

CONVENTION ON PROTECTION OF CHILDREN AND CO-  
OPERATION IN RESPECT OF INTERCOUNTRY ADOPTION

APRIL 27, 2000.—Ordered to be printed

Mr. HELMS, from the Committee on Foreign Relations,  
submitted the following

REPORT

[To accompany Treaty Doc. 105-51]

The Committee on Foreign Relations, to which was referred the Convention on Protection of Children And Co-operation in Respect of Intercountry Adoption, adopted and opened for signature at the conclusion of the Seventeenth Session of The Hague Conference on Private International Law on May 29, 1993 (Treaty Doc. 105-51), having considered the same, reports favorably thereon, with six declarations, and recommends that the Senate give its advice and consent to the ratification thereof as set forth in this report and the accompanying resolution of ratification.

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I. PURPOSE

The Convention on Protection of Children And Co-operation in Respect of Intercountry Adoption (hereinafter, the “Hague Convention” or “Hague Convention on Intercountry Adoption”) is intended to protect the rights of, and prevent abuses against, children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention, and to ensure that such adoptions are in the children’s best interests. It is also intended to im-

prove the ability of the governments of parties to the Convention to assist their citizens seeking to adopt children from abroad.

## II. BACKGROUND

The United States signed the Hague Convention on Intercountry Adoption on March 31, 1994. The Convention was transmitted to the Senate for its advice and consent on June 11, 1998. The Convention entered into force on May 1, 1995, after the deposit of the third instrument of ratification.

The Convention mandates that each signatory country establish a national central authority. The central authority is to oversee the Convention's implementation in the signatory country. The Convention has two primary features. First, it establishes a mechanism for the cooperation of signatory countries in the areas of international adoption. Second, it ensures the recognition of adoptions undertaken and certified through the Convention provisions.

As of April 1, 2000, twenty-nine countries had ratified the Convention and ten had acceded to it.<sup>1</sup> Of the top twenty countries sending orphans to be adopted in the United States in 1998, Romania, Colombia, the Philippines, Mexico, Brazil, and Poland are parties to the Convention.<sup>2</sup>

The United States has a considerable interest in international adoptions. In Fiscal Year 1998, nearly 16,000 orphans from foreign countries were adopted by U.S. citizens—as many international adoptions as all other countries combined.

The United States was an active and important participant in the negotiation of the Convention. The U.S. delegation to the negotiations, which included adoptive parents, law professors, adoption service providers, public welfare representatives and government officials, sought to ensure that, in addition to setting meaningful norms and procedures, the Convention would remain sufficiently flexible so that only minimal changes to current practice would be necessary for U.S. implementation.

## III. SUMMARY

### A. GENERAL

The Convention (and its implementation legislation) does the following:

- Provides, for the first time, formal international and intergovernmental approval of the process of intercountry adoption.
- Encourages intercountry adoption, as regulated by the Convention, as a means of offering the advantage of a permanent family to a child for whom a suitable family cannot be found in the child's country of origin.

<sup>1</sup> See the concise Status Sheet for the Convention found on the website for the Hague Conference on Private International Law at <http://www.hcch.net/e/status/adoshte.html>. The ratifying States are Australia, Austria, Brazil, Burkina Faso, Canada, Chile, Colombia, Costa Rica, Cyprus, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Israel, Italy, Mexico, Netherlands, Norway, Panama, Peru, Philippines, Poland, Romania, Spain, Sri Lanka, Sweden, Venezuela. The acceding States are Andorra, Burundi, Georgia, Iceland, Lithuania, Mauritius, Moldova, Monaco, New Zealand, Paraguay.

<sup>2</sup> See <http://travel.state.gov/orphan—numbers.html>. The top twenty in 1998 were Russia, China, South Korea, Guatemala, Vietnam, India, Romania, Colombia, Cambodia, Philippines, Ukraine, Mexico, Bulgaria, Dominican Republic, Haiti, Brazil, Thailand, Poland, Latvia.

- Establishes a minimum set of uniform standards governing international adoptions. Each party, however, may promulgate or maintain further conditions and restrictions beyond those specified in the Convention.
- Establishes a central authority in each country to ensure that one authoritative source of information and point of contact exists in that country.
- Establishes reasonable certainty that adoptions decreed pursuant to the Convention will be recognized and given effect in all other party countries.

The Convention establishes a system whereby private non-profit entities are “accredited” by governments as approved to perform adoption services under the Convention. In addition, governments may choose to have public agencies, as well as “approved persons” (individuals such as attorneys) perform such adoption services.

Implementing legislation is required before the Convention can take effect. The Executive Branch, in submitting the Convention to the Senate, stated that the U.S. instrument of ratification will not be deposited until enactment of the implementing legislation and until appropriate steps have been taken “pursuant to that legislation to enable the United States fully to implement the Convention.” The recommended resolution of ratification approved by the Committee makes this requirement explicit.

#### B. KEY PROVISIONS

*Chapter I, Articles 1 to 3, establishes the scope of the Convention*

*Article 1.* The objects of the Convention are: (a) to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights; (b) to establish a system of cooperation among the Contracting States to ensure the safeguards and thus prevent the abduction and traffic in children; (c) and to secure the recognition in Contracting States of adoptions made under the Convention.

*Article 2.* This Article establishes the applicability of the Convention. It covers cases in which (1) a child habitually resident in one Contracting State (“the State of origin”) goes to another Contracting State (“the receiving State”) either after adoption in the State of origin by a habitual resident of the receiving State or before adoption in the receiving State, and (2) a permanent parent-child relationship is created.

*Article 3.* The Convention only covers cases, in which the consents and approvals required by Article 17 have been given, involving children under eighteen years of age.

*Chapter II, Articles 4 and 5, establishes the fundamental adoption prerequisites for the State of origin and the receiving State*

*Article 4.* This Article sets out the requirements for the State of origin for establishment of eligibility for intercountry adoption under the Convention. The competent authorities of the State of origin must determine the following: (1) the child is adoptable; (2) due consideration was given to placing the child in the State of origin; (3) intercountry adoption is in the best interests of the child; (4) the requisite consents of parents, institutions and authorities

have been freely given, in the appropriate legal form, without any inducement; (5) the child, having regard to his or her age and maturity, has been advised and informed about the effects of consent and adoption, his wishes and opinions have been given due consideration, and his consent, if required, has been given in the appropriate legal form and without inducement. The Article also requires that the consent of the mother be given after the birth of the child.

*Article 5.* Article 5 sets out the requirements of the receiving State. Paragraphs (a) and (b) provide that an adoption under the Convention can only occur if authorities in the receiving State have determined that the prospective parents are suitable and eligible to adopt and have ensured that they have been counseled as may be necessary. Under paragraph (c), an adoption under the Convention may occur only if the competent authorities of the receiving State have determined that the child is or will be authorized to enter and reside permanently in that State.

*Chapter III, Articles 6 to 13, provides for the designation of central authorities and other accredited bodies within each Contracting State which shall administer intercountry adoption procedures*

*Article 6.* Article 6(1) requires each Contracting State to designate a central authority to discharge the duties imposed by the Convention on such authorities. (In the United States, this authority will be the State Department.) Article 6(2) further permits States with federal systems to appoint more than one central authority and to specify the territorial or personal extent of their functions, but such States must designate one central authority which can receive and transmit any communications intended for the other appropriate central authorities in the same Contracting State.

*Article 7.* Article 7 calls for central authorities to cooperate and to promote cooperation among their States to attain the goals of the Convention. The Article requires central authorities to: (1) provide information about its State's adoption laws and other general information, and (2) to keep each other informed about the operation of the Convention and to eliminate obstacles to its application.

*Article 8.* Central authorities are obliged to take, directly or through public authorities, measures to prevent improper financial or other gain in connection with an adoption and to deter practices that are contrary to the objects of the Convention.

*Article 9.* Article 9 sets out various requirements for central authorities, or their duly accredited designees. The central authorities are required to: (1) collect, preserve and exchange information about the child and the adoptive parents; (2) facilitate and expedite adoption-related proceedings; (3) promote the development of adoption counseling and post-adoption services; (4) provide each other with general evaluation reports about intercountry adoption experiences; and (5) reply to justified requests from other central authorities or public authorities for information about a particular case, to the extent permitted by the law of their State.

*Article 10.* This Article defines the minimum requirement for accreditation of bodies that are performing central authority functions. Accreditation shall only be granted to and maintained by

bodies demonstrating competence to perform properly the tasks to be entrusted to them.

*Article 11.* This Article defines the basic duties and requirements of an accredited body. Such a body must: (a) pursue non-profit objectives according to conditions set by the State of accreditation; (b) be directed and staffed by persons qualified by their ethical standards and by training or experience to work in the field of intercountry adoption; and (c) be supervised by the competent authorities of the State of accreditation.

*Article 12.* A body accredited in one Contracting State may only act in another Contracting State if both States have authorized it to do so.

*Article 13.* Each Contracting State must transmit the designation of central authorities and lists of accredited bodies to the Permanent Bureau of the Hague Conference on Private International Law.

*Chapter IV, Articles 14 to 22, sets out the procedural requirements for intercountry adoption, including home-study reports on the prospective adoptive parents and reports on the child*

*Article 14.* Persons residing in a Contracting State who wish to adopt a child residing in another Contracting State are required to apply to the central authority in the State where they reside.

*Article 15.* This Article requires the central authority, if it finds that the prospective parent(s) are eligible and suitable to adopt, to prepare a report about their identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adopting, ability to undertake an intercountry adoption, and the type of children whom they would be qualified to raise. The report is to be transmitted to the State of origin.

*Article 16.* Article 16 sets out the requirements for a central authority once it determines that a child is adoptable under the Convention. The central authority of the State of origin must: (1) prepare a report, including the child's background and special needs; (2) give due consideration to the child's upbringing, and ethnic, religious and cultural background; (3) ensure the appropriate consents have been given; and (4) determine that the envisaged placement is in the best interests of the child. The report on the child must be transmitted to the central authority of the receiving State, along with proof of the necessary consents and the reasons for the determination regarding placement. The report must take care not to reveal the identity of the biological parents if their identities may not be disclosed under the laws of the State of origin.

*Article 17.* Article 17 sets out the requirements for the State of origin in deciding whether parents are eligible for adoption. The central authority of the receiving State must: (1) ensure that the prospective adoptive parents agree; (2) approve such decision, where such approval is required by the law of the receiving State or the central authority of the State of origin; (3) ensure that the central authorities of both States have agreed that the adoption may proceed; and (4) determine that the prospective parents are eligible and suitable to adopt and that the child is or will be authorized to enter and reside permanently in the receiving State.

*Article 18.* The central authorities of both States shall take the necessary steps to obtain permission for the child to leave the State of origin and enter and reside permanently in the receiving State.

*Article 19.* Article 19 deals with the transfer of the child to the receiving State, requiring: (1) that the transfer not occur until the requirements of Article 17 have been satisfied; (2) that the central authorities of both States ensure that the transfer occurs in secure and appropriate circumstances and, when possible, accompanied by the adoptive or prospective adoptive parents; and (3) if the transfer does not occur, the reports on the prospective parents and the child referred to in Articles 15 and 16 are returned to the transmitting authorities.

*Article 20.* Central authorities are obligated to keep each other informed about the adoption process and about a placement's progress if a probationary period is required.

*Article 21.* Article 21 sets out procedures in cases where adoption is to take place after transfer to the receiving State and it becomes apparent to the central authority that the prospective placement is not in the best interests of the child. Requirements for assisting the child include: (1) arrangement for temporary care; (2) arrangement for a new placement with a view to adoption or alternative long-term care; and (3) as a last resort, arrangement for the return of the child. The child must be consulted regarding these steps if the age and maturity of the child so warrant.

*Article 22.* Article 22 permits central authority functions to be performed by public authorities, accredited bodies, or approved persons to the extent permitted by the law of a Contracting State. (The implementing legislation reported by the Committee provides for this authority.)

*Chapter V, Articles 23 to 27, provides for the recognition of Convention adoptions among the Contracting States and delineates the effects of adoption*

*Article 23.* Adoptions certified by competent authorities in the State of adoption must be recognized by the other States that are Party to the Convention. Each Party must identify to the depositary for the Convention the competent authority that will issue such certification on behalf of the Party.

*Article 24.* Parties may refuse to recognize an adoption, as required by Article 23, only when the adoption is manifestly contrary to public policy. Such a decision must take into account the best interests of the child.

*Article 25.* Parties may refuse to recognize adoptions that are completed pursuant to agreements with other Parties as permitted by Article 39(2). (Under Article 39(2) Parties may enter into agreements to derogate from Articles 14–16 and 18–21 in the application of the Convention.)

*Article 26.* When an adoption is recognized, at a minimum Parties must give recognition to: (1) the legal parent-child relationship between the child and the adoptive parents; (2) the parental responsibility of the adoptive parents for the child; and (3) the termination of pre-existing legal relationship between the child and his or her mother and father, if the adoption had this effect in the State where the adoption was made. Parties must provide the child

of an adoption in which a pre-existing parent-child relationship has been terminated with the same rights as would be provided for such an adoption if it had occurred within their own State.

*Article 27.* In the case of an adoption that does not terminate a pre-existing relationship, the receiving State may convert the adoption to have such an effect if the law of the receiving State so permits and the appropriate consents referred to in Article 4 have been given.

*Chapter VI, Articles 28 to 42, contains general provisions concerning various matters*

*Article 28.* The Convention does not affect any law in the State of origin which requires that an adoption be completed in that State or which prohibits the transfer of the child to the receiving State prior to completion of the adoption.

*Article 29.* The prospective parents and the child's parents or any other person who has care of the child shall not be in contact until the consent and other requirements of Articles 4(a)–(c) and 5(a) have been met. This restriction does not apply to adoptions within a family or contacts pursuant to conditions established by the competent authority of the State.

*Article 30.* Competent authorities must ensure that information in their custody regarding the child's origin, identity of parents, and medical history is preserved. Access shall be permitted to the child or his representative as provided by the law of the State.

*Article 31.* Personal data gathered under the Convention—particularly reports prepared pursuant to Articles 15 and 16—shall be used only for the purposes for which the information was gathered and transmitted. (This Article shall not prejudice the requirements of Article 30.)

*Article 32.* Article 32 pertains to the fees charged in adoption services. It sets out three basic requirements: (1) no one is permitted to derive improper financial or other gain from an activity related to an intercountry adoption; (2) only costs and expenses, including reasonable professional fees of person involved in the adoption, may be charged; and (3) directors, administrators and employees of bodies involved in an adoption may not receive remuneration which is unreasonably high in relation to services rendered.

*Article 33.* Competent authorities are required to notify the central authority of their State if any provision of the Convention has not been respected or there is serious risk it will not be respected. The central authority is charged with ensuring the appropriate measures are taken.

*Article 34.* This Article deals with translation requirements. The State of origin is required to produce translated documents if the State of destination so requests, and adoptive parents must bear the costs of such translation.

*Article 35.* The competent authorities are charged with acting expeditiously in the process of adoption.

*Articles 36–38.* Articles 36–38 provide guidelines for the applicability of the Convention to Parties with different territorial units or two or more systems of law applicable to different categories of persons. However, in Article 38, the Convention makes clear that

these guidelines will not impose more severe obligations on Parties with a unified system of law.

*Article 39.* The Convention will not affect other international agreements binding on Parties to the Convention, unless such Parties make a contrary declaration to the other Parties to the Convention. Parties may also enter into agreements with other Convention Parties that derogate from Articles 14–16 and 8–21 with a view to improving application of the Convention.

*Article 40.* Reservations to the Convention are prohibited.

*Article 41.* The Convention will apply to all adoption applications made to the central authority of a Party to the Convention, provided they are received after the Convention has entered into force for both the receiving and the sending State.

*Article 42.* Article 42 calls for review at regular intervals of the practical operation of the Convention by the Hague Conference on Private International Law.

*Chapter VII, Articles 43 to 48, contains the typical final clauses providing for the signature, ratification, acceptance, approval, or accession to the Convention; its entry into force; and denunciation of the Convention*

#### IV. ENTRY INTO FORCE AND TERMINATION

##### A. ENTRY INTO FORCE

The Convention, pursuant to Article 46, entered into force in May 1995. For the United States and all other ratifying Parties, it will enter into force on the first day of the month following the expiration of three months after the deposit of the instrument of ratification.

##### B. TERMINATION

Parties may denounce the Convention, pursuant to Article 47, in writing, and it will take effect on the first day of the month following the expiration of twelve months after such denunciation is received by the depositary. Parties may specify a longer period for such denunciation to take effect.

#### V. COMMITTEE ACTION

The Committee on Foreign Relations held a public hearing on the proposed Convention on October 5, 1999 (and is reprinted in S. Hrg. 106–257). The Committee considered the proposed Convention on April 13, 2000, and ordered the proposed Convention favorably reported by voice vote (with Senator Brownback voting no), with the recommendation that the Senate give its advice and consent to the ratification of the Convention, subject to the declarations set out in the resolution of ratification.

#### VI. COMMITTEE COMMENTS

The Committee on Foreign Relations recommends favorably the proposed Convention. On balance, the Committee believes that the proposed Convention is in the interest of the United States and urges the Senate to act promptly to give its advice and consent to



ratification. Several issues did arise in the course of the Committee's consideration of the Convention, and the Committee believes that the following comments may be useful to Senate in its consideration of the proposed Convention and to the State Department.

#### A. THE IMPORTANCE OF THE CONVENTION

According to the most recent statistics, in 1998 almost 15,774 children were adopted by Americans from abroad. The majority of the children were brought to the United States from Russia, China, South Korea, and Central and South American countries. Since 1955, more than 98,000 children have been adopted by American parents from South Korea alone. These statistics reflect the importance of international adoption to many American families.

However, with the important benefits both to parents and the children, there have been abuses of the current international adoption system. Today, U.S. and international agencies providing adoption have few regulatory obligations. Little effort is given by many agencies to ensure that parents are adequately prepared for some of the issues unique to intercountry adoption. Many of the same requirements that apply to domestic adoption regarding full disclosure of health records that are accurate and complete, or to provide legal impediments to monetary inducements for adoption, are sporadically required or enforced in many countries.

The Convention mandates that Parties establish basic requirements for all intercountry adoptions, regardless of the nationality of the child or parent. These requirements include ascertaining: the adoptability of the child, the eligibility of the child to emigrate, parental suitability, and counseling for adoptive parents. Each country must establish a "central authority" within the government that provides uniform screening and authorization of adoption service providers and certification that the requirements of the Convention have been met in each adoption. The Convention also imposes requirements to protect the child's welfare throughout the adoption process.

Assistant Secretary of State for Consular Affairs Mary Ryan testified during the Committee's hearing regarding the Convention that sending countries have also expressed concern that their children will be properly protected by adoption service providers in receiving countries. She further told the Committee: "Several of the largest source countries have indicated to us that they are looking to us to ratify and to implement the Convention quickly, and that they plan to model their own programs after ours. This latter point is particularly important as it bears directly on the ability of American parents to adopt abroad." Already, several countries have indicated that in the future they will prohibit adoption to countries that are not Party to the Convention.

The Committee agrees with the Administration that it is crucial to provide the protections and requirements set out in the Convention and its implementing legislation. The Committee believes that by ensuring that adoption services are performed in a manner that permits all relevant parties to provide their consent with a full understanding of what is at stake will reduce the potential for abuses and the difficulties that ensue when adoptions are contested after a child has been placed with a family. Given the fact that Ameri-

cans adopt from abroad more children than any other country, the protections envisioned in the Convention will be felt most broadly in the United States.

The Committee therefore expects that the Executive Branch will expeditiously implement the requirements set out in the implementing legislation, once enacted, so that the United States may become a Party to the Convention at the earliest possible opportunity. The Committee believes the Convention and its implementing legislation will further the ability of U.S. citizens to adopt abroad, while ensuring that the best interests of children are protected in the process.

#### B. STREAMLINED PROCESS

As noted above, the Convention requires each country to establish a central authority that provides uniform screening and authorization of adoption service providers. Also as noted, these mandates are not contained in current law and will place new burdens on adoption service providers. The Committee supports imposition of these new obligations for the various reasons stated above. However, the Committee does not intend that these obligations unduly burden the adoption process. In fact, a well-functioning and streamlined central authority process should expedite intercountry adoption.

The Committee urges the Administration in its implementation of the Convention, as required by implementing legislation, to minimize paperwork and other bureaucratic requirements to the maximum extent possible while meeting the requirements of the law. The Committee believes that a process over-burdened by paperwork and regulations will have the unintended effect of stifling adoptions. Such an outcome would defeat the objectives of the Convention and be contrary to the intent of this Committee in supporting ratification of the Hague Convention.

The Committee expects to continue a dialogue with the Department of State as it develops the regulations required by the implementing legislation. The Committee also expects that the Department of State will be in continuous dialogue with the parents seeking to adopt and place an emphasis on customer-friendly initiatives that focus on a streamlined process for intercountry adoptions while meeting the requirements of the law.

#### C. CONDITIONS ON RATIFICATION

The resolution of ratification contains several declarations. The resolution requires that the instrument of ratification submitted by the United States declare the Convention to be non-self executing. In the United States, therefore, the implementing legislation (not the Convention) will be the basis for decision-making by U.S. courts. In interpreting obligations, the courts must look to the federal statute implementing the Convention and not the broad language of the Hague Convention itself. Although the Committee understands that the central authority process—particularly with regard to accreditation of agencies and other persons—has been developed over several years with input from parents and adoption service providers of all types and sizes, it fully expects revisions of

the implementing statute will be required once the United States has gained experience under the central authority process.

The second declaration for inclusion in the instrument of ratification is a provision requested by the Executive. Article 22(2) states that Parties to the Convention may declare to the depositary of the Convention that the functions of the central authority under all articles of Chapter IV of the Convention, regarding procedural requirements in intercountry adoption (except Articles 14 and 22, regarding the basic requirements of the central authority), may be performed by bodies (adoption agencies) or persons (attorneys). As stated in the declaration, this delegation of authority does not eliminate the requirement to abide by the standards required by the Convention. This declaration is necessary because the United States will rely both on adoption agencies and attorneys to carry out adoption services.

In addition to the standard declarations relating to treaty interpretation and the Constitution, the resolution of ratification contains several declarations that are binding on the Executive but need not be included in the instrument of ratification. The first prohibits deposit of the instrument of ratification until such time as the United States is able to carry out all the obligations of the Convention, as required by its implementing legislation. The Committee, as noted above, expects the Administration to implement the Convention as soon as practicable. However, the United States should not be bound by the Convention until such time as it is fully able to meet its commitments under the Convention as set out in U.S. law.

Finally, the resolution contains a sense of the Senate declaration opposing the inclusion of an Article forbidding reservations to the Convention. The Committee strongly opposes the proliferation of such restrictions in treaties and believes that they undermine the Senate's role in treaty making, as set out in Article II, section 2 of the Constitution. As stated in the declaration, the restriction has the effect of inhibiting the Senate from exercising its constitutional duty to give advice and consent to a treaty, and the Senate's approval of this Convention should not be construed as a precedent for acquiescence to future treaties containing such a provision.

## VII. TEXT OF THE RESOLUTION OF RATIFICATION

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, adopted and opened for signature at the conclusion of the seventeenth session of the Hague Conference on Private International Law on May 29, 1993 (Treaty Doc. 105-51) (hereinafter, "The Convention"), subject to the declarations of subsection (a) and subsection (b).

(a) DECLARATIONS.—The Senate's advice and consent is subject to the following declarations, which shall be included in the instrument of ratification:

(1) NON-SELF EXECUTING CONVENTION.—The United States declares that the provisions of Articles 1 through 39 of the Convention are not self-executing.

(2) PERFORMANCE OF REQUIRED FUNCTIONS.—The United States declares, pursuant to Article 22(2), that in the United States the central authority functions under Articles 15–21 may also be performed by bodies or persons meeting the requirements of Articles 22(2) (a) and (b). Such bodies or persons will be subject to federal law and regulations implementing the Convention as well as state licensing and other laws and regulations applicable to providers of adoption services. The performance of central authority functions by such approved adoption service providers would be subject to the supervision of the competent federal and state authorities in the United States.

(b) DECLARATIONS.—The Senate’s advice and consent is subject to the following declarations, which shall be binding on the President:

(1) DEPOSIT OF INSTRUMENT.—The President shall not deposit the instrument of ratification for the Convention until such time as the federal law implementing the Convention is enacted and the United States is able to carry out all the obligations of the Convention, as required by its implementing legislation.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(3) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

(4) REJECTION OF NO RESERVATIONS PROVISION.—It is the Sense of the Senate that the “no reservations” provision contained in Article 40 of the Convention has the effect of inhibiting the Senate from exercising its constitutional duty to give advice and consent to a treaty, and the Senate’s approval of this Convention should not be construed as a precedent for acquiescence to future treaties containing such a provision.

