance is sought
Rent/mortgage/co-ownership fees		
Electricity/heating/water		
Telephone/cable/Internet		
Property maintenance and investments		
Food and house supplies		
Clothing		
Medical/dental/optical		
Personal care		
Liability and health insurance		
Taxis Public transports		
Vehicle expenses		
Child care, education and training		
Entertainment, sports and leisure		
Vacations		
Child(ren)'s allowances		
Savings/retirement savings		
Debts' payments		
Lawyers fees		
Secondary residence		
Other: _____		
Other: _____		
Total		

*Convention on the International Recovery of Child support and other Forms of Family Maintenance*

[ ] Information concerning the cost of living in the respective States of the creditor and the debtor is attached.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of the Creditor

DRAFT

**PART IV - REPORT OF THE MONITORING AND REVIEW OF THE OPERATION AND  
IMPLEMENTATION OF THE CONVENTION SUB-COMMITTEE**

## REPORT OF THE MONITORING AND REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE CONVENTION SUB-COMMITTEE

(Administrative Co-operation Working Group)

Hungary (Co-Chair), the United States of America (Co-Chair), Canada, Germany, the United Kingdom, Australia, the Netherlands and NCSEA

### Introduction

1. This Sub-committee was tasked with discussing issues related to post-Convention implementation. Examples of such issues included determining various mechanisms for reviewing Convention implementation, disseminating good practices and considering the obligations of Contracting States concerning provision of statistics.
2. The Permanent Bureau has a great deal of post-Convention implementation experience, for example, from the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* and the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption*. The Sub-committee benefited greatly from this experience and was able to obtain insights and lessons learned and apply them to this Convention.
3. The work done by this Sub-committee was accomplished by e-mail and conference calls. The information that follows encompasses discussions of a Standing Committee on monitoring and review, a future Guide to Good Practice and data collection as a part of monitoring Convention implementation and performance.

### PART I - Standing Committee

4. This Sub-committee recommends that there should be established a Standing Committee that will provide a forum for the promotion of co-operation among Central Authorities, and assist the Special Commission (convened under Article 38 of the Working Draft) and the Permanent Bureau in post-Convention monitoring and review activities and in providing implementation assistance. The Standing Committee would not be a fact-finding or adjudicating body, but would follow the mandate set forth below. The Permanent Bureau would co-ordinate the work of the Standing Committee. The Sub-committee is giving further consideration to the question of the formal / informal status of the Committee and to an appropriate procedure by which the Standing Committee should be established. Mandate, membership, structure and possible activities of the Standing Committee would be as follows:

#### A. Mandate

5. The mandate of the Standing Committee would consist of four parts. First, to provide a forum for promoting co-operation and for the exchange of information concerning the practical operation of the Convention, among the Central Authorities and other bodies responsible for its application.
6. Second, to assist and advise the Permanent Bureau in relation to post-Convention implementation, monitoring and review activities.
7. Third, to give advice to the Permanent Bureau in relation to preparations for Special Commission meetings to review the practical operation of the Convention.

8. Fourth, to assist the Permanent Bureau in the development and promotion of good practices under the Convention.

### **B. Membership**

9. Membership of the Standing Committee would be open to Central Authorities of Contracting States, to States contemplating accession to the Convention and to any Organisation qualifying to participate in Special Commissions on the operation of the Convention.

### **C. Structure**

10. The Standing Committee would meet by conference call, the frequency of which would be determined at a later time.

11. The Standing Committee would establish, as needed, Sub-committees to better address specific topics that are applicable to the mandate of the Standing Committee.

### **D. Possible activities**

12. A Standing Committee would assist the Permanent Bureau by producing, for consideration by the Special Commission convened under Article 38 of the Convention, a report on the activities of the Standing Committee, including recommendations where appropriate.

13. The Committee would also assist Central Authorities implementing the Convention in three ways, first with understanding Convention language with respect to administrative co-operation, second by removing obstacles to the effective operation of the Convention (for example, the goal is to reduce complaints by identifying issues and taking steps to remove barriers and improve performance), and third, by promoting and facilitating training and dissemination of good practices. In this case, the term 'training' includes familiarizing interested parties with the details of the Convention and its underlying principles, as well as identifying and sharing good practices. (For example, a "twinning" arrangement could arise if a developing Central Authority seeks assistance from a developed Central Authority to provide advice, model procedures, training and possibly an exchange of personnel for practical training and experience.)

14. The committee would advise and assist the Permanent Bureau in relation to statistical data collection, analysis and reporting, and the establishment and operation of a case law database.<sup>1</sup>

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<sup>1</sup> Collection and dissemination of case law is an important activity under for the new Convention because it encourages consistent Convention interpretation. Case law databases are used by Central Authorities, judges, lawyers and individuals and have proven very practical and helpful for previous Conventions.

Though developing a case law database would not be an immediate priority for the standing committee, the existing case law database for the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*, called "INCADAT," has been helpful in facilitating the collection and dissemination of international case law relating to Child Abduction. This Sub-committee proposes examining the topic of a case law database in more detail at a later time.



## **PART II – Guide to Good Practice**

15. A Guide to Good Practice under the Convention should be developed by the Permanent Bureau in consultation with States, relevant Organisations, and the Standing Committee. The “guide would be a practical “how-to” [document] to help Contracting States implement the Convention. It would concentrate on operational issues and be targeted particularly at new Contracting States. It would not be binding nor infringe on the independence of the judiciary”.<sup>2</sup>

16. The Permanent Bureau has experience from prior Conventions with developing this type of guide to assist Contracting States with post-Convention implementation. The Permanent Bureau organises development of Guides to Good Practice and works through questionnaires and consultative committees to reach consensus. Generally, the Special Commission approves the end product. The Guide to Good Practice contains recommended practices only and is not legally binding.

17. In a Guide to Good Practice, there can be separate components such as a Guide to Implementation and a Guide to Operating Effective Central Authorities. The Sub-committee suggests that such separate items may be seen as parts of the whole Guide to Good Practice and it would better serve the purposes of implementation if these ‘chapters’ were distributed separately for use by Contracting States. Providing such a timely resource would assist States planning to implement the Convention.

### *Guide to Implementation*

18. A Guide to Implementation would contain implementation examples and success stories from several States with experience under similar Conventions but would not be attributable to individual States. The Guide would not be a list of rules.

19. In order to facilitate an expedited implementation process, this Sub-committee recommends that a “initial” *Guide to Implementation* of the Convention should be developed soon after the Convention is adopted. This Initial Guide would list strategies and practices that have been successful for Contracting States. The Guide could track articles of the Convention and provide initial assistance.

20. A more “mature” *Guide to Implementation* should be developed as Contracting States gain experience implementing the Convention. This latter version may build on successful practices listed and also provide examples of ‘Lessons Learned’ by Contracting States. This will further assist Contracting States that are undertaking implementation of the Convention in the years after it is signed.

### *Guide to Operating an Effective Central Authority*

21. The Guide to Operating an Effective Central Authority “is designed to assist both new and established Central Authorities and to save them time and effort by putting at their disposal a range of tried and tested practices which have resulted in effective implementation of the Convention in countries in which [it has] been adopted”.<sup>3</sup> The Guide to Operating an Effective Central Authority may discuss establishing the Central Authority, the role of the Requesting Central Authority, the role of the Requested Central Authority and/or co-operation with other Central Authorities, depending on the guidance from the Special Commission.<sup>4</sup>

<sup>2</sup> Recommendation made by the 22-28 March 2001 Special Commission on the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*. ‘Guide to Good Practice. Part I – Central Authority Practice’ HCCH, 2003, p. 25.

<sup>3</sup> *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*. ‘Guide to Good Practice. Part I – Central Authority Practice’ HCCH, 2003, p. 25.

<sup>4</sup> *Ibid.*, p. 6.

22. The Sub-committee suggests beginning the development of an initial Guide to Central Authority Practice soon after the Convention comes into effect, with the development of a more “mature” Guide as experience develops.

*Further Chapters of the Guide as Requested during the Special Commission reviews*

23. The Sub-committee acknowledges the importance of retaining flexibility throughout the life of the Convention. Thus, the Sub-committee recognises that further chapters of the Guide will be needed, as determined by the Special Commission established under Article 38. For example, chapters on enforcement techniques or transfer of payments may be useful. It will also be important to consider efficient and timely means of updating the Guide.

### **PART III – Generating and Collecting Statistical Data**

24. Determining the obligations of Contracting States concerning provision of statistics will be an important consultative process. Collecting data as part of monitoring implementation of the Convention is extremely important because statistical reporting measures compliance and performance, helps to identify trends over time and allows for an analysis of progress made.

*Consider and build upon Permanent Bureau's experience and ongoing post-Convention work and use of technology*

25. The Permanent Bureau shared lessons learned from previous Conventions in regard to statistical data collection. First, statistics have proved very useful in measuring compliance, performance, and trends over time. Second, it is important to recognise the work involved in data collection. Third, it is important to determine what statistics are useful and critical based on consultation with international, national and local agencies with experience. The Sub-committee identified a fourth lesson learned: the importance of accommodating Contracting States of differing size and experience is an important consideration.

26. For prior Conventions, the Permanent Bureau has conducted annual and longer-term studies on data collected. The current manual process of data collection is to request annual statistics on forms developed by consensus with Central Authorities of Contracting States. The Permanent Bureau plans to convert to an electronic process where States input their statistics onto the Permanent Bureau website. The use of technology will make statistical data collection much easier. For example, in order to facilitate implementation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*, the Permanent Bureau has co-ordinated the development of three databases - INCASTAT (statistics), INCADAT (case law), and iChild (case management), the latter being developed with WorldReach Software Corporation in Canada.

*Minimise the burden on Central Authorities of data collection*

27. This committee is conscious of the work that statistical data collection will impose on Central Authorities. Requesting reasonable amounts and types of data, based on consensus from all involved Central Authorities, is critical. The goal is to minimise the burden of data collection on Central Authorities and to ensure that only the most necessary data elements are required of Contracting States.

*Consider and build upon existing implementation experiences on the international, national and local levels in child support / maintenance cases in the field of child support / maintenance, co-operation and operations*

28. In considering the need to minimise the burden put on Central Authorities, it will be important to look to experiences at the international, national and local levels to determine the most relevant data.

*Focus on data relevant to assist monitoring and review and measuring results of the application of the Convention*

29. The Sub-committee discussed which data is most relevant to assisting the monitoring and review process and measuring the results of the application of the Convention. The Sub-committee mostly focused on the experiences of the Permanent Bureau and some states. The Sub-committee has concluded that both process (for example, the time to achieve results) and performance data are needed for statistical analysis. The Sub-committee recommends that the Special Commission provide guidance as to the next steps. The matters to be considered for inclusion, in particular, include:

- a. Number / volume of cases
- b. Types of applications, such as establishment and recognition and enforcement
- c. Percentage amount recovered
- d. Time taken to process cases.

### **Conclusion**

30. Making progress in exploring beneficial activities to assist the Permanent Bureau, the Special Commission and Contracting States in the important function of their post-Convention work is the priority of this Sub-committee.

31. The Sub-committee has postponed discussion on whether any further language should be incorporated in the Convention, on the funding of post-Convention activities and on determining the statistical data that Central Authorities might be asked to produce. The Sub-committee thinks that it would be premature to discuss these issues at this time. This Sub-committee report is a "work in progress" and contains many detailed suggestions, not all of which are necessarily supported by every member of the Sub-committee. However, Sub-committee members have reviewed this document and endorse its general direction.