Quick Facts:
The Hague Convention on International Recovery of Child Support

Introduction:
As more parents cross international borders leaving children behind, international child support enforcement is more important than ever. The leadership and initiative of the US Departments of State and Health and Human Services (HHS) were critical in the successful negotiation of The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, adopted by The Hague Conference on Private International Law on November 23, 2007. Next are the important steps of ratifying and implementing the Convention by the United States.

The National Child Support Enforcement Association supports the Convention and requests that the Senate give its advice and consent so that the President of the United States can ratify the Convention. Subsequently, NCSEA will actively support implementation of the Convention through the enactment by states of the necessary conforming amendments to the Uniform Interstate Family Support Act.

Background:
On November 23, 2007, after four years of deliberation, The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance was adopted at the conclusion of the Twenty-First Diplomatic Session of The Hague Conference on Private International Law at The Hague, The Netherlands. The United States delegation demonstrated its leadership and commitment by becoming the first country to sign the Convention, indicating its support for bringing the Convention forward for ratification by the Senate.

This Convention contains procedures for processing international child support cases that are uniform, simple, efficient, accessible, and cost-free to US citizens seeking support in other countries. It is founded on the agreement of countries that ratify the Convention to recognize and enforce each other’s support orders. Similar procedures are already in place in the United States for processing interstate child support cases.
Indeed, many provisions of the Convention were drawn from the US experience with the Uniform Interstate Family Support Act, adopted by all states as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).

**Benefits:**

**Reciprocal Access between National Tribunals**

The major benefit of ratification to the United States will be obtaining reciprocity from other countries that also ratify the Convention. For many international cases, US courts and state Title IV-D child support enforcement agencies already recognize and enforce child support obligations, whether or not the United States has a reciprocal agreement with the other country. However, many foreign countries will not enforce US support orders in the absence of a treaty obligation. Ratification of the Convention by the United States will mean that more children residing in the United States will receive financial support from their parents residing in countries that are also signatories to the Convention.

**No Cost or Low Cost Access to Services Abroad**

Significantly, the Convention provides for access to cost-free services for US citizens needing assistance with child support enforcement in a contracting country, an important element of reciprocity for US citizens. The small number of countries that may be required by their own internal procedures to assess fees must use a means test based on the income of the child, not the parents, with the result that any fees will be minimal as compared to current practice where custodial parents must often retain local private counsel in order to establish or enforce a support order.

**Coordinated Expedited Enforcement**

Another benefit of ratifying the Convention will be the ability to effectively coordinate the enforcement of international child support cases with contracting countries through central authorities. Central authorities will be required to receive and transmit applications for services. Through administrative cooperation, the authorities will facilitate the transfer of documents and case information – using electronic technology where feasible – so that the necessary information is available for expeditious resolution of international child support matters.

**Jurisdiction Over Support Debtors Abroad**

The Convention effectively addresses jurisdictional barriers that have prohibited the United States from joining other child support conventions. Existing maintenance conventions base jurisdiction to order support on the habitual residence of the creditor (custodial parent or child) rather than on minimum contacts with the debtor (non-custodial parent), as required by US constitutional standards of due process. The Convention provides flexibility for a court of the United States having jurisdiction over
the non-custodial parent to establish a new order in circumstances where US jurisdictional requirements were not met in the country issuing the initial order that is sought to be enforced.

**No Change to States’ Authority Over Support Law Issues**

The Convention and the conforming amendments to the Uniform Interstate Family Support Act will not affect intrastate or interstate cases in the United States. It will apply only to cases where the custodial parent and child live in one contracting country and the non-custodial parent lives in another contracting country. Similarly, the Convention will not affect substantive child support law, which is generally left to the individual states. Its primary focus is on uniform procedures for enforcement of decisions and for cooperation among countries. While HHS will be the central authority for the United States under the Convention, it is expected that HHS will designate state Title IV-D child support enforcement agencies as the public bodies responsible for carrying out, under its supervision, many of its central authority functions, such as transmitting and receiving applications for services, and initiating and facilitating proceedings.

**Maximum Benefits and Minimal Burdens for States**

Ratification and implementation of the Convention will impose a minimal fiscal burden on state and federal governments because the US federal law already requires states to process international cases. Indeed, ratification and implementation may reduce the time and effort agencies have to spend trying to enforce orders abroad as other ratifying countries will be required to provide certain services to US creditors and debtors initiating support cases abroad.

**Uniform Interstate Family Support Act:**

The Uniform Law Commission has worked closely with the State Department and HHS as well as with a wide variety of organizations with expertise in child support enforcement – including NCSEA – to ensure that state law will conform to the requirements of the Convention. The implementing state law will be the Uniform Interstate Family Support Act (UIFSA), as amended in 2008. Because it is critical that all states have the same procedures for handling interstate and international cases, NCSEA supports legislation requiring all states to adopt the 2008 version of UIFSA. It is important to note, however, that the 2008 version of UIFSA includes the amendments adopted by the Uniform Law Commission in 2001. Under a waiver permitted by HHS, about half the states have adopted UIFSA 2001 without a federal mandate. As a result, not all states have the same version of UIFSA. It is therefore important for Congress to extend the mandate contained in PRWORA to require all states to adopt the 2008 version of UIFSA, to restore the necessary uniformity in interstate and international procedures.

For more information on this and other child support topics, contact the National Child Support Enforcement Association at (703) 506-2880 or visit our website: http://www.ncsea.org