

promptly transmit by diplomatic pouch, to the Director of Special Consular Services, a certified copy of the diplomatic note of transmittal. If the documents are delivered under paragraph (c) (2) or (3) of this section, the Director of Special Consular Services shall prepare a certified copy of the diplomatic note of transmittal. In each case, the certification shall state the date and place the documents were delivered. The Director of Special Consular Services shall then promptly send the certified copy to the clerk of the court concerned.

(Sec. 1608(a), Foreign Sovereign Immunities Act of 1976, Pub. L. 94-583 (28 U.S.C. 1608(a)); sec. 4, 63 Stat. 111, as amended (22 U.S.C. 2658))

[42 FR 6367, Feb. 2, 1977]

### §93.2 Notice of suit (or of default judgment).

(a) A Notice of Suit prescribed in section 1608(a) of title 28, United States Code, shall be prepared in the form that appears in the Annex to this section.

(b) In preparing a Notice of Suit, a party shall in every instance supply the information specified in items 1 through 5 of the form appearing in the Annex to this section. A party shall also supply information specified in item 6, if notice of a default judgment is being served.

(c) In supplying the information specified in item 5, a party shall in simplified language summarize the nature and purpose of the proceeding (including principal allegations and claimed bases of liability), the reasons why the foreign state or political subdivision has been named as a party in the proceeding, and the nature and amount of relief sought. The purpose of item 5 is to enable foreign officials unfamiliar with American legal documents to ascertain the above information.

(d) A party may attach additional pages to the Notice of Suit to complete information under any item.

(e) A party shall attach, as part of the Notice of Suit, a copy of the Foreign State Immunities Act of 1976 (Pub. L. 94-583; 90 Stat. 2891).

#### ANNEX

#### NOTICE OF SUIT (OR OF DEFAULT JUDGMENT)<sup>1</sup>

1. Title of legal proceeding; full name of court; case or docket number.
2. Name of foreign state (or political subdivision) concerned:
3. Identity of the other Parties:

#### JUDICIAL DOCUMENTS

4. Nature of documents served (e.g., Summons and Complaint; Default Judgment):
5. Nature and purpose of the proceedings; why the foreign state (or political subdivision) has been named; relief requested:
6. Date of default judgment (if any):
7. A response to a "Summons" and "Complaint" is required to be submitted to the court, not later than 60 days after these documents are received. The response may present jurisdictional defenses (including defenses relating to state immunity).
8. The failure to submit a timely response with the court can result in a Default Judgment and a request for execution to satisfy the judgment. If a default judgment has been entered, a procedure may be available to vacate or open that judgment.
9. Questions relating to state immunities and to the jurisdiction of United States courts over foreign states are governed by the Foreign Sovereign Immunities Act of 1976, which appears in sections 1330, 1391(f), 1441(d), and 1602 through 1611, of Title 28, United States Code (Pub. L. 94-583; 90 Stat. 2891).

(Sec. 1608(a), Foreign Sovereign Immunities Act of 1976, Pub. L. 94-583 (28 U.S.C. 1608(a)); sec. 4, 63 Stat. 111, as amended (22 U.S.C. 2658))

[42 FR 6367, Feb. 2, 1977]

### PART 94—INTERNATIONAL CHILD ABDUCTION

Sec.

- 94.1 Definitions.
- 94.2 Designation of Central Authority.
- 94.3 Functions of the Central Authority.
- 94.4 Prohibitions.
- 94.5 Application.
- 94.6 Procedures for children abducted to the United States.
- 94.7 Procedures for children abducted from the United States.
- 94.8 Interagency coordinating group.

AUTHORITY: Hague Convention on the Civil Aspects of International Child Abduction; the federal "International Child Abduction Remedies Act," Pub. L. 100-300.

<sup>1</sup>Relevant only if items 4 and 6 indicate that a default judgment has occurred.

## § 94.1

SOURCE: 53 FR 23608, June 23, 1988, unless otherwise noted.

### § 94.1 Definitions.

For purposes of this part—

(a) *Convention* means the Hague Convention on the Civil Aspects of International Child Abduction, Appendix B to Department of State notice, 51 FR 10498, March 26, 1986.

(b) *Contracting State* means any country which is a party to the Convention.

(c) *Child* and *children* mean persons under the age of sixteen.

### § 94.2 Designation of Central Authority.

The Office of Children's Issues in the Bureau of Consular Affairs is designated as the U.S. Central Authority to discharge the duties which are imposed by the Convention and the International Child Abduction Remedies Act upon such authorities.

[60 FR 25843, May 15, 1995]

### § 94.3 Functions of the Central Authority.

The U.S. Central Authority shall cooperate with the Central Authorities of other countries party to the Convention and promote cooperation by appropriate U.S. state authorities to secure the prompt location and return of children wrongfully removed to or retained in any Contracting State, to ensure that rights of custody and access under the laws of one Contracting State are effectively respected in the other Contracting States, and to achieve the other objects of the Convention. In performing its functions, the U.S. Central Authority may receive from, or transmit to, any department, agency, or instrumentality of the federal government, or of any state or foreign government, information necessary to locate a child or for the purpose of otherwise implementing the Convention with respect to a child.

### § 94.4 Prohibitions.

(a) The U.S. Central Authority is prohibited from acting as an agent or attorney or in any fiduciary capacity in legal proceedings arising under the Convention. The U.S. Central Authority is not responsible for the costs of any legal representation or legal pro-

## 22 CFR Ch. I (4–1–98 Edition)

ceedings nor for any transportation expenses of the child or applicant. However, the U.S. Central Authority may not impose any fee in relation to the administrative processing of applications submitted under the Convention.

(b) The U.S. Central Authority shall not be a repository of foreign or U.S. laws.

### § 94.5 Application.

Any person, institution, or other body may apply to the U.S. Central Authority for assistance in locating a child, securing access to a child, or obtaining the return of a child that has been removed or retained in breach of custody rights. The application shall be made in the form prescribed by the U.S. Central Authority and shall contain such information as the U.S. Central Authority deems necessary for the purposes of locating the child and otherwise implementing the Convention. The application and any accompanying documents should be submitted in duplicate in English or with English translations. If intended for use in a foreign country, two additional copies should be provided in the language of the foreign country.

### § 94.6 Procedures for children abducted to the United States.

The National Center for Missing and Exploited Children shall act under the direction of the U.S. Central Authority and shall perform the following operational functions with respect to all Hague Convention applications seeking the return of children wrongfully removed to or retained in the United States or seeking access to children in the United States:

(a) Receive all applications on behalf of the U.S. Central Authority;

(b) Confirm the child's location or, where necessary, seek to ascertain its location;

(c) Seek to ascertain the child's welfare through inquiry to the appropriate state social service agencies and, when necessary, consult with those agencies about the possible need for provisional arrangements to protect the child or to prevent the child's removal from the jurisdiction of the state;

(d) Seek through appropriate authorities (such as state social service

agencies or state attorneys general or prosecuting attorneys), where appropriate, to achieve a voluntary agreement for suitable visitation rights by the applicant or for return of the child;

(e) Assist applicants in securing information useful for choosing or obtaining legal representation, for example, by providing a directory of lawyer referral services, or pro bono listing published by legal professional organizations, or the name and address of the state attorney general or prosecuting attorney who has expressed a willingness to represent parents in this type of case and who is employed under state law to intervene on the applicant's behalf;

(f) Upon request, seek from foreign Central Authorities information relating to the social background of the child;

(g) Upon request, seek from foreign Central Authorities information regarding the laws of the country of the child's habitual residence;

(h) Upon request, seek from foreign Central Authorities a statement as to the wrongfulness of the taking of the child under the laws of the country of the child's habitual residence;

(i) Upon request, seek a report on the status of court action when no decision has been reached by the end of six weeks;

(j) Consult with appropriate agencies (such as state social service departments, the U.S. Department of Health and Human Services, state attorneys general) about possible arrangements for temporary foster care and/or return travel for the child from the United States;

(k) Monitor all cases in which assistance has been sought and maintain records on the procedures followed in each case and its disposition;

(l) Perform such additional functions as set out in the "Cooperative Agreement Adjustment Notice" between the Department of State, Department of Justice, and National Center for Missing and Exploited Children.

[53 FR 23608, June 23, 1988, as amended at 60 FR 66074, Dec. 21, 1995]

#### **§ 94.7 Procedures for children abducted from the United States.**

Upon receipt of an application requesting access to a child or return of a child abducted from the United States and taken to another country party to the Convention, the U.S. Central Authority shall—

(a) Review and forward the application to the Central Authority of the country where the child is believed located or provide the applicant with the necessary form, instructions, and the name and address of the appropriate Central Authority for transmittal of the application directly by the applicant;

(b) Upon request, transmit to the foreign Central Authority requests for a report on the status of any court action when no decision has been reached by the end of six weeks;

(c) Upon request, facilitate efforts to obtain from appropriate U.S. state authorities and transmit to the foreign Central Authority information regarding the laws of the child's state of habitual residence;

(d) Upon request, facilitate efforts to obtain from appropriate U.S. state authorities and transmit to the foreign Central Authority a statement as to the wrongfulness of the taking of the child under the laws of the child's state of habitual residence;

(e) Upon request, facilitate efforts to obtain from appropriate U.S. state authorities and transmit to the foreign Central Authority information relating to the social background of the child;

(f) Upon request, be available to facilitate possible arrangements for temporary foster care and/or travel for the child from the foreign country to the United States;

(g) Monitor all cases in which assistance has been sought; and

(h) Perform such additional functions as the Assistant Secretary of State for Consular Affairs may from time to time direct.

#### **§ 94.8 Interagency coordinating group.**

The U.S. Central Authority shall nominate federal employees and may, from time to time, nominate private citizens to serve on an interagency coordinating group to monitor the operation of the Convention and to provide

**§ 94.8**

**22 CFR Ch. I (4-1-98 Edition)**

advice on its implementation. This group shall meet from time to time at the request of the U.S. Central Authority.