

Statement of Keith Loken

Assistant Legal Adviser for Private International Law

Office of the Legal Adviser

U.S. Department of State

on

The Hague Convention on the International Recovery of Child Support

and Other Forms of Family Maintenance

Before the Committee on Foreign Relations

United States Senate

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Senator Cardin and Members of the Committee: I am honored to testify today in support of the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (“Child Support Convention”). The Convention was negotiated over a period of several years in the Hague Conference on Private International Law, the source also of the Hague Child Abduction and Child Adoption Conventions to which the United States is a party. The views of concerned domestic stakeholders were taken into account. The U.S. delegation to the negotiations included, in addition to representatives of the State Department and the Department of Health and Human Services (HHS), several experts in the field. Representatives of the National Child Support Enforcement Association, the International Bar Association, and other groups participated in the negotiations as observers. In addition, throughout the negotiations, a number of public meetings were held to obtain views from the private sector and state level officials. As a result, there is broad support for the Convention among public officials and private parties who are involved in the enforcement of child support orders in the United States.

Why is this Convention needed? In an era of globalization and increased international movement of individuals, it is increasingly common to find the custodial parent and child in one country and the non-custodial parent in another. There are currently an estimated 150,000 international child support cases in the United States. We have learned that it is difficult, if not impossible, to enforce legal obligations abroad relating to child support without a treaty basis. There are existing multilateral child support conventions that date back a number of years (the most recent is more than 35 years old), but the United States is not a party to them for various reasons, for example, because the jurisdictional provisions were not consistent with U.S. law, or

because we considered them ineffective in that they did not require parties to establish new child support orders or to provide cost-free services. The new Convention remedies these deficiencies.

Why is this Convention good for the United States? A major benefit is reciprocity. Although U.S. courts routinely, on the basis of comity or otherwise, recognize and enforce foreign child support orders, the same is typically not true of foreign courts. Many foreign countries will not process foreign child support requests in the absence of a treaty obligation. The United States has entered into bilateral agreements and arrangements with several countries. These instruments will remain in effect. This Convention expands upon the provisions of such instruments and includes several procedural improvements that should simplify the process of implementing child support decisions across borders. Under this Convention, more U.S. children would be able to obtain the financial support they need from a non-custodial parent located overseas. The United States obtained its key objectives in the negotiation of the Convention:

- **Scope of the Convention:** The Convention addresses maintenance obligations arising from a parent-child relationship and spousal support in a manner that is consistent with existing mechanisms under federal and state law in the United States.
- **Jurisdiction:** Jurisdictional rules in the United States differ from those in most other countries. The Convention sets forth various mandatory bases for assertion of jurisdiction over the debtor parent, but permits parties to take a reservation with respect to creditor-based jurisdiction, jurisdiction based on a written agreement, or jurisdiction based on a matter of personal status or parental responsibility. The Executive Branch

recommends that, should the United States ratify the Convention, it take such a reservation, as this would be consistent with applicable U.S. jurisprudence.

- Establishment: The Convention not only addresses the recognition and enforcement of foreign child support orders, but also the establishment of a new child support decision in the requested State where that is necessary, for example, where the requested State does not recognize the jurisdictional basis of a child support order issued in the requesting State. This obligation to establish a new decision includes an obligation to establish paternity, where necessary.

- Costs: While the Convention provides a mechanism available to foreign applicants who want to approach directly the relevant court or other authority, we anticipate that a majority of the requests will occur via the Central Authorities. Because applicants who rely on government child support enforcement mechanisms generally have limited financial resources, it was vital to U.S. negotiators that the Convention require that assistance in cases processed through Central Authorities generally be provided free of charge.

How will this Convention be implemented in the United States? The Convention would be implemented through a combination of amendments to part D of title IV of the Social Security Act and adoption by the states of amendments, already approved by the Uniform Law Commission, to the relevant uniform state law, the Uniform Interstate Family Support Act (UIFSA). It is proposed that HHS would be the Central Authority under the Convention. Since

1975, HHS has operated a Federal Parent Locator Service that will facilitate locating non-custodial parents and referring foreign cases to the appropriate state agency to provide services. Also, since 1996, HHS has acted as the Central Authority under bilateral agreements and arrangements with other countries on child support enforcement. It has the expertise, established administrative processes, and close relations with child support enforcement officials in all of the states. The State Department and HHS have cooperated effectively for many years on international child support matters.

Will other countries join the Convention? We expect so. The member states of the European Community (EC) strongly support the Convention. The European Commission has tabled with the European Council a draft proposal to ratify the Convention. We understand that the substance of the Convention presents a situation of mixed competency for the EC, in that the Commission has exclusive competency over some matters covered by the Convention, and the member states have competency over others. Thus, it is anticipated that all the member states and the EC would join together, perhaps in 2011. Canada also is a strong supporter of the Convention and we understand that the federal government there is working with the provinces and territories on implementation under Canada's federal system. We understand that other countries such as Norway and Australia are actively considering joining. The international community is waiting to see what the United States does; U.S. ratification would send a strong signal to others. The first post-adoption conference of the potential parties, known as a Special Commission of the Hague Conference, will be held in November to discuss ways to make implementation of the Convention more efficient. We will use that opportunity to urge other countries to sign and ratify the Convention.

Thank you, Senator Cardin and Members of the Committee, for the opportunity to present our views on this important treaty. We urge that the Committee give the Convention prompt and favorable consideration. I would be pleased to answer any questions that you may have.