

tions in order to remove those causes, and requests it to continue its work with a view to the adoption of effective international instruments for the reduction and elimination of statelessness.

784th plenary meeting,
26 April 1954.

527 (XVII). Recognition and enforcement abroad of maintenance obligations

The Economic and Social Council,

Recalling its resolution 390 H (XIII) requesting the Secretary-General to prepare a working draft of a model convention or of a model reciprocal law, or both, and requesting him to convene a committee of experts with a view to formulating the text of such instruments on the recognition and enforcement abroad of maintenance obligations,

Having considered the report⁴⁵ of the Committee of Experts on the Recognition and Enforcement Abroad of Maintenance Obligations,

Having noted the importance of the question as reflected in General Assembly resolution 734 (VIII),

Taking account of the valuable work of social agencies in encouraging and facilitating voluntary fulfilment of family obligations and the progress made in reaching international understanding through bilateral and regional conventions,

Recognizing the legal, social and economic difficulties which are to be overcome in the recovery abroad of claims for maintenance,

1. Requests the Secretary-General:

(a) To transmit the report of the Committee of Experts to governments for information and such action as they may deem appropriate;

(b) To ascertain from States Members of the United Nations and those non-members of the United Nations which are members of any of the specialized agencies whether they consider it desirable to convene a conference of plenipotentiaries to complete the drafting of the Convention⁴⁶ on the Recovery Abroad of Claims for Maintenance, and whether they are prepared to attend such a conference;

(c) To report to the Council on the result of this consultation not later than the nineteenth session;

2. Recommends to governments to use the text of the Model Convention on the Enforcement Abroad of Maintenance Orders [annexed hereto] as a guide for the preparation of bilateral treaties or uniform legislation to be enacted by individual States.

784th plenary meeting,
26 April 1954.

ANNEX

MODEL CONVENTION ON THE ENFORCEMENT ABROAD OF MAINTENANCE ORDERS^a

(prepared by the Committee of Experts on the Recognition and Enforcement Abroad of Maintenance Obligations, Geneva, 28 August 1952)

PREAMBLE

Considering that the situation of dependants left without means of support by persons in another country constitutes a pressing humanitarian problem, and

Considering that the prosecution or enforcement abroad of claims for maintenance gives rise to serious legal and practical difficulties, and

Considering that it is therefore necessary to facilitate the enforcement, in the territory of one of the Contracting Parties, of maintenance orders, as well as of other instruments subject to execution, rendered or concluded in the territory of the other Contracting Party,

Wherefore the Contracting Parties have agreed as follows:

ARTICLE 1

Definitions

In this Convention:

(a) A "maintenance order" is any judicial act of a court (judgment, decree, decision, order and the like) or provision thereof, whereby a person is required to make payment of a sum or sums of money towards the maintenance of any dependant, rendered in a proceeding brought in whole or in part for the purpose of enforcing a duty of support established by the law of the country where the order is made;

(b) A "court" is any judicial authority however described, competent to pronounce maintenance orders according to the governing domestic law;

(c) An "original court" is the court by which the maintenance order was given; and an "enforcing court" is the court in which it is sought to obtain enforcement of a maintenance order;

(d) A "judgment creditor" is the person in whose favour the maintenance order was given; and a "judgment debtor" is the person against whom the maintenance order was given.

ARTICLE 2

Conditions of enforcement

1. A maintenance order pronounced by a court in the territory of one of the Contracting Parties shall be enforced in the territory of the other Contracting Party in the manner provided in this Convention if the following conditions are fulfilled:

(a) The original court has jurisdiction in accordance with Article 3 of this Convention;

(b) The order is enforceable in the country of the original court;

(c) The order is not subject to review in the country of the original court;

(d) Where the order was given by default, the enforcing court is satisfied that the judgment debtor actually received notice in sufficient time to defend the proceedings. If the enforcing court considers that this requirement has not been observed it may refuse enforcement even though such notice was served on the judgment debtor in accordance with the law of the country of the original court;

(e) The order is not inconsistent with a prior judgment which as between the same parties, is recognized as *res judicata* under the law of the enforcing court. Enforcement may also be refused if, prior to the pronouncement of the order of the original court,

⁴⁵ See document E/AC.39/1.

⁴⁶ *Ibid.*, annex I.

^a See document E/AC.39/1, annex II.

an action on the same matter has been pending between the same parties before a court of the country where enforcement is sought;

(f) The enforcement of the order would not be manifestly contrary to public policy in the country of the enforcing court.

2. An enforcing court shall also grant enforcement to orders which are provisionally enforceable and to other interim orders, notwithstanding that such orders do not fulfil the condition laid down in paragraph 1 (c), provided that the other conditions set forth in paragraph 1 are fulfilled and that the enforcement of such orders is permissible under the law of the enforcing court.

ARTICLE 3

Competent Courts

The following courts shall be competent to pronounce maintenance orders for the purpose of this Convention:

(a) The courts of the country in which the respondent was resident when the proceedings were instituted;

(b) The court to the jurisdiction of which the defendant submitted either expressly or by entering upon the merits of a matter without reservation as to jurisdiction.

ARTICLE 4

Application for enforcement

1. In order that a maintenance order of a court in the territory of one of the Contracting Parties should be enforced in the territory of the other, an application for enforcement of the maintenance order shall be made to the court which is competent in accordance with the law of the country where enforcement is sought.

2. An application shall be accompanied by:

(a) A certified copy of the maintenance order;

(b) Where the order was given by default, a certified copy of the notice of institution of the proceedings, and appropriate documentation showing that notice was received by the judgment debtor in sufficient time to defend the proceedings;

(c) A certified translation of the documents referred to in subparagraphs (a) and (b) above, as may be required by the enforcing court.

3. An application shall be made by or on behalf of the judgment creditor either directly to the enforcing court or through the appropriate authorities of the country of the enforcing court designated in article 13. In the latter case these authorities shall act without delay.

ARTICLE 5 *

Granting of exequatur or registration

If an application is made in accordance with Article 4 the enforcing court, upon being satisfied that the maintenance order fulfils the conditions laid down in articles 2 and 3, shall grant execution of such maintenance order by *exequatur* or registration.

ARTICLE 6 *

Effect of exequatur or registration

A maintenance order which has been granted an *exequatur* or registration shall, except as provided in article 8, have the same

** Articles 5 and 6 are applicable to States whose legislation provides for the exequatur or registration procedure. If this procedure is known only to one of the two Contracting Parties, articles 5 and 6 should be replaced by the following article:*

ARTICLE 5

Enforcement of maintenance orders

1. If an application is made in accordance with article 4 to the competent court in [State A], such court, upon being

force and effect as if it had been originally obtained in the enforcing court, and in particular it shall be enforceable in the same manner as a maintenance order pronounced by that court.

ARTICLE 7

Orders subject to variation and orders for periodic payments

1. Subject to the provisions of article 9, paragraph 2, a maintenance order shall be enforceable in accordance with articles 5 and 6 ** notwithstanding that the amount payable under that order may be subject to variation by the original court.

2. A maintenance order pronounced by an original court requiring the judgment debtor to make periodic payments shall, with respect to accrued and future instalments, be enforceable in accordance with articles 5 and 6 ** in the same manner as if the order had been originally pronounced by the enforcing court.

ARTICLE 8

Variation of the order by enforcing court

1. A court having jurisdiction over the judgment debtor may, upon application made by or on behalf of the judgment debtor or of the judgment creditor, make such variation as the court thinks fit in the amount and rate of payments under the maintenance order.

2. No maintenance order enforceable in accordance with articles 5 and 6 ** shall impose on the judgment debtor a liability to make payments in excess of the maximum (if any) permissible under the law in force in the country of the enforcing court.

ARTICLE 9

Notifications

1. Whenever an application for enforcement is received by an enforcing court, this court shall give notice to the original court through the appropriate authorities designated in article 13; the enforcing court shall also give notice to the original court of the granting or rejection of such application and of any variation made under article 8. Likewise, the original court shall give

satisfied that the maintenance order fulfils the conditions laid down in articles 2 and 3, shall grant execution of such maintenance order by *exequatur* or registration. A maintenance order which has been granted an *exequatur* or registration shall, except as provided in article 8, have the same force and effect as if it had been originally obtained in the enforcing court, and in particular it shall be enforceable in the same manner as a maintenance order pronounced by that court.

2. If an application is made in accordance with article 4 to the competent court in [State B] such court, upon being satisfied that the maintenance order fulfils the conditions laid down in articles 2 and 3, shall pronounce a new order based upon the recognition of the maintenance order pronounced by the original court. This order shall be enforceable in accordance with the law of the territory of the enforcing court.

* * *

If the exequatur or registration procedure is unknown to both Contracting Parties, articles 5 and 6 should be replaced by the following Article:

ARTICLE 5

Enforcement of maintenance orders

If an application is made in accordance with article 4 the enforcing court, upon being satisfied that the maintenance order fulfils the conditions laid down in articles 2 and 3, shall pronounce a new order based upon the recognition of the maintenance order pronounced by the original court. This order shall be enforceable in accordance with the law of the territory of the enforcing court.

** In the cases contemplated in footnote *, the words "and 6" should be omitted.

notice to the enforcing court, through the appropriate authorities designated in article 13, of any variation or setting aside of such order.

2. An original or enforcing court receiving any notice in accordance with the preceding paragraph shall take whatever action may be appropriate, in conformity with the law of that court.

ARTICLE 10

Law governing procedure

The procedure and methods of enforcement shall, unless it is otherwise provided in this Convention, be governed by the law of the enforcing court.

ARTICLE 11

Exemptions and facilities

1. Judgment creditors residing or present in the territory of one of the Contracting Parties shall be given equal treatment, and shall be granted the same exemptions in the payment of the costs and charges incurred in any proceeding under this Convention, as residents in the territory of the other Contracting Party where enforcement is sought.

2. If the law of the court requires any bond or other security of persons residing or present abroad, judgment creditors residing or present in the territory of one of the Contracting Parties shall be exempt therefrom in any proceeding under this Convention.

3. No fees shall be chargeable for certification and legalization of documents in any proceeding under this Convention.

ARTICLE 12

Transfer of funds

1. In order to ensure and expedite the free transfer from one Contracting Party to the other of funds payable on account of maintenance obligations judicially established in the courts of a Contracting Party in the cases contemplated in this Convention, the Contracting Parties undertake, in case of exchange restrictions, to accord to such transfers the highest priority provided for capital services.

2. The Contracting Parties reserve the right:

(a) To take the necessary measures to prevent transfers of funds pursuant to paragraph 1 for purposes other than the *bona fide* payment of existing maintenance obligations;

(b) To limit the amounts transferable pursuant to paragraph 1 to amounts necessary for subsistence.

ARTICLE 13

Designation of appropriate authorities

At the time of ratifying this Convention the Contracting Parties shall designate the appropriate authorities in their respective territories which shall be entrusted with the functions indicated in article 4, paragraph 3, and article 9 of this Convention. The Contracting Parties shall keep each other informed of any subsequent change in such designations.

ARTICLE 14

Enforcement of other instruments subject to execution

The Contracting Parties undertake to extend the benefits of this Convention to instruments (such as orders of administrative authorities or arbitral awards) other than maintenance orders, requiring a judgment debtor to make payments towards the maintenance of a judgment creditor, provided that such instruments are subject to execution under the laws of both Contracting Parties and that they comply with the conditions laid down in articles 2 and 3.

ARTICLE 15

Applications outside the Convention

Nothing in this Convention shall preclude a judgment creditor from invoking any other provision applicable to the enforcement of maintenance orders, in accordance with the domestic law of the country of the enforcing court or any other Convention in force between the Contracting States.

ARTICLE 16

Ratification and entry into force

1. This Convention shall be ratified, and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of . . .

2. This Convention shall come into force on the thirtieth day following the day of deposit of the second instrument of ratification.

ARTICLE 17

Denunciation

Each Contracting Party may denounce this Convention by written notification to the other. A denunciation shall take effect one year after the date of receipt of the notification.

ARTICLE 18

Settlement of disputes

Any dispute which may arise between the Contracting Parties concerning the interpretation or application of this Convention which is not settled by negotiation, shall at the request of either Contracting Party be referred to the International Court of Justice or, in case the latter should not have jurisdiction, to an arbitrator appointed by the President of the International Court of Justice, for decision, unless the Contracting Parties agree to another mode of settlement.

ARTICLE 19

Languages and registration

1. The . . . texts of this Convention shall be equally authentic.

2. This Convention shall be registered with the Secretary-General of the United Nations.

528 (XVII). Form of reports of specialized agencies

The Economic and Social Council,

Recalling its resolution 497 D (XVI) concerning arrangements for reporting by the specialized agencies to the United Nations,

Noting the observations made on this question by the Administrative Committee on Co-ordination in its fifteenth report⁴⁷ in response to the Council's request,

1. *Requests* the specialized agencies to continue, until further notice, to give particular attention in their annual reports to the matters listed in resolution 497 D (XVI), paragraph 1;

2. *Invites* the Administrative Committee on Co-ordination to submit to the Council at its eighteenth session any suggestions for reducing the number and length of special reports which United Nations organs ask of the specialized agencies or for publishing such reports at less frequent intervals.

*758th plenary meeting,
1 April 1954.*

⁴⁷ See document E/2512.